

MASSACHUSETTS GAMING COMMISSION
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P R O C E E D I N G S

>> CHAIRWOMAN CAMERON: Good morning, everyone. This is public meeting 258 that I am calling to order. First up on the agenda is the approval of the minutes. Commissioner Stebbins.

>> COMMISSIONER STEBBINS: Madam Chair, I move the Commission approve the minutes from the December 20th, 2018, meeting subject to any correction for typographical errors and any other nonmaterial changes.

>> COMMISSIONER O'BRIEN: Second.

>> CHAIRWOMAN CAMERON: We have a second. Any further discussion? All in favor?

[Vote taken]

Not in favor? 4-0. Moving on to the administrative update. Executive Director Bedrosian.

>> MR. BEDROSIAN: Good morning, Commissioners. Welcome to our first meeting of 2019. Today's agenda has several items related to our region A licensee. You may remember we had established early on in our process that proceeding on parallel paths with our Region A licensee was in the best interest of the Commonwealth. That meant while the suitability review was ongoing, the Encore property continued to be built and was getting ready for a 2019 opening.

While staff has dedicated resources in our investigations and enforcement bureau had been working on the review, we have at the same time, with other staff, unconnected to the review, been working with Encore personnel on opening preparations. And this agenda actually reflects that parallel path. First, on the suitability review, you're going to hear from our General Counsel, General Counsel Blue sitting next to me and our outside lawyers a public update about the litigation in Nevada. That briefing will be limited to process of the litigation and public information. At the end of our meeting, you'll have an opportunity to then go into executive session for a discussion about litigation strategy. General Counsel Blue will provide you more detailed information on these two agenda items.

The second portion of the parallel paths I talked about, the preparation for the

property opening, is related to my presentation when we were in Springfield last month. I hope you took from that presentation that the ability to have a smooth opening resulted from a lot of preparation at staff level. As I have said earlier, staff has been working with Encore on preparations and not dissimilar to what we did in Springfield, time has come for issues that require both senior staff and Commission attention to appropriately be prepared for an anticipated opening. Namely, service employee exemptions, consistent with what we did at MGM Springfield, and budget authorization for our new gaming agents and public safety personnel at the Encore property.

Our agenda also has other important items. I don't want to discount them, and a quarterly update from Encore and a number of racing items. So with that, that actually would cover my items A and B. I'd like to turn to the service employee exemptions. And to join me with that is Bill Curtis, our Licensing Manager, and Abby Horrigan. And Abby, I apologize, you're Assistant General Counsel? I want to make sure I get your title right.

>> MS. HERRIGAN: Corporate Counsel. That's fine.

>> MR. BEDROSIAN: Okay. I don't know if I got my raise or not yet. So you may remember, Commissioners, the whole process we went through to get a statutory change to give the Commission the discretion to exempt certain service employees from the registration process, and that was connected primarily at that time with the opening of MGM Springfield. And just for re-educating some members of the public and people watching on TV -- not TV -- the Internet. Everything's TV -- the potential benefit was these employees no longer had to register and be subject to certain automatic disqualifiers and certain criminal convictions and hopefully provided for employment operations. Connected with that, though, the Commission went through an analysis with staff about what issues and what items would be important to grant those types of waivers. Whether people would truly have access to the gaming floor, sensitive information, and based on that, staff working with our licensees came up with lists of employees who we believe were sufficiently disconnected from the gaming side of the property operations and were food and beverage, cooks, hotel staff, valets and stuff like that, that we, doing a risk-based analysis, felt comfortable having those employees go through a corporate background, which our licensees still do.

So what you will see reflected is the recommendation that we have for the Wynn service employee -- I'm sorry, not Wynn but Encore service employees that are similar to the MGM service employees. Now, part of the analysis is based on two different types of properties. Encore is a different property than MGM is. So we've gone through that analysis. And there are actually a couple positions which we have some questions on. We want to go back and do a little more due diligence on them, and Bill, I'll just ask you in a second to remind me what those -- I think there are three positions -- what those three positions are. So if you have any questions, please feel free to ask.

The second issue I would ask your consideration on today, in addition to voting approval for these, is whether you would consider delegating to me the discretion in situations in which there are changes to previously approved service employee exemptions that we might consider ministerial or administrative. For example, we have a situation at PPC where one of the vendors, one of the food and beverage vendors, is changing from one type of burger establishment to another type of burger

establishment. The employees, the positions, are staying the exact same. It's just literally the name of the vendor. We had already gotten approval for the previous vendor. I would consider that a ministerial change so such that we could bring it back in front of the Commission, certainly, but for efficiency purposes, I would ask you to consider whether delegating to me the authority to reapprove those ministerial changes would be appropriate. So -- and thank you for listening. Bill, those three positions are?

>> MR. CURTIS: Under the sound and video department, it would be the manager, the supervisor and the technician.

>> CHAIRWOMAN CAMERON: So that's the group that we want to --

>> MR. BEDROSIAN: Defer on right now. So we're asking you to consider approving the rest of the list, absent those positions. We'd want to go back and I think do some double-checking on the access level those people have. That's consistent with, I think, something we had reexamined with MGM Springfield.

>> COMMISSIONER ZUNIGA: So Bill, those three positions that you mentioned are in the memo listed here somewhere?

>> MR. CURTIS: Yes, commissioner, it's on page 4 at the very top. It would be sound and video. It would be the top three, the manager, the supervisor and the technician.

>> COMMISSIONER STEBBINS: Bill, just a quick question on some of the other positions, and I thank you for not filling up the rest of our binder which would have been the detailed exemption applications. But some positions, just a quick question on. Digital marketing. Folks on the top of the first page. Any access to databases, anything like that?

>> MR. CURTIS: Not from the job description or the exemption requests.

>> COMMISSIONER STEBBINS: Okay. You also have -- you and Encore have listed the public area borders. I know we went through this conversation before with MGM. They were looking to exempt some porter portions, but they were porters that they couldn't necessarily divide duties. These are strictly going to be borders in the nongaming areas of the resort, I would expect.

>> MS. HARRIGAN: So, yes --

>> CHAIRWOMAN CAMERON: Could you please introduce yourself for the record?

>> MS. HARRIGAN: I'm so sorry, my name is Abby Harrigan, and I am corporate counsel for Encore Boston Harbor.

>> CHAIRWOMAN CAMERON: Thank you.

>> MS. HARRIGAN: You're welcome. So for the PAD positions, the exemptions that we have applied for are folks who will not have access to the gaming floor, which is why most of our PAD positions we did not seek exemptions on.

>> COMMISSIONER STEBBINS: Okay.

>> MS. HARRIGAN: Because scheduling difficulties to say you can't -- you're restricted to stay away from this specific area. That creates some scheduling challenges, so that's why we didn't seek more exemptions for PAD.

>> COMMISSIONER STEBBINS: Okay.

>> MR. CURTIS: To go a little bit further, the three positions on public area porters, they don't have access to the floor. They take care of scheduling. If people call up and say there was a spill or there was an issue, something was dirty or something like

that, they would talk to the porter and send the porter out there.

>> COMMISSIONER STEBBINS: Okay. All right.

>> MR. CURTIS: But the porters are all -- will all be registered. Whether they're a public area or casino because they do -- some of their jobs will overlap.

>> COMMISSIONER STEBBINS: Oh, okay. Got it.

>> CHAIRWOMAN CAMERON: Question quick, Bill. We've had four months of regulating up at MGM with similar exceptions. Is there any position that you found -- that you wanted to rethink? I mean, I know the new position's here with video, but is there any other position that for some reason you think possibly we should take a closer look, or is there anything that's happened that would make what you're doing moving forward a similar list change?

>> MR. CURTIS: We might revisit some of the ones that we granted for MGM. We're going to take a closer look at maybe one or two positions, but that's about it.

>> CHAIRWOMAN CAMERON: But that doesn't impact this list at all?

>> MR. CURTIS: No, ma'am.

>> CHAIRWOMAN CAMERON: Thank you.

>> MR. CURTIS: You're welcome. Thank you.

>> MR. BEDROSIAN: So if there are no more questions, I'd ask that you vote on two questions. One, the list, and two, that delegation authority if you think it's appropriate.

>> COMMISSIONER STEBBINS: Can we -- we didn't really talk about the delegation as a vote in the agenda. Are we okay to do that?

>> MS. BLUE: I think you can.

>> COMMISSIONER STEBBINS: Okay. Madam Chair, I'd move that the Commission approve the SER positions for exempted for gaming service employees at Encore Boston Harbor as provided in the packet with the exception of the three sound and video positions as well as grant the Executive Director authority to make some of the ministerial changes and exemptions going forward, whether it's just a change in name of the business employment.

>> COMMISSIONER O'BRIEN: Second.

>> CHAIRWOMAN CAMERON: Any further discussion? All in favor?

[Vote taken]

Not in favor? 4-0. Good work. Thank you very much for taking the time.

>> MS. HARRIGAN: Thank you very much.

>> CHAIRWOMAN CAMERON: Thank you.

>> MR. BEDROSIAN: Thank you. That is the end of my administrative update.

>> COMMISSIONER ZUNIGA: Before we leave the update, if I may just go back a little bit to your remarks on item B. I think it's very appropriate that we continue with these kind of activities. We did have a good discussion last time with MGM relative to how things had gone, and the clear insight from that was that advanced planning and teamwork were critical to the smooth opening. So I think it's very relevant that we're doing -- in fact, I went back and looked at some of the meetings we've had. A year ago we were doing advanced planning for an opening that was going to take place in August.

>> MR. BEDROSIAN: So you're right. At a senior staff level, we are probably slightly behind where we were with MGM. We started those meetings a little earlier. I would say the offset to that is the context that MGM was opening our first category 1

property and the learning curve was a lot higher. We've now smoothed off that learning curve, so I am confident that if we do engage with our current learning curve and staff, we'd be in good shape. But it is something that needs to happen.

>> COMMISSIONER ZUNIGA: Right. I think, as you point out, this notion of the parallel tracks, advanced preparation does not in any way prejudice the outcome of the investigation.

>> MR. BEDROSIAN: Right.

>> COMMISSIONER ZUNIGA: But I would submit that if we didn't, we would probably begin to prejudge it if we're not prepared for what would be, you know, a date coming.

>> MR. BEDROSIAN: Okay. Thank you.

>> CHAIRWOMAN CAMERON: Great. Next we have General Counsel Blue, the legal division, and a litigation update with our outside counsel here as well. Good morning.

>> COMMISSIONER ZUNIGA: Good morning.

>> MS. BLUE: Good morning, Commissioners. Item number 4 on today's agenda is an update on the litigation in Nevada. The litigation referred to as Stephen Wynn versus Wynn Resorts, the Massachusetts Gaming Commission and Karen Wells. With me today are attorney Melissa Allison and attorney Dave Mackey of Anderson and Kreiger who represent the Commission in this case. The Commission is also represented by Mike Rollins of Smith & Shapiro as Nevada local counsel, Mr. Rollins is not here with us today. Ms. Allison and Mr. Mackey are going to explain the process that took place in front of Judge Gonzalez over the last few weeks, and the judge's order that we expect to see from that process.

