

MASSACHUSETTS GAMING COMMISSION

1 THE COMMONWEALTH OF MASSACHUSETTS

2 MASSACHUSETTS GAMING COMMISSION

3
4 OPEN MEETING

5
6 CHAIRMAN

7 Stephen P. Crosby

8 COMMISSIONERS

9 Gayle Cameron (not present).

10 James F. McHugh

11 Bruce W. Stebbins

12 Enrique Zuniga

13 -----

14
15 APRIL 17, 2012

16 1:57 p.m.

17
18 1000 Washington Street, Conference Room E

19 Boston, Massachusetts

20
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1 April 17, 2012

2 PROCEEDINGS:

3 MR. CROSBY: I think we will get started.
4 I am going to call the Commission meeting to order.

5 Just a few, kind of, organizational
6 announcements. First of all, Commissioner Cameron, Gayle
7 Cameron, has a family obligation this week that she was
8 committed to prior to this -- I guess this is school
9 vacation week -- that she was committed to prior to
10 signing up as a commissioner, so she is not able to be
11 with us today, but will be back next week.

12 There is a lot of stuff you'll see on the
13 agenda that is kind of organizational catch up. As we've
14 begun this process, I think we've talked a little bit
15 about learning how to operate within the quite rigorous
16 standards of the open meeting law, and we want to be
17 absolutely -- theoretically, we can't pick a color of a
18 rug without having it take place in an open meeting. So
19 we're trying to learn how to organize ourselves to not
20 come to a grinding halt, but on the other hand to comply
21 with the full intention and spirit of the law because it
22 is important. So we're going to be going over a bunch of,
23 kind of, organizational issues that may seem pretty small,
24 but they're important.

25 This is our regular meeting. We're

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1 probably -- next week we probably will discuss and
2 announce some kind of a regular schedule, so people can
3 start to plan at our normal public meetings. This will
4 just be us doing business with the public invited to
5 watch. There won't be -- in these regular meetings there
6 won't be an opportunity for public comment, as there isn't
7 today. But as I mentioned last week, what we talked about
8 last week, there is going to be a host of opportunities
9 for public comment.

10 And there is on the web site a position --
11 a contact point that's pretty easy to get to, and we're
12 encouraging anybody with questions, or complaints, or
13 suggestions, or anything, to use that as a communications
14 medium for now. And then as I said, we'll be announcing a
15 whole host of environments coming up where people can
16 comment.

17 This meeting is not being streamed on the
18 web site. That is one of the reasons we wanted to get a
19 regular schedule, is so we can find a place to set up an
20 AV situation, or a streaming situation, where we can get
21 it for a reasonable cost, and learn how to do it well.
22 But our anticipation, and our hope, is we'll be streaming
23 all of our meetings. We haven't really decided on that as
24 a commission yet, but that's our predisposition.

25 We do have a stenographer team here today

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1 and we will have the -- what's the word?

2 MR. MCHUGH: Transcript.

3 MR. CROSBY: Transcript with the minutes up
4 on the web site set within two or three days, I think, so
5 there will be a complete record of what's being
6 undertaken.

7 Anything else? Any other kind of
8 organizational or start things? Okay. So there is
9 agendas --

10 MR. MCHUGH: We might be mention that
11 because we did not have the contemporaneous stenographic
12 record at the last meeting, the minutes of the last
13 meeting are not up at the present time. They will be up
14 within a day or two, and then hereafter this process will
15 allow us to get the meeting minutes and the transcript up
16 within a day or two of the meeting so that we can stay
17 current with that.

18 MR. CROSBY: Can you all hear me back
19 there? Is there any difficulty hearing? If there is,
20 just speak up. That will also include the video. It
21 turns out, apparently, that we couldn't put the video up
22 until we had a -- what do you call it? The transcript
23 which could be read by various kinds of -- closed
24 caption. There you go, thank you. You can't have one up
25 when it is not accessible to everybody, and we couldn't

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1 make it accessible to everybody, so we had to hold
2 everything back so we could get the full accessible
3 resource, but that will be coming up very shortly.

4 Okay. Now let's get started. Start with
5 administration. There is an agenda over here if anybody
6 is interested.

7 The search for executive director. Bruce
8 has been kind of taking the lead on this. If you want to
9 just give us an update on kind of where we stand?

10 MR. STEBBINS: Sure. With the assistance
11 of Commissioner Zuniga -- well, as you all know at the
12 last meeting, we accepted procurement regs that closely
13 follow the state guidelines. We have gone and drafted an
14 RFR for services from a recruitment firm. And the RFR for
15 services will be up to \$80,000. Hopefully issuing the RFR
16 in the next week and hopefully being able to award a
17 contract to a firm by the end of the month of May to,
18 again, kind of move the process along of hiring a
19 permanent full-time executive director.

20 MR. CROSBY: By the end of the month of May
21 seems like a long time. What are the time elements?

22 MR. STEBBINS: Issuing the RFR, then we
23 would have responses due the early part of May. We put
24 some windows in there to allow ourselves time to interview
25 potential firms, so it gives us a little bit of a window,

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1 but obviously we would like to move as aggressively as we
2 can.

3 MR. CROSBY: When does the RFR close, two
4 weeks?

5 MR. STEBBINS: The RFR bidder's response,
6 if we keep to this time table, by May 11th.

7 MR. CROSBY: Well, from my standpoint,
8 anything we can do to move it along, obviously, is
9 important. We all feel that this is among the most, if
10 not maybe the most significant decision we're going to
11 make, and the hire we're certainly going to make. So
12 while we do want to move it along, we also want to do it
13 right.

14 But in the meantime, we talked last time
15 also about the possibility of -- the legislation
16 authorizes the commission to hire an acting director --
17 acting executive director in the absence of a full-time
18 director, which would include now. And Bruce has kind of
19 taken the lead on -- Commissioner Stebbins has kind of
20 taken the lead on that as well. Do you want to give an
21 update on that?

22 MR. STEBBINS: Sure. We have had a couple
23 of resumes in interest that have come in. Again, I think
24 we're seeing a volume of communication from people who are
25 interested in working for the commission at some point.

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1 But some of these resumes might be of people we would
2 consider to fill the acting executive director's position
3 while the full time search is being conducted. So we can
4 reach out to some of those potentially interested parties
5 in the next week or two. Hopefully, we can find a good
6 qualified candidate. Again, I think we prefer somebody
7 who potentially has had some public administration
8 background and bring them on board in an interim basis.

9 MR. CROSBY: And this is, among other
10 things, to try to keep us from having to do the staff
11 work, you know. We don't want to tie ourselves up in
12 trying to figure out, you know, what the IT systems are
13 going to be so far. That is really not what we ought to
14 be doing. We ought to be getting the process going,
15 figuring out how to write the RFPs and the getting the
16 process going, so that would be great.

17 I have heard from a guy who was the chair
18 of the Nevada Gaming Commission, who is now a consultant,
19 as well as a lawyer. And he is interested in maybe
20 playing that role, so he is going to send in a proposal
21 and resume, which I will shoot to you as soon as I get
22 it. Anything else on that item?

23 We talked about bookkeeping, and I have
24 talked with Janice, our chief of staff, about what do we
25 need, and I'm not quite sure. We were going to check with

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1 the comptroller to see how long they could take care of it
2 for us. Do we need to do anything else on that?

3 MS. REILLY: No, not right now.

4 MR. CROSBY: So for the time being, they
5 can handle whatever our record keeping is.

6 Okay. I guess the only thing is to make
7 sure we got it plugged into the web site as soon as
8 possible, so people know what we're doing, and what we'll
9 be spending on what and so forth. HR process, Enrique you
10 have been --

11 MR. ZUNIGA: Yes. Well, as we undertake,
12 you know, some of the hiring processes that we are
13 undertaking by virtue of thinking of an acting executive
14 director, clearly a permanent executive director, but also
15 book keepers and executive assistants and the like.

16 I would like to -- I did distribute a copy
17 of a hiring policy that I'm familiar with, only because of
18 my recent experience at the treasurer's office. I have a
19 detailed one here. What I gave you was a one pager, and I
20 submit that we should consider either drafting a similar
21 policy or looking at the components of this policy and
22 adopting a policy of our own, drafting our own hiring
23 policy. The legislation does give us a lot of leeway in
24 terms of the acting executive director, so it doesn't
25 necessarily have to be in place, and that person could

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1 certainly help us at that time.

2 But I see this policy as an important first
3 step in what will become -- really should become our
4 hiring policy for everyone else that follows. So we
5 should -- you know, this policy deals with issues, for
6 example, relative to internal candidates. These may not
7 necessarily apply to us at the beginning, but there is a
8 nexus to other government -- state government employees
9 for example.

10 Also how to deal with referrals. I happen
11 to believe that all referrals should be written, not just
12 verbal, like the policy of the treasurer. So this
13 articulates -- and how to deal with family members of
14 commissioners or others. So I think we should discuss or
15 think about, you know, adopting a written policy relative
16 to hiring practices.

17 There are many other policies that we would
18 eventually have to address; employee conduct, you know
19 family act, et cetera. But the one that strikes me as
20 being most relevant for us at this point is one with
21 semblance of a hiring policy. Any questions on that?

22 MR. MCHUGH: I think we should have such a
23 policy, and when I get to discussing the outside counsel's
24 recommendations, we have now got a list of things from
25 them, and that is included on that. So I think that is a

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1 high priority and we need to do it.

2 MR. CROSBY: Commissioner McHugh and I were
3 both members of the so-called Harshbarger Committee, which
4 looked into hiring and promotion in the judiciary. And we
5 did a lot of work coming up with best practices, informed
6 by people from the private sector. So we were very much
7 aware of, you know, best practices in the private sector
8 as well as the public sector. A little culture shock for
9 her was something when she sat in on our meetings. And I
10 think we would want to contribute that to the process.

11 So we're in the midst of a couple of hiring
12 things right now. The HR, we'll talk about communications
13 director, maybe a few more clerical people, and whether we
14 can move quickly enough to get a whole, you know,
15 systematic process with an applicant tracking system and
16 all of the things we want in place before those or not. I
17 am not sure. But we ought to think about, maybe as soon
18 as our next meeting, is there some kind of basic
19 principles we want to adopt that will at least hit the
20 highlights of transparency, and process, and so forth,
21 that we might make use of even before we adopt the whole
22 megillah, so I'm not sure.

23 So maybe you could take the ball on that.
24 Because I think we want to -- I want to hear what the
25 lawyers have to say. I think we're going to be doing a

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1 lot of hiring. We want the systems to be really good.
2 There should be some IT backup, but I also don't want us
3 to get all hung up in the next 30 days while we're in such
4 an urgent start-up mode, so some combination there. So
5 you'll follow up on sort of short and long-term.

6 MR. ZUNIGA: Yup, short -- basic principles and
7 short term.

8 MR. CROSBY: Right, okay. Great. As far
9 as everything that we are doing now, I guess we haven't --
10 I guess we will have posted the minutes of last week's
11 meeting, which will be up shortly, and this week's meeting
12 probably soon thereafter.

