

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION
84 STATE STREET, SUITE 720
BOSTON, MASSACHUSETTS 02109

PUBLIC HEARING NUMBER 31

CHAIRMAN:

Stephen P. Crosby

COMMISSIONERS:

Gayle Cameron

Enrique Zuniga

James F. McHugh

Bruce Stebbins

- - - - -

OCTOBER 16, 2012 1:00 p.m.

1000 WASHINGTON STREET, ROOM 1-E

BOSTON, MASSACHUSETTS 02109

APPEARANCES:

Janice Reilly, Chief of Staff
Massachusetts Gaming Commission
84 State Street, Suite 720
Boston, Massachusetts

Bob Carroll
Steven Ingis
Guy Michael
Spectrum Gaming Group
1201 New Road, Suite 308
Linwood, NJ 08221

Vincent Longo, Chief Operating Officer
South Shore Playhouse Associates, Inc., d/b/a
the Cape Cod Melody Tent and the South Shore Music Circus
P.O. Box 325
Cohasset, MA 02025

Troy Siebels, Chief Executive Officer
Hanover Theater
2 Southbridge Street
Worcester, Massachusetts 01608-2014

Tina D'Agostino, President
CityStage & Symphony Hall
One Columbus Center,
Springfield, MA 01103

John Ziemba, Counsel
Bowditch & Dewey
One International Place, 44th Floor
Boston, MA 02110-2602

Elaine Driscoll, Director of Communications
Massachusetts Gaming Commission
84 State Street, Suite 720
Boston, MA 02109

Scott Libby
Angel Arevelo
PMA Consultants
One Woodward Avenue, Suite 1400
Detroit, MI 48226

INDEX	PAGE
Call to order	4
Approval of minutes of October 9, 2012 meeting . . .	4
Project work plan	
Consultant status report	4
"Out of sequence" policy decisions	6
RFA-1 process and schedule	43
PMA time line update	47
Administration	
Personnel searches	66
Finance/budget	
Budget update	67
Procurement update	84
Racing Division	
Operations update	95
Public Education and information	
Community/developer outreach/responses	108
Acting ombudsman report	112
Introduction of ombudsman candidate	113
Host and surrounding community reimbursement	128
Massachusetts Performing Arts Center presentation	140
Report from director of communications	171
Research agenda	
Status report.	193
Meeting adjourned	198

1 (Meeting commences.)

2 (1:03 p.m.)

3 CHAIRMAN CROSBY: Okay. It's my pleasure to call
4 to order the 31st public meeting of the Massachusetts
5 Gaming Commission -- probably a record -- on October 16th,
6 2012.

7 The first order of business is the approval of
8 minutes. But I think we haven't had a chance to review
9 that.

10 COMMISSIONER MCHUGH: Right.

11 CHAIRMAN CROSBY: I haven't.

12 COMMISSIONER MCHUGH: I just put it in this morning.

13 CHAIRMAN CROSBY: Right.

14 COMMISSIONER MCHUGH: They're in draft and there are a
15 couple of things that need to be filled in. But --

16 CHAIRMAN CROSBY: So it would --

17 COMMISSIONER MCHUGH: -- I will do it next week.

18 CHAIRMAN CROSBY: That goes off for next week.

19 Okay. We get to Topic No. 3, Project Work Plan.

20 And first up is our consultant team. Some of them, at
21 least.

22 Why don't you introduce your team to the masses of the
23 public out there.

24 MR. CARROLL: This is the "all-star team."

1 Steve Ingis on the left; I'm Bob Carroll; Guy Michael.

2 We have a report to give to the commission with
3 regard to the progress the consultants have made over the
4 past week.

5 A lot of the time or most of the time was spent
6 supplementing and refining the strategic plan. And we have
7 arrived at a second draft version of that plan, which was
8 delivered yesterday.

9 CHAIRMAN CROSBY: Right.

10 MR. CARROLL: And the areas -- they key areas that we
11 focused on in terms of this new draft were in response to
12 some of the questions that we had received from the
13 commissioners about the first draft.

14 We have changed provisions and some of the
15 recommendations as to reflect, for example, the recent
16 Department of Interior's disapproval of the Mashpee Compact
17 and the impact that that might have on the commission's
18 time line and development going forward.

19 We've adjusted and clarified some of the other aspects
20 of the time line; tables of organization and the associated
21 line items to better reflect some of the interests of the
22 commissioners as they express them.

23 We expanded the detail and prioritized the MOUs, the
24 Memorandum of Understanding, and what will be necessary and

1 what we might be able to do later, but then what we have to
2 prioritize and do more immediately.

3 We enhanced the Compulsive Gambling Program
4 recommendations. You'll find that in there.

5 And we also included and evaluated some of the
6 potential legislative recommendations which had been
7 discussed previously regarding, for example, additional
8 commission funding and other temporary gaming facilities,
9 and other more technical aspects of the legislation that
10 could use possibly some tweaking.

11 In addition to the strategic plan, we researched and
12 conferred about the best practices on the scope of
13 licensing and the qualifier identification processes, which
14 we anticipate looking -- moving forward quite soon and want
15 to use that process to ensure consistency in the evaluation
16 of each of the applications so that there is a very
17 transparent and uniform way in which we identify who has to
18 qualify and who does not.

19 We are also researching and identifying and discussing
20 various policy issues that the commission will need to
21 address in order for us to move forward with the regulatory
22 drafting process for Phase 2. We -- there are a number of
23 issues that will arise in the context of the Phase 2
24 regulations that the commission needs to give us direction

1 on, and we have identified those areas and look forward to
2 speaking to you about them.

3 CHAIRMAN CROSBY: And this was also -- excuse me.
4 These were also about issues that the municipalities and/or
5 the developers might need a heads-up on.