As the Commission knows and has been reported in the press, the litigation in Nevada involves claims made by Steve Wynn that certain information provided to the IEB by Wynn Resorts -- as part of the IEB's investigation -- was information that was protected by the attorney/client privilege, either because it involved communications between Steve Wynn and his lawyers or because lawyers for Steve Wynn and lawyers for Wynn Resorts were working together under what is known as the common defense or common interest privilege. As has also been reported, the judge in Nevada will be issuing a written decision -- a written order, excuse me, explaining her decision. In compliance with the court's order while Ms. Allison and Mr. Mackey will be explaining what has taken place in the case, they will not be able to discuss substantive material that the judge has deemed to be covered by the attorney/client privilege and thus covered by the court's order.

It is also important to understand that because the Commissioners were not involved in any aspect of the investigation and have not seen the investigative report, there will be no discussion of any substantive information from the investigation or the report. Today's presentation will be about the process that took place in Nevada and any future process in that litigation. To help in understanding some of the legal process, I'd like to define for those watching us a couple of legal terms. You will hear our attorneys refer to the attorney/client privilege. This privilege covers communications between a client and the lawyer. Their lawyer, the lawyer cannot share these communications with any third party without the client's consent. You will hear our attorneys refer to the common defense or common interest doctrine. This is a

doctrine that says that multiple clients, each with their own attorneys, can work together on a matter, and any communications between a client and their attorney may be shared with the other attorneys working on the matter on behalf of their clients without sharing of those communications being considered to be a waiver of the attorney/client privilege.

Our attorneys will talk about something called the TRO, a temporary restraining order, which is a temporary order issued by a judge preventing a party from taking a certain action. Our attorneys will talk about a PI, a preliminary injunction, which is an order issued by a judge that prevents a party from taking a certain action pending the outcome of the litigation.

Item number 10 is an executive session to discuss litigation strategy in the Stephen Wynn versus Wynn Resorts and Karen Wells matter. It allows an executive session in this situation to provide the Commissioners with the opportunity to ask Ms. Allison and Mr. Mackey for legal advice on the legal strategy regarding next steps in this litigation. As is the case with this presentation, because the Commissioners have not been involved in the investigation and have not seen the investigative report, there will be no discussion regarding substantive matters from the investigation or the report during the executive session. Only matters regarding litigation strategy. I'd like to ask Ms. Allison and Mr. Mackey to address the Commission.

>> MR. MACKEY: Thank you very much. Good morning again. There we go. Sorry about that. Good morning again.

>> COMMISSIONER ZUNIGA: Good morning.

>> MR. MACKEY: As General Counsel Blue described, I'm going to give you an overview of the case known as Wynn versus Wells pending in Nevada. Or at least the portions of the case that the court there would permit us to discuss in public. A little bit of background first. The dispute first arose as the IEB was nearing the completion of its report regarding Wynn Resorts following publications in the Wall Street Journal of allegations of sexual misconduct by Mr. Wynn.

At the time the dispute arose, it's in the fall of 2018, the IEB had already interviewed dozens of witnesses in the course of its investigation and received a significant number of documents from Wynn Resorts. Wynn Resorts was cooperating in the investigation, and Wynn Resorts was not asserting its own company attorney/client privilege with respect to the information that it was providing, documents, witnesses and so forth.

On October 15th, 2018, Mr. Wynn's lawyer wrote to Director Wells informing her of his claim that Wynn Resorts had improperly provided to the IEB certain material protected by what General Counsel Blue referenced, a common interest agreement between Wynn Resorts and Mr. Wynn regarding certain matters that they had been involved in that were relevant to the IEB's investigation. And as General Counsel Blue described, a common interest agreement can be formed when two parties, here Wynn Resorts and Mr. Wynn personally, worked together on a legal matter. You know, and their lawyers could share information without there being a waiver of the attorney/client privilege. And it typically happens when an individual sues two defendants. Those two defendants can share information without it being available to the rest of the world.

Mr. Wynn's claim that was made in this letter was initially based on certain documents that Wynn Resorts had provided to the IEB relating to a particular legal

proceeding that had taken place back in 2014. We did not believe that the documents were protected by a common interest agreement, and Wynn Resorts represented to the IEB that it did not believe the documents were protected by a common interest agreement. But in the interest of trying to resolve the matter short of the litigation that we've ended up in, we did provide Mr. Wynn's lawyer access to this material so that he had a full opportunity to try to justify on a document-by-document basis why they might be covered by this common interest agreement.

Mr. Wynn's lawyer did come in and review the documents on October 25th. He wrote a letter the next day, October 26th, regarding his view of Mr. Wynn's attorney/client privilege. And his letter responded that he believed all of the documents were subject to a privilege and that they could not be used in any way or relied upon in any way by the Commission.

On top of that, Mr. Wynn made some additional claims in this same letter regarding certain interviews that Director Wells had conducted of lawyers in Nevada who were involved in some of the other matters that were relevant to the IEB's investigation. And I'm sorry that I'm being so vague, referring to certain matters and certain people, but I'm just constrained to be that way by the nature of these proceedings.

So Mr. Wynn then demanded that in addition to the Commission -- or the IEB not being able to rely on these documents that I described, he demanded a copy of all of these interviews of these witnesses. He requested a copy of the IEB's report before it was made public, copies of all of the documents that Wynn Resorts had produced to the IEB and transcripts of all of the interviews that Director Wells had done of all of Wynn Resorts' employees and officers and so forth.

We respectfully declined those demands. And on November 7th, 2018, Mr. Wynn filed this lawsuit, Wynn v. Wells. His lawsuit named Wynn Resorts, the alleged other party to the common interest agreement which he alleged they had breached. It also named the Gaming Commission, and it named Director Wells, both in her official capacity as director of the IEB, but also in her individual capacity as an individual. And specifically the complaint alleged that Wynn Resorts -- that Mr. Wynn and Wynn Resorts had entered into a common interest agreement with regard to certain matters that are relevant to the IEB's proceedings -- they're relevant to the IEB's investigation including this 2014 matter that I referenced and that the Commission and Director Wells had intentionally interfered with this common interest agreement between Wynn Resorts and Steve Wynn.

To quote from Mr. Wynn's complaint, he alleged that the Commission and Director Wells had flagrantly invaded this common interest agreement between himself and Wynn Resorts and that she had done so when the IEB obtained the documents that I've referenced and conducted the interviews of these witnesses that I've described. The complaint sought compensatory damages and punitive damages -- I shouldn't say sought -- seeks compensatory and punitive damages from the Commission, from Director Wells in her capacity and in her individual capacity, and it also seeks an injunction against the Commissioner Director Wells from using any of the material that Wynn Resorts provided to the IEB that Mr. Wynn was alleging was protected by this common interest agreement.

I do want to make our perspective on one issue clear today. And as we've

publicly argued, we absolutely do not believe that Mr. Wynn's allegation that Director Wells somehow flagrantly invaded the common interest privilege is supported by the facts here. To put that in context, that allegation of his involves, in large measure, the interviews of these lawyers I've described involved in certain of the matters relevant to the IEB's investigation. These were lawyers who were familiar with the issues at stake. They were among the most well -- as we understand it -- the most well-respected members of the Nevada Bar. They themselves were represented at those interviews by experienced counsel. Counsel for Wynn Resorts also attended those interviews. These witnesses were advised clearly by Director Wells that Wynn Resorts, the company, had waived its privilege and was cooperating but that Mr. Wynn had not waived his privilege and that if the witness had any concerns at all about these boundaries of an attorney/client privilege, they should feel free to consult with their counsel, leave the room, have a discussion, and that they should only answer the question if they felt like they could. In fact, the witnesses did, on occasion, raise privilege issues, and Director Wells fully respected that and moved on to other questioning. So in our view, we do not believe the facts support Mr. Wynn's statement that Director Wells flagrantly invaded the privilege here.

After the lawsuit was filed, Mr. Wynn sought what General Counsel Blue defined as a temporary restraining order. As she described it, it's an emergency order with very little notice. And in this case it was brought to stop Director Wells' reliance on any of the allegedly privileged materials provided to her by Wynn Resorts. With the assistance of our local lawyer in Nevada, we submitted papers to the court to oppose that motion, and we appeared in court to argue that motion -- in opposition to that motion on November 19th. And we argued three matters. First, that it was not appropriate as a legal matter for a state court in Nevada to exercise any power over a governmental entity in Massachusetts. And I digress here with a little bit of legalese, but in 1979, the United States Supreme Court held, in fact, that state courts do have power to hear claims that are brought against sister states but that there was something called a presumption of comity. And I say comity, c-o-m-i-t-y, which provided that state courts, even though they have the power to hear these claims, should decline to do so and insist that the case be heard in the courts of the defendant state, which in this case would be Massachusetts.

As a footnote -- and some of you may have seen this in the papers today -- there was a case argued yesterday in the United States Supreme Court, Hyatt versus California Tax Board, which would, in fact, strip -- the question presented is whether state courts should be stripped of the power to hear claims against sister states. You know, for example here, whether a state court in Nevada should have the power to exercise jurisdiction over yourselves. And as it turns out, Wynn versus Wells was referenced by the lawyer for the State of California in that case as a poster child for why state courts should not have the power to hear claims against sister states. Unclear when we'll have a decision in that case or precisely how it's going to come out, but it's an interesting footnote to the proceedings in Nevada.

So we did argue to the Nevada court that she should not hear the case against the Gaming Commissioner Director Wells and that the case should be brought by Mr. Wynn here in Massachusetts. Second, we argued, of course, that in our view, none of these materials were subject to an attorney/client privilege or a common interest

agreement. And third, we argued that Mr. Wynn, when he sought before this Commission to be dedesignated as a qualifier, represented to this Commission that he had no control or influence whatsoever over Wynn Resorts and that this lawsuit in Nevada was kind of an attempt to have it both ways because he's attempting to assert control over Wynn Resorts' cooperation with the Commission.

Wynn Resorts also -- they're also a defendant. They appeared, represented by a very good and well-experienced counsel out in Nevada. They appeared and argued primarily in their view the materials were not privileged. The judge conducted the hearing on November 19th, and notwithstanding our arguments, immediately granted the temporary restraining order sought by Mr. Wynn, preventing us from relying on the allegedly privileged materials including material related to this 2014 proceeding that I've referenced.

Following the entry of that order, the parties exchanged some information, engaged in discovery, deposition discovery to try to clarify what some of the issues were. And based on that discovery, Mr. Wynn then proceeded to obtain a second order in the form of a preliminary injunction and, again, General Counsel Blue has described that. That's an order that would last for the duration of the lawsuit. It's not a permanent order, but it's an order that would last for the duration of the lawsuit out there. Again, regarding the use of the documents and testimony that I've referenced.