13 I don't know if we even have a hiring spot
14 on our web site yet, but it will at least be known, and it
15 is now being known to the public, that we are recruiting
16 for several positions and are anxious to get candidates
17 from anywhere for executive director, communications
18 director. I guess, that is it, that we're formally
19 looking at so far.

20 We probably should try to get, you know, a
21 jobs thing up on the web site as quick as we can
22 somewhere, even in the "About us" or somewhere up
23 quickly. Okay. Okay.

24 2D is public information officer. I can
25 give you a quick update on that. As we mentioned last

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1 week, Karen Schwartzman from Polaris PR felt like we had
2 maxed out our ability -- maxed her out, and since she has
3 other clients, she couldn't work for us full time, so we
4 are searching for a full-time director of communications.
5 Do we have that posted on the web site under the job
6 description? No, it is posted in the state's HR system.
7 I saw somebody nodding.

8 AUDIENCE MEMBER: I saw it up online at
9 Indeed.com. It is out there somewhere.

10 MR. CROSBY: It is posted. I was just
11 trying to think is it is posted on our web site. The HRD
12 web site. Okay. Good. Again, as soon as we can part of
13 the same hiring section we ought to get it up as quick as
14 we can.

15 The search is being done by Karen
16 Schwartzman, along with someone else very senior in the
17 communications PR world, Hank Shafran, who just retired, I
18 think I mentioned before, from Bingham McCutchen, and we
19 hope to have that person on ASAP. I think there is a lot
20 of interviewing. We've asked Hank and Karen to vet the
21 candidates and then bring some finalists to us. And we
22 have put a very high priority on trying to find diverse
23 candidates for this position, as well as all of the other
24 positions that we're looking for. Anything else on the
25 communications? I think the job description pretty much

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1 says what we're looking for, so I won't go into that now.

2 Okay. Outside counsel and gaming
3 consultants. Let me give a quick update on the gaming
4 consultants and then Jim -- Commissioner McHugh can do the
5 law firms. We announced last time that we were
6 prequalifying the proposal from both Michael and Carol,
7 and from Spectrum Gaming, and we have gone back to them
8 now -- or I have gone back to them as directed at the last
9 meeting, and told them that we would like to get the best
10 of both of what they both have to offer. We were
11 particularly concerned about having an on-site project
12 manager.

13 The only person who lives in Boston who was
14 proposed by either of the teams was Kathleen O' Toole who
15 was on the Michael and Carol team. Both teams agreed to
16 kind of have her kind of be the point person for
17 negotiating how they would work together. She has been in
18 Ireland -- I saw her shortly after our meeting. She is
19 now in Ireland for her last week on that other job, but
20 has been coordinating her work. They hope to get a
21 proposal to us, a work plan to us by possibly the end of
22 this week. We'll have a chance to iterate on that, and
23 then they will be meeting when she gets back, which is
24 next week to try to hammer that out. So that is moving
25 along quickly.

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1 And I would say that we have a real good
2 chance by two weeks from today to have at least a work
3 plan in place. I don't know how long it will take us to
4 process the paperwork, but I think that is coming along.
5 So far she has been a terrific contact and terrific -- she
6 really understands what we need by -- what we mean when we
7 say we have a need for a project manager who can really
8 get their arms around this, so we're not having to track
9 the project so much.

10 Commissioner McHugh on outside counsel?

11 MR. MCHUGH: As we stated at the last
12 meeting, we asked Anderson & Kreiger to be the outside
13 counsel, and I have been in contact with them several
14 times since our last meeting to talk about a work plan as
15 well. And they have sent to us yesterday a draft -- a
16 work plan that has a number of different components to it,
17 and the next step in that is to assign priorities. There
18 is an awful lot to be done, and we need to assign
19 priorities to the various components of the work plan, and
20 we also need to divide up the work among ourselves to have
21 the person who will oversee the various elements of the
22 work.

23 We also have met with the attorney general
24 because the attorney general has a vast amount of
25 expertise on the regulations -- a lot of the regulations

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1 that are going to effect us. And we want to have some
2 coordination between what Anderson & Kreiger does, and
3 take advantage of the attorney general's expertise as
4 well. So we're going to coordinate between the two of
5 them how they work together. And I talked to the attorney
6 general's people this morning about that.

7 At the moment, I think we need to think
8 about the priorities that are on this list, and I think we
9 need to think about who is going to be the person
10 primarily responsible for each of the areas, and whether
11 we do that today, or whether we do that by having people
12 take this sheet and send it back to me, and I put together
13 a coordination plan for us to consider more fully at the
14 next meeting. I leave to the three of you.

15 It might be more efficient to do it that
16 way and then to come back with a plan that we're prepared
17 to approve next week. But the plan that they envision is
18 detailed. It has got timelines. It has got milestones,
19 and it will get us moving quickly. The other benefit of
20 it is that we will have them doing the -- taking the
21 laboring aurora and drafting regulations, so to free us up
22 to think about the policies that we want, and then having
23 them reduce the policies to regulatory language, and allow
24 us to function at a higher level then drafting the
25 regulations.

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1 So I propose that -- I put out for
2 discussion that we take this sheet, we fill in what areas
3 of interest -- or you, Mr. Chairman, make the designations
4 in some way, and then we come back here and have a final
5 plan approved next week.

6 MR. CROSBY: Yup.

7 MR. ZUNIGA: There is a couple on this list
8 that lend themselves to, you know, to deciding now for
9 instance, and others that we should think about some other
10 way. I volunteer to take on the fiscal policies and
11 controls in my capacity as treasurer, but you know, we can
12 talk about a couple of others, I suppose.

13 MR. CROSBY: Yeah, some of them are
14 obvious, like that is one you're already covering, that
15 and employment policies.

16 MR. MCHUGH: In the same place.

17 MR. ZUNIGA: Yes, yes.

18 UNIDENTIFIED SPEAKER: Steve, can you give
19 the public a range of the things that are on that list, a
20 general idea?

21 MR. CROSBY: Yeah, these are issues I think
22 pretty much came out of the legislation. Review and
23 assessment of the act, develop a policy on policies. What
24 is that?

25 MR. MCHUGH: That is really to decide --

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1 there is a hierarchy of things that we do. We have
2 statutory obligations. Those are the governing things.
3 Then we have regulations and there is a whole process for
4 passing regulations. The regulations can be emergency
5 regulations that we pass for a short time to get us up and
6 get us going, but they only last for a period of time.

7 Permanent regulations require notice and a
8 hearing, and a series of formalities, so it takes some
9 public comment, and make certain that we have everybody's
10 input before we pass the regulations, so we draft
11 regulations. We have hearings. There is a whole
12 statutory procedure. Then there are policies that we can
13 have that are more fluid, more easily adaptable, govern
14 more minor things than regulations do.

15 And then there are bylaws and the bylaws fit
16 somewhere between the statute and the regulation, and are
17 sort of our own governing documents. So this item is
18 really to help us think through what we want to have in
19 bylaws, the kinds of things -- not the content -- the kind
20 of things we want to have in bylaws, the kind of things we
21 want to have in regulations, the kinds of things we want
22 to have in policies, and then the kinds of things that are
23 just spelled out in the statute that are there, and we
24 have to execute without any further ado.

25 MR. CROSBY: Some of the other categories

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1 are board governance, public records, open meeting law,
2 advisory opinions, fiscal policies and controls, code of
3 ethics, MOUs and other state, local agencies, procurement
4 procedures, state racing commission transition,
5 confidentiality, Internet security. You get the idea of
6 the kind of stuff.

7 Two things. One is pretty obvious, but
8 other gaming commissions have done an awful lot of this
9 stuff, and I hope that we can borrow from them as
10 aggressively as possible and not have to rewrite
11 everything from ground zero.

12 MR. MCHUGH: Right. Other racing and
13 gaming commissions have done it, but some of this is
14 transubstantive. Some of it applies to any kind of
15 commission and doesn't have that content, and a lot of
16 that has been done as well. So they're going to search
17 and import regulations wherever they can and just tinker
18 with them and tailor them to our....

19 MR. CROSBY: That's almost worth being a
20 task. It is not really broken out as a task.

21 MR. MCHUGH: It is inherent on each one,
22 Mr. Chairman.

23 MR. CROSBY: Okay. Fine. Okay. Then the
24 other point is when I was talking to the other teams, the
25 gaming consultant teams, they're talking about writing the

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1 regulations for regulating the gaming, which is not
2 exactly within the purview of this. Probably there is
3 going to be a grey area where one team breaks off and the
4 other team breaks -- takes off -- takes up. But it is
5 probably something we ought to have on the table so we're
6 talking about it. Okay. Great. We did -- anything
7 else?

8 MR. MCHUGH: So how should we leave this?
9 Do you want to make an assignment? Do you want people to
10 send things to me and I --

11 MR. CROSBY: Yeah, why don't you send this
12 out and the people send it to you. Make sure that
13 Commissioner Cameron gets it. Let people pick, and then
14 maybe you and I can go over it --

15 MR. MCHUGH: All right.

16 MR. CROSBY: -- and just fill in the
17 blanks.

18 MR. MCHUGH: All right.

19 MR. CROSBY: I don't think we need a motion
20 for that.

21 MR. MCHUGH: No, I don't think so either.
22 I think we can just do it and then bring the final plan
23 back, and then announce what the plan is, and then discuss
24 it further, final tinkering that we have to do, and then
25 get it up and running.

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1 MR. CROSBY: Great. The other point on the
2 two consultants is that we do want to exercise background
3 checks. Probably the two gaming consultants are as
4 thoroughly checked as one can get, and the same with the
5 law firm, but nevertheless. And Commissioner Cameron did
6 talk with the colonel of the Mass. State Police and they
7 are telling us what degree of background check they think
8 is necessary for this -- for these kinds of procurements.
9 So that is -- but that is a step that we want to have in
10 the process.

11 Item 2G, record keeping. I think we're
12 talking about two -- I'm sorry.

13 No, I skipped F. Briefings for
14 commissioners. We mentioned this last week. There are a
15 number of agencies that are being scheduled to come in to
16 talk to us. I think that would come in under the
17 training, training as in open-meeting law and public
18 records, campaign finance. Not just the commissioners,
19 but also staff, at least key staff should be involved in
20 that. But I think those are beginning to be scheduled
21 now, right, starting April 25th. Okay. Great.

22 Record keeping. Commissioner McHugh,
23 you're sort of the point person on that, both I think
24 internal in and external.

25 MR. MCHUGH: What that is aimed at is

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1 trying to find and plan for a mechanism that will allow us
2 to keep track of the records we're creating now, and keep
3 track of them in a way that will allow us to respond to
4 requests as they come, that will allow the maximum
5 visibility for them, that will allow us to keep as much as
6 we can electronically, so that we don't have to go
7 searching through files, paper files and desks to get and
8 retrieve material.