6 MR. CARROLL: Absolutely.

7 CHAIRMAN CROSBY: We're going to be coming down on
8 something that it's better for them not to wait till we
9 actually write the regs.

10 MR. INGIS: Correct.

11 MR. CARROLL: Exactly. Exactly. Some policy
12 directives could be issued --

13 CHAIRMAN CROSBY: Right.

14 MR. CARROLL: -- in advance of the regulations.

15 And we've, you know, began the drafting and evaluation
16 process on the Phase 2 regulations themselves.

17 We've assisted the commission in terms of identifying
18 and performing some due diligence on potential candidates
19 for positions with the commission staff.

20 So as to say that's been our week. Otherwise we
21 weren't doing anything.

22 CHAIRMAN CROSBY: Just sitting around.

23 MR. CARROLL: Yeah.

24 And we look forward to tomorrow's meetings with you to

1 go over a lot of these areas and be able to move forward
2 even further.

3 We're open for any questions that you have.

4 CHAIRMAN CROSBY: You had raised some issues yesterday
5 that you were going to bring about the sequencing of the --
6 I mean, this goes right down into A, B, and C, I think,
7 including the RFA time line that was in that, I think,
8 Section 8 or 9. Do you see where it says --

9 COMMISSIONER ZUNIGA: Yes.

10 CHAIRMAN CROSBY: Because we haven't really --

11 COMMISSIONER ZUNIGA: Yeah.

12 CHAIRMAN CROSBY: We haven't confirmed the process of
13 the qualifier hearings yet, and we have some issues you
14 raised. So do you want to . . .

15 COMMISSIONER ZUNIGA: Yeah. Section 8 of the statute
16 speaks about requesting applications first for the slots
17 parlor license, the Category 2.

18 And as we prepare ourselves for issuing the document,
19 maybe -- originally contemplated tomorrow, or contemplated
20 tomorrow -- we should consider issuing that application --
21 that request for application for the slots parlor first to
22 comply with the statute and then perhaps a couple of days
23 later, because we're ready for the Category 2 license, as
24 well.

1 I contemplated whether the statute may have intended
2 letting out the license, but I believe that Section 8 is
3 very lean relative to the request, which is really
4 upcoming.

5 CHAIRMAN CROSBY: Right. That's it's not the granting
6 of the license --

7 COMMISSIONER ZUNIGA: It's not the granting of the
8 license.

9 CHAIRMAN CROSBY: -- it's the release of the RFP.

10 COMMISSIONER ZUNIGA: Right.

11 CHAIRMAN CROSBY: Or the RFO upon the RFA. Right?

12 COMMISSIONER ZUNIGA: And there was also some -- I had
13 considered whether, given our bifurcated approach we
14 could -- and given the fact that everybody will have to
15 go through the RFA Phase 1 process anyway, whether these
16 compliance with the statute could be ascertained to be RFA
17 Phase 2 requests for proposals.

18 But I just wanted to bring it up. It's essentially
19 now the time to consider. If we needed to make a
20 distinction to have that be on RFA Phase 1, we ought to
21 consider it today.

22 CHAIRMAN CROSBY: Right.

23 COMMISSIONER MCHUGH: We ought to consider it today.
24 It seems to me that one can interpret a statute as saying

1 "a day" -- it does say we should issue the Phase 1 -- issue
2 the RFA for the slots parlor first.

3 And literal compliance with that, it seems to me, that
4 it would be satisfied by issuing it a day ahead of time.

5 And I don't think that's what the legislature intended.

6 And it seems to me that if we issue the RFA-1 now that
7 we've bifurcated the process -- because the statute doesn't
8 explicitly state that process, either; although it's
9 perfectly consistent with it -- that if we issue the
10 substantive RFA-2 for the slots parlor first, perhaps even
11 trying to deal with the RFA-1's for the slots parlor
12 applicants first, if we can work the rest of the schedule
13 so we could substantively consider those licenses ahead of
14 the others, we'd be fully compliant with the statutory
15 command.

16 And this would allow us to get everything underway
17 quickly and uniformly.

18 So I think we could -- perfectly consistent with the
19 statute and the spirit of the statute and the legislative
20 intent, so far as it can be divined, we're perfectly
21 compliant if we issue the RFA for everybody tomorrow, RFA-1
22 unscheduled, and then think about the substantive RFA-2
23 piece going first to the commission -- to the slots parlors
24 in substance as well as in temporal sequence.

1 CHAIRMAN CROSBY: I think that would be within the
2 law, for sure. But I'm not sure that doesn't cause us
3 potentially a bigger problem.

4 If we get -- if it turns out that we -- that a casino
5 license applicant is ready to go with RFA-2 before the
6 RFA-1's come in, we wouldn't be sitting there holding . . .

7 I think -- my guess is that the legislature was trying
8 to do a few things in the bill to get us to move as quickly
9 as possible and to get money rolling as quickly possible
10 and to get economic development rolling as quickly as
11 possible. They sort of assumed that the slots parlor
12 process, because it was quicker, etc., but they certainly
13 did not mean it to slow down the casino process. You know.

14 So what I was thinking was that we -- we issue the
15 slots RFA, make it available to response applicants
16 tomorrow, and we wait, say, till Monday just to be sort of
17 spiritually in compliance with the letter of the law.

18 But I don't think that's just really what the law
19 intended to do, to make us wait on the casinos. But that
20 would give us a few days.

21 And then this issue is behind us, and we can deal --
22 we can then take the RFA-1's as they come in without still
23 having to be worried about complying with this legislative
24 mandate.