This all happened in fairly quick order at a hearing right before the holidays. The judge ordered that this motion for a preliminary injunction and our opposition be filed simultaneously on December 31st, and it's scheduled argument on the matter for January 3rd and 4th out in Nevada. And this time Mr. Wynn's motion was somewhat more specific. It did reference very particular documents and testimony that he felt should be off limits to Director Wells and the Commission.

We filed our opposition materials on December 31st and then flew out to Nevada. On January 2nd, the judge issued a preliminary ruling granting Mr. Wynn's request that's certain of these documents and this material, interviews be off limits. She did give the parties then an opportunity, the hearings on January 3rd and 4th, to discuss and make objections to her preliminary rulings. We argued out there -- Ms. Allison and myself -- for the Gaming Commission and Director Wells in her official capacity, Director Wells I should also say has retained a lawyer who is representing her in her individual capacity out there, a lawyer named Joe Ganley, and he argued for her in her individual capacity, and then Wynn Resorts had two different lawyers argue largely on the privilege issues that in Wynn Resorts' view these materials were not privileged.

As the judge had done on the hearing on the temporary restraining order six weeks previously, she immediately ruled at the conclusion of the hearing that certain material was off limits, either as a result of Mr. Wynn's attorney/client privilege or as a result of certain other rights that Mr. Wynn alleged he had regarding this information. This order was issued by the court orally at the conclusion of the hearing, and she will issue a written order confirming what she did orally, and we expect that we will have that within the next several days, which will, you know, no doubt confirm what happened in court.

In the meantime, the case is going to continue in trial court there in Nevada. We will have the opportunity to file motions to dismiss in the case. A schedule has not yet been set for that. And, you know, we are going to continue to do everything we can do

to defend the Commission and Director Wells both officially and individually as aggressively as we can. Again, this is just a preliminary ruling. It's not a permanent order. We're going to have the chance to ask the judge to revisit her conclusions as the case proceeds. So that in a nutshell is where we are now.

>> CHAIRWOMAN CAMERON: Questions?

>> COMMISSIONER O'BRIEN: Are you at liberty to say in this setting what the other bases were?

>> MR. MACKEY: So we argued publicly in court a couple of the other bases related to a right Mr. Wynn asserted in the confidentiality in his alleged confidentiality in the proceedings that happened in 2014, independent of the attorney/client privilege. And then with respect to some personal information he asserted was covered by HIPAA and other alleged privacy rights that he had.

>> CHAIRWOMAN CAMERON: I have a question. Did you want to --

>> COMMISSIONER ZUNIGA: No, go ahead.

>> CHAIRWOMAN CAMERON: The Nevada control -- gaming control board, the other jurisdiction in which Wynn Resorts has a license to operate, is conducting a similar investigation. And I -- I'm assuming received similar documents from the corporation, but yet they're not being sued. Do you have a rationale for that?

>> MR. MACKEY: I don't. I could conjecture, but I'm not confident enough about it to say publicly what that rationale might be. But you're correct, they have not taken any steps to try to claw this material back from the regulator in Nevada.

>> CHAIRWOMAN CAMERON: Thank you.

>> COMMISSIONER ZUNIGA: Again, to the extent that you can comment on this, you mentioned that there was an oral discussion out there relative to material that was deemed privileged, and we'll be expecting the written decision in the next few days. Is it possible to then take that written decision and for the IEB to go back and take that information, whatever that may be, out of the report?

>> MR. MACKEY: I think we're -- we're going to review carefully the specifics of the order and, you know, based on, you know, what we see the judge has ordered is off limits, you know, review what impact that would have on the draft report and make a decision about that.

>> COMMISSIONER ZUNIGA: Even though -- so you would only make -- we will only be able to make a decision until we see the written decision even though we have heard, at least orally, what the scope of those --

>> MR. MACKEY: We have a more general sense of what she's going to order but, you know, there are very specific, for example, lines of transcript and particular documents. And I think we want to see it confirmed in writing before we proceed too far down the road in terms of assessing its impact on what Director Wells has prepared.

>> COMMISSIONER ZUNIGA: Understood. I also wanted to ask, in your very early remarks, you mentioned, because you were talking about the past, the September or, you know, prior dates, that the company, Wynn Resorts, was cooperating with the investigation, with Ms. Wells' investigation, et cetera. Is that -- has that changed? Can we assume that they continue to cooperate with -- that the company continues to cooperate with the investigation?

>> MR. MACKEY: With respect to this lawsuit, we're codefendants with Wynn Resorts in this lawsuit, it has, you know, supported the positions that we've taken in

court that it does not believe these materials are protected, and it's had its lawyers, you know, very effectively argue those positions in court. So yes, I think from the litigators' perspective, absolutely, they've been cooperative with us.

>> COMMISSIONER ZUNIGA: Okay. And --

>> MR. BEDROSIAN: Commissioner, part of -- what I can say is I think the context of was is a reflection of the fact that our investigation up to that point was complete.

>> COMMISSIONER ZUNIGA: Okay.

>> MR. BEDROSIAN: So they were cooperating till it was done. Now, I don't want to say that the process that is happening now won't also be part of the report and the things that you end up evaluating, but I think was just an historical context of where we were at the time. Not a determination of something has changed.

>> COMMISSIONER ZUNIGA: Thank you. So it's fair so say, then, that the investigation has been concluded.

>> MR. BEDROSIAN: Yes with the caveat that quite frankly some of the stuff that's happening now may be an additional portion of the evidence that you need to consider at an adjudicatory hearing. But yes, in terms of where we were at the time when the litigation happened, we were at an ending point.

>> COMMISSIONER ZUNIGA: Okay. Thank you.

>> CHAIRWOMAN CAMERON: Any further questions?

>> COMMISSIONER STEBBINS: Just one quick question. Upon the release of this written order from the judge, is there any opportunity for the plaintiff in this case to look at that list that comes out with the order and have an opportunity to go back and add to it, or is this kind of the definitive list of documents?

>> MR. MACKEY: I think, you know, we'd like to think this is the definitive list. They have had access to material here I think sufficient to enable them to determine what is problematic from their perspective and what's not, but, you know, it's certainly possible that could happen, that additional materials could be at issue.

>> COMMISSIONER STEBBINS: Okay.

>> COMMISSIONER ZUNIGA: Well, I have a lot of what-next questions, but I know that they will be -- they will most likely touch on legal strategy, so I'll save them for the executive session.

>> MR. BEDROSIAN: Thank you.

>> CHAIRWOMAN CAMERON: Anything further? Thank you for that update. I think next we have Ombudsman Ziemba with the Encore quarterly report.

>> COMMISSIONER ZUNIGA: Do you want to take a quick break?

>> CHAIRWOMAN CAMERON: We will take a five-minute break first. Thank you.

[A break was taken at 10:42 a.m.]

>> CHAIRWOMAN CAMERON: We'll resume the meeting at this time.

Ombudsman Ziemba.

>> MR. ZIEMBA: Thank you. Good morning, Commissioners.

>> CHAIRWOMAN CAMERON: Good morning.

>> MR. ZIEMBA: Today we'll present our quarterly report ending on September 30th, 2018. Its fourth quarter report and the fourth quarter reports for MGM Springfield and Plainridge Park will be presented in -- likely in February or early March. In addition to the third quarter report, Encore Boston Harbor will provide an update on the status of the design of the proposed pedestrian bridge across Mystic River, and they'll also

provide an update regarding the City of Everett's update to its urban renewal plan for Lower Broadway. With that as a background, I will turn it to Bob DeSalvio, Encore Boston Harbor President, Jacqui Krum, and Peter Campot, Director of Construction.

>> MR. DeSALVIO: Good morning. Thank you for giving us an opportunity for us to present our update. As John mentioned, I'm Bob DeSalvio, I'm here with Jacqui Krum and Peter Campot. Before we turn this over to Peter, I did want to update you on two items, actually. The first is at our last meeting, you had asked about keeping track of how we're doing with the dealer school. So I'm very pleased to report that, first of all, the relationship and operations of the school with Cambridge College has been going excellently. They've been a really good partner in the process. So all things good from an administrative side.

In the first round, we had 146 dealers go through the program and graduate and are prepared for work at the property. And I'm also pleased to report that in the second wave, which begins next Monday, the 14th, we have now 179 additional dealers that are signed up for our new program which begins on Monday. And if you recall one of our goals from the first wave was to see if we could increase the number that came from the host and surrounding communities. And so for this wave, we're at 53% of this wave is coming from host and surrounding communities. So we worked hard on that. The recruitment team and the gaming operations folks, to make sure that they got the word out amongst the local communities to see if we could get as many dealers as possible.

So great news on the front, and it's going extremely well with Cambridge College. That was the first item. And then second, before we turn it over to Peter, you know, we've done a lot of work over the last year, and Jacqui helped us put together a compilation of our time lapse to kind of show you where we are in the last 12 months. So we wanted to roll that before we get into construction. It's just a short video.

>> MS. KRUM: I actually take no credit for this at all. Somebody else did it.

>> MR. DeSALVIO: So there you have one year of Peter Campot's life in 35 seconds. Good job, Peter.

>> COMMISSIONER ZUNIGA: And just from the outside.

>> MR. DeSALVIO: Yeah, the inside, we're keeping pretty close to the vest. It's an important aspect of how we want to unveil it in the future. But it's going great from the outside. With that, I am going to turn it over to Peter to give the full construction report.

>> MR. CAMPOT: Good morning.

>> CHAIRWOMAN CAMERON: Good morning.

>> MR. CAMPOT: I'm finding out that I have the easy part of this process. We are on schedule. We are about 90% complete. We have exactly 164 days to opening and five months to our temporary certificate of occupancy. Suffolk continues to do a great job as a construction manager. Their trade partners are working with them. We're averaging about 1100 workers on site, and we still have a lot to do, but we have a pathway to success in every area.

We have our challenges, but we are on schedule to succeed. I'll sort of run through the different areas. The site work is essentially complete except for plantings. We've planted over 600 trees that are over 20 feet tall, just to give you a sense. We've got about 100 of those left to go. But all the subpaving, all the utilities, all that work is complete. As you can see, the docks have been installed. Actually, performing punch lists on a lot of that. We have an area out in front of the -- always the front entrance,

the first place everyone needs to enter is the last place you finish, but we have a plan in place to finish that up this spring, and we think that's all achievable. It's all weather dependent. Winter's upon us, but we have enough time, we believe, as long as the winter doesn't extend beyond April 1st, we should be in good shape. You never know in New England, right?

A few different images of the site. The garage, we're on schedule to turn over the lower two floors in the next several weeks. We're actually keeping B-2 for storage and B-1 is getting very close to completion also. So the garage is in excellent shape, and there's really no issues there. The podium, we actually received a temporary certificate of occupancy for the central utility plant. That included the fire command center. It includes all the life safety systems like emergency generator, cogen, all of that has been tested, fire alarm system. So that's really a tremendous accomplishment and puts us in an excellent place to continue to turn someplace over as we go along.

>> COMMISSIONER ZUNIGA: So, Peter, the prior date that you mentioned, the temporary certificate of occupancy, that's for the whole area?

>> MR. CAMPOT: The entire facility.

