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THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION

PUBLIC MEETING #61

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

March 28, 2013, 1:00 p.m.

OFFICE OF THE DIVISION OF INSURANCE

First Floor, Hearing Room H

1000 Washington Street

Boston, Massachusetts

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

COMMISSIONER MCHUGH: It's 1:00 and I think we're ready to start. I welcome everybody to the 61st meeting of the Massachusetts Gaming Commission.

The Chairman is not with us today. He's in Washington, DC for a fascinating ceremony at the Air and Space Museum in which they're opening a new exhibit dealing with air navigation featuring his father who was a navigator during the Second World War. So, the exhibition, which is a permanent exhibition in the Smithsonian will open today and will continue permanently. That's what a permanent exhibit does. So, he is there participating in the ceremony. So, we are going to proceed in his absence, but we're with him in spirit.

The first item of business is approval of the minutes of March 12. We have no minutes of March 12. Next week we will have a minutes' tsunami. We are a little backed up in the minutes for a variety of reasons, resulting from the many

1 hearings we had a week or so ago. But we'll try
2 and get all of that straightened out next week.
3 Thus, I anticipate a number of minutes to be
4 presented for approval.

5 The second item on the agenda, we're
6 going to deal with this without displaying the
7 schedule today, is administration and a discussion
8 of the master schedule, Commissioner Zuniga.

9 COMMISSIONER ZUNIGA: Thank you, Mr.
10 Chairman, in the absence of the Chairman. I don't
11 have a big update on the schedule. We continue to
12 contemplate the three scenarios that we have
13 discussed a few weeks ago.

14 I'm preparing the tool to let us really
15 analyze those scenarios hopefully in the next
16 meeting of the Commission a week from today. The
17 schedule and all of its dates remain the same as
18 of now. And the update is that we should have a
19 discussion about all of those details in the
20 upcoming meeting a week from today.

21 COMMISSIONER MCHUGH: So, the plan is
22 -- the scenarios, Commissioner, that you're
23 referring to are the scenarios for scheduling the
24 slots parlor processing and license issuing.

1 COMMISSIONER ZUNIGA: Correct,
2 correct. We currently have a determination of
3 suitability of the slots parlor's applicants for
4 late April, April 30. We are contemplating, and
5 this is subject to how these investigations
6 progress, as to whether and how likely it could be
7 that those investigations be done sooner. That's
8 a question for the IEB and all of the open questions
9 there relative to all of the qualifiers. Anyway,
10 that's really the extent of that.

11 COMMISSIONER CAMERON: We hope next
12 week we'll have a --

13 COMMISSIONER ZUNIGA: Yes. The three
14 scenarios really involve the determination of the
15 schedule relative to Category 2 or the slots parlor
16 license.

17 COMMISSIONER MCHUGH: The idea is to
18 try next week to see if we can zero in on one of
19 those scenarios, if we can. And then set a
20 schedule that we will be able to with reasonable
21 confidence adhere to and predict the outcome.

22 COMMISSIONER ZUNIGA: Correct.

23 COMMISSIONER MCHUGH: All right. Any
24 comments or thoughts, questions about that?

1 COMMISSIONER CAMERON: Hold until
2 next week.

3 COMMISSIONER MCHUGH: Right. The
4 qualifier status review, General Counsel Blue.

5 MS. BLUE: Good afternoon.

6 COMMISSIONER MCHUGH: Good afternoon.

7 COMMISSIONER CAMERON: Good
8 afternoon.

9 MS. BLUE: I am here before you today
10 to bring to you a request for a vote on a qualifier.
11 By way of background as the Commission is aware,
12 if a person or entity has a significant interest
13 in an applicant they must submit to the
14 Commission's qualification process. If they
15 refuse to submit to that process then they would
16 need to divest themselves of that interest.

17 Vornado has an interest in the
18 Sterling Suffolk application. They declined to
19 participate in the qualification process. We
20 advised them that then they would need to divest.

21 In order to do that however, it will
22 take more time than our process has built in. So,
23 we have looked at other jurisdictions to determine
24 if there is a way to address that. And one other

1 jurisdiction has advised us that a way to do that
2 would be to place that interest into a blind trust
3 with an independent trustee who would then become
4 the qualifier and submit to our qualification
5 process. Any transfer out of that trust would be
6 subject to the Commission's transfer regulations
7 and that person would also have to qualify.

8 So, what I have before you today is a
9 request to approve Vornado's placing their
10 interest into a trust with an independent trustee.
11 We submitted a copy of his bio. He's from the firm
12 of Hemingway and Barnes.

13 And with the knowledge that Vornado
14 will have no influence or impact on that interest
15 while it it's in the trust. The trustee will be
16 the qualifier. And when that interest is
17 divested, the person that it is divested too will
18 submit to the qualification process.

19 I would also ask that you approve, once
20 the trust is in place, that the qualifiers
21 withdraw. The Vornado qualifiers be allow to
22 withdraw and that the Sterling Suffolk application
23 be allowed to proceed.

24 COMMISSIONER MCHUGH: All right.

1 Discussion, thoughts, questions, comments?

2 COMMISSIONER STEBBINS: Catherine,
3 the memo reflects the parties have proposed, are
4 we included in making that recommendation as to who
5 the trustee is?

6 MS. BLUE: Not in terms of who the
7 trustee is, although we have reviewed who the
8 trustee is and we believe they're an independent
9 person.

10 COMMISSIONER STEBBINS: Okay.

11 COMMISSIONER ZUNIGA: Is there a
12 timeline or projection for this divestiture?

13 MS. BLUE: They would like to do it as
14 soon as possible. They would prefer to do it, I
15 believe, if they could do it before the trust went
16 into effect. I don't think there'll be time to do
17 that. So, it would be as soon as possible as they
18 can do it.

19 COMMISSIONER CAMERON: I'm aware that
20 this was used in New Jersey, a very similar type
21 of situation. And I know that it's worked
22 effectively there. The process -- The trustee did
23 qualify and continues to qualify. And I know that
24 it's worked without issue in New Jersey.

1 COMMISSIONER MCHUGH: The essence of
2 this, as I understand it, so that everybody
3 watching and looking can understand it, is that the
4 interest owned by Vornado is now, if this proceeds,
5 in this trust and Vornado won't have any control
6 over that interest.

7 MS. BLUE: That's correct.

8 COMMISSIONER MCHUGH: The control
9 will be exclusively in the hands of the trustee.
10 The trustee will go through our customary
11 qualification process. We're not voting on the
12 trustee today.

13 MS. BLUE: That's correct.

14 COMMISSIONER MCHUGH: He will have to
15 go through the qualification process. And then
16 when the trustee transfers the Vornado interest to
17 another person or entity, that person or entity
18 before they can assume control and move forward
19 with the application will have to go through the
20 qualifier process just like everybody else.

21 MS. BLUE: That's right. We have
22 asked that the trust document include language
23 that says that any transferee will have to go
24 through the same process that all of our qualifiers

1 do.

2 COMMISSIONER MCHUGH: Okay. So, this
3 really just a bridge to allow Vornado to divest
4 itself of its interest in the project and allow the
5 process to move forward while that divestiture is
6 taking place.

7 MS. BLUE: That's right.

8 COMMISSIONER ZUNIGA: I know Director
9 Wells isn't here, but is it correct that we don't
10 believe this will delay our determination of
11 suitability as we've contemplated in our current
12 schedule? Is that a fair statement?

13 MS. BLUE: I did to discuss that with
14 Director Wells. And she does not believe it will
15 add time to it. We should be able to proceed along
16 our regular schedule.

17 COMMISSIONER MCHUGH: So, the vote,
18 Ms. Blue, that you're seeking today is a vote to
19 approve the use of a trust, a blind trust the terms
20 of which you have reviewed to allow Vornado to
21 divest itself of its interest in the Sterling
22 Suffolk proposal. And to require the trustee to
23 proceed through the same qualification process as
24 all other qualifiers are required to undergo.

1 MS. BLUE: Yes. And in addition to
2 that, to allow the Vornado entities to withdraw
3 once the trust is set in place.

4 COMMISSIONER MCHUGH: All right. Any
5 further questions, comments, concerns? So, let's
6 put that in the form of a motion. At the risk of
7 repeating and making a mistake in the process of
8 doing so, I would move that the Commission approve
9 placement of the interests of Vornado entities in
10 the Sterling Suffolk Racecourse proposal in a
11 blind trust over which they have no control and
12 requiring the trustee of that trust to qualify
13 through the Commission's normal qualification
14 process. And upon the trustee's qualification --

15 MS. BLUE: Yes.

16 COMMISSIONER MCHUGH: -- permit the
17 Vornado qualifiers to withdraw.

18 MS. BLUE: Yes, that is correct.

19 COMMISSIONER MCHUGH: All right.

20 COMMISSIONER CAMERON: Second.

21 COMMISSIONER MCHUGH: All in favor,
22 aye.

23 COMMISSIONER ZUNIGA: Aye.

24 COMMISSIONER STEBBINS: Aye.

1 COMMISSIONER CAMERON: Aye.

2 COMMISSIONER MCHUGH: All right.

3 MS. BLUE: Thank you.

4 COMMISSIONER CAMERON: Thank you.

5 COMMISSIONER MCHUGH: Thank you very
6 much. All right, the next item on the agenda is
7 public education and information, Ombudsman
8 Ziemba.

9 MR. ZIEMBA: Thank you, Commissioner.
10 As you just noted today we were tentatively
11 thinking about having more of an update regarding
12 the Category 2 licensing schedule. I think that
13 we are still in the process of collecting all of
14 the information that would be needed for a full
15 discussion of that matter for next week.

16 Within the context, I just wanted to
17 note we continue to have many conversations with
18 host and surrounding communities. And when we
19 discuss the timetables, and I know the Commission
20 has said that this is a big concern in setting
21 timetables, that we should take into account the
22 ability of both host and surrounding communities
23 to understand the impacts that may occur within
24 their borders.

1 So, that when we set our timetables that
2 appropriate time has to be given to enable them to
3 understand those impacts. That will be part of
4 our analysis for next week as well.

5 This week, we have a deadline for
6 applicants responding to us on whether or not they
7 are interested in utilizing the RPA planning
8 process that we discussed in recent weeks. I
9 report that we haven't received all of the
10 responses just yet, but overwhelmingly applicants
11 have noted to us that they are very interested in
12 having a scoping or planning session with the
13 regional planning agencies.

14 It's been sort of a split response on
15 whether or not they commit now to utilizing the
16 RPAs or whether or not they want to wait to have
17 those conversations on that scoping or planning
18 session. I am not aware that we have received a
19 formal response saying that they are not
20 interested just yet. But I think there may be at
21 least one that might not interested.

22 And then finally, I report that we've
23 had conversations with the Central Mass. Regional
24 Planning Commission. As we noted in the past,

1 that is the one area due to the recent Category 2
2 applicant for Worcester that additional services
3 beyond the RPAs that we have previously identified
4 would be needed. And those conversations are
5 ongoing. And it looks like we will have a very
6 fruitful dialogue with them on utilizing them in
7 the future. We've had very, very positive
8 discussions with them. That's what I have to
9 report.

10 COMMISSIONER MCHUGH: Any questions
11 for Ombudsman Ziemba? That's very helpful. And
12 we will talk next week about the considerations
13 that go into setting whatever timelines we think
14 are appropriate and how those affect the
15 surrounding communities. So, there'll be a clear
16 discussion of that.

17 MR. ZIEMBA: That's right. Thank
18 you.

19 COMMISSIONER MCHUGH: Good. Thank
20 you.

21 COMMISSIONER CAMERON: Thank you.

22 COMMISSIONER MCHUGH: All right.
23 That brings us to the regulation update, Mr.
24 Grossman, good afternoon.

1 So, this is a sequel to the meeting that
2 we had on Monday when we considered the draft
3 regulations to get them ready for today's vote
4 really to start the formal promulgation process.
5 So, with that as a brief backdrop, go ahead.

6 MR. GROSSMAN: Thank you. What we
7 have done is we have incorporated or attempted to
8 incorporate anyway all of the comments that were
9 made on Monday by the Commissioners as well as made
10 a few further adjustments after taking one further
11 read through the regulations in their entirety.
12 And we've incorporated all of those changes.

13 There are just a couple of new areas
14 that I'll just quickly point out. And then if
15 there are any other areas that you would like to
16 discuss, we can certainly do that.