1 COMMISSIONER McHUGH: Well, I think -- I think that if
2 one is looking and trying to divine what the legislature
3 intended, it seems to me perfectly rational to conclude
4 that they thought that a slots parlor could be erected,
5 created, and up and running much more quickly than a
6 Category 1 casino could be, and therefore, that the
7 revenues to the Commonwealth and the job creation that they
8 would bring could be done more quickly.

9 And from that standpoint, it seems to me that while we
10 would comply with the letter of the law -- and we certainly
11 can do as you suggested -- or we'd comply with the letter
12 of the law if we waited three days. That's not really what
13 this is all about. And that we still would be observing
14 the underlying intents, so far as it can be divined, of the
15 legislation by trying to expedite the issuance of the
16 substantive RFA-2 for the slots parlor.

17 CHAIRMAN CROSBY: But that would put us in the
18 position -- if it turned out that -- as we know the lay of
19 the land now, the slots parlors are going to be new folks
20 who have not gone through the background check.
21 Everybody's got to go through the exact same background
22 check.

23 And it's perfectly possible that because this is a new
24 experience for the people in the slots license that

1 there'll be fits and starts and issues about qualifiers and
2 debates about the data and it will take longer to get the
3 data.

4 So we don't have any way of knowing what would come
5 in first. But if we did what you're suggesting, if the
6 RFA-1 -- if the casino background checks were concluded
7 first, we would have put ourselves in the position of
8 having to wait until the slots license was -- background
9 checks was completed.

10 Which I think would be antithetical to what the
11 legislature was wanting. You know?

12 So I think -- and I'm just guessing here, too. But my
13 guess is that the legislature was trying to do something to
14 move the process along.

15 As it turns out -- because the background check is
16 exactly the same; RFA-1 is exactly the same for both kinds
17 of licenses -- there's no way by issuing it first that it's
18 going to have a material impact.

19 So I think we just have to get ourselves past a
20 technical noncompliance if the sequencing -- you know, if
21 later on, if RFA-1's come in in a sequence that cause
22 casinos to go first, we could take care of that by taking
23 care of the mandate to go first at this stage of the game
24 where it's no skin off anybody's nose if we miss three

1 days.

2 COMMISSIONER CAMERON: I actually agree with
3 Commissioner McHugh that we really should try to adhere to
4 the legislative intent.

5 And I actually believe that everyone's been doing
6 their homework in the Commonwealth. They know what to
7 expect. They've been reaching out to folks who have gone
8 through this background process before, so they'll be
9 prepared to complete those forms in a very timely manner.
10 And then it's up to us where we want to focus our
11 investigative resources.

12 And I think that we could. We could focus with the --
13 with the slots license first with our investigative
14 resources.

15 And of course, if something happens where we have to
16 make a different decision, we could at that time make a
17 different decision. But --

18 CHAIRMAN CROSBY: But that's --

19 COMMISSIONER CAMERON: -- I don't anticipate someone
20 not being prepared for the background investigation phase.
21 It just seems to me that everybody's been partnering with
22 someone who's been through it before or consulting with
23 someone who is very experienced in this area.

24 So I just don't see that delay just because it's a

1 slots license.

2 COMMISSIONER ZUNIGA: But couldn't we, for the
3 intention of the legislature -- the legislation which was
4 to ensure the slots parlor license first, couldn't we take
5 it as this applies to both phases, just to be safe?
6 Perhaps one with a technical coverage by a difference of a
7 few days; and the second phase by a substantive coverage --
8 because we'll find out when we get there -- and we can
9 issue that license first.

10 COMMISSIONER McHUGH: I think that's -- I think that's
11 perfectly -- well, the first part of it, there's no reason
12 we can't, except that we haven't said this before today.
13 There's no reason that we can't issue the RFA-1 for the
14 slots parlor tomorrow on schedule and issue the other one
15 Monday, Friday, whenever, and thus, technically comply with
16 the literal language of the statute.

17 I just raise the other point because I think we would
18 be misapprehending the legislature's intent if we thought
19 that that was enough in having complied with that literal,
20 technical requirement, we were free to do thereafter
21 whatever we chose.

22 But we need not decide that today. And in fact, how
23 we structure the rest of this is part of tomorrow's
24 discussions and the strategic plan discussions, and is

1 something that we'll be talking about intensely over the
2 next few weeks.

3 So if we want to issue the -- issue the two RFAs
4 sequentially, there's no reason not to do that, and then
5 return to this in our usual thoughtful, carefully planned
6 out fashion as we move forward.

7 CHAIRMAN CROSBY: So that you mean -- so that, go
8 ahead and do the slots RFA two, three days earlier now, so
9 we've got -- if you want to decide that we can put that
10 issue behind us, we can -- and then later on we can talk
11 further about whether we want to wait on the casino slots
12 for the -- I'm sorry -- the casino background checks or the
13 slots background checks?

14 COMMISSIONER MCHUGH: Right. Right.

15 It's an option preserving steps. I don't think it
16 should take very long before we take the next decision
17 step. But certainly we've preserved our options by doing
18 it that way.

19 CHAIRMAN CROSBY: Do you guys have --

20 MR. MICHAEL: We agree. I mean, that seems to be a
21 prudent way.

22 You know, there is a distinction --

23 CHAIRMAN CROSBY: You agree with what?

24 MR. MICHAEL: With what Commissioner McHugh just said

1 in terms of a sequential -- or as you suggested originally,
2 a sequential issuance.

3 The distinction, obviously, in the issuance and the
4 decision-making process, you know, will be maintained in
5 the future.

6 The commission already built in to the regulations the
7 efficiency of having all the backgrounds commence at the
8 earliest possible time.

9 And then, as you've indicated, they are the same.
10 Okay? How you allocate your resources once these packages
11 are out there and being requested and come back in, it will
12 be something we'll be discussing pretty aggressively in the
13 next 48 hours, say.