>> COMMISSIONER ZUNIGA: And when was that?

>> MR. CAMPOT: June 10th. In gaming, if you walk through the space, you can see we've got carpet down in 10% -- probably more than 10%, 25%. We're on track to slot spaces end of next week, and then slots will follow several weeks later and we have a plan to get all 4500 of those in over the next four months. That looks great. If you walk out there, you'll see the finishes are being installed in all the restaurants that surround the gaming area, and we're progressing fairly smoothly.

The convention area is actually ahead of schedule, and we see no issue with finishing that on time. And we're installing finishes in the convention area also. A few more images of the site. That's an old photo. That's all planted now. A little more recent. And then the tower. On the tower, we actually have turned the floors over through the 12th floor. We're installing furniture. And we're essentially finishing a floor per week. And we're on schedule to complete the tower with no issue -- we don't believe any issue at all. And that looks really terrific. So overall, the entire project is on schedule. I think I said we have our daily challenges, but we're working through those, and the team's just continuing to make it happen. So I don't know if there's any particular questions I can answer, but that's the overall update on where we're at.

>> CHAIRWOMAN CAMERON: Questions?

>> COMMISSIONER ZUNIGA: I was just going to ask, so where would you say, you know, broadly or high level is currently the critical path for you to meet this?

>> MR. CAMPOT: It's finishes, getting kitchens turned on, getting all the approvals you need, all the systems associated with those, but it's just normal course of business is nothing that's out of the ordinary. One good piece of news is that we turned over -- I should this mentioned this -- the data center almost six months early. So all low voltage is way ahead of schedule. That's one of the things that's usually a big struggle at the end. So that looks really good. So it's just finishes, and as we talked earlier in the past, getting the number of finishes quality craftsmen that we need has proven to be a challenge, but, you know, we're making it happen.

>> COMMISSIONER ZUNIGA: Right. Any of those activities that might actually require Commission staff inspection, et cetera, please make sure you coordinate with

Ed --

>> MR. CAMPOT: Sure.

>> COMMISSIONER ZUNIGA: -- because that's at the crux of where I think --

>> MR. DeSALVIO: And there were some areas in particular that Bruce Band was interested in, and he came over with Joe and his assistants, and they took a look at some of those areas. Proper protections around the cages and those kinds of early things that were early in the construction.

>> MR. CAMPOT: And one of the areas we finished as part of our TCO, the Commission's offices can also be occupied, so that makes it easier for you to staff and get in there ahead of time.

>> COMMISSIONER ZUNIGA: Great.

>> MR. DeSALVIO: Jacqui, if we could just advance up to the offsites. Great. Thank you, Peter. I wanted to talk for a minute about the process that we're proceeding with in terms of the offsite improvements. Just so that we double back and remind everyone, what are the areas that we're working on. It's Wellington Circle in Medford, a major project obviously in Sullivan Square, Santilli Circle in Everett, Sweetser in Everett, and then, of course, Lower Broadway.

I'm going to ask -- let's flip to the next slide because the picture tells even a better story. We were extremely lucky with a really good fall in terms of moving and advancing some of the road work even further than what we had hoped originally. And this is a great shot that shows you an overhead of Lower Broadway, and it shows you the road already widened out. It shows you the large new sidewalks that have been put in, the ADA and handicapped ramps, the landscaping work that was done out in the facility, the new marquee out in front of the building. And I have to tell you, ever since we were able to pave and open both north and southbound lanes, which was fairly late in the process, it has certainly helped in terms of traffic flow. As you recall, we told you early on that the summer was going to be the worst of it, and it was. It was very challenging because we had to narrow the streets down while we created the lanes. But ever since we've opened it, right now the only point of constriction is the work that's continuing on the Alford Street Bridge. They are redecking that, but they've made some very good progress, and that contractor has committed to getting that work done prior to our opening. So really good progress.

The next slide is a little bit more of a close-up. And again, you can see the crosswalks. You can also see here the new lighting scheme. Beautiful new lighting scheme up and down Lower Broadway and really starting to look very good out there.

>> COMMISSIONER ZUNIGA: That --

>> MR. DeSALVIO: Yes.

>> COMMISSIONER ZUNIGA: That curb and the sidewalk, is that for some kind of --

>> MR. DeSALVIO: A bus stop, actually, Commissioner. We have on both sides of the street MBTA bus stops right in front of the property. And so they have a curb cut to create an area where the bus can pull off, and we built a new little shelter there.

>> COMMISSIONER ZUNIGA: Great.

>> MR. DeSALVIO: The next slide shows you the entry archway, one of them. The second one will go up fairly soon, Peter, probably in the next month or so?

>> MR. CAMPOT: Within the next two weeks.

>> MR. DeSALVIO: So we're almost down out in that front entryway. And again,

you see the beautiful landscaping as part of the trees that we added and the complete entry intersection. The next slide shows a shot heading north on Broadway. And again, it gives you the -- gives you the idea of the depth and also the fact that we've got these new center islands that we're putting in. We have not landscaped them yet, but we'll do that work in the spring when we do our finishing work. But it will give Lower Broadway a really nice finished look.

The next slide is in Sullivan Square. And it shows you the reconfiguration. Our work in Sullivan Square has really advanced over the last three and four months. So that's not only a slide of the -- one of the intersections, but on the left-hand side is a new sidewalk. That whole stretch was almost completely without a sidewalk prior to this construction project. So again, we were very cognizant of pedestrian and bicycle issues in and around Sullivan Square, and that shows you one of the new sidewalks.

The next slide, this is if you were looking towards the bus -- you know, there's a bus arrival/departure there. It's a very active MBTA stop. We completely redid the in and the out sequence for the busing to make that operate smoother in conjunction with the new traffic signals and the timing. So that's part of that project.

The next slide also is another shot showing you, again, the new sidewalks going in for pedestrian purposes. And the next one is kind of an overview slide that we took. This was taken, I believe, on top of the Shraff Center and looking down over the entire Sullivan Square. Some of the features -- the parking lot was redone at the bus terminal, and also we have not gotten to do yet the final landscaping work. But if you remember, one of the commitments was that had been pretty well neglected, that whole center section in Sullivan Square, so that will all be part of our spring planting as we go out and do cleanup in that area.

>> COMMISSIONER ZUNIGA: Is that equipment part of that landscaping effort, or is that the project?

>> MR. DeSALVIO: That -- that equipment is actually our construction team actually still out there working. So we use -- what we do is we use that center as our laydown and work area. And then at the very end of the job, we pull everything out of there and then do the landscaping. So the equipment will not remain.

>> COMMISSIONER ZUNIGA: No, no, it's -- but it's associated work.

>> MR. DeSALVIO: Yes. It actually shows progress. This is Santilli. This one -- Peter, I think this one's almost done.

>> MR. CAMPOT: 99%.

>> MR. DeSALVIO: There's another example of new sidewalks, now crossings to aid pedestrians of what was and is a very busy circle. Also, as somebody who drives this multiple times a day, the fact that the -- you know, you think of something as simple as lane restriping and organizing traffic. It has made actually a very big deal in this particular intersection. So, again, that project is virtually done. And then the next one, two, three, four -- I'm not going to take you through these, but the next four slides are the detailed scheduling diagrams for those projects. I will give you just a general update. Again, we're farther along than where we thought, and that was because we got lucky with weather. We do have a number of projects to finish in the spring. It's about a six-week concentrated period that we'll be working on. One of the biggest projects we got to do the binder course for the streets Robin and Dexter which are the truck route that goes through Everett. That particular job was interesting. It was a

full-depth reconstruction rather than a mill and overlay, so that one was more complicated. But we got to do the heavy lifting this fall. And then we'll come back with the wearing course in the spring and then finish up the work on Robin and Dexter. As I mentioned, Broadway is pretty much done all the way throughout the whole north and southbound sections.

Right now there's nothing that we see in the schedule that would prevent us from finishing all of the appropriate road work on time. So good news on that front. The team did a great job. I wanted to spend a minute to talk about our diversity program. This is a great story to tell. We're exceeding in all of our areas. In particular, you know, we are -- and I know I mentioned this earlier at other meetings -- we're at the tail end of the design phase, but there was some trailing work that needed to be done. And the only area where we were behind was in WBE on design. And we've actually brought that up nicely over the last couple quarters. So from an MBE perspective, our goal was 7.9% of the work, and we came in about 8.5%. So we exceeded that goal. For WBEs, it was 10%. And we're now gotten that up to 8.8%, which was a vast improvement from where we were before. And on the veterans side, a goal of 1%, and we far exceeded that at 6.3%. But overall on the design phase, we had a goal of 18.9% of the work, and we came in at 23.6%, about \$15 million worth of work. So we felt really good about that.

I'm going to now divert for a second off of diversity and talk about some of the items that John mentioned. This is Lower Broadway related. The City of Everett did recently get a MEPA certificate for work that they're doing which is the Lower Broadway community parking facility. What that is is the replacement of the area where we are doing our construction parking now, which is unpaved and gravel with actually paved lots and lighting so that they look appropriate and proper. Also it includes a setting back the parking away from Broadway, and that was done for the purpose of any potential future expansion of Broadway. You know, Everett has been extremely progressive in getting the bus rapid transit lanes through the community. And the mayor has eyes on actually trying to expand that network further. And so we didn't want to do anything that would get in the way of any future potentials, and that's been a real transportation highlight in the City of Everett. So again, they received a certificate.

One particular note on that project and something we've talked to Ombudsman Ziemba about and I think a couple Commissioners have actually brought up, and that was pedestrian crossing in that particular area. That is something that we will, number one, we're going to set up some meetings with BTM because, as you know, the front of our building actually kind of spans multiple intersections. Our main site drive is, of course, in the City of Everett. And so that -- you know, that will operate as normally performed. However, when we do get busy, we do now and we will continue to use outside resources, mainly the Everett Police Department if we need special details, whether it's during construction or on busy days or special events. Same thing will hold true with the intersection of where Dexter intersects on Broadway. That particular intersection is actually in the City of Boston. And so through discussions with John, we want to make sure that we are watching that intersection for appropriate pedestrian crossing. We will have eyes on that through camera systems. We will also post some of our transportation folks to be able to look at any of the outside areas including our traffic flow. And if need be, we will order additional police details to make sure that

we're doing that, especially during the grand opening period. As you know -- and you saw that, I'm sure, from MGM -- you get a major surge of traffic, and we'll be coming to the Commission later on with our kind of opening plan. But the idea is to pay particular attention to that intersection. John suggested it. We thought it was a great idea. We'll set up meetings with BTM and make sure that we keep our eyes on that.