17 On page four of the update to the
18 existing regulations, so that's 102 through 117,
19 we added in a provision relative to legal
20 challenges and suggest that no person or local
21 government entity may challenge or seek to enjoin
22 Commission action based on a claim that an
23 applicant and/or the Commission has not complied
24 with the regulations.

1 And what that means is in distinction
2 from saying is we had before that you can't appeal.
3 Here we're saying that no act or failure to act may
4 be challenged. What we had said before that we
5 determined was not something that we should do was
6 that you couldn't challenge a decision that was
7 made. This is different. This is a procedural
8 prohibition. That's why that was in there.
9 That's where that came from.

10 We think this is from a legal
11 perspective something that will pass muster where
12 we had concerns about the other provision. So,
13 that's where that stems from.

14 COMMISSIONER ZUNIGA: Is it a
15 replacement or the provision is elsewhere?

16 MR. GROSSMAN: The other provision we
17 took out. There was some question as to whether
18 that would pass legal scrutiny. So, we took it
19 out. It may, it may not. But that was removed.

20 This is not intended replace it. This
21 addresses a different issue although it may look
22 similar. This talks about the process. If you
23 choose not to do something for a particular
24 application, that's what we're talking about.

1 We're not talking about the final decision.

2 COMMISSIONER ZUNIGA: Uh-huh.

3 COMMISSIONER MCHUGH: The former one
4 was outcome, somebody could challenge an outcome
5 no matter how it was reached. And this talks about
6 people not being able to challenge the process or
7 parts of the process by which we reach the outcome.
8 Is that a fair statement?

9 MR. GROSSMAN: That's exactly right.
10 The second area I would draw your attention to is
11 on page six. These are just amendments that deal
12 with the confidentiality of the RFA-2
13 applications.

14 And you'll see essentially all we've
15 done is expanded the process that's presently in
16 place to include the RFA-2 applications. Though
17 we certainly have had some difficulty with the
18 process in the first instance, I don't think it has
19 anything to do with the rules. I think the rules
20 are fairly clear. That's why I think this is a
21 workable proposal.

22 COMMISSIONER MCHUGH: Let me just take
23 a minute to say something about that not because
24 it deals with the regulations, but because there

1 are continuing concerns expressed about the
2 processing of the applications.

3 I remind ourselves and all who are
4 interested that what we are dealing with is 21,000
5 pages of personal information. And that personal
6 information in some cases is not self-evident.
7 So, some of the applicants have asked for
8 additional information that on its face doesn't
9 look like it's personal information, to be kept
10 from disclosure because in fact when you examine
11 the facts surrounding the information bit, it is
12 personal information. It's just hard to tell,
13 things like divorce records and the like.

14 We are trying very hard to process
15 these quickly, and in fact, have released the names
16 of all 300 qualifiers. And they are available for
17 everybody to look at. The Phase-1 applications
18 that we are working on now do not contain any
19 site-specific information. By looking at the
20 application, you can't tell where the qualifier is
21 going to want to put a place. And we are making
22 every effort to get through this process as quickly
23 as we can.

24 But the plain fact of the matter is that

1 under the General Laws, we are not permitted to
2 release information that is exempt from disclosure
3 for privacy reasons. And therefore, it's not
4 simply a matter of discretion. We have to be
5 careful to go through these records and take a look
6 at the information that is exempt from disclosure
7 as a public record because another statute, not the
8 public records statute, prohibits us from
9 disclosing that information.

10 So, it's not simply a matter of quickly
11 taking our best guess and then letting fly with
12 what we come up with. We have to be very careful
13 with this. And we are doing our very best to do
14 so consistent with our statutory obligations and
15 with the public's undoubted right to know the
16 information that the Public Records Act makes
17 available to them.

18 So, I know the frustration exists in
19 some quarters as to the speed with which we are
20 proceeding. And that's the basis for what we're
21 doing and how we are trying to do it.

22 That's off the track a little bit but
23 since this section of the reg. deals with that, I
24 thought it was an opportune time to reiterate what

1 we've said on a number of different occasions in
2 a number of different forms once more.

3 COMMISSIONER ZUNIGA: Commissioner,
4 in the same spirit of that thought process, is it
5 fair to say that we're anticipating the Phase-2
6 form to contain, just like it did for Phase-1, to
7 contain the specific areas of redaction where we
8 may assume that there's personal or confidential
9 information to serve as a guide? Or is this
10 Phase-2 fundamentally different in other ways?

11 COMMISSIONER MCHUGH: Much more the
12 Phase-2 application, which concerns the site and
13 characteristics of the site and the like, much more
14 of that percentagewise is going to be in the public
15 domain without question.

16 And the form, I think, we can design in
17 a way that isolates the stuff that presumptively
18 is exempt from disclosure because it's a trade
19 secret or there won't be much personal privacy
20 there, but a trade secret or other things that the
21 statute itself exempts from disclosure. I think
22 we can isolate those so that we can more quickly
23 indicate in a specimen form that it's exempt.

24 Part of the problem here is that we

1 don't have a way to isolate this data. There is
2 some public information and some private
3 information on almost every one of these 21,000
4 pages. So, you can't just go to a section of the
5 application and say this section presumptively is
6 not public and this section presumptively is.
7 You've got to look at every single page almost and
8 pick out those things that are public and pick out
9 those things that are not.

10 There was, in fact, no other way to
11 organize this part of it in a meaningful sense, in
12 a way that allowed it to be processed meaningfully.
13 So, that adds to the difficulty of trying to
14 process these things.

15 We can and will do it differently in the
16 next phase, because the next phase is inherently
17 different from this one. So, hopefully we won't
18 run into these same problems.

19 MR. GROSSMAN: So, all this draft does
20 essentially is extends the regs. to the RFA-2
21 process. And it basically says that we will have
22 a specimen form that should be submitted along with
23 the unredacted form. And that applicants may
24 submit separate requests for confidential

1 treatment of certain portions of the application,
2 just like with this process. So, that's what that
3 section does.

4 COMMISSIONER MCHUGH: Sorry for that
5 long interruption.

6 MR. GROSSMAN: No, thank you. I think
7 it's helpful to clarify that point, because it
8 highlights that the problem is not with the
9 regulations, I don't think.

10 COMMISSIONER MCHUGH: Right.

11 MR. GROSSMAN: That's why we didn't
12 set out to completely restructure the regulation.

13 COMMISSIONER MCHUGH: Right, right.

14 MR. GROSSMAN: The next comments I'd
15 just like to make pertain to the other document
16 that deal with sections 118 through 131.

17 The first comment is on page 15. There
18 were two areas that I just quickly, maybe not
19 quickly but I did want to draw your attention to.
20 The first you'll see in red, language was added to
21 clarify the evaluation. I thought it was
22 important that you take a look at that. I think
23 that was the Commission's intention.

24 COMMISSIONER ZUNIGA: This is

1 subsection (c)?

2 MR. GROSSMAN: It's two. It's 119.03
3 (2) in red.

4 COMMISSIONER MCHUGH: Are you
5 comfortable with that, Commissioner?

6 COMMISSIONER ZUNIGA: Yes.

7 COMMISSIONER MCHUGH: You are, okay.

8 MR. GROSSMAN: Okay. My only other
9 comment was as you can see I highlighted in
10 subsection (c) of (2) we added in the Architectural
11 Access regulations. I thought it would be
12 important to clarify that. And that making these
13 buildings fully accessible is an important element
14 of the design as well.

15 And though that is in some respects
16 subsumed within the building code itself,
17 oftentimes, it's helpful to separately highlight
18 accessibility compliance.

19 My next comment, which is on page 29 --

20 COMMISSIONER ZUNIGA: Can I, just one?
21 Sorry, never mind. Please continue.

22 MR. GROSSMAN: On page 29, I just
23 filled in one of the blanks that was missing from
24 our last go around. Just to clarify what that is,

1 under the Office of Campaign and Political Finance
2 regulations, it was suggested that when the
3 applicant reimburses the municipality, the host
4 community for the cost of the election, the
5 information as to that reimbursement itself will
6 likely have to be disclosed. So, that's what that
7 regulation is that's been highlighted there.

8 COMMISSIONER MCHUGH: The 970 CMR,
9 down near the bottom?

10 MR. GROSSMAN: Yes, that's the
11 contribution section.

12 COMMISSIONER MCHUGH: Okay.

13 MR. GROSSMAN: And finally, on page 53
14 we added as requested a section dealing with the
15 arbitration to determine, if necessary, to
16 determine the fair market value of the gaming
17 establishment upon the transfer of a license. And
18 it largely is reflective of the other arbitration
19 provisions in the draft regulations, though it
20 certainly had had some slightly different nuances.

21 COMMISSIONER MCHUGH: All right. In
22 connection with those transfers, there are no
23 changes to 129.01(h) or (k). We still have to
24 explore how we're going to deal with those.

1 MR. GROSSMAN: Yes.

2 COMMISSIONER MCHUGH: But this
3 130.02(3) applies wholly independently of that?

4 MR. GROSSMAN: Yes.

5 COMMISSIONER MCHUGH: Any questions,
6 comments, concerns?

7 COMMISSIONER STEBBINS: Todd, I sent
8 you a question earlier about something in the
9 previous set of regulations. Back on page 20,
10 asking an applicant to disclose in their Phase-2
11 application all of the political contributions.

12 And I guess my question was why include
13 that if they're barred from making political
14 contributions as an applicant?

15 MR. GROSSMAN: It's a great question.
16 And I think the trick is in -- And this is something
17 the Commission --

18 COMMISSIONER STEBBINS: Can you
19 repeat that part? It was a great question.

20 MR. GROSSMAN: That was a great
21 question.

22 MR. STEBBINS: I don't get that often.

23 MR. GROSSMAN: That was an excellent
24 question and an astute observation. It stems from

1 Chapter 23K sections I think it's either 45 and 46
2 or 46 and 47 that deal with political
3 contributions. One section seemed -- You have to
4 really read them closely. One section deals with
5 a ban on making political contributions. And the
6 other section deals with the disclosure of certain
7 contributions.

8 So, a high-level review would suggest
9 that they are somewhat inconsistent with one
10 another. But I think the way that I would read
11 that and this is not something the Commission has
12 ever addressed, I don't think, or voted on in any
13 sense, is that the ban or the prohibition is on
14 making contributions to an individual politician,
15 candidate for office, something like that.

16 There is no prohibition against making
17 a contribution to a community or a division of a
18 community to build a park, widen a road, whatever
19 it is. And it's those type of contributions that
20 have to be disclosed.

21 So, you are right. You can't make a
22 contribution to the mayor or a candidate for mayor
23 or what have you. So, to the extent you've done
24 that, I guess you would still have to disclose it,

1 but you're not supposed to do that.

2 I think if memory serves, there are
3 certain holes in that reading, but that was the
4 only logical reading that I could apply to those
5 two sections.

6 I was just going to conclude by saying
7 the regulations we have here jive with that
8 reading.

9 COMMISSIONER MCHUGH: Early on,
10 before you arrived, I raised this question about
11 the statute with the General Counsel to the Office
12 of Political and Campaign Finance who told me there
13 are other regulations and statutes that require
14 you to report what you're prohibited from doing.

15 So, this is not unique to this statute.
16 The reporting requirements go beyond, as you
17 clearly explained. But other sections of the
18 statute say you have to report what you're
19 prohibited from doing in certain instances.

20 So, you're hit with a double whammy.
21 If you do it, you can be penalized. And if you fail
22 to report it, you can be penalized. Apparently,
23 that has been -- the Fifth Amendment implications
24 of that have been dealt with and found not to exist.

1 So, that's something that this statute replicates.
2 So, this set of regulations ably carries that
3 forward.

4 MR. GROSSMAN: Our regulations don't
5 prohibit anything, they just require disclosure.
6 So, we don't have anything that would conflict with
7 the statute.

8 COMMISSIONER STEBBINS: Okay.
9 Thanks.

10 COMMISSIONER MCHUGH: Any other
11 questions or comments, concerns? This represents
12 an enormous amount of work by Mr. Grossman and the
13 consultants. And it really is a first rate set of
14 regulations that I think we can be proud to put
15 before the public in solicitation of comments. We
16 are going to get comments. These are
17 controversial issues.