9 And that we can begin to do -- that we can
10 begin to put into place right now to help us grow. We
11 don't have a lot of stuff now, but it is going to begin to
12 accumulate, and we want to be able to do this from the
13 beginning, so that we can organize it in an effective
14 way. And we want to organize it and create whatever
15 record keeping system we start out with in a way that is
16 scaleable, that will allow us to grow, that will allow us
17 to add on components as we add more divisions and more
18 employees, so we can maintain our transparency and reduce
19 to an absolute minimum the amount of time we spend
20 responding to legitimate requests that we're going to get
21 for various records that we're going to generate as we go
22 forward.

23 I have talked generally with Janice about
24 that, and somehow we've got to come up with an
25 organizational plan for doing it. There is a lot of stuff

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1 going on at the minute, but this is something we have got
2 to keep our eye on and that we both recognize.

3 MR. ZUNIGA: Are we envisioning requesting
4 the services of -- or procuring a tool or a consultant for
5 this -- for this kind of --

6 MR. MCHUGH: Probably both, Commissioner.
7 I envision some kind of a document management system that
8 will allow us to share documents, and allow for central
9 repository of documents, that will allow us to easily
10 transfer documents, and that will be electronic in -- be
11 electronic so we can scan things in and we don't have to
12 have files that are different, and also perhaps a
13 consultant to help us deal with the kind of issues we're
14 likely to face as we go forward.

15 At the moment, though, I think we will be
16 aided by going out and talking to some existing
17 commissions that have obviously gone through the same kind
18 of thing, seeing if we can find some commissions and
19 organizations -- don't have to be commissions -- that have
20 done this kind of thing, get what we can from them as to
21 at least general themes that we ought to be working about,
22 and then get on the business of trying to get something up
23 into place.

24 So I would hope that we can do that quite
25 quickly. It may take a while. The worst thing we can do

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1 is start down a path with something that is easily
2 implemented, but isn't going to scale and grow with us,
3 and ultimately will require us to redo everything, recode
4 everything, and waste a lot of time in the process, so it
5 is worth taking a little time to get that right.

6 MR. CROSBY: As with a lot of these things,
7 there are two sort of two tiers. There is our operations,
8 the commissions work, the five of us, and then there is
9 the operations of the guts of the organization, and that
10 is true of the regulations, you know, it is true of
11 everything.

12 And maybe it is worth thinking -- trying to
13 keep those distinct, or maybe not, I am not sure. But the
14 big one, the big IT system for all of the Gaming
15 Commission, and all of the staff, and the regulations, and
16 the financial controls is going to be a massive system.
17 And we -- we're just trying to figure out how to keep
18 track of, you know, our HR applications and our minute
19 notes and our schedule, so I don't know whether they ought
20 to be two different systems or what.

21 MR. MCHUGH: It seems to me the ideal would
22 be -- I think we need to keep our eye on it. We don't
23 need to go out and design a system for an organization
24 that doesn't exist. I mean, that doesn't make any sense.
25 But what we need to do is create a system now for keeping

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1 track of our own records, and that will integrate and grow
2 with the organization as it grows, so that we take
3 whatever we've got and allow it to expand as we grow, and
4 have it open ended enough so that we can do that, or have
5 it portable so it can be absorbed by another system when
6 it comes, so that is the piece we want to work on right
7 now.

8 MR. ZUNIGA: Should be an and perhaps not
9 an or.

10 MR. MCHUGH: Where?

11 MR. ZUNIGA: Scaleable, but also implementable
12 into another system perhaps.

13 MR. CROSBY: Janice and I talked with a
14 fellow who talked to us about knowledge management system,
15 IT systems, knowledge management systems, and his
16 expertise is in a particular area. But he has an
17 ecosystem approach in mind that is interesting and maybe
18 it is worth having Commissioner McHugh, I don't know, talk
19 to him on the phone, have him come in again.

20 Maybe there is a million people who do
21 this, I don't really know, but it is worth thinking about,
22 you know, systems which are a little more organic than the
23 standard kind of data that boxes into which words flow.

24 MR. MCHUGH: Yeah. There is a lot out
25 there and there is a lot that's being developed now, so I

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1 think we're in a position where we're not bound by
2 anything. We're building from scratch and we ought to
3 find the best thing that we can, and the best approach we
4 can -- and the best approach we can. And one that will
5 allow us to have something that is state of the art and
6 looks as far down stream as we can onto something that is
7 going to stay with us.

8 MR. ZUNIGA: Yeah, at a very basic level we
9 should think about indexing, attributes, search engines,
10 whether it's key words. Any document that we produce or
11 receive will have an attribute whether it is a staff-
12 related issue or a time element or, you know, all of those
13 attributes if you will. These systems will build on what
14 we come up with in that arena.

15 MR. CROSBY: Okay. Great. Next is 2H.
16 Commissioner's area of responsibility. One of the things
17 that we're working on in this early stage of the project
18 is figuring out how five full-time commissioners can work
19 efficiently. This is an unusual model. New Jersey has
20 full-time commissioners, but almost nobody else does.

21 So as you can begin to see, we're talking
22 about splitting up some of the work into areas of focus,
23 areas of responsibility, and I have now talked with each
24 commissioner, and I think that we've sort of got some
25 broad brush areas of responsibility that I just want to

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1 run through and make sure that this is the presumption of
2 operating at this point, let us make sure that this is
3 right.

4 Commissioner Crosby would be responsible for
5 overall coordination and communication. Commissioner
6 Cameron, law enforcement and compliance, and for the time
7 being at least, the state racing commission. Commissioner
8 Stebbins, economic development, municipal relations.
9 Commissioner Zuniga, finance, real estate and HR,
10 Commissioner McHugh, legal regulations, documentation and
11 internal compliance as opposed to law enforcement or
12 external compliance. Does that sound about right? And
13 then each of us can ask the other for help where we need
14 it, but as sort of general areas, that's the way we're
15 trying to parcel things out.

16 Okay. The next item is public information,
17 Item 3. We are announcing today, and I think have
18 announced -- there is a press release over here that on
19 May 3rd the Commission will host a session, an education
20 and training session for ourselves from a host of experts
21 mostly from New Jersey and Pennsylvania, but a few other
22 places as well, to bring us up to speed on a lot of the
23 basics of the work we have to do, start up process.

24 So basics of the law enforcement process,
25 basics of the RFP, the licensing, et cetera, process and

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1 we're going to invite the public to participate in that
2 session with us. It will be a pretty much all-day
3 conference, as I said, on May 3rd. It will be held at the
4 Boston Convention Center. It will also be streamed on the
5 web. We will have an opportunity for people to raise
6 questions advance. It is a big agenda, and it is for the
7 commissioners.

8 We are being briefed by this session and we
9 will have an opportunity to interact with all of these
10 panels, but there is a place on the web site -- by the
11 way, I am told that across Massachusetts, across the
12 Commonwealth, Mass.Gov's response mechanisms are broken
13 down, so we're not sure whether our response mechanisms on
14 the web site -- whether you're signing up to participate
15 in this conference on May 3rd -- you're invited, but we
16 want to you RSVP, so we have some idea -- or if you're
17 using our contact site, we're not sure whether those are
18 working right at this moment. It is not a Commission web
19 site problem, it is a state web site problem, and if it is
20 a problem, it will be resolved quickly.

21 So this is a very big deal. We're going to
22 have a series of other such sessions. We'll talk actually
23 about one or more of the ideas that we've been cooking on,
24 but rather than having the commissioners fly out to a
25 whole bunch of different places and talk to a bunch of

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1 experts, we thought it made sense to have the experts come
2 in and talk to us, a little more efficient.

3 And we can also combine that with a session
4 with the public, and we'll be inviting other agencies --
5 at least for portions of it -- other agencies in the
6 Commonwealth that are involved; the attorney general's
7 office, maybe the governor's office, maybe legislature --
8 excuse me. Certainly the ABCC, the State Police, right.
9 And they'll participate because it is new for all of them
10 as well, just as it is for us, a lot of these different
11 conventions. I think that is everything. But I hope we
12 can get the word out on that. We really want wide
13 participation in that event.

14 3B is the kind of what we referred to in
15 quotes -- I put quotes around it in my agenda. Standard
16 PowerPoint presentation. I have done a draft. People
17 commented on the draft. I have now tried to pull that
18 together within the next two or three days. I think it
19 will be something that will give us all kind of standard
20 talking points.

21 We're beginning to get requests to speak.
22 We think we ought to be speaking. We ought to be out
23 there as much as we possibly can trying to talk to
24 people. But I think it is important that we have sort of
25 standard points that we can then weave into whatever the

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1 rest of our comments are. I should have a draft ready for
2 everybody the next two or three days.

3 Contacts by interested parties. Partly,
4 this is in the issue of the overall knowledge base
5 management, right, and how we handle these contacts?

6 MR. MCHUGH: Well, it is more substantive
7 than that, Mr. Chairman. We're beginning to get questions
8 by people who in the various cities and towns have
9 questions about process, and yeah, CND are really part of
10 the same thing.

11 And the question is how do we respond to
12 these inquiries in an arena where we have not yet
13 formulated the policy that is global, that encompasses
14 everything. And how do we provide, particularly the
15 cities and towns who are facing questions about process,
16 some guidance, and some help and assistance. And at the
17 same time, maintain the kind of independence that we are
18 going to need, ultimately, to act as adjudicators when we
19 get -- judges, decision makers -- when we get the final
20 requests, license applications. So we need to think about
21 how we're going to do that. And we need to -- we need to
22 do it.

23 Because a number of the cities and towns
24 who are effected by this legislation, or who may be
25 effected by the legislation, are beginning to raise

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1 legitimate questions about that. So it seems to me we can
2 come up with some ways of approaching this. We can put
3 together, for example, some general guidelines on how all
4 of this works. The standard PowerPoint presentation that
5 you're talking about is one. Another one simply an
6 outline of how the statute works sequentially, how various
7 things go, so that people have a standard reference. We
8 could work with various organizations who are -- address
9 issues that cities and towns have, the municipal
10 associations and the like.

11 We can find ways to have general meetings
12 with to which all cities and towns are invited, and have
13 general statements that everybody hears. We can, and
14 should I think, post on the web site the answers to
15 questions, the questions that are raised by various cities
16 and towns, and even if they're frequently asked questions
17 by individuals, and our answers to those, so everybody
18 gets the same information. So we need to come up with
19 some kind of an approach that is aimed at giving this
20 information to the people that need it soon.

21 MR. STEBBINS: Commissioner Zuniga and I
22 met last week with the leadership at Mass. Municipal
23 Association to tell them we were attempting to go down
24 this track, as well as looking at opportunities where we
25 could partner with them either through regular

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1 communications that they have with their members. They
2 are certainly willing to make some resources available to
3 help us get the message out about meetings and so forth.

4 The feedback they had was very positive at
5 that initial phase in talking about how we wanted
6 municipalities -- in answering the questions that they
7 might have, legislation, so.

8 MR. CROSBY: And you're reaching out also
9 to the Colin Center of Management at UMass to have the
10 same kind of conversation, right?

11 MR. STEBBINS: Yes, that is happening this
12 week.

13 MR. CROSBY: Okay. Because what I said to
14 Commissioner McHugh when I realized there are tradeoffs in
15 this, but the potential host communities and potential
16 surrounding communities are small, and they are really at
17 seed (phonetic) as to how to handle this stuff.