And the other thing I wanted to talk about -- we have a slide of this later -- was the pedestrian bridge. I think we've -- oh, great, there it is. Thanks. We are proceeding with our design and permitting for the bridge. As you know, we mentioned earlier, that is the longest lead on a project like that. It is not the actual construction of the bridge. It's a fairly -- it's a relatively simple structure that can be put together in a lot of pieces offsite and then brought to the site and installed. But as you can imagine, the permitting for getting something like that done, I think we estimated originally about 18 months. So we are continuing that process. We have not made any formal commitments in terms of construction because, as you know, there were other components that we were interested in, and this would work together as a coordinated project. And the other two are the construction of the new Draw 7 park in Somerville that DCR is working on. And that project, there what we understand, is actually moving forward at a pretty good clip. And so we think that's important so that if there ever was a pedestrian and bicycle bridge across the river, you want it to land in something nice on the other end. And then the other piece of that, the Commission was involved with, which was a potential expansion of the head house at the MBTA station. And the Commission previously approved a grant for the Cities of Everett and Somerville, and that was to get a design and study work done for a possible head house expansion. So that what we are hoping for is someday those three projects come together to form a new transportation link that would give us direct access to not only Draw 7 Park but directly connect us to an MBTA Orange Line stop. So I wanted to let you know that work, at least from our end, the work that we can do for the long lead items, we are doing and paying for ourselves as part of that process.

>> COMMISSIONER ZUNIGA: And do you have a date, a completion date for design? I know permitting might be tricky.

>> MR. DeSALVIO: You know, Chris Gordon is actually working on that. I think there's 15, 16, 17 different permits. I would say it's too preliminary to give you a date of --

>> COMMISSIONER ZUNIGA: Okay.

>> MR. DeSALVIO: Maybe we'd be able to update you at the next quarterly of progress of where Chris is in that process. But we are moving it ahead and hoping that all three of those projects might come together, because I think this would be a wonderful link for the future.

>> COMMISSIONER ZUNIGA: Yep.

>> MR. DeSALVIO: Great.

>> MS. KRUM: So if you don't have any questions on Bob's portion --

>> MR. DeSALVIO: There's a few more on the diversity slides. I'll just close those up and then I'm going to turn this over to Jacqui. Next is on the construction contracts. We're doing extremely well on this portion. For the MBE portion, our goal was 5%. We're currently at 6%, and that's \$79 million worth of work. On the WBE front, the goal was 4.5%. We're at 11.5%. And that's 151 -- or almost \$152 million worth of work.

And on the veteran -- VBE portion of the job, a goal of 1%. It looks like we're coming in about 2.5% or \$33 million. So in total, on our 11.4% goal, we're currently running about 18%. But that is an incredible \$234 million worth of work. So really strong results there. And then the next slide, also we're doing equally well on construction workforce. We had a goal of 15.3% for minority workers on the job. We're currently at 25.1%. And that's over 1500 workers. On the female side, a very aggressive goal of 6.9%, and we're actually currently beating that at 7.1% with over 423 female workers. And we believe the most of any job in the Commonwealth in terms of percentage of females on the job. And then on the veteran front, we had a goal of 3%, and we're currently at 5.8% and almost 300 workers for that. A shout-out to Peter, the construction team and Suffolk for everybody pitching in on that but really good results in terms of the diversity program for the construction workforce.

>> COMMISSIONER STEBBINS: Bob, the workforce participation goals -- and we've obviously been able to kind of track that with your team through the meetings -- keeping in mind minority and female goals were prescribed in the statute, but early on we had a number of stakeholder organizations that you've worked with that came and said we should have a goal of 33% based on, you know, the population of the area. I would expect some of those groups would be pretty happy that you hit as high a goal as you have.

>> MR. DeSALVIO: Yeah, this is a really great result and through the efforts of a lot of folks.

>> COMMISSIONER STEBBINS: Can I just go back to the parking project?

>> MR. DeSALVIO: Sure.

>> COMMISSIONER STEBBINS: And I mentioned this to Ombudsman Ziemba. I'm interested -- and maybe you can address it at the point where you talk about your transportation plan and managing transportation issues and as a lead-up to your target date. Are you worried about the fact -- and I appreciate the work you've done. I appreciate how this fits in with the city's urban renewal plan, but drawing more people up Broadway who think now that there's more parking available, they can maybe forgo using the bus routes or using one of the, you know, T-stops knowing that this added parking is now being made available on Broadway?

>> MR. DeSALVIO: A couple things on the parking. First and foremost, it's going to be managed and run by the City of Everett, and they will hire an outside operator through, I'm sure, an RFP process to do that. The fact that it's replacing what's out there today, which is really a construction parking lot, the mere addition of spaces does not generate traffic. What generates traffic is, in fact, the amenities and the actual features of the building. I also want to point out that there were significant businesses where those lots currently are that were very high traffic generators. I'll give you two really good examples. LTI Limo used to be located right on that spot. They have, I think, over 100 vehicles. And in talking to the owner of the company, because we use their service. They're a great company. He said he did, I think, over 200 runs a day in and out of that facility right across the street from us. He wound up moving to Chelsea to be a little closer to the airport. And along with that, that traffic went with it. Right next to them used to be a freightliner dealership which used to get very significant traffic. That business relocated to another part of Everett and has reopened. Again, traffic gone from that facility.

Where our entry was was a very busy gas station, convenience store, Dunkin' Donuts that have all left the area. And so what's happening is there's a rebalancing of lower Broadway where there were a lot of businesses that were traffic generators that have left. Obviously we come on the scene and create additional traffic, but we've had our engineers, our traffic consultants and everybody look at this. At the end of the day, we certainly respect the fact that it will take a while for the mode splits to really develop as we open. As you know, we're going to be promoting alternate transportation through the use of the water shuttle, through the use of our connections at Wellington and Malden Center to the "T" to our premium park and ride operation, neighborhood shuttles. So all of those things that we committed to in our MEPA filings will be up and running. But at the end of the day, no matter what anyone says or does, the general public has to get used to the kind of figuring out their best way to get in and out of the property. We're hoping that a lot of them choose some of those mass transit alternatives because it will be better. And they will be able to get to the property quicker if you're willing to use them. I think our timing is perfect with the Orange Line and Red Line redo that the MBTA is currently in the middle of. Those new cars and new signaling will not only improve the headways, but by -- I think it's 2023 when that project is fully complete and all the new cars are online, you're going to see, I think, a much higher quality service on the "T," and we're hoping that folks will be encouraged to use that. I think when they see our water shuttles, they're going to be blown away. It's nothing like that's currently on the water today. They're going to be really exceptional. We're getting all new buses for the premium park and ride service. They are gorgeous. And so what we're trying to do is present really high-quality alternatives for people to use other than their vehicles.

But I have to tell you, it will take some time before that sorts itself out. But I think we're in a good place. I think John brought up very good points about monitoring. You know we'll be doing traffic monitoring anyway as part of the plan. But in particular, we'll keep our eyes on that whole entry arrival sequence. But thank you. Great question.

>> MS. KRUM: And we haven't changed any of our commitments that we made in the MEPA documents in terms of the mode splits. As you know, we've committed to significant monitoring after opening, and we'll be reporting back on that.

>> COMMISSIONER STEBBINS: Okay.

>> COMMISSIONER ZUNIGA: And that may all one day include a pedestrian bridge as well.

>> MR. DeSALVIO: I hope so. Boy, do I hope that happens.

>> COMMISSIONER ZUNIGA: I have a question on the -- just the reporting on the minority MBE and WBE. These are great numbers. As has been in the past, you've been able to increase them and maintain them in some cases. It would be really good to, at a future report, also include the count of firms that have benefited from --

>> MR. DeSALVIO: Sure.

>> COMMISSIONER ZUNIGA: You know, the millions of dollars are very significant, and that's really worthwhile. But the scope of the breadth of all those others are also good, too.

>> MR. DeSALVIO: We can add that -- we'll do that at our next update. I know we have it, but it's embedded in the detail of these which I don't have on hand with me.

We'll do that at our next update for sure.

>> COMMISSIONER ZUNIGA: Thank you.

>> MR. DeSALVIO: It is a lot of companies, though. I saw the list and it's pretty extensive. Thank you.

>> CHAIRWOMAN CAMERON: I would agree, the numbers are very strong. And I know what a concerted effort it was to bring more women in.

>> MR. DeSALVIO: Yes.

>> CHAIRWOMAN CAMERON: And I know you were part of those efforts, as it took a whole group to make that happen. But that's -- we're seeing the benefits there now.

>> MR. DeSALVIO: And that benefit will carry on through many other projects past ours because now you've got some of these incredible women in the trades, and they'll move on to the next job and hopefully bring more of their friends and family.

>> CHAIRWOMAN CAMERON: Mm-hmm. Good work.

>> MR. DeSALVIO: Great. Thank you. Jacqui?

>> MS. KRUM: So you'll see why I'm eager to skip ahead. This was -- this is probably my most favorite part of our job. And again, I can't take credit for it. I want to give credit to our community relations team, our events team and our food and beverage team and, of course, the 273 employees that we currently have on staff who have put in over 4,000 volunteer hours to date. So I feel like a huge accomplishment there.

The first two events that we participated in, we just want to highlight a couple of our events, were through the Mystic River Water Shed Association. One was the removal of water chestnuts from the Mystic River which is a big problem. And two is the removal of bittersweet, which I actually had to Google. But it turns out it's a weed that is poisonous.

>> COMMISSIONER ZUNIGA: What is it?

>> MS. KRUM: It's a poisonous weed.

>> COMMISSIONER ZUNIGA: A weed.

>> MS. KRUM: Yes.

>> CHAIRWOMAN CAMERON: I also had to do a little research.

>> MS. KRUM: Yes.

>> CHAIRWOMAN CAMERON: I thank Ombudsman Ziemba for assisting me with this, but I also was not familiar with --

>> MS. KRUM: Bittersweet.

>> CHAIRWOMAN CAMERON: -- bittersweet.

>> MS. KRUM: Yes. So let me just flip to the next one. Another fun event that we had, unfortunately the weather wasn't too great, and I say we, I don't run, but a lot of our team members do. And they had a phenomenal event for the Disabled American Veterans raising money for healthcare, disability, employment, education and financial benefits. It was a run on Castle Island.

Over Thanksgiving, we did a community event with United Way where we had our employees pack foods for 6,500 families in 15 communities in Massachusetts. They also participated in the distribution of the food.

Holidays for Heroes we did with the American Red Cross where we packed and distributed 500 comfort kits to benefit veterans. And in our host community of Everett, we did a Christmas pantry with the Everett Grace Food Pantry where we gave out

12,000 pounds of fresh food to 700 people in local communities.

One of, I think, the events that we're most proud of this year was an event that we held with the New England Center For Arts and Technology. So the New England Center For Arts and Technology is a nonprofit collaboration between public and private partners. And they work very closely with employment partners to provide industry-specific job skills, training, career-directed education and placement assistance targeted to the practical needs of the workplace. Our particular role with them has been to put in a culinary program in the City of Everett High School. So to do more to support this relationship, we organized a fund-raiser on Giving Tuesday right after Thanksgiving. And we were so -- we exceeded our goal, and we raised \$372,500 to support NECAT. Our employees were -- did a phenomenal job of putting this together. It was actually a really fun event. And it's hopefully something that we can do in years to come as well.

So I just have a short video I'd like to show you about NECAT and our partnership with them.