18 These are regulations that deal with
19 something that has never been done anyplace else
20 in the country and that is the host and surrounding
21 community and the impacted live entertainment
22 issues that we have in our statute. This is a
23 trailblazing effort and undoubtedly will engender
24 thoughtful comments and we'll deal with those.

1 But this is certainly something that we can be
2 happy to place before the public for that comment
3 process.

4 So, thank you very much for the work
5 that you and others have -- the consultants and
6 others have done to create this set of regulations.

7 With that, I would move that the
8 Commission accept these draft regulations and
9 authorize the legal staff to forward them to the
10 Local Government Advisory Committee and to carry
11 out all other steps necessary for their formal
12 promulgation after a period of comment following
13 a public hearing.

14 COMMISSIONER STEBBINS: Second.

15 COMMISSIONER MCHUGH: Let me amend
16 that, if I might. Following a period of public
17 comment antecedent to a public hearing. I think
18 we'll close the comment period before the public
19 hearing. And the public hearing will be the last
20 opportunity to comment. So, do you still second
21 it?

22 COMMISSIONER STEBBINS: Sure. Move
23 to second with the amendment.

24 COMMISSIONER MCHUGH: With the

1 amendment, all right. All in favor, aye.

2 COMMISSIONER ZUNIGA: Aye.

3 COMMISSIONER STEBBINS: Aye.

4 COMMISSIONER CAMERON: Aye.

5 COMMISSIONER MCHUGH: What's the
6 schedule now, Mr. Grossman?

7 MR. GROSSMAN: We would file with the
8 Local Government Advisory Committee by tomorrow.
9 The order requires a 14-day period before further
10 action in furtherance of the Administrative
11 Procedure Act is taken.

12 So, we would look to file this with the
13 Office of the Secretary of State by April 12. And
14 then the law requires essentially a 21-day period
15 between the filing and the public hearing.

16 And the public hearing has to be -- It
17 has to be at least seven days between the time the
18 notice of the hearing is published in the
19 Massachusetts Register and the hearing. So, the
20 public hearing date we would shoot for would be May
21 3. Certainly, we have to discuss the public
22 hearing itself. We don't have to resolve all of
23 those issues right now. But I think a public
24 hearing would have to be held on May 3 at the

1 earliest.

2 And then depending on how everything
3 goes, the types of comments we receive, the
4 Commission can look to incorporate any comments
5 and then we can look to file the final regulations
6 for publication by June 7 at the latest. That's
7 essentially the whole process.

8 COMMISSIONER MCHUGH: Can that May 3
9 date slide and still make the of June 7 date?

10 MR. GROSSMAN: We've built in an extra
11 couple of weeks for ourselves. So, in theory if
12 there are no comments, if everyone thinks that this
13 is an ideal document as written, then we could get
14 this done by, I think, May, whatever two weeks
15 before June 7 is.

16 So, the Secretary of State publishes
17 the Massachusetts Register on a two-week basis.
18 So, you're basically working in two-week chunks
19 here. You don't have to file the regulations any
20 time after the public hearing. You can file them
21 whenever you want. But that would be the soonest
22 that it could be done.

23 COMMISSIONER MCHUGH: And we've been
24 aiming for June 7 for quite a while. And we're

1 right on track to make that. So, that's terrific.
2 That's great.

3 MR. GROSSMAN: Right.

4 COMMISSIONER MCHUGH: All right.
5 Thank you very much.

6 COMMISSIONER CAMERON: Thank you.

7 COMMISSIONER ZUNIGA: Thank you.

8 COMMISSIONER MCHUGH: The other
9 document that's associated with that is the -- Mr.
10 Grossman, we could go ahead and post these even
11 though the formal promulgation -- Even though
12 they're not filed with the Secretary of State,
13 there's no we couldn't go ahead and post these as
14 soon as they're sent to the Local Government
15 Advisory Committee, is there or is there?

16 MR. GROSSMAN: I think we can. I
17 think we also have clearance to do that. Whether
18 we can receive comments on them is a separate
19 issue.

20 COMMISSIONER MCHUGH: Well, we can
21 post them with appropriate labeling. And at least
22 people can read them and see what they are. And
23 begin thinking about commentary if we can do that.

24 MR. GROSSMAN: That's right. So,

1 they'll be basically available tomorrow for public
2 consumption. We'll make the adjustments so
3 there'll be just one document with no cross outs
4 or anything, so everyone can see what we're
5 proposing.

6 COMMISSIONER MCHUGH: Great. The
7 reason I thought about that is that the next
8 document that we have in our packets is the
9 evaluation criteria matrix. This too is an effort
10 to incorporate all of the comments that we made on
11 Monday.

12 I don't think we need a formal vote on
13 this. This is going to be further transformed
14 into the application as we move forward. But this
15 is our current best thinking on the criteria - or
16 designed to represent our current best thinking on
17 the criteria we're going to use -- Actually, those
18 criteria are in the regulations, but the
19 regulations aren't final yet. -- as well as the
20 evidence we're going to ask people to provide us
21 in support of their approach to fulfilling those
22 criteria.

23 And if we agree, if there's no problems
24 with this, we could post this tomorrow as well and

1 begin to allow people to think about it so that they
2 could make comments on these as well. So, I open
3 that piece up for discussion.

4 COMMISSIONER CAMERON: It sounds like
5 a very reasonable plan.

6 COMMISSIONER ZUNIGA: I would concur.
7 I think we have talked quite a bit about the
8 different criteria and the evidence. I think
9 posting them for the process of public comment
10 would be very useful.

11 COMMISSIONER MCHUGH: We've sort of
12 gone as far as we can go on our own. We really need
13 some outside comments now to go further.

14 Okay. So, we'll post these tomorrow
15 as well as regulations. Okay.

16 The next item on the agenda is the
17 Racing Division, Director Durenberger.

18 DR. DURENBERGER: Good afternoon.

19 COMMISSIONER MCHUGH: Good afternoon.

20 COMMISSIONER ZUNIGA: Good afternoon.

21 DR. DURENBERGER: Lots of rulemaking
22 activity in Massachusetts Gaming these days. I
23 don't really have much of an administrative update
24 this week. We're going to be seeing a lot of

1 racing next week at our lengthy meeting.

2 COMMISSIONER MCHUGH: Could you give
3 us just the highlights of that?

4 DR. DURENBERGER: Yes. I will give a
5 preview of that. So, we are going to come back to
6 you with the amendments to our proposed
7 legislation and draft report.

8 We made a minor revision in the draft
9 report and then some language in particular with
10 some of the absolute numbers that we had talked
11 about that appeared in the statute and some
12 housecleaning as well.

13 We are also going to give you a
14 first-quarter update, basically, where the Racing
15 Division is within the Massachusetts Gaming
16 Commission at the end of its first 90 days of actual
17 operational expertise. The things that we've
18 done, the things that we're doing, the things that
19 we're going to do. That could actually take a bit
20 of time because there's a lot. Racing as an
21 existing agency has quite a bit of activity. So,
22 we'll be putting that before you next week and we
23 look forward to doing so.

24 COMMISSIONER MCHUGH: Great. We look

1 forward to hearing about it. There's a lot of
2 really positive changes that are going on here.
3 It's exciting to watch them.

4 DR. DURENBERGER: The big agenda item
5 today is what we were calling the Phase II
6 regulation changes. This primarily affects the
7 rules governing flat racing, which are found in 205
8 CMR 4.00.

9 I do want to bring to your attention -
10 Before we dive in, I just want to bring to your
11 attention something that Counsel has mentioned.
12 It's language that appears in three rules. The
13 first of which you'll find on page 32. This has
14 to do with safety standards for safety helmets and
15 safety vests.

16 And in there, there are design
17 standards that appear. These do appear in the
18 model rule that's promulgated by the Racing
19 Commissioners International. But in
20 Massachusetts I'm told that the language that
21 refers to the following minimum standards or later
22 revisions that that or later revisions will need
23 to be struck.

24 So, then we will provide the actual

1 standards themselves as well. So, the rule read
2 the same minus the three words, or later revisions.
3 This appears in rule this is 4.11 provision six,
4 subpart (c).

5 You'll also find it on page 41. On
6 page 41, you'll find it in rule 4.13 provision
7 five. That's got two subparts (a) on page 41 and
8 (b) on 42. The same language appears. It's the
9 same standards that appear in both rules, just some
10 apply to the people that are licensed as jockeys
11 and others are different occupational licensees.
12 So, moving forward, or later revisions will be
13 taken out.

14 The documents that you have in front of
15 you, we've got written submissions that were
16 received from the Jockeys' Guild, which is a
17 professional organization that represents many of
18 our thoroughbred riders. We have an email
19 exchange from The Jockey Club, which is the breed
20 registry that regulates thoroughbred racing.
21 Regulates is probably the wrong word -- governs.
22 And then we got a submission from Mr. Paul Brooker
23 who is the paddock plater or blacksmith at Suffolk
24 Downs.

1 And the final thing you'll see is a
2 submission from Suffolk from actually 2011. This
3 has to do with a provision in 205 CMR 6.00. So,
4 we have those written submissions.

5 We have a packet in front of you with
6 the proposed changes that we would like to make.
7 And we have received some clarification from the
8 Secretary of the Commonwealth's office this week
9 regarding the best way to move forward with our
10 rather unique rulemaking process. So, I'd like to
11 just talk to you really briefly about that.

12 What we did with the first round was we
13 went through the entire rulemaking process, public
14 comment period and public hearing period. Then at
15 the end voted to adopt them by emergency so we could
16 have them in place prior to the start of live
17 racing, which is now April 15 at Plainridge
18 Racecourse.

19 The reason for that was because of
20 Chapter 128A section 9b requirement imposed on the
21 Commission to change racing regulations. And
22 that is probably a 60-day window that gets added
23 on to the end of the regular rulemaking process.

24 The Secretary of the Commonwealth's

1 office felt the feedback that we got as we
2 understood it was that for this Phase II that we
3 put these before you today, have you vote on them
4 on an emergency basis to adopt them today on an
5 emergency basis. And also do a bifurcated vote,
6 the other half of that being to proceed through the
7 regular rulemaking process as well.

8 So, starting them out together at the
9 same time in parallel as we go through the regular
10 rulemaking process, finishing that up before the
11 end of the 90 days when the emergency regs. would
12 expire.

13 COMMISSIONER ZUNIGA: And the
14 rulemaking process is 60 days, correct?

15 DR. DURENBERGER: That additional
16 piece, yes.

17 COMMISSIONER MCHUGH: No, the
18 additional piece is 60 days.

19 COMMISSIONER ZUNIGA: Right. The 60
20 days are running in parallel to the 90 days, in
21 other words?

22 DR. DURENBERGER: Right. And then
23 we'll have -- There's a public comment period at
24 the beginning. We'll have to schedule a public

1 hearing for late April as well. So, that's in
2 front of the 60 days.

3 COMMISSIONER MCHUGH: Okay. That is
4 succinctly put. So, this process would start
5 tomorrow, right? Same as the other processes,
6 begin the formal adoption process tomorrow at the
7 same time we do the other ones. Okay.

8 DR. DURENBERGER: So, happy to answer
9 any questions about the regulations that are
10 before you.

11 COMMISSIONER CAMERON: Director, did
12 the written comments -- I believe there were three
13 of them, correct? Were they -- did that change
14 anything in the proposed rules, anything
15 incorporated?

16 DR. DURENBERGER: Yes. Many of the
17 amendments, many of the submissions basically
18 requested that we amend language in our existing
19 regs. The existing regs. really with the running
20 of the race were model rules that had been adopted,
21 I think, in 2008 and just had not been updated since
22 that time.

23 So, a lot of what you see in the red line
24 version have been put forth by the stakeholders

1 just saying this as the current model rule. And
2 we ask that the Commission update.

3 We would note that some of them have
4 been adopted and in practice at Suffolk as a house
5 rule. This allows the Commission to have its
6 regulatory authority and weight behind that.

7 And I would also like to point out
8 something that I missed earlier, which is live
9 racing at Suffolk may not start until June 1, but
10 the backside area where the folks come in with
11 their horses and begin training actually happens
12 in mid-to-late April.

13 So, some of the occupational licensees
14 are affected by the safety vest and helmet
15 requirements here. So, that's the need to get
16 these going quicker rather than later.