18 And particularly, we'll talk about this a
19 little bit, South Eastern, Massachusetts, because nobody
20 knows who is coming or going in that situation. But in
21 even the ones where it is more straight forward in Eastern
22 Mass and Western Mass, these folks just don't have any
23 idea with how to deal with some of these issues. And
24 somebody ought to be proactive in reaching out and really
25 helping deliver services and support.

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1 And Commission McHugh raises the point that
2 if it is we, does that somehow get us in the situation
3 where somehow or other we appear not to be even handed, or
4 we say one thing to one group -- so I think we need to be
5 careful about that. So we might want to out source this
6 role.

7 But somebody, I think, needs to do this and
8 needs to do it soon, and if there needs -- theoretically,
9 the bidders are supposed to pay the towns for the help
10 they need in dealing with the proposal. But they even
11 need help in knowing how to make that happen, and if
12 moneys are required. It is something we should think
13 about figuring out how to provide, I think. It will do us
14 no good if the gestation period isn't really properly
15 handled at these proposals.

16 They come to us and communities haven't
17 been up to handling negotiations with the providers, and
18 so forth. So from my standpoint, it is really important
19 that we push hard to make sure that somebody -- if it
20 isn't me, it is somebody is proactively out there
21 supporting.

22 MR. MCHUGH: I fully agree with that, but I
23 also think that without compromising our role as decision
24 makers on various applications at some point, there are
25 some things that we can do ourselves, and it is the

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1 general information that we give everyone.

2 You know, here is the sequence of events
3 that happens in this licensing process. Here is how you
4 apply for assistance to get a gaming consultant. And as
5 long as we say the same thing to everybody, then we
6 haven't compromised our ability to be neutral and fair.
7 And we don't run into the problem of having somebody rely
8 on one thing we've said, or miss hearing something and
9 relying on it, and then it turns out that's not what we
10 said, or we said something slightly different to somebody
11 else. So in addition to the outside stuff, I think we can
12 do some things ourselves, put them on the web site and
13 talk about it.

14 MR. ZUNIGA: I would like to bring up the
15 Gaming Policy Advisory Committee that our legislation sets
16 up, which is clearly for policy --

17 MR. CROSBY: Do you remember where it is?

18 MR. ZUNIGA: I don't have it written down.
19 It is in the first section. I was doing it on a word
20 search when I did it.

21 But there is also -- so the Policy Advisory
22 Committee has a number of subcommittees, one of which the
23 legislation is very prescriptive on that committee, one of
24 which is on the impact on cultural -- I'm sorry. On the
25 community mitigation -- what is exactly called the

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1 Community Mitigation Subcommittee. And my read is from
2 what we're hearing from communities is really in the realm
3 of impact. How is the potential development either on my
4 community or around my community going to be dealt with in
5 terms of how to mitigate the impact?

6 So as we think about this advisory
7 committee, there is also -- the legislation also provides
8 for each of the regions to establish a local Community
9 Mitigation Advisory Committee. The legislation is very
10 broad as to how the regions could establish that. It is
11 not as prescriptive as it is on our own advisory
12 committee. But this is one -- there is a nexus here in
13 terms of information, of course, that we should think
14 about.

15 MR. CROSBY: That raises several issues. I
16 mean, one of them is specifically in response to this
17 issue of how do we provide services to the cities and
18 towns, the municipalities that are going to be affected.
19 And we can -- and I am not quite sure what the sequencing
20 of those local committees is. When do they start up? Do
21 we help them start up? Do we fund them?

22 MR. ZUNIGA: It is unclear.

23 MR. CROSBY: Yeah, okay. I think we need
24 to check into that pretty soon to see how it does fit into
25 this. But the second point you raised, this is a really

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1 good one, is this bigger gaming advisory -- gaming policy
2 advisory board, membership of which is mandated in the
3 legislation, some of which membership of that commission
4 that's mandated in the legislation can't exist until after
5 licenses are awarded. So I wasn't sure if that meant that
6 by implication you are not supposed to do this until after
7 licenses are awarded. If that is the case, fine. If that
8 is not the case, we better get moving on trying to get
9 that thing together.

10 MR. MCHUGH: I think it is aimed at an
11 ongoing policy because it has got policy committee after
12 the licenses are awarded, but that doesn't mean that we
13 can't begin to build on it now, even in an informal basis,
14 with an eye toward having it perform that function when
15 the licenses are there. There is no reason why we can't
16 take that model, even if it is not the official committee,
17 and begin to try to assemble people who can provide that
18 kind of service. In other words, borrowing from the
19 structure of the legislation and just tailoring it to the
20 pre-license period, and have some people who are going to
21 provide advice. We can certainly look into another way to
22 do this.

23 MR. ZUNIGA: Is this one of the tasks we
24 can put Anderson & Kreiger -- it will nexus into what
25 they --

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1 MR. CROSBY: I agree. If they can just
2 pull out for us as part of an assessment what are all
3 these committees, when do we set them up and what's their
4 role, that would be great.

5 And on the other -- Commissioner McHugh,
6 what you were talking about is Commissioner Stebbins is
7 kind of coordinating the possibility of affiliating with
8 another firm. The stuff that we're going to do inside, do
9 we need to get somebody to do that, or do we do it
10 ourselves? The stuff we want to put up on our web site,
11 what is the next step on that?

12 MR. MCHUGH: I think that we can -- there
13 are some models around, and I think we can do some of that
14 on our own. I think some of that flows from the statutory
15 analysis, and we can get Anderson & Kreiger to help us
16 with that as well. I think we can do a lot of that
17 inside, and it will flow from the statutory analysis.
18 Because there is going to be some policy that -- at least
19 informal policy -- that goes into it, even though it is
20 largely explanatory and largely simply explains what the
21 statute provides.

22 So we need to -- so I think we ought to ask
23 them to finish as quickly as possible this review. We
24 ought to take a look at the pieces that we can take out of
25 it, and that we can use in graphic form and put up on the

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1 web site, and then create some things promptly that we can
2 put up for general public information.

3 MR. CROSBY: And maybe involve whoever you
4 have decided, or you suggest that we ought to consider to
5 be sort of our partner in this, maybe it all happens
6 together to figure out who does what part.

7 And then in Item C of this, I think we were
8 also talking about the contacts of interested parties. We
9 are being contacted by people who have various kinds of
10 substantive interest. We have not been contacted -- I
11 don't think we have been contacted at all by any other
12 people who are interested in proposals, at least of yet.
13 But there are a lot of people who want to give us advice
14 interested in gaming, interested in tourism, cultural,
15 technology, et cetera.

16 And we have now begun -- I think our policy
17 kind of is that we would not meet with any such person
18 alone, but we would meet two commissioners with anybody,
19 pretty much, that is interested in talking to us, and then
20 keep little notes that would update us on what those are.
21 But I think the points about never more than -- never less
22 than two commissioners, and not more than two because that
23 would get us into an open-meeting situation, A, and B to
24 keep notes that are on the record for when those meetings
25 take place. I think we're moving that way.

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1 MR. MCHUGH: There is one more piece to the
2 context of that. Because some of the context are from
3 people who have questions about what's going on in their
4 town, and how do I deal with X. Somebody in my town is
5 doing X, how do I respond to that? Can they do that? We
6 have gotten several questions like that and that poses a
7 tricky problem as to how we answer those things.

8 Can we answer them or can we simply say
9 that we're -- you really have to check with the municipal
10 association or with the town counsel, or with the select
11 people, or with the mayor. Or can we provide some
12 answers, and how do we provide the answers without being
13 able to speak as a commission?

14 Some of these questions have rapid turn
15 around times. It seems to me that at the very least, we
16 can try to be helpful to the people in that category who
17 contact us about potential resources and places to turn.
18 And if they're unable to get an answer from those people,
19 then it seems to me we have to bring the question to a
20 meeting like this, discuss it, come up with an answer, and
21 tell them what it is.

22 The only other way to do that is for one of
23 us to take on the job of providing those kinds of answers,
24 but we do that at the risk of the other commissioners
25 disagreeing with whoever gives the answer. And some of

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1 these are tricky questions, they all explore on
2 territory. So I think I would prefer the giving -- trying
3 to listen and understand and diagnose what the question
4 is, trying to help the person figure out where to find the
5 answer, and then if a satisfactory answer can't be found,
6 then have the question be one that we decide here.

7 Now, that is not you know, what is the
8 address of so-and-so, but it is a can -- the mayor is
9 doing something, can the mayor do this? Town official,
10 how do I deal with this request? I got somebody who wants
11 to come to talk to the town and open negotiations with the
12 town. Do I have to negotiate with them? Those are the
13 kinds of questions I have been getting, and I think we
14 have got to be prepared to do that.

15 MR. ZUNIGA: In a similar fashion of, you
16 know, what you were articulating relative to the policy
17 and policies. What constitutes regs? What constitutes
18 policy? What is in a procedure or a bylaw? Is there a,
19 you know, a grading maybe or different tiers of attributes
20 that we can come up with as what constitutes clearly a
21 local issue, and some good examples of what that is, that
22 has to be ironed out with the city or town, and what
23 begins to constitute a state issue, you know, given that
24 we're a state agency or has -- then can we ask our lawyers
25 as to whether we -- it would be at least a general

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1 recognition of some demarcation. I know it is difficult,
2 it is grey areas, et cetera. Is there a way to structure
3 it in those terms?

4 MR. MCHUGH: We can certainly ask them if
5 they could do it. The question still remains though,
6 assume we make that break, and assume that we say some
7 things are local issues, we just can't talk about them,
8 and some issues are Commission issues, or state issues,
9 then the question becomes how do we give them an answer.
10 And we either give them an answer by pointing them in the
11 direction of somebody who can provide the answer, or we
12 give them an answer by having a commissioner answer the
13 question, maybe, with some disclaimer that this is my
14 opinion, not the opinion of the Commission. That is not
15 terribly helpful. Or we bring the question -- if it is
16 broad enough, to the Commission to answer, that takes a
17 week or so.

18 So it seems to me that we could ask them to
19 do that, but for while we're trying to make that line of
20 demarcation, we also have to be able to think about the
21 mechanism for delivering an answer once we have those
22 categories. And for the moment, it seems to me there are
23 some questions that have been asked, and for the moment, I
24 would recommend that we adopt the -- try to find a place
25 to get them some help. And if there isn't help available,

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1 then bring the question here, come up with an answer, and
2 give it to them, and then post what we've said. It will
3 be part of this kind of discussion. That puts it out in
4 the public domain, and everybody knows what we've said and
5 everybody can hear the same thing.

6 MR. STEBBINS: How much assistance can our
7 attorneys give in probably being a little more proactive
8 so we can begin to think about questions even before we
9 receive them from the community and post the general
10 guideline or a general opinion, which then every community
11 will have before the question comes to us?