14 And then as that -- the compliance of the various
15 applicants, a matter of the resources they put into getting
16 this done as quickly as possible will to a certain degree
17 allow parallel tracks of the, you know, the 1 and 2's to
18 proceed. And then decisions can be made down the road.

19 But for today's purposes, the issuance is obviously
20 the key.

21 And if you do it as Commissioner McHugh said you could
22 do it, at the same time or a couple days in between to have
23 an absolute technical compliance --

24 CHAIRMAN CROSBY: Right.

1 MR. MICHAEL: We don't think it would make a big
2 difference, but you know, there is -- the idea to get that
3 out, I think, is important to stay on schedule.

4 CHAIRMAN CROSBY: Right.

5 I'm fine with that. I'm fine with -- if we do it,
6 let's say, Wednesday and Friday, then we accomplish both
7 objectives, which is have a technical compliance under our
8 belts if we need it and leave open the option of how we
9 allocate resources and move with that. So I'm fine with
10 that.

11 I think we probably ought to have this be a motion.
12 Commissioner, do you --

13 COMMISSIONER McHUGH: Sure. I move that the
14 commission issue an RFA-1 for a slots parlor on Wednesday,
15 October 15, 2012, and that the commission thereafter issue
16 an RFA-1 for the Class 1 casinos on Friday, October 17th,
17 2012.

18 COMMISSIONER CAMERON: I second that motion.

19 CHAIRMAN CROSBY: Any further discussion?

20 MR. INGIS: Excuse me. Friday is technically the
21 19th. You said the 17th.

22 MS. REILLY: The 17th. It should be 17 and 19.

23 COMMISSIONER McHUGH: Seventeen and nineteen.

24 As so amended, I continue my motion.

1 MR. INGIS: I have a calendar in my head.

2 CHAIRMAN CROSBY: Unfortunately we've got high-priced
3 consultants.

4 Any other discussion?

5 All in favor?

6 COMMISSIONER ZUNIGA: Aye.

7 COMMISSIONER CAMERON: Aye.

8 COMMISSIONER MCHUGH: Aye.

9 CHAIRMAN CROSBY: Aye.

10 COMMISSIONER STEBBINS: Opposed.

11 CHAIRMAN CROSBY: Opposed? Oh. Did you want to speak
12 to the issue? I'm sorry.

13 COMMISSIONER STEBBINS: No. It's -- no. And I
14 apologize for not voicing my opinion at the appropriate
15 point.

16 I just -- just oppose.

17 CHAIRMAN CROSBY: Okay.

18 We also need to talk about -- and we need to do it in
19 the -- we can't put things off for another -- we've got --
20 this is our public meeting where we need to talk about the
21 things that need to be talked about in public.

22 We have not, I don't believe -- is Kristen -- yeah.
23 We talked about this yesterday, but I don't think we came
24 up with the formal details.

1 We talked about having a group meeting for everybody
2 who wants to take an RFA-1 --

3 COMMISSIONER McHUGH: Yes.

4 CHAIRMAN CROSBY: -- was for some kind of common
5 presentation to everybody about the process where people
6 can ask questions which are generic, and everybody who's
7 interested will hear all the same thing, where there would
8 be consultants there and at least some representation of
9 the commission. And then start the scheduling of the
10 individual qualifier conversations for those applicants who
11 feel the need to have those.

12 MR. CARROLL: That's correct.

13 CHAIRMAN CROSBY: And we've heard -- I've heard from
14 various people that they kind of like that idea as a
15 process.

16 Have we locked that in yet?

17 MR. CARROLL: As far as I know, there -- we don't
18 have a date specific for the initial meeting. But we're
19 prepared to do it whenever the commission would schedule
20 it.

21 We could have that with -- interested parties would
22 need to have some notice of when it would be. But at that
23 point we, as you describe it, the commission and the
24 consultants could meet with them and simply go over what we

1 anticipate will be the scope of licensing and evaluation
2 process, and then request the submissions by them -- this
3 is only formal -- but just so that we have an advance of
4 the individual meetings, their proposed tables of
5 organization, funding sources and so on, so that we can
6 have a meaningful individual discussion with them about
7 which of those persons or entities would need to be
8 qualified, and schedule those individual meetings
9 thereafter after we've received their individual
10 information.

11 MR. INGIS: On the scheduling, Chairman, I believe
12 there was a date of October 29th floating around for the
13 first meeting, the group meeting you mentioned.

14 I don't think it was -- it's been set, but it has been
15 discussed. And the availability of the consultants, we are
16 available for that day.

17 CHAIRMAN CROSBY: So that would be a week from Monday,
18 basically?

19 MR. INGIS: Two weeks from yesterday.

20 CHAIRMAN CROSBY: Internal calendar. Right.

21 Is there -- that's -- I mean, that's fine with me
22 and us.

23 But is there any need for less or more time? You
24 know, we're -- on one hand we want -- everybody's anxious

1 to get moving as quickly as possible. On the other hand,
2 you know, we want to be thorough and methodical. Does
3 that -- that gives everybody who's a potential applicant
4 time to get the forms in their final form -- although
5 most people have probably seen them anyway because they
6 haven't changed much -- and think about them, come to
7 the meeting.

8 Does that 29th sound right to you?

9 MR. CARROLL: Yes.

10 MR. INGIS: Yes. We feel that it's sufficient time.

11 CHAIRMAN CROSBY: And then --

12 MR. CARROLL: And we could, if -- as you say, if the
13 interested parties come to that initial meeting with
14 information for us, then obviously that would expedite our
15 being able to schedule a subsequent meeting with them.