17 COMMISSIONER CAMERON: Also, it's
18 nice to see such a positive letter from the
19 Jockeys' Guild with regard to all of the changes
20 you've recommended we make and we're making to be
21 in keeping with best practices. It's a very, very
22 positive letter. It's nice to see. And we owe
23 those accolades to you, Director.

24 DR. DURENBERGER: To the Commission, I

1 would say, Commissioner.

2 COMMISSIONER CAMERON: Well, you're
3 leading the way with the best practices in the
4 industry.

5 COMMISSIONER MCHUGH: Yes. I think
6 that bears underscoring. I think that the
7 changes that we're making here really are terrific
8 to watch and to see as we emerge on the frontier
9 of good practices throughout the country. And
10 it's really exciting to see this process in motion.

11 So, I also think that reading these
12 regulations, as anybody who has been to a race,
13 reading these regulations really is a fascinating
14 guide to what's going on. You think about all of
15 the various steps of getting the horse, and I'm
16 thinking about the thoroughbreds, but the same
17 thing applies to -- with which I'm more familiar
18 frankly, but I'll become more familiar with the
19 standard breds as we proceed. -- all of the steps
20 that take you from the time you first hear the
21 trumpet until--

22

23 (Construction noise)

24

1 COMMISSIONER MCHUGH: -- until the
2 time you hear the drill and everything else.

3 And each one of those has got its own
4 little regulatory halo, if you will. It's all a
5 carefully choreographed piece of a very beautiful
6 sport. So, it's fascinating to read these and
7 understand that.

8 DR. DURENBERGER: And I would add
9 racing officials in place at each racetrack that
10 enforce each individual piece of these rules as
11 well.

12 Actually, we could talk about that very
13 briefly. Our Phase III rulemaking, which we're
14 going to take a break from rulemaking in racing for
15 a while. But over the fall, we're going to look
16 at the definitions of the different racing
17 officials in both 205 CMR 3.00 and 4.00 and their
18 duties, vis- à-vis what are currently recommended
19 with the model rules, the USTA rules. At any rate,
20 actually we'll be looking at all the sort of
21 housekeeping things over the fall on a
22 nonemergency basis.

23 COMMISSIONER MCHUGH: Great.

24 COMMISSIONER ZUNIGA: Great work.

1 COMMISSIONER MCHUGH: Any questions,
2 comments? So, then I would move that we adopt the
3 proposed changes to 205 CMR 4.00 that are before
4 us on an emergency basis. And that we
5 simultaneously commence the formal promulgation
6 process for those rules by sending them tomorrow
7 to the Local Government Advisory Committee and by
8 authorizing Director Durenberger in conjunction
9 with the legal staff to take all other steps
10 necessary to have them promulgated formally.

11 COMMISSIONER CAMERON: Second.

12 COMMISSIONER MCHUGH: Any discussion?
13 All in favor, aye.

14 COMMISSIONER STEBBINS: Aye.

15 COMMISSIONER ZUNIGA: Aye.

16 COMMISSIONER CAMERON: Aye.

17 COMMISSIONER MCHUGH: Thank you very
18 much.

19 COMMISSIONER CAMERON: Thank you,
20 Director. Good work.

21 COMMISSIONER MCHUGH: Anything
22 further?

23 DR. DURENBERGER: This concludes the
24 Racing Division's agenda items for today.

1 COMMISSIONER MCHUGH: Okay. Great.
2 Thank you very much. We are going to take a very
3 short break now so that we can prepare ourselves
4 for the next item on the agenda, which is the
5 research agenda, item number eight on the agenda.
6 We'll take about a five-minute break.

7

8 (A recess was taken)

9

10 COMMISSIONER MCHUGH: We are prepared
11 to resume the 61st meeting of the Gaming Commission
12 at 2:05.

13 The next item on the agenda is the
14 research agenda. Commissioner Zuniga, I will
15 turn that over to you and let you carry it forward
16 from here.

17 COMMISSIONER ZUNIGA: Thank you, Mr.
18 Chairman. With us today is Dr. Rachel Volberg,
19 Dan Hodge and participating over by phone we were
20 able to reach also Rob Williams. I would
21 characterize them as principles of the team from
22 UMass Amherst who responded to our research agenda
23 RFP.

24 This Commission acted on a

1 recommendation last week to further this effort.
2 And one of those sanction was to invite you today
3 to help us understand the nuances a little better
4 of this project.

5 It's a project that I was involved in
6 in evaluating and has been a very good learning
7 experience for me. So, we are happy that you're
8 here with us today to help us and our public, as
9 well as the record show the efforts that we want
10 to undertake, most of which is directed by
11 legislation, by the way.

12 I just want to turn it over to you, Dr.
13 Volberg and take it away, please.

14 DR. VOLBERG: Okay. Thank you very
15 much. Thank you, Commissioners for inviting us
16 here. I don't know if any one of you can tell but
17 this is perhaps the most exciting day of my
18 professional life.

19 I have been working towards a project
20 like this for approximately 15 years. And it's
21 truly amazing to me. It's pretty much a dream come
22 true. So, I'll stop with my blithering.

23 COMMISSIONER MCHUGH: It's not
24 blither. Could you just expand on that, why?

1 DR. VOLBERG: I've been involved
2 full-time in gambling research for 28 years. And
3 over that time, I've been involved in literally
4 hundreds of gambling studies. And there is not a
5 single jurisdiction in the world that has
6 enshrined in its legislation the need for research
7 to monitor the impacts of a new form of gambling
8 over time.

9 And it's actually something that I
10 started thinking about and talking with quite a
11 number of years ago, 15 years ago, when I was
12 involved in some very large research projects in
13 Sweden. The Swedes have some wonderful
14 approaches to social science and to using research
15 to produce empirical evidence and create
16 evidence-based approaches to social problems.

17 And in our discussions, we talked about
18 sort of what would the best public health tool
19 available be if you were looking at introducing a
20 new form of gambling? And at that time, the Swedes
21 were looking at introducing casinos.

22 So, we discussed the importance of a
23 monitoring system so that you could look at impacts
24 and see what happens when you introduce a new form

1 of gambling, but then continue to watch those
2 impacts evolve. Because no one knows for sure,
3 but we speculated that there might be very
4 significant positive impacts at the beginning of
5 tax revenues and jobs and tourism development, but
6 then over time that might be balanced out and
7 perhaps outweighed ultimately by some of the
8 negative social impacts.

9 And unfortunately, that remained a
10 dream. The Swedish government did not until very
11 recently actually implement something like this.
12 And frankly, they've gone in a slightly different
13 direction.

14 But every jurisdiction is unique. And
15 some years ago as I realized that here in my home
16 state of Massachusetts that it was very likely that
17 we were going to have casinos, I started thinking
18 about how would we possibly make something like
19 this or get something like this built in
20 Massachusetts.

21 And I called on my State Senator, Stan
22 Rosenberg, and said -- sent him a little email
23 saying I'm a constituent and I'm a gambling
24 researcher. And if you're ever interested in

1 talking about some ideas for research, please give
2 me a call.

3 And practically an hour later, it was
4 literally almost immediately, I got an email back
5 from him saying I'm very interested in meeting.
6 Why don't you come over to Amherst and have coffee.

7 So, we met and had coffee in one of the
8 lovely little cafés in Amherst, and sat for several
9 hours. And I gave him basically a large number of
10 documents, many of them with links to websites that
11 he could explore what I thought were some of the
12 best in the world practices around research.

13 And we sort of kept in touch
14 intermittently. This was back in 2008, I believe.
15 And so I watched from afar as the legislation
16 developed. And lo and behold, when the first
17 casino bill was passed out of the Legislature, it
18 contained what I considered to be some of the most
19 -- best language around ensuring that research
20 would happen in conjunction with the introduction
21 of casinos.

22 And I could very much see that the best
23 practices that I had pointed Senator Rosenberg to
24 had actually been incorporated into the

1 legislation in Massachusetts. It was a very proud
2 moment to actually see it in legislation.

3 And I realized that I now had the next
4 extremely daunting task was to try and get the
5 project so that I could participate in it. And
6 that's what I've been involved with for the last
7 year.

8 COMMISSIONER MCHUGH: Great. Sorry
9 for that interruption, but I think that's
10 fascinating history.

11 COMMISSIONER CAMERON: Great story.

12 DR. VOLBERG: It's not that much of a
13 digression, because on our next slide this is
14 exactly what I think our proposal brings to you and
15 to the Commonwealth. Because I consider this
16 proposal and the study that I believe will come out
17 of it is going to be tool that will be of value to
18 every single citizen of the Commonwealth of
19 Massachusetts.

20 I think it will be valuable to the
21 applicants, to the operators, to you as
22 regulators, but also to legislators and to many
23 people who are simply interested citizens in host
24 communities and surrounding communities and

1 elsewhere in Massachusetts.

2 I guess would take it even further and
3 say that there are a lot of international eyes on
4 this project as well.

5 The project is intended ultimately to
6 generate early warning signs of potential changes
7 in the social and economic impacts of new forms of
8 gaming in Massachusetts. And we're certainly
9 looking at casinos.

10 But as you've said a number of times in
11 these meetings, Internet is on the horizon. And
12 we'll be looking at that as well. And I think from
13 my perspective, it's really important to
14 understand that we are going to be able to use the
15 information that's generated in this study to
16 essentially incorporate evidence-based and
17 empirical data into the development of measures
18 that will minimize harm associated with casino
19 gambling but also with Internet gambling in the
20 future and whatever the next iteration of in future
21 holds.

22 We bring a highly experienced,
23 multidisciplinary, scientifically rigorous
24 Massachusetts-based team together. I didn't wait

1 for the RFR actually to come out before I recruited
2 Rob Williams. He assisted us in the response we
3 made to the request for information.

4 Rob, unfortunately, can't be here
5 physically but he is the author of the study that
6 Chairman Crosby has cited a number of times where
7 there was a very thorough review of all of the
8 impact studies of gambling that had ever been done.
9 And of the 492 studies, only seven of them were
10 rated excellent. And I felt that Rob had a
11 tremendous amount to bring to Massachusetts as a
12 result.

13 COMMISSIONER ZUNIGA: So, we hope
14 there will be an eighth one.

15 DR. VOLBERG: We fully anticipate that
16 this is going to be not just the first of its kind,
17 it's going to be world-class. And we are going to
18 be, I believe, a shining example to many other
19 jurisdictions both here in the US and
20 internationally.

21 And growing out of the involvement with
22 Rob, we are presenting a state-of-the-art analytic
23 framework for studying these issues as well as
24 multiple methods research strategy. When I say

1 analytic framework, I want to just emphasize that
2 this is -- Based on the review that Rob and his
3 colleagues did, they had a number of important
4 lessons learned out of that. One was that it was
5 important to measure impacts rather than costs and
6 benefits. Another was that it was --

7 COMMISSIONER MCHUGH: What's the
8 difference?

9 DR. VOLBERG: Costs and benefits tend
10 to have monetary amounts applied. Whereas
11 impacts can be qualitative, can be difficult to
12 quantify in terms of money or even in terms of how
13 many people are affected by a divorce, for example.

14 So, the idea here is that when you are
15 assessing the overall nature of the observed
16 impacts, it's important to understand that these
17 sometimes involve a qualitative assessment or some
18 element of subjectivity. And people are not going
19 to necessarily agree on whether an impact is good
20 or bad, but at least we can all agree that it's an
21 impact.

22 I'll let Dan talk to the economic part
23 of it, but there are things that -- A casino has
24 restaurants and people go to those restaurants,

1 but they make the decision not to go to the
2 coffeehouse down the street from their home.
3 That's a negative impact for the small-business
4 owner, but it's a positive impact for the casino,
5 and potentially a neutral impact for the
6 Commonwealth, which is still going to get revenues
7 one way or another from the sale of the coffee
8 whether it happens in the small business or if it
9 happens in the casino.

10 And then the final point about our
11 proposal is that we designed it very carefully so
12 that we could examine the impacts of casino
13 gambling at the state level, at the regional level
14 and most significantly at the local level, at the
15 level of the host communities. And we're very
16 excited about that particular piece of the
17 proposal.

18 This is, I guess you'd call it a
19 timeline. It's pretty high-level 30,000-foot
20 timeline. But I want to sort of use this diagram
21 to speak a little bit about the design of the study,
22 because it is quite complex and can be a little
23 difficult to get your head around.