12 MR. MCHUGH: I think that can be very
13 helpful, and I think we ought to do that. I think we
14 ought to, as we go through the analysis of the statute,
15 create some of these standard PowerPoints, standard pieces
16 of information, standard frequently asked questions --
17 although they haven't been asked yet, and post them --
18 they will be -- post them up there so that we have some
19 information for people fairly quickly as to general
20 themes. And as we get more experience, they have more
21 information to that. I think we ought to proceed on both
22 of those.

23 MR. CROSBY: I think this area is going get
24 bigger and bigger, more and more complicated. I think
25 combination talking to law firm, which you're going to be

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1 doing, vetting these couple of folks who might be our
2 agents, to some extent, then we have got to get together
3 and figure out an approach.

4 I am inclined to think we might need
5 somebody. I don't think we want to be the ones that are
6 preparing this material. Maybe it can be done at one of
7 these folks -- these firms, organizations you're talking
8 to, lawyers can do it maybe. We just need to bring
9 somebody in who can take the time to sit down, pull
10 together all of the materials, and we would have that
11 experience in being a community citizen, community
12 organizer, community citizen to help fashion all of that
13 material we're going to put on the web.

14 But in the meantime, thus far, I think we
15 have made a decision, sort of informally, that any
16 municipal inquiry should be referred to Commissioner
17 McHugh because he has now done it a few times. And he is
18 as reliable as any of us in making a distinction between
19 what is appropriate to say and what is not. Then we'll
20 get this larger group together as soon as we can to brain
21 storm up how we're going to handle this in a much bigger
22 way. Anything else on that? Okay.

23 Item Number 4 is an important one, the
24 State Racing Commission. I think several of us have
25 pieces on this. The big picture is that from the

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1 beginning, even of just my appointment, before even the
2 others were appointed, it was clear that the date for the
3 Gaming Commission to take over the Racing Commission was
4 very quick. And that there is a substance, the State
5 Racing Commission is a real organization. It does real
6 work. It involves real people. It involves complicated
7 issues, and none of us on the Gaming Commission is expert
8 in this.

9 And we all express some concern that if we
10 take this on, it is going to seriously delay our ability
11 to do the rest of our work, because it is not trivial.
12 There are licensing issues, there are legal issues, there
13 are law enforcement issues, there are policy issues, and
14 they will -- many of them would need to come to the
15 commission to be resolved.

16 We can do it, we can learn it if we have
17 to. We can get consultants to help, but I think we all
18 felt that if it were possible to postpone the taking over
19 of the Gaming Commission by the Racing Commission (sic),
20 that that was the right way to go. In the meantime, that
21 is the preferred way to go from the standpoint of the
22 Commission, and there may be other people's opinions that
23 matter as well, pro or con.

24 In the meantime, we're moving down a
25 parallel track, which is to take it over May 20th, I think

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1 the date is, and be prepared to do that. We're in
2 constant contact with the leadership of the Racing
3 Commission, the people in the various agencies, the
4 Department of Public Licensure, its consultant who are
5 managing this. Commission Cameron has played a major
6 role. We started looking into the law enforcement side.

7 We do have an RFR that is here, that is
8 going to be going out soon, that isn't already out, to
9 help us find a consultant who really knows the racing
10 business to help give us an objective view of what's going
11 on, what the issues are. And that will be helpful to us
12 whether we take it over on May 20th or some other later
13 date.

14 We have had exploratory conversations with
15 all of the relevant political players in the process of
16 legislation, the house, the senate, and the governor's
17 office. They all seem sympathetic to the point. And
18 other than the poor people in the Department of Public
19 Licensure and who work for the Racing Commission, who are
20 in this limbo land about what is going to happen to them,
21 other than them, which is nontrivial, we don't think that
22 postponing this hurts anybody, and it helps a lot.

23 And we are under a lot of pressure, which
24 we're trying to manage, to get moving on our main job
25 which is the, you know, the licensing for casinos and

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1 slots parlor, and we will not be able to meet that very
2 effectively if we have to take on the Racing Commission
3 burden as well. But if we were to postpone that for a
4 year or a year and change, that would probably be the best
5 way to go. So we are just telling everybody that we are
6 working on these two tracks, and I think several of you
7 have pieces of the status report. Commissioner McHugh, I
8 know you've --

9 MR. MCHUGH: Well, I talked with the people
10 at the Department of Public Licensure this morning to ask
11 if we were to proceed on Track 1, the postponement track,
12 would there be a time of year that was better than another
13 for a takeover to occur. And their response was that it
14 would be late November or early December because of a
15 variety of structural considerations that are in place
16 then.

17 The basic structure for the next racing
18 term has been set by then. The various licenses, specific
19 licenses that have to be awarded, don't have to be awarded
20 until the spring. So there is time to do that, and that
21 from an interruption of ongoing business standpoint would
22 be in their best time. They did say, however, that they
23 had a number of other pieces of business that were facing
24 them. Specifically, a major piece of business we would
25 inherit on August 1 of this year, and hope that we would

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1 be able to proceed on the other track, but I told them
2 we're sympathetic, and that they have difficulties, and we
3 have difficulties, and -- but that was the substance of my
4 conversation.

5 MR. CROSBY: And I think we should be
6 respectful of that, and as a manager, you know, I fully
7 appreciate that they've been operating on one set of
8 assumptions for a long time now, and to change that the
9 ninth hour is onerous. And if we do do this -- and we
10 don't know whether it is a long shot. It is 50/50, I
11 would say, that we'll be able to make this happen. But if
12 we can, I think we should try to understand what their
13 issues are, what the ramifications are for them, and try
14 to mitigate those ramifications because those are
15 completely legitimate.

16 And the people that I will say publicly --
17 the people who are at this Racing Commission, and in the
18 Department of Public Licensure, and in the office of
19 Economic Affairs has -- these folks have been great,
20 really forthcoming with us. They've been helpful.
21 They've helped us understand a lot of the issues, a lot of
22 written memoranda, so we owe it to them to treat them as
23 well as they've treated us.

24 Having said that, it would be in the big
25 picture interest, I think, of our work if we could make

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1 this happen. So we are going to go ahead. We're just
2 going to try to figure out whether there is a medium or
3 whether requires legislative fix or some other medium, but
4 we are going to pursue on that.

5 There is one specific issue you have been
6 handling that will have a deadline sooner than May 20th.

7 MR. ZUNIGA: Right. April 11th or 12th, if
8 I'm not mistaken, has to do with payments from the Racing
9 Stabilization Fund from former dog owners and lessees and
10 kennel owners. We have spoken to -- I have spoken to the
11 comptroller's office to -- one of the -- how operating on
12 their -- in order to make these payments, which need to
13 start happening is --

14 MR. CROSBY: Explain what these payments
15 are.

16 MR. ZUNIGA: Yeah, I should

17 MR. CROSBY: Yeah.

18 MR. ZUNIGA: So when the legislature --
19 when the question as to the dog racing was passed in
20 referendum, the legislature --

21 MR. CROSBY: Eliminating dog racing.

22 MR. ZUNIGA: Yeah, eliminating dog racing
23 from the state, the legislature passed a provision in the
24 law to provide compensation for the kennel owners and dog
25 owners who have had their livelihood eliminated, if you

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1 will, at that time, and created something called the
2 Racing Stabilization Fund.

3 Funding to this fund comes from the
4 activities of the Racing Commission and the horse and
5 simulcasting activities that still operate. But at that
6 time, the office of -- the Department of Public Licensure
7 and the Office of Consumer Affairs, who took over the
8 disbursements of this fund, created or developed a
9 methodology for the payment -- for the calculation of
10 those payments.

11 One of the things before us that I think we
12 should consider is whether we would want to replicate the
13 methodology, which is my suggestion, or come up with a new
14 methodology. I think the methodology at the time made
15 sense, based on the number of races that had happened in
16 2009 when the -- when the dog racing ceased to exist. So
17 in order for us to make the payments, the legislation
18 transferred ownership of that fund to the Gaming
19 Commission, to us.

20 MR. CROSBY: Which has happened.

21 MR. ZUNIGA: That has happened. The law
22 has passed and that now -- we quote on quote own that.
23 But one of the things we're contemplating, which was a
24 reason for us to talk to the comptroller's office, is to
25 enter into an interagency service agreement, short ISA,

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1 with the Office of Consumer Affairs, or Public Licensure,
2 in which we would use them as a conduit for the payments,
3 because they have the infrastructure to -- because they
4 have made those payments in the past. They know well the
5 methodology I was explaining. They know who those people
6 that are effected, or recipients of those payments, and
7 they communicate with them sporadically.

8 So one of the things that I think we should
9 consider is to essentially adopt that methodology and
10 enter into the ISA -- that we don't have drafted yet, but
11 we will soon -- in order to have those payments be made to
12 those former dog owners and kennel owners.

13 MR. CROSBY: To my way of thinking, this is
14 the perfect example to why we should postpone this
15 transaction, because if there is one thing we don't know
16 anything about is methodologies for allocating moneys to
17 former kennel owners. We just don't need these kind of
18 issues at this stage in the game. But we now -- at the
19 moment we have this fund and we have to operate, so I
20 would agree with your judgement, just take the methodology
21 that's already been used and move forward.

22 MR. ZUNIGA: Yup. The comptroller by the
23 way, the comptroller's office feedback was that this would
24 be a very straight forward service agreement or
25 interagency service agreement. Has to do with essentially

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1 transfer of funds, which happens all of the time in many
2 other agencies.

3 We did have -- they had a good point and
4 concern relative to the end of the fiscal year, which is
5 June 30th, and that is another milestone that we should be
6 sort of cognizant about because we could come to some
7 agreement, another ISA if you will, relative to operations
8 besides the payments to the -- but rather now the
9 operations and the licensing of the people of the horse,
10 you know, and --

11 MR. CROSBY: Tracks.

12 MR. ZUNIGA: -- the tracks, et cetera. And
13 that milestone will be there only because there is the
14 fiscal year, you know, cycle that we would have to kind of
15 plan for.

16 MR. CROSBY: Right.

17 MR. ZUNIGA: So first things first. We're
18 going to enter into the ISA for the payment. That could
19 provide a template, if you will, for the operations, but
20 that's, you know...

21 MR. CROSBY: Right. What is the time frame
22 on the ISA? When would that be -- when would that have to
23 be executed in order to make the payments on time?

24 MR. ZUNIGA: Soon. This week or next
25 week. One of the -- as part of the methodology that

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1 Consumer Affairs came up with was an initial small payment
2 to make sure that the account and the entity -- the person
3 was still active and was correct information. Sort of
4 like, you know, when you get that advice that a payment is
5 coming. So that could be done very straight forward, but
6 then calculations.

7 MR. CROSBY: We probably should have a
8 motion on this. It sounds like to execute an ISA is
9 something -- do you want to frame that and then we'll
10 discuss it further?

11 MR. ZUNIGA: Yeah. No, I would frame it as
12 a motion to adopt the methodology for payment for the
13 former dog owners, lessees, and kennel owners previously
14 developed by the Department of Public Licensure and the
15 Office of Consumer Affairs, to continue making the
16 payments from the Racing Stabilization Fund as scheduled.