16 CHAIRMAN CROSBY: Right.

17 So the subsequent meeting, you would suggest be
18 preceded by the submission to us of what, exactly?

19 MR. CARROLL: The table of organization of the
20 applicants and then its intermediary holding companies and
21 the officer, directors, shareholders, the structure -- the
22 structure of their applicant entity, basically --

23 CHAIRMAN CROSBY: Okay.

24 MR. CARROLL: -- so that we would then be able to

1 meaningfully have a discussion with them about which parts
2 of that entity would need to submit applications.

3 CHAIRMAN CROSBY: Right.

4 COMMISSIONER ZUNIGA: And which individuals.

5 CHAIRMAN CROSBY: Right.

6 MR. CARROLL: Right.

7 CHAIRMAN CROSBY: So would that be essentially giving
8 to us what they think their qualifiers are?

9 MR. CARROLL: It would be what -- giving to us what
10 they propose their entire structure is.

11 CHAIRMAN CROSBY: Right.

12 MR. CARROLL: And then we would be able to then --

13 CHAIRMAN CROSBY: Go with them forward.

14 MR. CARROLL: -- hopefully identify the parts of it --

15 CHAIRMAN CROSBY: Right.

16 MR. CARROLL: -- that we're most interested in.

17 CHAIRMAN CROSBY: Okay. And there could be as many
18 as -- we don't know how many -- eight to ten such meetings
19 if there are eight to ten ultimate bidders.

20 Are you all available, whoever, from --

21 MR. MICHAEL: Yeah. We -- yeah.

22 CHAIRMAN CROSBY: -- from the 29th on?

23 MR. MICHAEL: Yeah.

24 MR. CARROLL: Sure. We'll make ourselves available.

1 And there's no reason why we couldn't have two, three, four
2 meetings in a day.

3 CHAIRMAN CROSBY: Right.

4 So we could take the week of the 29th, start out with
5 our general meeting, but start now if people expressing
6 interest, that they know they're going to want to schedule
7 time subsequent to the 29th --

8 MR. MICHAEL: Sure.

9 CHAIRMAN CROSBY: -- Tuesday through Friday of that
10 week, basically, to start setting up the individual
11 meetings now.

12 MR. CARROLL: Absolutely.

13 CHAIRMAN CROSBY: Okay.

14 MR. MICHAEL: I mean, again, the experienced companies
15 will have a lot of this information readily available --

16 CHAIRMAN CROSBY: Right.

17 MR. MICHAEL: -- and they'd bring it, and then that
18 would certainly make it the most efficient.

19 CHAIRMAN CROSBY: Right. Right. Okay.

20 Well, that sounds like a reasonable schedule. And
21 that'll give everybody one week, basically, to get the
22 final forms and think about it before the group meeting.

23 It seems to me maybe it would be a good idea to have
24 that -- well, this is the question. Should the Monday

1 meeting, the big meeting, the open meeting, the public, the
2 general meeting be a formal, open meeting? A) It would
3 make it easier for more than two of us to attend if we
4 wanted to.

5 Does anybody -- any of you have thoughts on --
6 anybody --

7 MR. CARROLL: There would be no -- I can't perceive
8 any problem with that. We would not be discussing at that
9 general meeting the specifics of anyone's particular
10 application. That would not be appropriate in a public
11 setting at this point.

12 But as long as it's just an overview of what we
13 anticipate the process being, that certainly would not be a
14 problem.

15 CHAIRMAN CROSBY: But people might be asking
16 questions which would require clarification, which might be
17 something that the consultants can say -- or it's possible,
18 I suppose, that they might need some clarification that the
19 commission needs to speak to.

20 MR. MICHAEL: We can field those questions.

21 MR. CARROLL: We could -- right.

22 MR. MICHAEL: We could bring them back to you. Well,
23 obviously it would be -- you know, it would be no decision-
24 making, perhaps, at that meeting.

1 MR. CARROLL: We'd have a public --

2 CHAIRMAN CROSBY: We'd have a public meeting
3 scheduled --

4 MR. MICHAEL: Right.

5 CHAIRMAN CROSBY: -- the 30th, anyway.

6 MR. MICHAEL: Right.

7 CHAIRMAN CROSBY: So that would be an alternative.

8 If there were questions that needed clarification, we
9 could do it the next day.

10 MR. MICHAEL: Right.

11 CHAIRMAN CROSBY: Do you have any instinct,
12 Commissioner, as to whether --

13 COMMISSIONER MCHUGH: I think it would be helpful --

14 CHAIRMAN CROSBY: -- it would be prophylactic?

15 COMMISSIONER MCHUGH: -- A) prophylactically,
16 and B) to pick up nuance and other things to have a public
17 meeting. And we could be there and provide whatever
18 instant decision-making was feasible. I suspect it won't
19 be much. But there may be some.

20 And we have an opportunity to see and get a feel for
21 the kinds of questions and concerns that people have and
22 field them.

23 MR. CARROLL: We don't want to give the impression
24 that this would be an overly formalized --

1 COMMISSIONER McHUGH: Right.

2 MR. CARROLL: -- or even extensive meeting.

3 COMMISSIONER McHUGH: Right.

4 MR. CARROLL: It might take less than an hour.

5 COMMISSIONER McHUGH: Right.

6 MR. CARROLL: Are these people who've been -- as
7 Commissioner Cameron said, these are people who have been
8 through this process, most of them many times, and they can
9 understand it.

10 COMMISSIONER McHUGH: Right.

11 MR. CARROLL: But for the reasons that you stated, it
12 certainly would be worthwhile to do it public.

13 MR. INGIS: And we don't want to leave on any of the
14 applicants that the final decision-making with respect to
15 scope of licenses is going to be decided on that day.