24 This is my copy of the proposal and I'm

1 sure you've all had to wrestle with the same amount
2 of paper just on this one issue.

3 We took a very careful read of the
4 Expanded Gaming Act and in particular section 71.
5 And after lengthy discussion, we elected to
6 propose a cross-sectional rather than a cohort
7 design.

8 And I have to say that it's important
9 to just emphasize that both Rob and I have
10 experience with conducting cohort studies of
11 gambling. I'm involved in three studies. Rob
12 has been involved in two such studies.

13 And so, we understand what that kind of
14 design is intended to accomplish. And we felt
15 after reading through the Expanded Gaming Act that
16 this repeat cross-sectional approach was
17 preferable in terms of what the Commission has
18 basically been told to do by the Expanded Gaming
19 Act.

20 COMMISSIONER MCHUGH: Could you just
21 for my benefit and I'm sure the benefit of others
22 who may be watching from afar or here explain the
23 difference between the two different kinds of
24 studies? And then say why the cross-sectional

1 study in your view is more in line with what 71 is
2 looking for?

3 DR. VOLBERG: Absolutely. I don't
4 know if you remember when I presented to the
5 Commission at your problem gambling forum. And I
6 had a slide -- that it was a little camera and then
7 it was a filmstrip at the bottom. And that slide
8 was my somewhat naive effort perhaps to try to
9 illustrate what the difference is between a
10 cross-sectional approach and a cohort study.

11 A cross-sectional approach, if you
12 look at the graphic and you look at the column, the
13 third column over that says general population
14 survey, you'll see that in 2013 we've got the box
15 is highlighted and then again in 2018. And if you
16 want to think about those as sort of the camera.

17 So, we're going to take a snapshot of
18 the population in 2013 and then a snapshot of the
19 population in 2018. And a cross-sectional
20 approach gives you these snapshots. But we know
21 that what's really going under the surface is a
22 movie. So, there's things going on.

23 And a cohort study is intended to
24 yield information about how individuals change

1 over time. Because as we've been learning, people
2 don't develop a gambling problem and then just stay
3 problem gamblers forever. They cycle in and out,
4 and sometimes quite frequently.

5 So, that in the study that I'm involved
6 in in Australia, we were interviewing people every
7 year for five years. We had people who started as
8 a problem gambler at time one. They weren't
9 gambling at all at time two. They were gambling
10 a little bit at time three. They weren't gambling
11 at all at time four. And then time five, they were
12 problem gamblers again.

13 And if you had just taken the
14 snapshots, you would have thought they were a
15 problem gambler both times, but there was all of
16 this different behavior that was going on
17 underneath.

18 COMMISSIONER MCHUGH: All right.

19 DR. VOLBERG: So, that's the movie but
20 it's an individual movie. And people move in and
21 out and there's lots of sort of movement.

22 But my reading of the Expanded Gaming
23 Act is that the concern is about communities. And
24 a cohort study unless you had a sample just of the

1 community and followed them over time, would not
2 be able to tell you what was happening at the
3 community level. And so that's why we are
4 proposing a cross-sectional survey or survey
5 approach.

6 MR. HODGE: Just to say it simply
7 because I feel like maybe for everyone's purpose
8 it might help to say it simply, right?

9 DR. VOLBERG: Absolutely.

10 MR. HODGE: The cross-section means
11 that you're going to do a survey of the population
12 at a couple of different points in time.

13 The cohort would mean that you would
14 generate a sample, get that population and then
15 track those particular individuals every single
16 year over time.

17 DR. VOLBERG: Those same individuals
18 or as many of them as you could keep.

19 COMMISSIONER MCHUGH: Even if they
20 moved out of the community.

21 DR. VOLBERG: Even if they moved out of
22 the community, if they moved out of Massachusetts,
23 yes.

24 COMMISSIONER CAMERON: If you could

1 find them.

2 DR. VOLBERG: You would try to find
3 them.

4 MR. HODGE: You would try to find them.
5 That's one of the costs of the effort.

6 COMMISSIONER ZUNIGA: That's a
7 particular key point with particular groups that
8 Dr. Volberg mentions. Transient populations
9 escapes the cohort. Students in Massachusetts is
10 a particular subgroup that may be of interest.
11 What happens to students let's say by virtue of
12 casinos being now in Massachusetts, for example.

13 DR. VOLBERG: Let me just add to that
14 that we never intended to discard the idea of a
15 cohort study altogether, because the section 71 is
16 written in three parts. So, the first part is you
17 have to do a baseline study.

18 The second part is you have to do the
19 social and legal factual studies. I think I said
20 that right. And then the third part is you are
21 required to do individual studies. And one of the
22 types of individual studies that is required is
23 what's called an etiological study. And what that
24 means is the natural history of peoples' gambling

1 clears.

2 So, I've known from the beginning that
3 eventually there needs to be a cohort study done
4 in Massachusetts based on my reading of the statute
5 at least. So, when we obtained costs for data
6 collection for the cross-sectional surveys in
7 Massachusetts, we made sure that they built in
8 enough in their budgets to enable us to obtain what
9 is called contact information from people.

10 Believe it or not, people who
11 participate in surveys actually will give you
12 enough information so that you can go and find them
13 later. So, we would have a very large sample of
14 people who had agreed to be re-contacted and had
15 given us information to enable us to do that at some
16 point in the future. When the time is right to a
17 cohort study, we will be able to do that in
18 Massachusetts.

19 COMMISSIONER MCHUGH: Thank you.

20 DR. VOLBERG: So, I think that is
21 probably the main point of this slide that I wanted
22 to make sure that we were able to discuss the
23 difference between a cross-sectional and a cohort
24 study.

1 This slide basically is intended to
2 show you that we have many multiple streams of data
3 collection that will take place over the course of
4 the study that we propose.

5 You can see we have problem gambling
6 treatment and prevention data, a lot of secondary
7 data. We have these population surveys. We have
8 information that we're going to collect from the
9 gambling venues and from state and federal
10 governments.

11 We have a casino patron study planned
12 and a continuation of the license plate surveys
13 that are already being done. And then we are
14 proposing key informant interviews and focus
15 groups in the host communities.

16 Each of those streams of data
17 collection is assigned to a clear group or number
18 of scholars, researchers. We have a full-time
19 research manager planned and a data management
20 center where the data in a carefully redacted
21 manner, to use a legal term, is going to be made
22 available to the public.

23 So, that people are going to be able to
24 access this data and will be able to use it for

1 their purposes. This is not going to be sort of
2 a silo that we're not going to let the data out.

3 We have a very strong executive
4 management team, myself, Rob Williams and Ed
5 Stanek who is the Chairman of the Department of
6 Public Health at UMass Amherst. We are going to
7 be the central body that provides for the
8 coordination and integration of the results. So,
9 that you the Commissioners don't have to sort of
10 come through all of these data streams and figure
11 out what they say. But we are going to be working
12 to provide reports and information in ways that are
13 useful to you and to others in the Commonwealth.

14 And then finally, we have at the top we
15 actually have a Canadian, an Australian and a
16 Massachusetts resident whom we propose to serve as
17 peer reviewers on behalf of the Commission. They
18 will be reviewing key deliverables on our project
19 and reporting back to the Commission about whether
20 they have concerns about those deliverables. And
21 if they do, we will respond to those concerns and
22 we will make sure that what we're doing is
23 scientifically defensible.

24 And this is my last slide and then I'm

1 going to turn it over to Dan. In preparation for
2 this presentation, we were provided a copy the
3 proposal that was submitted by the other top
4 contender for this project, and asked to consider
5 what we might change or what we might propose given
6 some of the features of the other group's proposal
7 that were deemed deep desirable.

8 So, this particular area of comparing
9 the baseline survey approaches is what I
10 specifically am looking at. And Dan is going to
11 speak to some of the elements of the economic piece
12 of the proposal.

13 But you can see that there is a very
14 large difference in the size of the sample that we
15 are proposing for the baseline survey versus the
16 6000 person cohort sample.

17 Both of us actually had proposed an
18 address-based sampling approach. So, I think we
19 are all on the same page there.

20 COMMISSIONER MCHUGH: What is an
21 address-based sampling approach?

22 DR. VOLBERG: I'm sorry. Let me put
23 on my glasses here because fortunately NORC, our
24 data collection folks provided me with some

1 talking points.

2 Address-based sampling involves
3 sampling addresses from the U.S. Postal Service's,
4 it's called the delivery sequence file, which
5 lists virtually every residential mailing address
6 in the US. It can purchased from commercial
7 vendors.

8 And it is considered much better than
9 a telephone sampling frame for many reasons. But
10 primarily because people's addresses are not going
11 to change as frequently as their phones might.
12 That you can do all kinds of address matching and
13 reverse matching so you can get names and addresses
14 and phone numbers aligned.

15 So, this has really been a boon as
16 telephone response rates have dropped.
17 Addressed-based sampling has really moved to the
18 fore.

19 We had originally proposed a
20 multimodal method of data collection as the other
21 team did. However, ours was based on a
22 self-administered questionnaire followed by
23 telephone approaches, followed by face-to-face
24 with people that we couldn't get by the previous

1 two approaches.

2 The other team proposed a Web and
3 interactive voice recognition approach for their
4 first approach, followed by telephone and
5 face-to-face.

6 When I spoke with the folks at NORC,
7 they said they absolutely could do a web-based
8 approach. That they felt it probably was a good
9 idea because of the number of young people in
10 Massachusetts who will be more comfortable with an
11 online survey.

12 But they felt that it was important to
13 include the self-addressed -- the
14 self-administered questionnaire, excuse me,
15 because there is actually evidence that older
16 people, older adults, only about half of folks over
17 65 have Internet access. So, half of the older
18 population would not be able to participate in a
19 Web survey.

20 So, the self-administered
21 questionnaire would get us people who didn't have
22 access to the Internet in an easy way.

23 The address-based sampling and using
24 multiple sequential modalities to collect -- to

1 complete the interviews gets you much higher
2 response rates than telephone surveys.

3 When we were putting our proposal
4 together, however, and we were looking at the
5 costs, frankly, I was not optimistic that we would
6 be able to do an address-based sampling approach.
7 It seemed very, very much more expensive than
8 telephone. So, we proposed three.

9 As requested in the RFR, we had a low,
10 a middle and a high proposal. The address-based
11 sampling approach and the multimodal data
12 collection was really only our highly robust -- it
13 was only included as our highly robust option.
14 So, we're delighted to be talking about doing
15 something of this quality.

16 I think I'm going to let Dan talk.
17 There's a little bit more information about
18 recruitment and what's the best way to get people
19 to cooperate with you once you actually make
20 contact with them. There's not very many
21 differences. But I think let's get onto the
22 economic piece.

23 COMMISSIONER MCHUGH: Before we do
24 that, are the numbers the 10,000, five and four,

1 are those target numbers or are you keep going
2 until you get that many?

3 DR. VOLBERG: I would say it's
4 somewhat in between. We are going to get as close
5 as we possibly can to those numbers. I think the
6 5000 online is not going to be particularly
7 difficult. It's not going to be particularly
8 expensive either. But it's intended to give us a
9 much higher yield of problem gamblers so we can
10 look at impacts.

11 The 10,000, and the 4000 targeted, we
12 budgeted for those numbers. But in the real
13 world, it can sometimes be more challenging to get
14 the data collected than you anticipated. Or
15 something makes it more difficult.

16 I will say that when we did the
17 California -- I worked with NORC on a very large
18 survey in California. And we had projected a
19 final sample of 7500. We achieved 7121, which was
20 well within -- It didn't change the sampling error
21 or any of our confidence intervals at all. It
22 wasn't quite the 7500 that we had hoped for. But
23 actually, what happened in California was we ran
24 out of time rather than money.

1 COMMISSIONER MCHUGH: So, as long as
2 you're within the same sampling error as these
3 numbers indicate, you've got enough?

4 DR. VOLBERG: Yes. If we missed by
5 500, it would have very little impact.

6 COMMISSIONER MCHUGH: Okay.

7 DR. VOLBERG: Okay, Dan.

8 MR. HODGE: Thank you. My role is to
9 focus on the economic research aspects of this
10 project. As you all very well know, when the
11 casino and gaming legislation came about, two of
12 the overarching objectives were related to jobs
13 and economic development, and also an additional
14 revenue source for the state. So, these are
15 really key aspects of the research that we're
16 doing.