>> NECAT prepares chronically unemployed or underemployed adults for careers in the food services industry.

>> A year ago I didn't know where I was going. So NECAT was my foundation as far as changing my life over from where I was to where I am now.

>> To work and stay off the streets, they need a purpose, and that's what we're here to do. Help them discover for themselves that their past does not need to define their future.

>> Okay. So when we were talking about your quiz, your final, you will be given the spice. You absolutely are allowed to taste them.

>> When I was in class, signing out, it was kind of scary because I didn't know the culinary terms. I listened. I observed. I took it to heart.

>> This is going to be another classic Central American and Middle Eastern spice. This is coriander.

>> It's very unique for an organization or company like Encore to really put their sort of money where their mouth is. We got a grant from the Gaming Commission, which has allowed us to start training individuals who live in the area of the casino. So to have Encore say to us, we're not only willing to help, we're going to give them jobs, and we're going to help you raise the money so that you can do the important work you need to do, there's no one like that who's stepped up to the plate for NECAT like Encore has.

>> I ended up graduating back in April. I work as an event cook in concessions at the Boston Garden. They called me in to give me Off-Site Employee of the Month award, and that was kind of mind blowing.

>> When you have someone who has never experienced success once in their life, see what's possible for themselves and you see the transformation that takes place, there's nothing like it.

>> Looking at where I'm at and what I'm doing, I feel great. I feel great.

>> MS. KRUM: So we're pleased that our first 16-week culinary arts training program has concluded, and we are about to start our second round on January 22nd. We're enrolling -- well, I should say NECAT's enrolling right now.

Just a couple of other highlights. We received an Environmental Merit Award by the EPA, which we're very proud of to do with the remediation of the site. We also

received an award from The Disabled American Veterans Department of Massachusetts. As you've seen probably in the newspapers, we've committed to \$10 million in donations to nonprofits, working with the Connors Family Office over the next four years and have made exceeding -- we've made really good progress meeting with a number of organizations and look forward to moving forward with that quickly. And I think I will conclude there.

>> MR. DeSALVIO: Any questions, Commissioners?

>> COMMISSIONER ZUNIGA: That's a very impressive effort. I'm curious, how large is your community relations staff, or how many people are involved?

>> MS. KRUM: Well, we have a community relations leader, John Taca, who you've met, and he has hired a very energetic and engaged woman whose name is Wendy Pham, and she's just been fantastic. So a team of two supported by, as I said, our events team has been great, and our food and beverage team has really stepped up.

>> COMMISSIONER ZUNIGA: Great effort.

>> MR. DeSALVIO: Great.

>> COMMISSIONER STEBBINS: All right.

>> CHAIRWOMAN CAMERON: Any further questions for the team? Thank you.

>> MR. DeSALVIO: All right, thanks for the time. Have a good day.

>> CHAIRWOMAN CAMERON: Impressive.

>> COMMISSIONER ZUNIGA: Thank you.

>> COMMISSIONER STEBBINS: Thank you.

>> MR. ZIEMBA: That concludes my report.

>> MR. BEDROSIAN: Can we just take another quick break while we get the racing team up here? Five minutes would be great.

>> CHAIRWOMAN CAMERON: We'll be on break for five minutes.

[A break was taken at 11:28 a.m.]

>> CHAIRWOMAN CAMERON: Okay. We'll resume the meeting at this time with our racing division, Dr. Lightbown.

>> MS. LIGHTBOWN: Good morning, Commissioners.

>> CHAIRWOMAN CAMERON: Good morning.

>> MS. LIGHTBOWN: Today I have with me Chad Bourque, our Senior Financial Analyst, who's going to deal with our first issue, with the local quarterly aid payment. And also today Jessica Paquette, the Vice President of Marketing for Suffolk Downs, is here, in Chip Tuttle's place if you have any questions for her.

>> COMMISSIONER STEBBINS: Good morning.

>> CHAIRWOMAN CAMERON: Good morning.

>> MS. LIGHTBOWN: Now I'll turn it over to Chad.

>> MR. BOURQUE: Good morning, Commissioners.

>> COMMISSIONER STEBBINS: Good morning.

>> COMMISSIONER ZUNIGA: Good morning.

>> CHAIRWOMAN CAMERON: Good morning.

>> MR. BOURQUE: So in accordance with Section 18(d) of Chapter 58, the local aid is payable to each city and town where racing activities are conducted. The amounts are calculated at .35% times the handle from the quarter ending six months prior to payment. The local aid payment for the quarter ending December 31st, 2018, is in the amount of \$252,364.99. This amount does reflect the handle from April, May and June

of 2018. And on the second page, you'll see the breakdown of the handles as well as the distributions to those cities and towns.

>> COMMISSIONER ZUNIGA: Remind me, Ms. Lightbown, how has the handle behaving in Plainridge over the last few quarters, few years?

>> MS. LIGHTBOWN: I don't know if you have the figures?

>> MR. BOURQUE: Yeah.

>> COMMISSIONER ZUNIGA: Just roughly. You know, is it stabilizing? Has it been increasing?

>> MS. LIGHTBOWN: Yeah, there's some stabilization, you know. Go ahead.

>> MR. BOURQUE: So overall, year over year, there was an uptick of about 5% across all tracks. I believe Plainridge is up right around 4%. So it's in line of -- with the other tracks.

>> CHAIRWOMAN CAMERON: So year after year, about a 5% increase.

>> MR. BOURQUE: For local aid, yeah.

>> CHAIRWOMAN CAMERON: For local aid, which means?

>> MR. BOURQUE: So last year --

>> CHAIRWOMAN CAMERON: Yeah.

>> MR. BOURQUE: -- or this year, we paid out -- these are rough numbers -- roughly \$872,000 versus last year, which was \$831,000. So about an increase of \$41,000.

>> CHAIRWOMAN CAMERON: And that's all of the facilities?

>> MR. BOURQUE: That's correct. So the same-- the 5%, in the handle increase across all.

>> CHAIRWOMAN CAMERON: What do we attribute that to? Just a little uptick in interest?

>> MS. LIGHTBOWN: Yeah, a little bit of the change in the number of live racing days.

>> CHAIRWOMAN CAMERON: Right. That would account for -- that would account for, you know, Plainridge, but the other tracks, rather, the other facilities that carry signals, that was the 5% --

>> MS. LIGHTBOWN: For that it doesn't make a difference. With Suffolk, you know, they went from six to eight days.

>> CHAIRWOMAN CAMERON: Okay. So it is the actual live racing days.

>> MS. LIGHTBOWN: Yeah. Some of it.

>> COMMISSIONER ZUNIGA: And, you know, perhaps indirectly, the Racehorse Development Fund, right?

>> MS. LIGHTBOWN: Right, definitely.

>> COMMISSIONER ZUNIGA: You know, because better prices and better purses.

>> CHAIRWOMAN CAMERON: Correct. Greater interest, yes.

>> COMMISSIONER ZUNIGA: Greater interest.

>> CHAIRWOMAN CAMERON: Mm-hmm. Good. Well, this issue -- this item on the agenda requires a vote. Do we have a motion?

>> COMMISSIONER STEBBINS: Madam Chair, I move that the Commission approve the local aid quarterly payment through December 31st, 2018, as provided in the packet.

>> COMMISSIONER ZUNIGA: Second.

>> CHAIRWOMAN CAMERON: Further discussion? All in favor?

[Vote taken]

Not in favor? 4-0. Thank you very much.

>> MS. LIGHTBOWN: The next item is the return of unclaimed tickets to individual patrons. The patrons have a year to cash their tickets, and then after that year has gone by, any unclaimed tickets go -- you know, we term the outs -- gets put into the purse accounts eventually. So what we do first is if there's any patrons that had a ticket that there's a question about and now they know it has not been cashed during that previous year, our financial analyst meets with Jimmy Alcott, the payer mutual director at Suffolk, and verifies them. So this year there were two of them for a total of \$217.63. And this does require a vote. As you were talking about trends, it's been pretty much consistent to Suffolk. In 2016, there were four for \$400. And then in 2015, there were three for \$471. So it's just -- and the other tracks don't have any of these.

>> CHAIRWOMAN CAMERON: I see. And we verify that they are legitimate tickets.

>> MR. BOURQUE: Yes, that's correct.

>> CHAIRWOMAN CAMERON: Very good. This item also requires a vote.

>> COMMISSIONER ZUNIGA: Madam Chair, I'll move that the Commission approve the disbursement of payment of the outs, of the unclaimed tickets for Suffolk Downs as presented here in the packet.

>> COMMISSIONER STEBBINS: Second.

>> CHAIRWOMAN CAMERON: Having a second, any further discussion? All in favor?

[Vote taken]

Not in favor? 4-0. Thank you.

>> MS. LIGHTBOWN: Thank you.

>> MR. BOURQUE: Thank you.

>> CHAIRWOMAN CAMERON: Thank you. We will move on to the Finance Division. As soon as they get a chance to get seated.

>> MR. LENNON: Good afternoon, Madam Chairwoman and Commissioners.

>> COMMISSIONER ZUNIGA: Good afternoon.

>> COMMISSIONER STEBBINS: Good afternoon.

>> CHAIRWOMAN CAMERON: Almost afternoon. Not quite. Thank you.

>> MR. LENNON: I'll have to update that. I'm joined by Agnes Beaulieu, our Budget and Finance Manager, and Douglas O'Donnell, our revenue manager, and we're here to present to you the Mid-Year -- fiscal year '19 Mid-Year budget update for the Gaming Control Fund. The Massachusetts Gaming Commission approved an FY19 budget for the gaming control fund of \$33.4 million composed of 22.6 in regulatory costs and \$10.79 million in statutorily required costs. The gaming control fund required an initial assessment of \$28.3 million on licensees. At the end of FY18, revenue exceeded expenses by \$947,000 which resulted in an initial FY19 assessment being reduced by that much. In this correspondence, staff is recommending that \$3.25 million in additional costs be added to the FY19 approved budget which would result in a revised budget of \$36.6 million for the gaming control fund. The increased costs would be partially offset by \$861,000 in revenue that has exceeded the initial FY19 projections. The combined effect of budget increases in additional revenue would result in an

increase to licensees' assessment of \$2.39 million. And after accounting for the carry-forward of 947 would result in the initial FY19 assessment of \$28.3 million on licensees, increasing to \$29.7 million. So it's actually -- after you take all of that into effect, a \$1.4 million increase on the assessment, but the 947 was covered in the first update.

As a reminder and you'll see it throughout this memorandum, our licensees bear the full cost of our budgets, as we are 100% assessed on the industry. This Mid-Year update is composed of two portions, the costs necessary to be ready to regulate a category 1 facility in Everett and then the other mid-year items that we'd like to address. The table on page 1 of the memorandum summarizes those two components. Starting with the costs necessary to be ready to regulate a category 1 facility as explained on page 2 of the memo, the Commission is looking for one quarter of the year of salaries for ten additional positions within the gaming agents division, 19 new members of the Gaming Enforcement Unit, which is the same number as we have in Springfield, GameSense start-up costs and technology costs to both approve the gaming systems installed at the Everett facility as well as costs for outfitting an MGC office at the facility. Next is the other mid -- year. Do you want me to stop and take questions on those now or keep going through the presentation and take them at the end?