16 CHAIRMAN CROSBY: No.

17 MR. INGIS: This is just a preliminary overview of the
18 process --

19 CHAIRMAN CROSBY: Right.

20 MR. INGIS: -- to be communicated. It's primarily for
21 the benefit of new applicants, applicants who have not
22 participated in the licensing process in other
23 jurisdictions.

24 CHAIRMAN CROSBY: Right.

1 MR. INGIS: Some of the applicants are well versed in
2 this --

3 CHAIRMAN CROSBY: Yes.

4 MR. INGIS: -- and may feel it's unnecessary to
5 attend.

6 CHAIRMAN CROSBY: Right. Right.

7 Well, if --

8 MR. CARROLL: One more.

9 CHAIRMAN CROSBY: Yeah.

10 MR. CARROLL: If any -- in order to move this along
11 even quicker, if any of the potential applicants or
12 applicants would be prepared to provide us with material on
13 that day, we could, after the public session, schedule
14 meetings with them that day.

15 CHAIRMAN CROSBY: Oh, okay. That day. Yeah. Yeah.
16 If we had the first one in the morning we can start --
17 yeah.

18 Okay. So let's -- just to recap this and make this
19 so, we will schedule probably in the morning of Monday
20 the 29th an open meeting to applicants that will be a
21 general -- where, for starters, the consultants will
22 provide an overview of the process, and there will then be
23 an opportunity for applicants to ask questions about the
24 process.

1 I think I agree with Commissioner McHugh that, you
2 know, there's no downside to making it a public meeting,
3 and it might cover us in case we want to talk about
4 something that we otherwise couldn't talk about.

5 COMMISSIONER MCHUGH: Mm-hm.

6 CHAIRMAN CROSBY: So I think we should make that
7 meeting a public meeting.

8 And it lasts as long as it -- you know, we should have
9 it at like 10:00 or 10:30, something like that, and it
10 lasts for as long as it takes. Maybe we could ask people
11 to sign up so we have some idea what kind of attendance
12 needs we're going to have -- maybe we can do it here, maybe
13 someplace else.

14 Then people -- applicants can tell us now if they are
15 going to want to have a private meeting to talk about the
16 qualifier situation.

17 And you've heard what is required. The -- basically
18 the overall entity that will be the license applicant --

19 MR. CARROLL: Right.

20 CHAIRMAN CROSBY: -- and all the various participants
21 in that which will be the main tool, the main instrument
22 that we'll be talking about.

23 And starting any time now, we can be contacted by
24 applicants who want to set up those private meetings, so

1 long as they can get to us their -- that entity structure
2 in advance.

3 MR. MICHAEL: Right.

4 CHAIRMAN CROSBY: Okay. And that could start as soon
5 as mid-afternoon on Monday, the 29th, giving us three or
6 four hours, possibly, for the first meeting.

7 And then Tuesday, Wednesday thereafter, two or three
8 meetings a day for as long as it takes to get all of the
9 applicants. We want those meetings set up.

10 Does that sound all right to everybody?

11 MR. MICHAEL: Sounds reasonable.

12 MR. CARROLL: Perfect. Thank you.

13 COMMISSIONER McHUGH: Now, just to put a degree of
14 nuance on the second part, the private meetings are going
15 to be meetings between our consultants and the applicants.
16 Is that the contemplation?

17 MR. MICHAEL: I wouldn't necessarily limit it to
18 applicants We -- we would -- well, that's up to you.
19 That's a policy matter.

20 But we'd suggest that interested parties, rather
21 than -- it wouldn't be required that they had filed their
22 \$400,000 at this point --

23 COMMISSIONER McHUGH: Right. Right.

24 MR. MICHAEL: -- if they want to know more about it so

1 they can make a decision whether or not to apply.

2 COMMISSIONER MCHUGH: Precisely. And that's an
3 important correction.

4 But I should have been more precise in what I was
5 saying.

6 Those meetings will not include us.

7 MR. MICHAEL: As a group? Individually?

8 I mean, it might be suggested that a commissioner, at
9 least one, attend at the meeting so that there's, you know,
10 direct representation. But that -- that's entirely up to
11 you.

12 MR. INGIS: That's within your discretion. But
13 certainly not as a group.

14 COMMISSIONER MCHUGH: Okay. The reason I ask that
15 question is that parameters for the application are going
16 to be set at those meetings.

17 MR. MICHAEL: Right.

18 COMMISSIONER MCHUGH: Flexible parameters. Parameters
19 that may have to change as the investigation proceeds. But
20 at least the initial parameters --

21 MR. MICHAEL: Yes.

22 COMMISSIONER MCHUGH: -- for the application process
23 are going to be set at those meetings.

24 COMMISSIONER CAMERON: Mm-hm.

1 COMMISSIONER MCHUGH: That is not going to be a
2 setting that takes place with the full vote of the
3 commission.

4 MR. MICHAEL: That's right.

5 COMMISSIONER MCHUGH: That's going to take place as
6 the consultants shape the initial filings by the applicants
7 or interested parties.

8 And I raise that because it seems to me that we ought
9 to formally authorize our consultants to shape, subject to
10 any appeals to the commission that may ultimately be taken,
11 the form of the applications at those meetings and empower
12 them to do that with the understanding that any
13 disagreements or differences that are -- that they're not
14 able to solve can be brought before the full commission for
15 approval.

16 So I would after discussion -- if we want to talk
17 about that a little bit. After discussion I would make a
18 motion that preserves that authorization so that it was
19 part of our official action.