17 What I guess I'd like to emphasize is
18 that our goal is to really be looking at the net
19 economic and fiscal impacts. There are lots of
20 predictive studies that have been done on the
21 economic impacts of casinos. Many of those do not
22 explicitly account for some of the offsetting
23 types of effects that you are likely to see and
24 experience.

1 So, what we have tried to do is kind of
2 boil it down in terms of what are some of the key
3 drivers, or what factors for a new economic
4 activity.

5 So, in addition to the overall scale of
6 investment, and just in today's Globe I saw unveil
7 a proposal for the Wynn one in Revere --

8 DR. VOLBERG: Everett.

9 MR. HODGE: Everett, sorry. Thank
10 you. In any case, so we'll be looking at both the
11 gambling and the non-gambling revenue, both how
12 much revenue and that relates of course back to how
13 much state revenue will be obtained through these
14 facilities.

15 And then in particular and the point
16 I'd like to emphasize is the mix of visitors and
17 spending between recapture, some Massachusetts
18 residents who otherwise would gamble outside the
19 state, but will stay and spend their money at
20 facilities within the state. Out-of-state
21 visitors who are attracted due to these
22 facilities. And then in-state redistribution,
23 and that's something we definitely need to take
24 into account.

1 Some of the different surveys that
2 Rachel alluded to including the license plate one
3 where we're really getting a good understanding of
4 the patrons at these facilities is going to help
5 us to measure that.

6 I guess that brings me to my other kind
7 of overarching point is that this is not simply a
8 predictive study. This is a multi-year research
9 project. And the whole point is to actually
10 measure impacts as they occur over time.

11 The reason that there's a couple of
12 surveys at the beginning before the casinos are
13 introduced and then after is not to guess at what
14 the impacts are but to measure them. And the same
15 theory applies to the economy.

16 Other factors relate to expenditures
17 by these facilities on different suppliers and
18 vendors in the state. The employees at the
19 facilities, where do they live, what kinds of jobs
20 did they have before? Were they previously
21 unemployed?

22 And a lot of the research that goes into
23 this project will actually get at those kinds of
24 questions. Scale of infrastructure, investment

1 both at the facility and some of the supporting
2 transportation and other infrastructure that's
3 involved.

4 COMMISSIONER STEBBINS: Dan, just a
5 quick question. As it relates to employees at the
6 facilities and the categories you are talking
7 about, in researching we keep hearing about
8 casinos potentially going out and recruiting
9 somebody who's already employed from banking or
10 any other industry. That obviously creates a
11 backfill.

12 Are you going to be able to measure how
13 much of that movement is between people who are
14 already employed just moving to another position
15 and having that backfill of maybe potentially by
16 somebody unemployed?

17 MR. HODGE: Yes. Because part of the
18 data collection there is both secondary sources
19 through traditional government data, but also a
20 fair amount of primary data collection directly
21 from the facilities, which includes an employee
22 survey.

23 So, as an economist that's an
24 interesting kind of question because why would

1 that person move from one job to another? Well,
2 they would only do that if that individual was
3 better off. So, there's some incremental benefit
4 there.

5 Typically, why stay at a low-paying job
6 when you can have a high-paying job or whatever the
7 various amenities are. Yes, that kind of -- those
8 kinds of dynamics including whether you were
9 unemployed before getting the position or whether
10 you lived in another state directly before getting
11 the position are the kinds of information that
12 we'll be pulling together.

13 COMMISSIONER ZUNIGA: Let me
14 emphasize a key point there, which is that we all
15 are assuming that we will obtain a lot of very
16 important information from our applicants on their
17 level of spend, on their level of employment, but
18 very importantly on the level of gaming when these
19 operations are up and running.

20 And there's ways that the statute deals
21 with to anonymize data for this Commission to be
22 able to capture that data anonymously and be able
23 to test the behavior and changes.

24 DR. VOLBERG: In fact, that particular

1 section of the legislation -- I want to say 92, but
2 I could be wrong --

3 COMMISSIONER ZUNIGA: Ninety-one.

4 DR. VOLBERG: -- that was actually
5 originally an amendment that was drafted at the
6 request of a couple of the senators that were
7 involved in drafting the legislation by Natasha
8 Schull, who is a cultural anthropologist at MIT who
9 has done a great deal of work looking at gaming
10 machines and gaming machine design and designers.

11 And she actually consulted with a
12 number of her sources about what kinds of
13 information these machines might be able to
14 provide for research purposes. And that was
15 language that was incorporated into the
16 legislation itself. And I should say that Natasha
17 is on our team. That was the final important
18 point.

19 MR. HODGE: So, there are a number of
20 complicated dynamics that go along with
21 facilities of the scale that are being proposed.
22 And what we are proposing as part of the research,
23 similar to what Rachel was describing in terms of
24 multiple methods, is combining both a number of

1 economic and fiscal metrics, which we will track
2 over time.

3 So, jobs, unemployment rate and other
4 kinds of factors, business startups and failures
5 and having a database that we will track over time
6 so we can look at changes. Especially, in the
7 communities and the regions where the facilities
8 go in, basically attempt to isolate or find
9 evidence for the impacts that you may expect.

10 But we're also proposing to do
11 econometric modeling both to when these
12 applications come in they're going to have their
13 own estimates of how many people will work there
14 and how much revenue they'll generate and other
15 kinds of effects.

16 And what we've proposed at least as an
17 option for the Commission to consider is that using
18 what's called the Regional Economic Models Inc. or
19 REMI model. As those applications or the licenses
20 are selected, and we know which facilities are
21 moving forward, would be then to take that
22 information, do a careful predictive assessment
23 that we can then as they get implemented track to
24 see how closely our best to predictive methods can

1 actually correspond with the actual impacts that
2 we observe as the casinos are built and operated.

3 COMMISSIONER MCHUGH: How do you
4 control for non-gaming related influences on
5 whatever delta comes up?

6 MR. HODGE: Well, that's a good
7 question. So, there's two different ways that we,
8 in essence, plan to do that.

9 One is when the facilities actually
10 comes online, we'll be able through the different
11 surveys and such, we'll know how many people
12 actually are working at the casinos. You
13 predicted 4000 but is it 3500?

14 And out of the 3500, how many are
15 actually full-time or what wages are they actually
16 being paid? So, we'll have actual information at
17 that point, which we can then put again back in as
18 inputs to the REMI model to try to do it that way.

19 The other piece that we are going to do
20 in parallel is along the lines of trying to track
21 different metrics. So, in particular or as an
22 example something like jobs or unemployment rate.
23 The question is how much of any change in jobs or
24 unemployment rate can you actually attribute to

1 the introduction of the casinos?

2 This is kind of an age-old question in
3 all kinds of fields. But the idea in essence is
4 to try to look at, just like you might in
5 experimental analyses, try to identify control
6 groups. So, other communities or regions or parts
7 of the country that did not have this kind of change
8 introduced to it, what kind of trend did they
9 experience?

10 So, some of the impact of any community
11 in the state in the country is related to larger
12 macroeconomic factors.

13 COMMISSIONER MCHUGH: Right.

14 MR. HODGE: So, there's different
15 kinds of statistical tests that we plan to
16 undertake to try to better isolate those effects.
17 I would say humbly it's never perfection, but there
18 is a lot of way that you can try to build some good
19 evidence on the magnitude of the effect.

20 COMMISSIONER MCHUGH: Can you do the
21 same thing, Doctor, with the noneconomic
22 changes, social changes?

23 DR. VOLBERG: I guess I would have to
24 get together with Dan and figure out exactly how

1 we would do that. I think there probably are ways.
2 It might be difficult to assign specific numbers.
3 If you didn't have casinos or if you introduce
4 casinos you get X number very precisely of new
5 problem gamblers.

6 COMMISSIONER MCHUGH: But you're
7 going to look at things like the crime rate, right?

8 DR. VOLBERG: We are going to look at
9 things like that, yes.

10 COMMISSIONER MCHUGH: So, the crime
11 rate could go up because of -- in a gambling
12 impacted area, could go up because of gambling
13 factors. Or it could go up for a whole variety of
14 other factors.

15 DR. VOLBERG: Right. It could go up
16 just because you have more people in the area. And
17 you have to be very careful about the denominator.
18 What is the population that your crime rate is on
19 top of?

20 And yes, we'll certainly be able to
21 look at -- Things that can be quantified, we will
22 be able to do the same kinds of modeling.

23 MR. HODGE: Right. In essence,
24 something like the crime rate where you're basing

1 it off of publicly available data that's available
2 say for other cities, towns, states, then you can
3 use just like you could on economic metrics, you
4 can see what the control or other trends are to see
5 if there is a differential kind of rate.

6 So, there's some similarities,
7 especially for kind of government or secondary
8 data sources like that.

9 DR. VOLBERG: And there are also as the
10 other proposal pointed out, there are sort of
11 indirect indicators of say problem gambling that
12 can be monitored over time. Things like rates of
13 domestic violence and bankruptcy and various
14 things like that that can be monitored.

15 And we actually did in our highly
16 robust proposal envision doing something very like
17 the social indicator approach that the team
18 proposed.

19 COMMISSIONER STEBBINS: At a base
20 level -- Let's talk about base to a level of
21 business closings or business success. Is there
22 enough public information available about
23 business closures that you can establish a
24 baseline in a region? And then look at it after

1 the introduction of gaming?

2 I mean, businesses close for any number
3 of reasons. Trying to narrow it down to say this
4 business closed because of the introduction of
5 expanded gaming.

6 But on the flipside turn it around and
7 say growth in business taxes in a particular region
8 pre-introduction to casino gaming and maybe
9 related industries. You can really delve into
10 things on the business impact side 50 different
11 ways.

12 MR. HODGE: Yes, right. There's
13 going to be a lot of information to try to sift
14 through. When it comes to something like business
15 establishments, there's very regular data that's
16 tracked on the number of establishments. And
17 there's some information on net startups.

18 Part of what we plan to do in addition
19 to quantitative data is to do basically on site
20 what we call key informant interviews. So, this
21 isn't just us doing all of our work in our little
22 office and plugging away the numbers. We need to
23 go to the towns and communities that are impacted,
24 talk to the various local economic development

1 chamber, other groups. And get some hands-on
2 contextual information about what some of the
3 effects are.

4 The data can take you pretty far, at
5 least in my experience, but having some of that
6 context of what's happening on the ground can
7 hopefully shed more light on it.

8 COMMISSIONER CAMERON: Dan, of the
9 400 some odd gambling studies, seven of which were
10 deemed excellent, did anyone track fiscal impacts
11 as comprehensively to your knowledge?

12 MR. HODGE: Well, I can tell you that
13 the fiscal impact side is very often part of a
14 reason to do casino legislation.

15 I worked on a project in Indiana. So,
16 my background includes a number of different kind
17 of economic consulting type positions. But my
18 first one was actually working at this company REMI
19 where we did economic impact modeling for
20 different projects across the country. One was in
21 Indiana.

22 When we did that work, one of the very
23 careful aspects of the project was okay, of the
24 proposed casinos, what percentage of that is

1 coming back to the state. Then how do we treat
2 that portion of additional revenue that's expected
3 from a fiscal standpoint? And possibly either
4 allowing for additional investment that wouldn't
5 otherwise be there or more healthy fiscal
6 situation.

7 It's an unusual form. I don't want to
8 say it's free money, it's not free money by any
9 means. As I was trying to get at where that
10 spending is coming from impacts a lot. How much
11 of it is actually net new to the state?

12 Yes, that is a very important part of
13 most of these analyses.

14 DR. VOLBERG: I'd like to also see if
15 Rob can chime in. We've got him sitting here even
16 though he's not visible.

17 Rob, you might be able to tell us
18 something about that as well.

19 DR. WILLIAMS: I actually didn't hear
20 the full question.

21 COMMISSIONER CAMERON: Rob, the
22 seven, let's deal with the seven that you deemed
23 to be excellent, did any of those seven track the
24 fiscal impacts as comprehensively as they're laid

1 out here?

2 DR. WILLIAMS: Oh, yes. I would say
3 the majority of those were rated excellent because
4 they cast a very, very wide net and measured all
5 aspects of economic changes, using controlled
6 conditions in addition to things like key
7 informants and gaming employee surveys where you
8 can make more direct causal attribution of the
9 impacts. So, yes. Most of those seven did in
10 fact use a similar methodology.