17 MR. CROSBY: Could you amend that to add
18 in -- to authorize the execution of an ISA?

19 MR. ZUNIGA: Yes. Subject to the drafting and
20 authorization of an ISA with the Office of Consumer
21 Affairs.

22 MR. CROSBY: Right. Do we have a second?

23 MR. MCHUGH: I'll second that.

24 MR. CROSBY: Anymore discussion on this
25 topic?

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1 MR. STEBBINS: Yeah, I just wonder if there
2 are people that have not been pleased with the methodology
3 of payment and somehow inviting hearing process, comment
4 process, where they may challenge the methodology that's
5 been used. I don't know if everybody out there getting
6 paid has been happy.

7 MR. ZUNIGA: Yeah, let me speak about that.
8 What we understand from DPL and OSC is that this was --
9 because the basis of the methodology relied on the last
10 years of activities, number of races, you know, that was
11 perceived to be as the fairest methodology that could be
12 drawn out. It is a percentage or it is also directly
13 related to the proceeds that are collected from the horse
14 track and simulcast.

15 MR. CROSBY: Do you know if anybody has
16 complained, if anybody has objected to this?

17 MR. ZUNIGA: No. Actually, you know, here
18 is an element. Actually, the legislation was very
19 prescriptive in -- at the time for the Stabilization Fund,
20 relative to payments had to be made on a bi-weekly basis,
21 if I'm not mistaken. That was, you know, clumsy because
22 there were payments of about a dollar or, you know, 50
23 cents, parceling it bi-weekly.

24 And so what they adopted, was also
25 positively received by the people receiving the payments,

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1 was a quarterly payment up front, if you will, before the
2 quarter, and then everybody is very happy. Also subject
3 to, you know, the receipts into this fund. So at this
4 point, what we understand is of most concern is when these
5 payments will renew. And everybody, again, as we
6 understand it, happy with us, no complaints.

7 MR. CROSBY: Do you know how long this goes
8 on?

9 MR. ZUNIGA: Yes. There is in the
10 legislation -- I think these payments cease on 2014, if I
11 am not mistaken.

12 MR. CROSBY: Assuming it starts now, it
13 ceases on 2014.

14 MR. ZUNIGA: Yeah, yeah.

15 MR. CROSBY: I think you're doing the right
16 thing. We don't want these people who are supposed to be
17 getting these payments to be impaired if we're hung up in
18 our transition process, so I think you're doing the right
19 thing. It is something, if we do amend the takeover date,
20 we'll have to unwind that process too, but we can do that.

21 MR. ZUNIGA: Not necessarily because with
22 the legislation, we became the trustees, and we're just
23 asking them to now make the payments on our behalf.

24 MR. CROSBY: Which could carry on as it is,
25 and whereas the moneys that are generated will now drop

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1 directly into our -- into the Racing Stabilization Fund
2 which we now hold?

3 MR. ZUNIGA: Yes, yes. The new moneys are
4 always been doing that, but the fund changed ownership.

5 MR. CROSBY: Okay. Great.

6 MR. ZUNIGA: Which is now disbursing...

7 MR. CROSBY: Okay. Good. This is sort of
8 a subset of this, but I think you are taking the lead on
9 trying to help us figure out what actual language would
10 need to have to be doing the amended -- this is not
11 relative to your motion, but just as an aside. If we do
12 amend, and we're trying to -- the presumption is I think
13 we're going to try to keep it as narrow as possible
14 because nobody is interested in opening up the whole
15 gaming law. We just want to focus on this very narrow
16 issue.

17 MR. MCHUGH: Yeah, yeah.

18 MR. CROSBY: Any other discussion on
19 Commissioner Zuniga's motion? All in favor indicate by
20 saying I.

21 MR. MCHUGH: I.

22 MR. ZUNIGA: I.

23 MR. CROSBY: I

24 MR. STEBBINS: I.

25 MR. CROSBY: The motion carries. Thank

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1 you.

2 Okay. Item 5 on our agenda, charitable
3 gaming. And this is just a status report. We did -- I
4 think I was authorized last week to write to the various
5 legislative firms, the speaker, the senate president, the
6 Ways and Means chair, and the economic development and
7 technology chairs, I think, the committee is called, about
8 our inability to meet the date, but our -- that we are
9 going to go forward quickly and work on it.

10 There seemed to be a -- July 31st would be
11 an appropriate time Commissioner McHugh felt by which time
12 we would need to do this, so the letter is drafted. It
13 will be on its way out the door pretty soon. I think we
14 do -- it would be useful to understand a little more what
15 the legislature was getting at in this, but we can do that
16 informally as long as we've got some time together. We
17 can do that informally, make sure we understand
18 recommendations for what, talk about recommendations, but
19 it wasn't exactly clear for what, unless you know more
20 about this than I do.

21 MR. MCHUGH: Well, no, I don't. We began
22 this morning. We talked to people in the attorney
23 general's office who -- Division of Public Charities is
24 the entity that's promulgated the regulations, but now it
25 is governing this. One section of the General Laws

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1 governs it. It is a small section, and we want to reach
2 out to the others who are effected by the legislation and
3 get their point of view, and then make some
4 recommendations to the legislature.

5 There is some slight differences between
6 the statute and the regulations that currently exist, and
7 apparently some difference of opinion between what's truly
8 charitable in gaming and what is something else. But
9 those are the kind of things I think the legislature had
10 in mind for us to take a look at. But I will reach out to
11 everybody that has been effected, trying to help in some
12 way...

13 MR. CROSBY: Is this something we can do
14 ourselves? Have you -- not that you were supposed to, but
15 have you thought through what the process will be for
16 getting this issue assessed and report --

17 MR. MCHUGH: At a very high level, and the
18 process is to -- and we have begun that process, really,
19 meeting with the attorney general's folks today. They
20 gave us the identities of others in the charitable
21 community who were effected by this issues, the town
22 clerks, others who were effected by this that we need to
23 reach out to, talk to, probably the associations, and then
24 solicit comments, in general, at some point from people
25 who are interested in this subject, and then take all of

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1 that information and formulate a proposal that we discuss
2 here in one of our meetings.

3 I don't think it will take that long. It
4 is a \$75 million gross industry, if you will, according to
5 the annual report of the Lottery Commission to whom which
6 is in charge of looking after the revenues, of which \$18
7 million goes to the charities, five percent goes to the
8 state as a tax, and the rest goes to either prizes that
9 are distributed or to the operators of these charities.

10 So it is a significant amount of money.
11 The charities wind up with a significant amount of money,
12 although a relatively small percentage of the overall
13 gross, but it is a significant amount of money to them and
14 to some of them it means a great deal. So we have to take
15 a real hard look at that and make whatever recommendations
16 we're going to make, but I think we can get the
17 information we need to make those recommendations.

18 MR. ZUNIGA: If I may, one of the parties
19 they mentioned was the Massachusetts Non Profit Network,
20 which we should take to -- the MMA as well. But I'll
21 reach out -- I can reach out to the Lottery Commission.
22 They can give us a lot more background on those. There is
23 key people there that I think we should also meet with
24 relative to how this...

25 MR. CROSBY: I just -- I have an instinct

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1 that this is more work than might meet the eye, and you
2 know, we absolutely should have one or more public
3 hearings on this. This is a lot of conversation to be
4 had. It is only -- did we say July 31st or June --

5 MR. MCHUGH: July 31st.

6 MR. CROSBY: So four months.

7 MR. MCHUGH: Three months away. Part of
8 the issue, Mr. Chairman, is that we under the statute take
9 over responsibility for this on July 31st.

10 MR. CROSBY: Right. That's the -- yeah,
11 right.

12 MR. MCHUGH: That's the other piece we have
13 got to prepare ourselves for. And we may not have any
14 recommendation for change at all by that time, but it
15 seems to me can gather some information and report to the
16 legislature as to where we are, and what our general
17 thinking is, even if we're not completely satisfied that
18 we have the right answer.

19 So it seems to me it is a relatively small
20 community. It is an important part of the revenues for
21 the members of that community, and we need to begin to get
22 some information, so we can make an intelligent assessment
23 of it. Some work has been done by various groups who are
24 interested in this, in thinking what an ideal policy would
25 be, and I think we can build on that and either make

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1 recommendations for change, or say with minor tweaks, or
2 just leaving it alone, it works fine.

3 MR. CROSBY: Well, I am fine with all
4 that. I just hate to have this buck stop on your desk.
5 There is a lot of things going on, and if the buck is
6 stopping on your desk, to pull this off, that's a lot of
7 work. Maybe I am wrong. It feels to me like it would
8 be. I think I would feel better if you -- maybe what we
9 can do would be to authorize you to hire somebody. I am
10 sure there would be somebody good out there we can find,
11 not very much money, who would be the point person, but
12 somebody you could direct to, say, schedule all these
13 meetings, figure out when we have to have a public
14 meeting, pull all the research together, whatever. And if
15 you don't feel you need it, fine, but if you do, you could
16 have the authority to do that.

17 MR. MCHUGH: Let's see. Let's see what we
18 can pull together in the next week or so as to sort of a
19 plan, and take a hard look at how much work this is really
20 going to be and then that might be the way to go.

21 MR. CROSBY: So we'll talk about this again
22 in the next meeting, or at most two, so we'll still have
23 our three months to get it done. Okay. Great. Okay.

24 Item Number 6 is referred to as
25 development, which really means the whole economic and

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1 financial side of this, and as occurred earlier on, we
2 have asked commissioner Stebbins to kind of take the lead
3 on this. Do you want to give us sort of a status report
4 on what's going on here?

5 MR. STEBBINS: Sure. In kind of the
6 broader context, we're organizing the May 3rd meeting to
7 be kind of an open-meeting primer on casino or Gaming
8 Commission start up. We have thought of the next topic
9 for a similar kind of open public education forum to focus
10 on economic development. It is certainly our intention
11 and hope that gaming legislation (inaudible) positive
12 impact across Massachusetts.

13 We are in the very early stage of drafting
14 an agenda. The Chairman has had some thoughts as well on
15 a potential agenda. Some of the topics we have talked
16 about are taking some of the research that's been done and
17 maybe updating it. Some of the reports -- I know the
18 initial spectrum report that was created, the legislature
19 is now maybe three or four years old. Looking at kind of
20 an update on some of the studies that have been done --
21 the Greater Boston Chamber of Commerce did a study. There
22 is another study out there as well. Inviting some
23 resources that we have, I think in Massachusetts, some of
24 those, UMass Dartmouth, UMass Amherst.

25 Commission Zuniga and I are going out there

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1 to meet with some folks from the Donahue Institute. There
2 is a professor on board at UMass Amherst who did some work
3 for the State of Missouri with respect to the impact of
4 their gaming. Also, looking at some other topics in terms
5 of job development and training, the economic spin off
6 potential we all hope to see in areas of tourism as well
7 as small business. So those are some of the topics that
8 we're organizing around. And, again, our goal is to have
9 this meeting somewhat outside of the 128 beltway. We
10 haven't necessarily identified a particular location, but
11 hopefully we'll have that environment.