20 COMMISSIONER ZUNIGA: I'm not going to be --

21 COMMISSIONER MCHUGH: Two of us are going to be
22 missing next -- or are actually on business next week.

23 CHAIRMAN CROSBY: This wouldn't be next week.

24 COMMISSIONER MCHUGH: No, no.

1 CHAIRMAN CROSBY: Oh.

2 COMMISSIONER MCHUGH: But in terms of trying to
3 do a --

4 CHAIRMAN CROSBY: Oh. Set this up.

5 COMMISSIONER MCHUGH: Set it up.

6 CHAIRMAN CROSBY: Right.

7 COMMISSIONER ZUNIGA: I would agree with the notion of
8 empowering our consultants to do just that.

9 But I would also like to see some representation from
10 the commission, perhaps if it's in the form of one
11 commissioner, to comply with all our other open-meeting law
12 requirements. That will be very important for me.

13 MR. INGIS: Well, I just want to raise one point, and
14 this might help in terms of whether you think a
15 commissioner needs to be present. And to be optimistic,
16 we'll be able to come to an agreement with all of the
17 applicants.

18 But based on prior experience, that's not likely.
19 There will be items of disagreement where the potential
20 applicant is going to want to present their case directly
21 to the commission in a somewhat adversarial setting,
22 since the consultants are recommending that Company X
23 needs to file as a qualifier and the applicants are saying,
24 "Company X does not need to file." The commission will

1 have to make that final call.

2 It's -- if a commissioner is present during those
3 discussions, there'll be some level of commission
4 interjection at that meeting. And I'm not sure that that's
5 necessarily appropriate.

6 CHAIRMAN CROSBY: Well --

7 MR. INGIS: And in the past in following this
8 protocol, commissioners have not been present during these
9 one-on-one sessions.

10 COMMISSIONER STEBBINS: I'd just say, the timing of
11 our hires of some legal staff appropriate, to have legal
12 staff sit in or --

13 MR. INGIS: Legal staff would be appropriate.

14 MR. MICHAEL: Yes. If you have legal staff, would be
15 great.

16 MR. INGIS: Legal staff, if you had a general counsel,
17 for example, would be entirely appropriate.

18 CHAIRMAN CROSBY: I had the same concern about that.
19 Would it address that concern if there were commissioners
20 in the room but not participating in the discussion?

21 MR. INGIS: It would -- it would lessen the concern,
22 but I don't think it would eliminate it.

23 MR. CARROLL: Right. I don't think so. I know -- an
24 applicant may feel that the presence of the commissioner is

1 tacit approval of what the consultants are recommending and
2 may hamstring them in their approach.

3 I personally would advise that staff be present if
4 that was --

5 CHAIRMAN CROSBY: Yes.

6 COMMISSIONER McHUGH: I think that's right.

7 And this is sort of the opening of a window on a
8 variety of things that are going to happen as we begin to
9 move forward into the commission processes.

10 And being present at the discussions that formulate
11 the issues that then are appealed to the commissioner is,
12 I think, potentially putting the commissioner who attends
13 in an awkward position, both in terms of appearances and in
14 terms of prejudgment or judgment on the basis of facts that
15 aren't in the possession of the other commissioners.

16 And so I think that that is -- I think it's probably
17 better that the commissioners don't --

18 COMMISSIONER ZUNIGA: Fair enough. I would agree with
19 that, but would still like presence of staff to go -- to go
20 to these meetings from the commission's perspective.

21 CHAIRMAN CROSBY: I agree with that. I think -- I'm
22 not sure how we're going to do that, but I think that's
23 important.

24 And I am reminded as this comes up that I forget at

1 which stage of the process -- it may not be at this stage,
2 but it's very soon -- it's the IEB that has the authority
3 to do the background checks.

4 COMMISSIONER MCHUGH: Right.

5 CHAIRMAN CROSBY: But maybe not these preliminary
6 conversations.

7 But we need to constitute the IEB. We won't have the
8 director of the IEB on board yet probably, but it needs to
9 be constituted in order that we can have them start the
10 work, and they can then at least partially delegate the
11 work to the consultant.

12 COMMISSIONER MCHUGH: Right.

13 CHAIRMAN CROSBY: How do we -- what structure do we
14 use to do that? We probably ought to do it sooner than
15 later because the process is going to start on Monday.

16 We could --

17 COMMISSIONER MCHUGH: We can take the applications
18 without starting the -- and set the scope of the licensing
19 without starting the investigation.

20 MR. MICHAEL: Absolutely. Yup.

21 CHAIRMAN CROSBY: Is the definitely starting the
22 investigations where the IEB has to be operative or --

23 COMMISSIONER MCHUGH: Right.

24 CHAIRMAN CROSBY: -- or is it in this stage of the

1 qualifier discussions and so forth?

2 MR. CARROLL: I think the qualifier discussions can be
3 done prior to the IEB's --

4 CHAIRMAN CROSBY: Okay.

5 MR. CARROLL: -- constitution.

6 MR. INGIS: Yes. I agree.

7 COMMISSIONER McHUGH: Actually, I think it's pretty
8 explicit about the investigation's --

9 MR. MICHAEL: Okay.

10 COMMISSIONER McHUGH: -- basically done by the IEB.

11 So we need to have some ability to create an IEB
12 entity before we start the actual investigation that
13 doesn't prevent us from accepting the applications, that
14 doesn't prevent us from --

15 CHAIRMAN CROSBY: Right.

16 COMMISSIONER McHUGH: -- talking about the scoping --

17 CHAIRMAN CROSBY: Right.

18 COMMISSIONER McHUGH: -- before we start the
19 investigation.

20 CHAIRMAN CROSBY: Right.

21 COMMISSIONER McHUGH: And it may be, given whatever
22 progress we're making on the staff counsel front and
23 others, that we can -- we can do that in fairly short
24 order.

1 CHAIRMAN CROSBY: Yeah. We might have -- we might
2 have a deputy director of the IEB by the time the
3 investigations start.