11 DR. VOLBERG: Thank you.

12 MR. HODGE: To keep us moving, similar
13 to Rachel, I had a chance to review the economic
14 research elements of the M-Game proposal. I guess
15 I would put it in the spirit of trying to make sure
16 that what we're doing is as a high a quality as can
17 be. And put together a few of the different sort
18 of elements.

19 The first one, kind of reading across
20 row by row there, as I've been talking, we've
21 placed quite a bit of emphasis on measuring both
22 actual and estimated impacts and tracking metrics
23 over time.

24 In a lot of ways, this is set up to be

1 a version of like a before and after kind of study.
2 We are still in that before stage, before the
3 casinos are implemented. And then being able to
4 measure and trying to estimate actual impacts.

5 The other proposal at least in my read
6 emphasized modeled and estimated impacts of the
7 REMI model. In my view, because we do also
8 incorporate REMI, I don't anticipate any change
9 there.

10 In terms of the REMI model as part of
11 the level of, I guess, budget or funding that's
12 been explained at least to me, what's included
13 there was what's called a 160 industry sector
14 model, which would be based on four regions of the
15 state.

16 My thinking being one for each of the
17 three casinos, resort or destination casinos and
18 then a fourth region that makes up the rest of the
19 state. I wasn't sure about the configuration
20 planned in the other one. It may have included
21 additional regions.

22 I guess I would suggest that whether
23 with the Commission or some group, it's probably
24 worth talking that through because that is a

1 significant kind of modeling purchase as part of
2 our project. And I wouldn't want there to be any
3 surprises.

4 And once you launch down the path of
5 configuring a model that's what you're working
6 with. So, that may benefit from some additional
7 discussions as we get going. It's also not an
8 element that we need to do tomorrow.

9 We placed some emphasis on accounting
10 of both economic, which I mean in terms of things
11 like jobs and gross state product and wages.
12 Fiscal, which really gets at government revenue
13 and expenditures. And there's other non strictly
14 monetary effects as well.

15 To some extent, the other proposal was
16 combining some of those effects. I don't
17 anticipate a change in that element of our
18 proposal. They did on the fiscal side recommend
19 some customized fiscal spreadsheets. I think we
20 want to take a careful look as we get going in terms
21 of the fiscal data sources that we would be using
22 to ensure that we really have as strong a set of
23 information and framework as possible.

24 Because as Commissioner Cameron

1 pointed out, looking at those fiscal impacts both
2 at the local and state level of these facilities
3 is going to be essential.

4 And then another element that comes
5 into this is the potential for there to be some
6 population migration. So, as these facilities
7 are implemented with the number of jobs that are
8 planned, whether it's within state or folks coming
9 from nearby states, you certainly could expect
10 some population in migration.

11 The M-Game proposal emphasized the use
12 of IRS data based on tax returns. Our group at the
13 UMass Donahue Institute, we are actually the state
14 data center through US Census. We do the
15 population estimates for the state. We will take
16 a look at basically to ensure that our methods and
17 our data collection are what is needed for this
18 project.

19 I think that we have more than enough
20 of the capability there given the fact that we're
21 doing the year-by-year population estimates for
22 the state. But that is an element of data that
23 we'll make sure to take a look at.

24 If there's other elements of the

1 proposal as we get going that you have questions
2 on, I'd be happy to discuss that.

3 COMMISSIONER MCHUGH: All right. All
4 of that that is enormously helpful, and succinctly
5 presented. So thank you, very much. Are there
6 questions or comments that anybody has about that?

7 I had a question, I have a couple of
8 questions. I'm not sure that you're the right
9 target for those, but I first one is how do we pay
10 for this?

11 COMMISSIONER ZUNIGA: That's a very
12 important, good question. One of the best things
13 of the legislation, in my opinion, relative to this
14 area is they really gives this Commission the tool
15 to fund this effort.

16 I am referring specifically to the
17 Public Health Trust Fund, of which we are trustees.
18 And the legislation sets a floor that we asses on
19 an annual basis. But there's also one -- there's
20 a particular tax from the gross rate gaming
21 revenues that funds this trust fund in later years.

22 Because there's also this mandate of a
23 baseline study, one that needs to happen soon
24 because population behavior, we'll start noticing

1 some impacts, if you will, very soon. There is a
2 need to fund that now in my estimation --

3 COMMISSIONER MCHUGH: Right.

4 COMMISSIONER ZUNIGA: In your
5 estimation.

6 So, my intention is or my
7 recommendation as well is that as soon as we can
8 assess our applicants the floor for that public
9 trust fund that we would commensurate to the size
10 proposed by their proposals. So, technically, we
11 would "front" that effort for some short period of
12 time. And then continue funding it and as soon as
13 we have our applicants become licensees.

14 COMMISSIONER MCHUGH: So, initially
15 we would pay for this out of operating revenues
16 that come to us from the slots machine taxes and
17 the ability to assess for operational costs?

18 COMMISSIONER ZUNIGA: Not
19 necessarily. Initially, as of next month we would
20 use our initial funding to start funding this
21 effort.

22 Once we have our ability to assess
23 applicants for the public trust monies, the public
24 trust fund monies, my intention is that we do that

1 to continue funding this effort.

2 COMMISSIONER MCHUGH: And that is the
3 public health, the \$5 million annual fund?

4 COMMISSIONER ZUNIGA: Correct.
5 That's what I refer to as a floor. It's a public
6 health trust fund.

7 COMMISSIONER MCHUGH: That is
8 something that we have the ability to do as soon
9 as we grant a license.

10 COMMISSIONER ZUNIGA: At least per the
11 current regulations recently adopted, yes.

12 COMMISSIONER MCHUGH: Right.

13 COMMISSIONER ZUNIGA: We'd have to
14 think about the details of how to do that
15 proportionally to the applicants. And we'll
16 cross that bridge when get there, but effectively,
17 yes.

18 COMMISSIONER MCHUGH: Okay. That
19 ties into my second question. What is the role of
20 the Gaming Policy Advisory Committee with whose
21 advice we are supposed to be engaging in these
22 studies?

23 COMMISSIONER ZUNIGA: A very
24 important one. As the legislation reads, the

1 Gaming Policy Advisory Committee sets the annual
2 research agenda.

3 COMMISSIONER MCHUGH: Right.

4 COMMISSIONER ZUNIGA: By some
5 interpretation, that could entail -- that should
6 entail a lot of what's envisioned in this project
7 - that will entail. But there's this timing
8 consideration that we need to be aware of. What
9 we really need to do currently, which is why we did
10 this RFP is undertake this baseline study.

11 COMMISSIONER MCHUGH: Right.

12 COMMISSIONER ZUNIGA: I'm setting up
13 the systems and scoping out the effort. And this
14 advisory committee has not been in place for a
15 number of reasons, not the least of which is that
16 our applicants and some of the leaders of the
17 communities where these casinos will go, have a
18 seat at the table at that committee.

19 So, this committee will come to
20 fruition hopefully not too long in the short
21 future. But we need to do this effort before it's
22 too late for lack of a better term. Do you want
23 to expound on that?

24 DR. VOLBERG: Just add to that. I was

1 very cognizant of the fact that the Gaming Policy
2 Advisory Committee was (A) supposed to be
3 overseeing the annual research agenda or assisting
4 with that and (B) would not be in place for at least
5 the first section of section 71 activities.

6 So, when we wrote our proposal we had
7 as specific deliverables reports to that committee
8 as soon as it was stood up. We were proposing to
9 report to the committee two months before the
10 annual report to the Legislature is required about
11 the annual research agenda.

12 So, that my vision was that we would be
13 feeding information on our research activities to
14 the committee and to the Commission in a timely way
15 in order for the committee and the Commission to
16 then report to the Legislature.

17 COMMISSIONER ZUNIGA: I should add
18 that this committee is advisory in nature. It's
19 an important advice, but the discretion as I read
20 the legislation anyway remains with the
21 Commission.

22 COMMISSIONER MCHUGH: Yes, it does.
23 It does. Okay. I understand what you're saying.
24 Any other questions?

1 COMMISSIONER STEBBINS: Just one
2 quick question. We are currently in the process
3 of recruiting and hiring a Director of Research and
4 Problem Gaming. How would you see your
5 interaction with a person in that position beyond
6 the obvious?

7 DR. VOLBERG: Beyond the obvious of
8 reporting to them on our progress, I actually was
9 thinking about that this morning as I was driving
10 in. And thinking that there are a number of
11 conferences coming up, for example, on problem
12 gambling and on gambling research that I have been
13 attending for many, many years on a regular annual
14 basis. And that whoever the Director of Research
15 and Problem Gambling turns out to be, if it's not
16 someone who is already in the field and has a
17 background who is very likely to already be known
18 to me, my thought was that this was someone who
19 would certainly be able to attend those
20 conferences and benefit from the introductions
21 that we could make.

22 I think the same thing on the economic
23 side. That this is someone that we would plan to
24 work very closely with in terms of not just

1 communication and networking, but also in terms of
2 the various decisions that have to be made about
3 what does this research say about decisions that
4 the Commission needs to make? And how can it be
5 fed through your staff to you to make the very best
6 decisions?

7 COMMISSIONER STEBBINS: Okay.
8 That's helpful.

9 COMMISSIONER MCHUGH: All right.
10 Thank you very much, very, very helpful.

11 DR. VOLBERG: Thank you.

12 MR. HODGE: Thank you.

13 COMMISSIONER CAMERON: Excellent
14 presentation.

15 COMMISSIONER ZUNIGA: Mr. Chairman, I
16 think last week we had a motion to --

17 COMMISSIONER MCHUGH: We do have a
18 motion and I want to come back to that motion. The
19 recommendation is the Gaming Commission authorize
20 Commissioner Zuniga to begin the process of
21 further refining the scope of work and undertake
22 contract negotiation and execution for the
23 research project with the team comprised of UMass
24 Amherst as part of their response to the RFR yada,

1 yada, yada, which I'll spell out in more detail in
2 a second. And we ought to act on some variant of
3 that today or that.

4 It seems to me clear that the focus on
5 the communities as opposed to the people who may
6 remain and migrate out is a sensible way to go.
7 And to measure both the economic impact on the
8 communities and the impact on the population
9 that's in the communities is really what the guts
10 of our mission is.

11 And it seems to me this is really as all
12 of the background work by the project management
13 team reveals a very robust and well qualified team.
14 It is a great team to do this.

15 And I understand that the Gaming Policy
16 Advisory Committee isn't here and we have to have
17 a baseline, otherwise a lot of the value is gone.
18 So, all of that's clear.

19 I am a little concerned about the cash
20 flow piece. So, I wonder if it makes sense to say
21 let's go ahead and do the negotiations. Let's get
22 a contract. Let's get with the contract a
23 projection of a cash flow and match it up with our
24 budgetary projections.

1 And then let's bring that back to the
2 Commission and say this is what we propose to do.
3 This is how much it's going to cost. This is when
4 we're going to incur the costs, and see how that
5 fits into the overall scheme of things. Does that
6 make any sense?

7 COMMISSIONER ZUNIGA: That makes
8 absolute sense. We could certainly do that.

9 COMMISSIONER MCHUGH: We need to move
10 quickly and I understand that.

11 COMMISSIONER ZUNIGA: We need to move.
12 There's a time element. We could easily mobilize,
13 and to some degree they started to do a projection
14 of cash flow for the remainder of this fiscal year
15 or the next fiscal year. It should really be the
16 next fiscal year as well.

17 That's all subject to ratification and
18 approval as any large commitment, monetary
19 commitment is of the Commission. So, we could
20 certainly come back soon with all of that
21 information.

22 COMMISSIONER CAMERON; I think that's
23 reasonable considering it can be done quickly.

24 COMMISSIONER ZUNIGA: Right.

1 COMMISSIONER CAMERON: That would
2 give us more information to work with.

3 COMMISSIONER ZUNIGA: I want to make a
4 point that is a little indirectly related, but it's
5 very important relative to public health trust
6 fund that dovetails into one of the factors that
7 in my view was very important in selecting the team
8 from UMass Amherst. And that is the public health
9 trust fund really is, in my estimation, to be
10 combined and used for not just research but
11 addressing and funding problems. Because that's
12 ultimately what really prevents, helps, treats
13 people who need it.