>> COMMISSIONER ZUNIGA: I can do them at the end.

>> MR. LENNON: Okay. Next is the other Mid-Year costs. When the Commission approved the FY19 budget, we did it by funding our litigation costs at the bare minimum required by our insurance policy. As the Commissioners are well aware, we have experienced over the last few years significant litigation, and the amount requested here in this memorandum would pay for our current bills. We are also looking for an additional funding for the Gaming Enforcement Unit in Springfield for five months of three additional FTEs to help reduce the level of overtime and staff burnout at that facility. Finally, we're asking for funding to migrate our IT backbone from the shared services model up to the cloud.

With the opening of an Everett location as well as a refresh cycle coming up for our IT department, which all of our equipment is close to up to five years old and either at the end or past the end of its useful life cycle, now is the time that we feel that we should migrate to avoid duplicative costs. While we are experiencing additional cost pressures, there are some positives to be noted on the revenue side. Currently, we are exceeding revenue projections by \$861,000. This comes in the form of \$185,000 in additional licensing fees, \$57,000 in insurance settlement payment as well as \$614,000 in reimbursable costs associated with the Wynn ongoing suitability investigation. This revenue will be used to offset the additional spending in this memo and result in additional assessment on licensees.

The last piece for this discussion today is the assessment. As noted in the memo, 205 CMR 121, paragraph 4 allows the Commission to bill for additional costs through the assessment process. However, something we have not dealt with is revising the proportional distribution of the assessment across licensees in the middle of a year. 205 CMR 121.01 paragraph 3b allows the Commission to adjust the assessment at any time to reflect the actual number of positions at a gaming facility. As described in the memo on page 4, the MGM Springfield facility opened in August of 2018. The budget for this year was passed in July of 2018 and used estimated gaming

positions of 3,600 for MGM which gave them a proportional share of 39% of the \$28.3 million initial assessment.

If you revise the gaming position numbers for today, their proportional share would decrease to 36.77%, which is a significant amount of \$28 million. Further complicating this issue is the fact that when the Commission approved the initial applications, an average of six seats or gaming positions per table game was used. Staff is recommending revising that figure to more accurately reflect actual positions per game based on the table in the memo on page 4. And this would only be for when facilities became operational. In addition, staff is recommending that if the Commission exercises the authority to let licensees revise their actual count of gaming positions, it should only be once a year. This is just for simplicity sake and it should not be retroactive but rather for one half the year's assessments. That's our position, not necessarily the licensees'.

At this point if the Commission would like to ask any questions, add comments or provide us with discussion on some of the points that we raised, it would be much appreciated.

>> MR. BEDROSIAN: If I could, before you ask a question, just insert some dements. First I'd like to thank CFA Lennon and his staff for the Mid-Year budget review which I also have worked on, and then I also thank Commissioner Zuniga in his capacity as treasurer. We've sat probably more times than he wants to go over --

>> COMMISSIONER ZUNIGA: Never enough.

>> MR. BEDROSIAN: Never enough -- to go over this. And initially, I had thought about presenting it and asking for a vote, and then obviously given the character and our previous process, which has always been to put it out for public comment and give our licensees a specific opportunity to talk to Mr. Lennon and myself. We haven't done that yet, so this is just right now an introductory to this, and I'm still happy to answer questions. But we'll put it out for public comment for two weeks, and I've already started the discussion with our licensees which I am pretty sure will continue.

>> COMMISSIONER ZUNIGA: Great. Yeah, thank you for that. I do maybe want to start in reverse order and start with the distribution, the allocation. So are we being asked to revise essentially now -- now for MGM based on the existing gaming positions which would be the difference between bringing them from a 38.99% to a 36.77%?

>> MR. LENNON: Yes.

>> COMMISSIONER ZUNIGA: Which, of course, comes from the others.

>> MR. LENNON: Correct.

>> COMMISSIONER ZUNIGA: Because it's a zero-sum game, essentially.

>> MR. LENNON: Correct.

>> COMMISSIONER ZUNIGA: And that's part of the -- that's perhaps part of the conversation we should talk about?

>> MR. BEDROSIAN: That's certainly part of the discussion of the relationship between slot assessment, gaming positions. When the Commission has authority during a physical year to review those --

>> COMMISSIONER ZUNIGA: Yep.

>> MR. BEDROSIAN: -- and then I think there's an ask to sort of historically true up the number. That's, again, a conversation issue.

>> COMMISSIONER ZUNIGA: Right. On that -- because of that nature, that there

may be an historical or retroactive or as of when this new proportionality takes place, I would at least like to table that piece of that conversation for now or at least agree that we might assess yearly or reassess yearly or something to that effect.

>> MR. BEDROSIAN: Totally within the Commission's discretion. But we just wanted to raise the issue. And I suspect that at the next meeting when we will ask you to vote, we'll have some licensee input/representation there.

>> COMMISSIONER ZUNIGA: Right. Right. And for perhaps context of other Commissioners, I think one of the -- one of the topics or issues that we thought about prior to the operations being opened was to try to prevent the notion of people just submitting a different number and getting a different assessment from year to year because they were all projected gaming positions. That's no longer the case. That now -- you know, what was an initial submission in the RFA2 and when a revised number -- for MGM -- revised number on their MEPA certificate and a final number to their opening of the tables -- opening of the facility, now we have a more, you know, date certain -- number certain because of what's existing. I actually might just caveat that there might be times in the future on an open facility where the number changes because they will continue to change the mix of tables to slots, and that has -- for example, that has a consequential difference in gaming positions. But it would not be as significant as this time around was for MGM, resulting in this kind of difference.

>> CHAIRWOMAN CAMERON: But it sounds like you're agreeing that once a year is the appropriate timeframe in which to take a look.

>> COMMISSIONER ZUNIGA: Yes. I would agree, it's once a year, we should pick one time prior to or during the budget discussion, setting the budget. It occurs to me that that would be a good time to do it. But it's all up to the staff and how we better deal with it.

>> MR. BEDROSIAN: Yeah. And I think we'll get some input on that. I wouldn't be surprised if they said, you know, could you have a Mid-Year review on this or something like that. We'll see. I mean, it would be interesting to see. Historically and based on other properties, what's the delta? How much could something change in six months or not change? And then we'll present that and you guys can make the determination. Okay, we'll do a Mid-Year review, or you know what? It's such a minuscule number, we'll just do it once a year.

>> COMMISSIONER STEBBINS: Yeah, I would echo what Commissioner Zuniga said. You know, I think you gave a great description in terms of how maybe these numbers have moved since the times of the RFA2 to actually opening day. You know, certainly don't want to see a Mid-Year revision be retroactive. I'd rather see us just set it once at the beginning of the fiscal year and work through it, knowing that our other source of revenue from our licensees is assessments, which could also fluctuate, obviously, depending on what comes up during the middle of the year. But trying to have that revenue source be set in stone almost from the beginning of the year, but I'm anxious to hear what our licensees have to say about this as well.

>> COMMISSIONER ZUNIGA: Yeah, I would also -- I don't know if I mentioned earlier, but I -- in this case, I would not want to consider a retroactive nature, you know. I know that's part of the ask from MGM. I say we pick a date as early as whenever and then reflect that going forward. But, again, let's see what they say on this topic.

I have other comments back to the cost items. And I would just like to highlight

at least three numbers that I want to at this point treat as provisional. I think it's the overall assessment and recommendation I'm in agreement with, but I, again, for the benefit of everybody here, just talk about the nature. Two of those numbers, I think, should come a little bit less, but one of those is probably going to come higher based on a number of things that are going to happen from now on. And there will be at least an offset. So I'm okay with the overall assessment. But I do want to mention that in the case of gaming agents, we have talked about in the past about a total of 30 across facilities, and now their request is higher than that. I know there is a number of things that go into play in the scheduling, the flexibility to cover in case somebody's out sick and whatnot. And I just -- I said -- I mentioned to Executive Director Bedrosian that I will be personally diving into understanding more about those dynamics so that I get comfortable with, you know, what is currently something higher than we had previously agreed upon as an overall. Taking into account, for example, that there's a central monitoring system, and that's the time that I'm going back to when we approved a very sophisticated and costly system, there was an assumption that there would be savings in the amount of oversight that we would have to do because the system will be doing a lot of that for us.

>> CHAIRWOMAN CAMERON: Yeah.

>> COMMISSIONER ZUNIGA: Now, there's a lot of oversight that we still need to do, respond to patron complaints and so on. But I -- again, just personally, I want to get a little bit more comfortable with that ask. And at least for now, because the ask is higher, I want to treat as provisional and come back to it at a later time.

>> CHAIRWOMAN CAMERON: Yeah. I actually agree with that. I think it was more than an assumption. It was -- it was an assertion that these numbers would be lower because of these -- because of what the system was able to do.

>> COMMISSIONER ZUNIGA: Right. And I know it's a lot more complicated than what I just described in terms of, you know, duality of responsibilities and coordination among properties but, again, it's something that I just told Director Band as well that I will be understanding a little better or seeking to understand better.

The other number that I want to mention is the GameSense number. I think that number might actually come down. There was -- but I want to explain the context of why that number is here. During the approval of the budget for the public health trust fund, there was an initial ask overall, an assumption about game sense having to have some resources, some monetary resources, to ramp up for Encore. And in that setting, in that public health trust fund, we decreased that number by \$144,000, which is the number that you see here. The reality is that that also assumed that there would be an earlier ramp-up than what we will now need. And I'd also want to reconcile it with what that body does for us with my presence there relative to budget approval. So again, I want to treat as preliminary. I suspect that number will come down, but we'll be back in a future commission meeting to true this up.

Those two numbers, in my mind, bring the overall ask here slightly down, but we should recognize that the litigation number is perhaps tight because those bills will continue to accrue. As Director Lennon suggested, this catches us up with a lot of the costs we already know to have, but a lot of those costs, even a projection of those costs, is really undetermined at this point. We might be back to this -- in this setting to ask for an additional request. So I'm comfortable with this number at this point,

understanding that we will be back perhaps as soon as the third -- at the end of the third quarter to reevaluate that number as well.

>> CHAIRWOMAN CAMERON: Yeah, I agree that those costs --

>> COMMISSIONER ZUNIGA: Those were the three numbers. Gaming agents, GameSense, and legal costs, you know. And so I think it's well put -- this memo and effort is really well put together, by the way, in short order because I know we -- we started thinking about this just in the last few weeks. And they're appropriate to start thinking about hiring gaming agents because we will need additional hiring. I think the infrastructure costs is really now a really good time to do them. You reminded me that we've had asks from the IT department in the past relative to replacement of equipment that we have really put off. And if we are transitioning to the notion of the cloud, which I believe is to be a good recommendation, this is a good time -- as good as any -- to do it rather than spending money to later retrofit something that we only use for the short term.