12 MR. CROSBY: I think there is several
13 topics here. I think I have confused them. One is just,
14 you know, how do we do economic development? How do we
15 maximize economic development? What are the various
16 issues in economic impact? But that's tourism is sort of
17 a subset of that. We've talked about does -- is there a
18 way that we could make this enhance tourism rather than
19 cannibalize tourism and so forth. That's one set of
20 issues.

21 But the one that I am increasingly feeling
22 like we need to focus on, and which is intertwined in
23 there, I think, is what data do we need to do our work
24 that we don't yet have. You know, we have a whole
25 bunch -- Commission Zuniga and I talked about this with

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1 Mass Cultural Counsel today. Do we really have a good
2 handle on what the likely revenues are supposed to be? Do
3 we have a good handle on what kind of capital investment
4 is plausible? Do we know anything about where these
5 things ought to be located, the extent of which location
6 of one is pro or con to another? Do we have any idea the
7 kinds of jobs that might be generated? Do we have any
8 idea how a slots parlor fits into the big picture of
9 casinos? I don't know whether that data is out there.

10 I have heard people say, people whom I know and
11 respect, people who worked against the casinos, people
12 like Scott Harshbarger, say the reports are all in the
13 tank. You know, I don't know. So I think that we should
14 start out with -- it would help us, start out with a
15 little slightly different focus, which is -- a sharper
16 focus, which is do we have the information or what is the
17 information we need and do we have it? And if we don't
18 have it, set about the business of getting it PDQ, because
19 I don't think we can do our work until we have this kind
20 of baseline understanding of what the best we can possibly
21 estimate it of what the facts are, what the data are, and
22 what the consequences are. And that puts a slightly
23 different spin on this.

24 And I realize, as I say, I think I've
25 combined the two things, but as time has passed, I have

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1 become more and more aware of what I am afraid we don't
2 know. And having you, with the help of other
3 commissioners, take the lead on reviewing all these
4 reports, as you said all of these ones that are out there,
5 bringing in people who think the methodologies are suspect
6 and finding out the theory why they think the
7 methodologies are suspect, et cetera. That seems to be
8 the real specific focus of this next round. Does that
9 make sense to you and others?

10 MR. STEBBINS: It does.

11 MR. CROSBY: Commissioner?

12 MR. ZUNIGA: Yeah. I was just thinking in
13 terms of perhaps there is some scaleability to a lot of
14 the assumptions. In other words, a casino comes in here
15 and there is an economic benefit fundamentally. There is
16 a number of jobs created and there is a number of
17 revenues. A lot of what I started to read about these
18 studies, part of the problem, chicken egg, if you will, is
19 it all depends on the size, right. And so if we don't
20 know the size of the investment, if we don't know, you
21 know -- then the key variable is absent in how you predict
22 many of the other variables.

23 So you know, there is assumptions in many
24 of these studies, and clearly the legislation sets minimum
25 thresholds, but I was reading about how the tax rates

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1 influence -- not directly correlated, but correlated
2 nonetheless -- the capital investment that might come up,
3 and so which the Commission has discretion as to setting
4 that tax rate.

5 And I suspect, just thinking out loud here,
6 that there will be an element of "It depends." It depends
7 on, you know -- we need to set those assumptions. We need
8 to be cognizant about ranges perhaps, but you know, is not
9 to disagree with anything you said by the way. We should
10 still explore that. Any way.

11 MR. CROSBY: Okay. You're absolutely
12 right. This is an art, not a science, I am sure. But
13 nevertheless, we have got to do the best we can do. So if
14 we use that -- you know, if we use, "What do we need to
15 know to do our jobs, and do we know?" Is the first
16 question. And then the second is, "If we don't, how do we
17 get it?" And let that guide how we design this first
18 panel as well as we design -- we'll be talking about this
19 with gaming consultants.

20 We'll be talking about this with a lot of
21 people, but I think this session is one that will really
22 help this will bring it to the public too. We want people
23 to know if we think we're missing a lot of really critical
24 baseline data, that's going to slow things down. There
25 are a lot of parties that are impatient to the fact that

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1 this is taking a long time, they don't want to slow things
2 down, and we've come to the conclusion we need to slow
3 things down in order to get some more data, then we want
4 to share with everybody why we've come to these
5 conclusions and have them have a hand in talking about it.

6 MR. MCHUGH: I agree with all of that, but
7 at the same time, I think part of this ought to be how do
8 we keep ourselves attuned to the data that we need to have
9 us move forward.

10 This strikes me as a very dynamic economic
11 environment for what we're doing, and that the data we got
12 two years ago, probably aren't fully accurate now, and the
13 data that are going to exist in a couple of years are
14 going to depend on factors that we don't know about now,
15 and we're going to be making decisions against that data.
16 So whatever we're doing, it seems to me we need to build
17 in a process for constantly updating the information that
18 we need to do our job.

19 MR. ZUNIGA: So what is the next step
20 relative to viewing out these questions? A gaming
21 consultant will be one resource. Have we identified
22 others or we'll just cycle back with this?

23 MR. CROSBY: Well, Commissioner Stebbins
24 and I both have had drafts of an agenda, and I think he
25 and I ought to get together, and see whether we can -- if

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1 we're on the same page as to what the objective is, see if
2 we can workout a draft of that, and then bring it back to
3 the Commission and talk about it, maybe as soon as next
4 week.

5 Because I would like to -- to me this is so
6 elemental. It may turn out we know enough. Maybe, you
7 know, the studies that we've got are flexible enough that
8 we can adapt to the times. I just don't know.

9 I know that I've talked to people about the
10 spectrum report, people who have done the report, people
11 in administration. They thought very highly of the
12 spectrum report and thought it was real solid. So maybe
13 it is not a big problem here, but I think it is elemental
14 enough that we need to make that decision, and make it
15 fast, because if the answer is we need more, then it is
16 going to take sometime to get it. So I would hope that
17 Commissioner Stebbins and I can come back with a
18 suggestion about how to proceed on this as soon as our
19 next meeting next week.

20 You know, I think we need to reach out,
21 maybe now, I guess by having this conversation. I think
22 we need to reach out to people too, pretty soon. There is
23 a lot of people that fought about this a lot, and we need
24 to get people's opinions pretty soon, substantive
25 opinions, not just opinions, but data. What do we need to

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1 know and do we know it. Anything else on that? Okay. So
2 we'll try to have a -- something to talk about next week.

3 Expanding gaming and tourism. We have
4 talked about this a little bit. Commissioner Stebbins and
5 I, and we do -- I think we decided that we want to have
6 conversations with people from the tourism and business
7 from the three different regions, and I think -- to just
8 talk to the people in the tourism business, for starters,
9 just to get their sense of what expanding gaming means to
10 their industries, you know, what the concerns are, are
11 there ways to be synergistic. And I think you have
12 already started that little bit, and you're going to set
13 up some regional meetings, and I am going to focus on the
14 Boston meeting.

15 MR. STEBBINS: Sure. I met with the
16 executive director of the Mass. Office of Travel and
17 Tourism. Again, mostly just an introductory meeting, but
18 looking at what opportunities, avenues we have to talk to
19 the various regional tourism around the Commonwealth, as
20 well as what umbrella groups might exist, and we can go
21 in, solicit their feedback or their input.

22 That (inaudible) getting back to me with a
23 list of various upcoming dates when those groups might all
24 be together in one room, as well as some different avenues
25 for us to approach, again, to solicit their feedback.

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1 MR. CROSBY: Okay. And certainly in the
2 east where I was going to take the lead in setting up a
3 conversation with folks, you know, people like the
4 Convention Center and the Greater Boston Travel Tourism
5 Office, so forth, they know they're thinking about this.
6 They know a lot more about it than we do already, and I am
7 sure they're either concerned that this is going to
8 cannibalize certain kinds of business or hoping it will
9 enhance business and getting them to think about it, and
10 even at some point, have the industry involved in this
11 too.

12 We're trying to figure out how the industry
13 can be a success, and we need to figure out where the
14 markets are, where we can grow, and at some point, we're
15 going to want to coordinate with the casino industry too,
16 because we have a common interest in trying to make this
17 pie grow. And there is a question about how much it can
18 build in Massachusetts, and if it has to grow largely
19 outside Massachusetts, how do we work to make that
20 happen. Okay.

21 Interagency relations. I think we gave a
22 little bit of a misdirection to the media because I heard
23 from some of the media today that we were going to be
24 talking about Internet gaming and tribal gaming, which
25 wasn't quite right. Might have suggested something more

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1 than we had in mind.

2 The header is interagency relations, and
3 that is really what we were talking about. On the
4 Internet gaming, Internet gaming is one of the reasons why
5 I'm so concerned about whether we really know what we need
6 to know because none of these reports were done --
7 Internet gaming was, you know, still pretty much illegal
8 and nobody was really thinking about it, or at least we
9 weren't. So this is a variable in the mix that is really
10 big.

11 There is legislation in the legislature
12 that does address the Internet gaming that would assign it
13 to the Gaming Commission. It is not going anywhere at the
14 moment, but it is being talked about amongst, I think,
15 Ways and Means, and the Committees on Economic Development
16 and Technology, whatever that committee is called. And I
17 think we probably need to talk a little bit with the
18 legislature and see what their lines are.

19 Certainly within the statute -- our statute --
20 the intention of the legislature was to put all gaming,
21 except for lottery, under the Gaming Commission. That was
22 their judgement of good public policy. I don't second
23 guess that for the time being, but I don't know whether
24 the folks from the lottery feel the same way about that.

25 We are trying to meet with Treasurer

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1 Grossman, and some of the people from the lottery, to see
2 if we can participate in their -- in that task force and
3 just make sure we're at the table when these conversations
4 are being had. And I do think getting some legislative
5 intent here is important for us also.

6 On the tribal gaming situation,
7 Commissioner McHugh, do you want to give us an update a
8 little bit on that?

9 MR. MCHUGH: Yeah. We are the defendants,
10 along with others, in a lawsuit that's brought by a
11 developer named K.G. Urban who has a piece of property --
12 which has a piece of property in Fall River that it is
13 seeking to develop for a casino destination resort. And
14 it has brought a lawsuit in the federal court claiming
15 that the tribal set aside this whole compact arrangement
16 in the south eastern sector, the Bedford, Fall River, Cape
17 and Islands area, Plymouth area, is a violation of the
18 equal protection clause because it is race based.

19 The response in the district court was it
20 wasn't race based, it was politically based, it is a
21 political judgement. It is an arrangement with a tribe,
22 not a racial classification. And we and the state
23 defendants prevailed at the one at the district court
24 level. It has now been appealed to the first circuit.
25 The briefs will be filed on our behalf by the attorney

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1 general later this week, and the argument will take place
2 sometime over the summer, early fall, and the question
3 will be resolved.

4 But the litigation does raise a series of
5 issues, that seems to me it is much too early to try to
6 resolve. It needs to be kept in mind as we go forward
7 with respect to gaming in that sector of the state. There
8 are really three bags -- three pockets, three groups of
9 issues that, you know -- one is whether or not the courts
10 will ultimately agree that this is a political judgement,
11 not a race-based judgement, because if they don't, then
12 the whole set up for the compact of negotiations, and
13 everything that has been prescribed for that sector of the
14 state crumbles. It can't work. So that is the first
15 piece, and that may take sometime to resolve, conceivably,
16 if another appeal goes on beyond the first circuit.