14 Of course, you need to do the research
15 first and there's a little bit of expenditures that
16 we have to do perhaps of large magnitude clearly
17 in the upfront in our case. But at some point, we
18 should figure out just what that mix may be. This
19 would be extremely helpful in my view with the
20 input of the Gaming Policy Advisory Committee.
21 What that mix between research and treatment
22 should be. I don't know what that is, but of
23 course we'll figure that out.

24 But the part that I thought was an

1 important aspect that was very positive from the
2 community level as the unit of analysis was that
3 in my view that really informs programs. That
4 could really inform the likes of our partner, Mass.
5 Council on Compulsive Gambling. How to market,
6 what languages to use when they market, where to
7 put advisories, and any other plethora of
8 treatment that goes along with the work that they
9 do, which we'll also fund and have the ability and
10 money to do.

11 Perhaps we do this today in the next few
12 months a little bit heavy on the research, but
13 that's the nature of what we have to do. The mix
14 will change as time progresses.

15 That's not to say we will stop doing
16 research. It's an ongoing research annual agenda
17 as it's mandated in the legislation. But I did
18 want to mention that about programs, which is in
19 my opinion the very important piece.

20 COMMISSIONER MCHUGH: Yes. All
21 right. I think we all agree with that and we
22 can't lose sight of it as we move down the road.

23 So, suppose I make this motion, which
24 is that the Gaming Commission authorize

1 Commissioner Zuniga to begin the process of
2 refining the scope of work and undertake contract
3 negotiations for the research project with the
4 team comprised of UMass Amherst, et al as part of
5 their response to RFR #MGC-research-2012 dated
6 January 7, 2013. And bring the fruits of that
7 negotiation, those negotiations plus a cash flow
8 analysis back to the Commission for final
9 approval.

10 COMMISSIONER STEBBINS: Second.

11 COMMISSIONER MCHUGH: Discussion?

12 All in favor, aye.

13 COMMISSIONER ZUNIGA: Aye.

14 COMMISSIONER STEBBINS: Aye.

15 COMMISSIONER CAMERON: Aye.

16 COMMISSIONER MCHUGH: Great, great.

17 This is going to be very, very exciting. And I
18 think we look forward to having a really
19 world-class study come out of this. This is
20 great.

21 All right. There is one thing I
22 overlooked when we were doing the regulation
23 update and schedule update 6b. That is that
24 Commissioner Stebbins and I have been talking to

1 various people and are going to continue talking
2 to various people about the team we need to
3 assemble in order to process the application when
4 they get here.

5 This is actually what made me think of
6 the cash flow piece because it's becoming clear
7 that we ought have components of that team in place
8 soon so that they can help us create the
9 application. And make sure that we have a
10 structure that permits easy comparison of apples
11 to apples.

12 And I think we're coalesced around the
13 notion that we need two key components and could
14 get to work designing an RFR to look for those.
15 Commissioner Stebbins, do you want to say anything
16 about that?

17 COMMISSIONER STEBBINS: Sure. I
18 think that even though we have four kind of
19 evaluation criteria measurements, I think two of
20 those criteria, the building and facility itself
21 of the resort destination casino as well as the
22 financial seem to lend themselves immediately to
23 being able to identify the experts that will be
24 helpful in reviewing -- actually doing, Mr. Chair,

1 as you just mentioned helping us with two critical
2 steps from the conversations that we've had.

3 One is having input into the
4 application itself, the appropriate terminology,
5 the appropriate information that needs to be
6 collected. And how it's identified so that we are
7 comparing as best we can apples to apples and not
8 apples to mangoes. And with some input from our
9 friends at AIA looking at folks who can help us
10 evaluate the project, the construction, the
11 facility itself.

12 So, they have just sent me over -- They
13 reviewed our evaluation criteria. They pulled
14 together a list of not necessarily individuals,
15 but the types of professional consultants or help
16 we should go out and identify.

17 Again, on the financial piece, the
18 first criteria, going out and looking for a firm
19 that probably has great experience analyzing
20 mergers, acquisitions to really look thoughtfully
21 through financials and pro formas and estimates
22 relative to financing.

23 So, what I'd like to prepare is some
24 framework to the RFP for those type of services and

1 share that back with you as quickly as I can.

2 COMMISSIONER MCHUGH: Yes, I think
3 that would be good. That would be great. I think
4 we really need to move on that. And I don't know
5 that -- Yes, I think that sounds like a good plan.

6 COMMISSIONER ZUNIGA: Can I highlight
7 just one thing?

8 COMMISSIONER MCHUGH: Yes.

9 COMMISSIONER ZUNIGA: And I know you
10 talked about the scope of work, but we have a good
11 framework of our RFPs like the one that our teams
12 responded to. There's good templates that we can
13 use. We need to think about the scope of work
14 piece, clearly.

15 COMMISSIONER MCHUGH: Yes. We do
16 need to think about the scope of the work, but then
17 as you say, we don't have to reinvent the wheel for
18 what the RFP looks like. And it may be that
19 there's some on the state contract. It maybe that
20 we can do some ISAs. There's a lot of ways.

21 So, how can we best do that and begin
22 to put some kind of a timeframe around it? We're
23 going to continue, you and I, to talk to people,
24 to look at the ways they process things. But this

1 can be going on in interim. And it ought to go on
2 in interim.

3 COMMISSIONER ZUNIGA: Let me
4 highlight something that I experienced when I was
5 writing the RFP for the research agenda.

6 We knew that there was -- We wanted to
7 do a lot of social analysis as we were mandated.
8 And there's a lot of problem gambling addiction,
9 etc. But we also read the economic impacts. And
10 we wondered before we received the responses
11 whether people would be interested in responding
12 to a particular piece of the research agenda or
13 maybe a comprehensive piece. We wrestled with the
14 notion of whether we needed a program manager or
15 whether that role the Commission would play.

16 And the analogy that I'm trying to say
17 is we ended up on something that was broad. And
18 the teams read that thought together and put
19 together proposals.

20 So, in my estimation, if we decided on
21 a discipline like all things finance and
22 accounting, let's say, kept the scope of work
23 broad, having to do with real estate, gaming,
24 mergers, acquisitions, etc., firms will hopefully

1 read this and say we can put together a
2 multidisciplinary team. Or we can help you with
3 this one piece or these two or three pieces. And
4 just see what we get. Perhaps I'm stating the
5 obvious.

6 COMMISSIONER CAMERON: It worked
7 well.

8 COMMISSIONER ZUNIGA: It worked
9 really well in this case and we could see what
10 happens.

11 COMMISSIONER MCHUGH: Let's talk
12 further. That sounds like a good approach.
13 Another approach might be to take what outcomes
14 we're looking for and put those outcomes in an RFP.
15 We need somebody who will assist us in doing XYZ
16 and it could be one person or a team. So, we can
17 talk further about that.

18 What's a realistic way to put some
19 target dates on that? Should we just do that
20 administratively? Should we do that now? What
21 does everybody think about that? Because we've
22 got so many things going, and this is an important
23 piece of the next step.

24 COMMISSIONER ZUNIGA: Right.

1 Whether we're calling it scope of work or outcomes,
2 it makes sense. It's sort of the same. That's
3 something that we just have to sit down and write.
4 Whoever wants to or is taking the lead. I can take
5 the lead on the finance piece if that suits
6 everybody or continue with the way we've been
7 doing. Just thinking out loud.

8 COMMISSIONER MCHUGH: Let's just put
9 this on the agenda for next week. And think in the
10 interim about having something tangible somehow
11 next week, even if it's an outline that we can work
12 on. And bring back some kind of an outline so that
13 we can begin to think about this and move forward.

14 COMMISSIONER STEBBINS: I think
15 there's also as part of that there's going to be
16 -- as we're going out looking for these
17 specialties, I think there's also going to be some
18 kind of cross criteria through each RFP about what
19 we're looking for that respondents agree to.

20 COMMISSIONER MCHUGH: Right.

21 COMMISSIONER STEBBINS: Those are
22 pretty broad but those will be consistent across
23 those RFPs.

24 COMMISSIONER MCHUGH: Right. I think

1 the trick is going to be to try to be broad enough
2 yet precise enough so that we can get some quick
3 responses from quality people. So, let's look at
4 that next week.

5 Before we close, let me simply say for
6 our mutual benefit and for the benefit of others
7 who are looking, that next week's meeting is
8 starting at 9:00. We have a number of topics on
9 the agenda. So, we're going to start at 9:00 as
10 opposed to the 1:00.

11 We have some racing issues that we're
12 going to discuss that Director Durenberger gave us
13 a preview of. We have some scheduling things
14 we're going to try to tighten down as much as we
15 can. We're going to return to the Region C
16 discussion and perhaps come to a conclusion,
17 perhaps not.

18 In that regard, I noticed today -- I
19 received today a letter from Todd Weld that
20 apparently was simultaneous -- actually not
21 simultaneously released to the press before we
22 received it.

23 And in that letter, the firm stated
24 that the Commission had no power and no authority

1 to open Region C to a commercial gaming until it
2 concluded that the Bureau of Indian Affairs would
3 not take land into trust.

4 The Commission has never taken a
5 position on that. That's one of the things the
6 Commission has to think about.

7 The Commission does have and when last
8 addressed this issue does have a memorandum in its
9 packet. It's been publicly distributed in which
10 -- that I wrote in which I took a distinctly
11 different view of that. And believe that and
12 stated that I believe that the Commission's powers
13 were not limited in that fashion, both because of
14 the plain language of the statute and because of
15 the absence of language that specified that.

16 But that's just the view of one
17 Commissioner. And we have not adopted that view.
18 We have not come to any coalescence around that.

19 So, Region C discussion is on the
20 agenda for next week. And we'll take it as far as
21 we can and make whatever decisions we're able to
22 take.

23 And then there are several other
24 features of the discussion that we'll have next

1 week as well. So, that's why we're starting at
2 9:00.

3 Any other thoughts or considerations
4 that anybody wants to address? All right. Then
5 I'd entertain a motion to adjourn.

6 COMMISSIONER CAMERON: So moved.

7 COMMISSIONER MCHUGH: Second?

8 COMMISSIONER ZUNIGA: Second.

9 COMMISSIONER MCHUGH: All in favor,
10 aye.

11 COMMISSIONER STEBBINS: Aye.

12 COMMISSIONER ZUNIGA: Aye.

13 COMMISSIONER CAMERON: Aye.

14 COMMISSIONER MCHUGH: We are
15 adjourned.

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17 (Meeting adjourned at 3:31 p.m.)

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1 ATTACHMENTS:

- 2 1. Massachusetts Gaming Commission March 28,
3 2013 Notice of Meeting and Agenda
- 4 2. March 28, 2013 Massachusetts Gaming
5 Commission Memorandum Regarding Vornado Trust
- 6 3. Massachusetts Gaming Commission Draft
7 Regulations Updates to 205 CMR 102.00 through
8 117.00
- 9 4. Massachusetts Gaming Commission Draft
10 Regulations New 205 CMR 118.00 through 131.00
- 11 5. Massachusetts Gaming Commission Draft
12 Evaluation Criteria
- 13 6. Massachusetts Gaming Commission - Racing
14 Division March 28, 2013 Memorandum Regarding
15 Proposed Regulatory Changes to 205 CMR 4.00
16 - Phase II Recommendation: Adoption of
17 Proposed Regulations on Emergency Basis
- 18 7. Proposed Changes to 205 CMR 4.00
- 19 8. Written Submissions Received Regarding
20 Proposed Changes to 205 CMR 4.00
- 21 9. UMass Amherst Presentation: Massachusetts
22 Gaming Commission Research Agenda, Social
23 & Economic Impacts of Gambling in
24 Massachusetts

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SPEAKERS:

Catherine Blue, General Counsel

Dr. Jennifer Durenberger, Director of Racing

Todd Grossman, Staff Attorney

John Ziemba, Ombudsman

Daniel Hodge, Director Economic and Public Policy,
UMass Donahue Institute

Dr. Rachel Volberg, Professor, School of Public
Health, UMass Amherst

Dr. Robert Williams, Professor, Faculty of Health
Sciences, University of Lethbridge (present
via telephone)

C E R T I F I C A T E

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

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

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

WITNESS MY HAND this 29th day of March



Laurie J. Jordan

LAURIE J. JORDAN
Notary Public

My Commission expires:
May 11, 2018