>> CHAIRWOMAN CAMERON: Yeah. Thank you. I would like to also report that I had a more in-depth meeting, as did Commissioner O'Brien, with the public safety costs. And frankly, they did justify to me the need for those additional costs, but we will be continually monitoring what those services should be and what those costs will be.

>> COMMISSIONER ZUNIGA: Mm-hmm.

>> COMMISSIONER STEBBINS: I also -- I also had some similar concerns. Obviously, you know, we talked about the prescribed rate. My other two areas of concern -- I think, Commissioner Zuniga touched on those is -- with respect to gaming agents, and there's, I guess, a quick clarification I have on the memo for Encore. Is it seven gaming agents or five gaming agents?

>> MR. LENNON: Five.

>> COMMISSIONER STEBBINS: Five gaming agents.

>> MR. LENNON: I apologize.

>> COMMISSIONER STEBBINS: So four supervisors for five gaming agents? I guess maybe I won't delve into it or dive into it as much as I know you're interested, but I do have some questions about, you know, the ramp-up of, you know, the hiring for the gaming agents at the Everett site.

>> MR. LENNON: And what we're hopeful on that is -- you brought that to my -- I got a chance to have a quick discussion. We're hopeful on that is that at these bigger facilities, you won't just see five gaming agents. Maybe you see some pulled from a smaller slot parlor and brought there. It's just the number of openings we have right now compared to the relative workforce.

>> COMMISSIONER STEBBINS: Okay.

>> COMMISSIONER ZUNIGA: All right.

>> COMMISSIONER STEBBINS: And --

>> COMMISSIONER ZUNIGA: But important discussions arise out of this.

>> MR. LENNON: Correct.

>> COMMISSIONER ZUNIGA: Relative to coverage.

>> MR. LENNON: Correct.

>> COMMISSIONER ZUNIGA: For example, it's important to have presence at most of the time in the day, in the 24-hour day. But invariably, there will be somebody who's out sick or whatnot. And in my view, at least, from a just management theory

perspective, if there's a flexibility to covering one -- you know, from one facility to the other, that brings a lot more flexibility to respond to those situations rather than always staff up to a certain level per property. And those are some of the things that I think we should examine. Now, it's a lot easier said than done, which is why I want to delve into the schedules and where are the stressors in terms of, you know, required presence versus ideal presence and whatnot and inspections or, you know, et cetera, et cetera.

>> MR. LENNON: All very important discussions.

>> COMMISSIONER ZUNIGA: Yeah, really critical.

>> COMMISSIONER STEBBINS: And just to finish up, you know, I appreciate, you know, some of the additional staff meeting added out in Springfield, again, to kind of help us with, you know, what was dramatic use of OT as we opened up MGM and obviously had a lot of backup help to make sure that opened on time. You know, it's going to be my hope that as we move into more functional and mature years, the cost of overtime will go down. I mean, I know some Plainridge folks were helping getting some OT to help out with the opening of MGM, but at some point that's all got to level itself off. So, you know, I agree, you know, we're potentially heading, as we've talked about on these parallel tracks, to make sure we have staff and resources needed to prepare for, you know, our Region A licensee. But my hope is gradually, over time, that number will stabilize, understanding that this is --

>> MR. BEDROSIAN: Yeah.

>> COMMISSIONER STEBBINS: -- kind of a fiscal year that we're going to see some bumps.

>> MR. BEDROSIAN: Right. The opening -- I think you highlight a good issue, which is the stressors of opening the property on staff and overtime versus what I'm looking towards, a horizon of a steady state operation, which is, you know, there's a lot more knowns in steady state versus the openings in which, you know, we're really trying to do our best to make sure that we have a smooth opening for licensing people, inspecting, you know, getting a lot of really big assets, valuable assets onto the property, stuff like that. But, you know, once that is done, that's a one-time event. Once that is done, you're right. And it's a very valuable discussion to have about what does it all look like in steady state.

>> CHAIRWOMAN CAMERON: Well, and what's important along with what does it look like is, you know, a data-driven analysis with public safety, with our gaming agents.

>> COMMISSIONER ZUNIGA: Technology.

>> CHAIRWOMAN CAMERON: Yes. Really -- we will continue to ask for a more sophisticated level of data-driven analysis, which will go hand in hand with what the staffing needs are.

>> MR. LENNON: So that's something we've committed to already to our licensees as well. If you remember when we opened up the Gaming Enforcement Unit out in Springfield, we started off at a number -- people had disagreements, and we agreed to a one-year lookback.

>> CHAIRWOMAN CAMERON: Yes.

>> MR. LENNON: And I know our licensees are looking forward to that as well. I can tell you I've had conversations with each one of them because budget season's coming up right upon us. So that's something we've already committed to. And as I said at the beginning, our licensees pay for our budget, so they hold us highly

accountable as well.

>> CHAIRWOMAN CAMERON: Mm-hmm.

>> COMMISSIONER ZUNIGA: Yeah, and perhaps I'm repeating an initial point, but because this is now the last -- the third of three major efforts in -- at least for now -- in hiring or in staffing up, maybe some of these numbers look small relative to the overall budget. That's only because there's only a third of a year in some cases.

>> MR. LENNON: Correct.

>> COMMISSIONER ZUNIGA: A fourth of a year. Many of these costs, in my view -- well, some of them are up front for infrastructure, and that's fine. That's one time. But a lot of the other costs become fixed costs in our budget. And that's something that I've always tried to really keep an eye on towards how expensive we get because of everything that we are -- that we are trying to do. And one of the guiding principles has always been to be as efficient and cost effective as possible without compromising anything of the work that we have to do, and that's the interest that I have now at this point relative to looking at gaming agents in particular.

>> MR. BEDROSIAN: Yep. Thank you. So as I said, our request was to raise this, have this type of discussion. Then we put it out for public comment, and Derek and I would specifically engage our licensees. I -- you know, I will, within some discretion I have, actually start to get some agents or one particular agent over to Encore because I think you heard me say in our MGM property it was critically important to have someone on important as early as possible. I think I can do that in our existing budget, but we'll bring this back with an anticipated request for action on the next -- at the next meeting.

>> COMMISSIONER STEBBINS: Do you have a sense, just -- you raise a good point. Obviously, they're anticipating taking delivery of slot machines. Is the technology purchase going to be something that can be aligned with the delivery of slot machines and making sure the technology can be fitted out appropriately?

>> MR. LENNON: So that -- so that is what our CIO is working on, aligning those two deadlines. She's been having meetings with their technology team for three or four months now to make sure that we are in a situation where it's aligned appropriately. As slot machines come on, if we want to start testing in February, which is, you know, when they start putting some of them in, we would actually have our CMS lines hooked up, and we could get the independent results back, and we'd have work stations for anyone sitting over there. So that is -- that is the goal. That is why we're coming to you now, saying any further delays kind of push those dates out which then push deadlines of the potential operator out.

>> COMMISSIONER STEBBINS: Okay.

>> MR. LENNON: We did this meeting in November for the opening of MGM, which happened in August. So we really held off hoping that we could get the license review done ahead of time, but anything right now -- any further delay really pushes and would sacrifice a date of the 25th.

>> CHAIRWOMAN CAMERON: I think we're aware of that in support of moving forward on a parallel track.

>> MR. BEDROSIAN: Yeah. And as I said, I think we also have that learning curve, which is we can jump right in, and we don't have to spend a few minutes waiting to figure out how to swim. We know how to swim.

>> COMMISSIONER ZUNIGA: Yes.

>> CHAIRWOMAN CAMERON: Great.

>> COMMISSIONER ZUNIGA: Well said.

>> CHAIRWOMAN CAMERSON: Anything further for the finance team?

>> COMMISSIONER ZUNIGA: So there's no vote required?

>> MR. BEDROSIAN: No. We will -- If you're okay with it, we'll put it out for public comment for two weeks, talk to our licensees, and revisit this with a requested vote at the next public meeting.

>> COMMISSIONER ZUNIGA: Excellent.

>> CHAIRWOMAN CAMERON: Thank you very much.

>> MR. LENNON: And I just want to thank Doug and Agnes for doing all the legwork. Once again, I get to come up here and take the bow, but all the real work is done by Doug, Agnes and the directors, pulling this information together so that we can actually present something coherent to you.

>> CHAIRWOMAN CAMERON: We're aware it's a team effort and we appreciate it. Thank you.

>> COMMISSIONER ZUNIGA: Thank you.

>> COMMISSIONER STEBBINS: Thank you.

>> CHAIRWOMAN CAMERON: Moving on on the agenda, we're up to --

>> MR. SANGALANG: Excuse me.

>> CHAIRWOMAN CAMERON: Sure.

>> MR. SANGALANG: Our livestream service is down. It has nothing to do with our network. It's the livestream provider --

>> CHAIRWOMAN CAMERON: Okay. Right.

>> MR. SANGALANG: -- has gone down nationwide.

>> CHAIRWOMAN CAMERON: Okay.

>> MR. SANGALANG: We are recording and we can upload the video.

>> CHAIRWOMAN CAMERON: Yes.

>> MR. SANGALANG: But we do not have the livestream going out.

>> CHAIRWOMAN CAMERON: Okay. Well, fortunately we're very close to the end of our meeting here, so I think most of the materials were covered while it was up. So we will just continue on and finish the meeting at this point.

Okay. So we're up to commissioner updates. Do we have any updates at this point? Okay. Hearing none, this meeting will move on. Any other business that we -- was not reserved? I do. That's next, 10. So we'll move on, then, to item 10, which is the executive session. And I'm just going to, you know, explain the rules of engagement, which we've been through before. The Commission will now go into executive session pursuant to MGL Chapter 30A Section 21(a)(3) for the purpose of discussing litigation strategy in the case of Stephen A. Wynn versus Karen Wells, the Massachusetts Gaming Commission, Wynn Resorts, et al., and when a discussion in an open setting would be detrimental -- have a detrimental effect on the litigation, then we will go into executive session. The Commission will not reconvene in open session at the end of the executive session. Do I have a motion to go into executive session?

>> COMMISSIONER ZUNIGA: Madam Chair, I move that we, the Commission, moves to executive session.

>> COMMISSIONER STEBBINS: Second.

>> CHAIRWOMAN CAMERON: Moved and a second. I would like to take a roll call

vote of the Commission to go into executive session. Commissioner Stebbins.

>> COMMISSIONER STEBBINS: Yes.

>> CHAIRWOMAN CAMERON: Commissioner Zuniga.

>> COMMISSIONER ZUNIGA: Aye.

>> CHAIRWOMAN CAMERON: Commissioner O'Brien.

>> COMMISSIONER O'BRIEN: Aye.

>> CHAIRWOMAN CAMERON: And I, the Interim Chair, vote yes as well. Thank you. The executive session is now in session. All members of the public and any staff members not involved in the matter to be discussed must leave the room. I ask that all live audio and video recording and livestream be shut off and the doors to the room be closed. Thank you very much.

(The meeting concluded at 12:19 p.m.)