17 The second has to do with the tribal
18 itself. We have two tribes from news media accounts that
19 have surfaced with an intention to seek some kind of
20 gaming enterprise in that section. We have the Mashpee
21 Wampanoags and Aquinnah Wampanoag and a whole series of
22 the issues with respect to both of them. And then there
23 is some report in the paper over the weekend that the
24 Piqua tribe has made some suggestions with respect to the
25 role of other tribes that may be in the area.

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1 There are a whole host of issues dealing
2 with all of those beginning with the so-called criteria
3 decision, which was decided by the Supreme Court some
4 years ago that defines who was a tribe eligible to take
5 part in these kinds of negotiations. So those are another
6 series of questions. And then there are questions as to
7 the relationship of the various towns with which the
8 tribal entities seek to pair in making negotiations and
9 what their responsibilities and obligations are with
10 respect to those overtures. So the Urban litigation is
11 the piece that's going to be decided right now. It is the
12 active piece right now.

13 The Governor's office is actively involved
14 in negotiating compact with the Mashpee Wampanoags, but
15 there are a number of other issues that I suggest are
16 going to remain -- and we need to keep our eye on those
17 issues as we go forward, and think about them, and think
18 about ways to try to get questions that may help -- try to
19 get questions that remain resolved as quickly as
20 possible.

21 We have some responsibility in this area, I
22 think, and there is other things we might be able to do.
23 It is too early to think about that right now in concrete
24 terms, but we need to, in the big picture sense, keep that
25 in mind as we move forward.

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1 MR. ZUNIGA: The legislation sets the
2 October -- there is October date.

3 MR. MCHUGH: October 31.

4 MR. ZUNIGA: October 31st for a deadline
5 for this Commission, relative to the compact not being
6 negotiated.

7 MR. CROSBY: If there isn't a compact.

8 MR. ZUNIGA: If there isn't a compact, we
9 are directed to issue a bid out, if you will, the third
10 license. How does the litigation and its appeal, on its
11 appeal, factor in terms of timing?

12 MR. MCHUGH: By itself the K.G. Urban
13 litigation has nothing to do with the compact. It is
14 simply an overlay, a background, if you will, that if
15 decided in favor of K.G. Urban, would have the effect of
16 saying that the set aside, the preference, the compact is
17 not something that the law permits.

18 We'll know the answer to that. It may
19 become moot if no compact is negotiated by July 31st. If
20 it is negotiated by July 31st, it goes forward, then the
21 litigation may be something that in the future upsets it.
22 The October 31st deadline becomes moot if there is a
23 compact by July 31st. If there is no compact by July
24 31st, the attorney general has taken the position, I
25 believe, and it seems to me to be the right one.

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1 But we have to decide as a Commission that
2 that October 31st date is a directory date. It is a date
3 that we can try to meet, but if we don't meet, that is
4 something legislature has directed, and is not an integral
5 part of the legislation, so we can issue the RFP later.
6 And these are things we're going to have to think of, and
7 think of them holistically as we move forward. That's the
8 only reason I raise it now. It is a set of issues going
9 on there that we have to keep in mind.

10 MR. CROSBY: How do we respond to the
11 town's calls, under the same umbrella that we talked about
12 before?

13 MR. MCHUGH: Yes, yes. I think that's one
14 of the reasons that I raised this because one of the --
15 some of the towns, one of the towns at least, does have
16 questions about what their obligations are, what their
17 rights are, where to get help. And it seems to me we try
18 to direct them to places where they can get help. If we
19 can't do that, they don't get satisfactory answers,
20 they're still having difficulty, then we as a Commission
21 have to figure out to the extent to which we can help
22 them, and then give them the help, have to do that as a
23 Commission.

24 I think the first step is to try to help
25 them figure out where they get the answers that they need

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1 and in a way that they can afford. This is going to cost
2 those towns -- potentially going to cost the towns money
3 just to get the answers, so it is a difficult dilemma for
4 them, and we're going to try to be as helpful as we can.
5 I think the only way to do that at this stage is to do it
6 step by step, and see what we can do to help them find the
7 solution, find the places where they can get advice on
8 what the solutions are.

9 MR. CROSBY: Okay. Well, this is a big,
10 complicated one that could end up in our laps pretty soon,
11 but I guess we -- is there anything other than just being
12 alert to it?

13 MR. MCHUGH: No, I bring it up now because
14 it is -- it is not directly tied to the Urban litigation.
15 The Urban litigation is the piece that's going forward
16 now. The brief is going to be filed this week, that will
17 be resolved at least at the first circuit level sometime
18 before the end of the year. But the resolution of that
19 doesn't necessarily mean that all of the issues that are
20 percolating in the south eastern corner of the state are
21 going to be resolved at the same time, and we'll just have
22 to continue to pay attention to them as we go forward.

23 MR. CROSBY: Now, we were asked by the
24 attorney general whether we wanted to comment on her
25 response to the -- on her whatever that is that filing

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1 is. Having read it, do you think we want to do anything
2 or say anything?

3 MR. MCHUGH: No. The brief basically takes
4 the -- the brief, as I understand it, will take the
5 position that has already been taken in the district
6 court. It is a position that statute is a political
7 statute, not a race-based statute, that there are other
8 reasons why now is not the appropriate time to resolve the
9 issues that the K.G. Urban developers have raised.

10 My overall suggestion was the sooner we can
11 get a substantive answer to this, the better everybody is
12 going to be, and I don't think there is any disagreement.

13 MR. CROSBY: Is there any point to
14 considering urging the court to speak to the issue? You
15 said that they may -- the court may be able to moot this
16 lawsuit for a bunch of other issues, rightness and so
17 forth.

18 MR. MCHUGH: Right.

19 MR. CROSBY: Then we would be left with
20 this open question. Is this a race-based law, which could
21 undue the whole compact concept. Is there a place for us
22 to urge the court to resolve this?

23 MR. MCHUGH: I think it is premature to do
24 that because in all likelihood, the argument is not going
25 to take place until after July 31st, and by July 31st

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1 we'll know that there is a compact and some of the other
2 arguments may disappear. And if there is a compact, some
3 of those arguments will disappear, and they will be -- the
4 likelihood that they'll reach the merits is higher.

5 If there is no compact by July 31st, then
6 that whole piece is moot, and there is no tribal based
7 preference at that point. So time will help us with this
8 to some extent.

9 MR. CROSBY: Okay. So watchful waiting is
10 our strategy.

11 MR. MCHUGH: Right, right.

12 MR. CROSBY: All right. Anything else on
13 the interagency relations? By saying interagency
14 relations, that reminds me that we do -- for the May 3rd
15 conference we do need to reach out to all related public
16 agencies, and I think we have thought about that, but that
17 is something we need to be doing. Okay.

18 Item 8, other business. There were, I
19 guess, one thing that we didn't put on the agenda, that I
20 have been thinking about, and I think I would like to
21 raise. We adopted a mission statement, which I have here
22 somewhere, last week that starts out with these words,
23 "The Massachusetts Gaming Commission will create a fair,
24 open and transparent process."

25 And it was kind of niggling in my mind when

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1 we did it, but I didn't focus on it. Open and transparent
2 are kind of the same thing, and one word is missing, which
3 is participatory. So what I would like to discuss first
4 of all is the proposition that we would change this to
5 read "The Massachusetts Gaming Commission will create a
6 fair, transparent and participatory process." As opposed
7 to a fair, open, transparent process.

8 It is not a big deal, but it is a phrase
9 that I use a lot, and I think when we talk to the media
10 and talk to our constituents, we want to emphasize the
11 fair, transparent and participatory, so to memorialize it
12 in our mission would make sense, but any other --

13 MR. STEBBINS: I wholeheartedly agree with
14 the change. It is great enough for us to be transparent
15 and open as possible, but at some point we're soliciting
16 feedback...and a number of (inaudible).

17 MR. ZUNIGA: I agree.

18 MR. MCHUGH: I agree as well.

19 MR. CROSBY: Great, great. Do you want to
20 move to that effect?

21 MR. ZUNIGA: I will make a motion to amend
22 our mission statement to read a fair, transparent and
23 participatory process.

24 MR. STEBBINS: Second.

25 MR. CROSBY: All in favor?

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1 MR. ZUNIGA: I.

2 MR. CROSBY: I.

3 MR. MCHUGH: I.

4 MR. STEBBINS: I.

5 MR. CROSBY: All opposed?

6 Thank you. And we need to put that into
7 our various documents.

8 MR. CROSBY: I think the only other thing
9 is to -- any other business that wasn't anticipated?

10 MR. STEBBINS: Quick question. Whether we
11 need to seek action or seek commission approval on issuing
12 the RFR for the recruiting firm?

13 MR. CROSBY: I think we already did. Does
14 anybody remember? Didn't we authorize -- well, just to be
15 on the safe side, let's do it. Commissioner McHugh?

16 MR. MCHUGH: I move that we issue an RFR to
17 be prepared. That we issue an RFR MGC 201242 for the
18 executive director of the Massachusetts --

19 MR. CROSBY: For research firm.

20 MR. MCHUGH: Research firm executive
21 director.

22 MR. CROSBY: Second?

23 MR. ZUNIGA: Second.

24 MR. CROSBY: All in favor?

25 MR. MCHUGH: I.

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1 MR. CROSBY: I.

2 MR. ZUNIGA: I.

3 MR. STEBBINS: I.

4 MR. CROSBY: Motion carries unanimously.

5 Okay.

6 Our next public meeting is scheduled for
7 April 24th, a week from today. As I said, we hope that at
8 that point we'll have a regular plan in mind, so this
9 isn't quite so ad hoc. We're at the Convention Center --
10 so at the 24th, April 24th at two o'clock at the Boston
11 Convention Center. We'll have a pretty hefty agenda,
12 which we will let you all know about in advance. And I
13 guess that's it.

14 MR. ZUNIGA: Mr. Chairman, just one more
15 thing. In the same venue as issuing the RFR for research
16 firm, I want to make a motion to issue an RFR for ad hoc
17 audit and consulting review services relative for the
18 State Racing Commission, as I am pretty sure that that was
19 discussed, but you know.

20 MR. CROSBY: Okay. Good. Do I have a
21 second?

22 MR. STEBBINS: Second.

23 MR. CROSBY: Any discussion? All in favor?

24 MR. ZUNIGA: I.

25 MR. MCHUGH: I.

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1 MR. CROSBY: I.

2 MR. STEBBINS: I.

3 MR. CROSBY: All opposed? No. The motion
4 carries unanimously. All right.

5 Do we have a motion to adjourn?

6 MR. ZUNIGA: So moved.

7 MR. CROSBY: All in favor?

8 MR. ZUNIGA: I.

9 MR. STEBBINS: I.

10 MR. CROSBY: I.

11 MR. MCHUGH: I.

12 MR. CROSBY: Great. Thank you.

13 (The proceedings were concluded at 3:57 p.m.)

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