4 COMMISSIONER MCHUGH: Right. Right.

5 CHAIRMAN CROSBY: But we probably ought to talk to
6 these consultants or Anderson & Kreiger about how we --
7 what we have to do to constitute that, if not next -- if
8 not Tuesday the 30th, at least then the week thereafter.

9 COMMISSIONER MCHUGH: After.

10 COMMISSIONER CAMERON: And the State Police has
11 already designated a major to oversee gaming. And that
12 person would be available certainly to help stand up the
13 Bureau.

14 CHAIRMAN CROSBY: Okay.

15 Is -- the meeting on the 29th, we've talked about
16 this. We're now -- we're going to make it a public
17 meeting, a formal public meeting. We have -- we will be
18 inviting prospective applicants to ask questions.

19 Do we want to make it open to others to ask questions,
20 if other interested parties? I would think --

21 MR. CARROLL: Well, as a public meeting, I suppose the
22 public is invited.

23 CHAIRMAN CROSBY: No, no. We don't have to invite
24 them.

1 Oh, they're invited. Yes.

2 MR. CARROLL: Yes.

3 CHAIRMAN CROSBY: I meant invited to speak. Sorry.

4 MR. CARROLL: Oh.

5 CHAIRMAN CROSBY: They're definitely invited.

6 But do we want -- do we want to make it public, that
7 if other people, municipalities, interested parties --

8 MR. CARROLL: This is really directed at the
9 interested parties themselves rather than the -- you can
10 get into some extraneous issues that really would not be
11 that productive. It certainly might be worthwhile to the
12 parties asking them, and they're entitled to ask them at
13 the appropriate time.

14 But this, at least in our view, is -- would not be the
15 appropriate time for that. This is fairly limited in its
16 scope of what would be discussed. And it would only be
17 relevant to those who have an interest in applying.

18 COMMISSIONER McHUGH: I think we could emphasize,
19 certainly, at that meeting that the comments and questions
20 and the like having to do with the application process and
21 scope of licensing or anything are welcome on the way we've
22 been taking public questions all along. And then we'll --

23 CHAIRMAN CROSBY: Right.

24 COMMISSIONER McHUGH: -- answer them diligently.

1 And if some issue arises that we need to discuss as
2 part of our discussions, we can do that, and therefore
3 achieve the kind of public input without extending the
4 meeting and getting into irrelevancies.

5 CHAIRMAN CROSBY: Right.

6 COMMISSIONER MCHUGH: Maintaining that transparency.

7 CHAIRMAN CROSBY: Seems right to me.

8 Okay. So that's quite a bit. I think we should
9 put -- we should make our chief of staff the contact person
10 for people -- or her designee -- for people who want to
11 schedule meetings or are going to come. And set up to
12 30th -- set up to 29th and so forth and so on.

13 Anything else for our --

14 COMMISSIONER MCHUGH: Well, I think -- coming back to
15 the last -- the initial issue.

16 I think we need to empower the consultants to conduct
17 those meetings subject to appeal in accordance with our
18 now-issued regulations to the commission of any
19 disagreement.

20 So if there's general agreement on that, I would
21 therefore move that the --

22 CHAIRMAN CROSBY: Excuse me for just one second.

23 COMMISSIONER MCHUGH: Yeah.

24 CHAIRMAN CROSBY: We're going to have our -- some

1 staff representation -- hopefully counsel of some sort --
2 from the staff there. Does that change at all? Is it the
3 dynamic of that empowerment that there may -- are we, in
4 fact, delegating that away, or is it we're delegating it
5 away subject to the approval of our counsel, or is it
6 just --

7 COMMISSIONER McHUGH: No.

8 CHAIRMAN CROSBY: -- just delegating it?

9 CHAIRMAN McHUGH: Just delegating it subject to appeal
10 to us.

11 CHAIRMAN CROSBY: Yeah.

12 COMMISSIONER McHUGH: That's the way it's going to be
13 anyway, whether -- even in a steady state or solid state,
14 whatever you'd call that, when they finally get there.

15 CHAIRMAN CROSBY: Right.

16 COMMISSIONER McHUGH: The delegate sets the initial --

17 CHAIRMAN CROSBY: Right.

18 COMMISSIONER McHUGH: -- steps, parameters. We take
19 the appeals. We resolve them.

20 CHAIRMAN CROSBY: Right. Okay.

21 COMMISSIONER McHUGH: And so that's the way to look at
22 the finished product, as well.

23 CHAIRMAN CROSBY: Okay. Okay. Good.

24 COMMISSIONER McHUGH: So I'd move that the commission

1 delegate to the firm of Michael & Carroll and the firm of
2 Spectrum together to conduct a meeting on a date to be
3 selected for all interested applicants to set out a general
4 scope of licensing process, and that they thereafter, in
5 the fashion they elect, conduct meetings with interested
6 parties with respect to individual scope of licensing
7 issues, subject to an appeal to the commission in
8 accordance with the commission's now-existing regulations
9 of any areas, questions, issues as to which there is a
10 disagreement between the interested party and the
11 consultants.

12 COMMISSIONER STEBBINS: I'll second that, but not
13 repeat it.

14 CHAIRMAN CROSBY: Any further discussion on the issue?
15 Does that work for you all?

16 MR. INGIS: Yes. Absolutely.

17 MR. CARROLL: Yes. That'll work.

18 CHAIRMAN CROSBY: Okay. All in favor?

19 COMMISSIONER ZUNIGA: Aye.

20 COMMISSIONER CAMERON: Aye.

21 COMMISSIONER McHUGH: Aye.

22 CHAIRMAN CROSBY: Aye.

23 COMMISSIONER STEBBINS: Aye.

24 CHAIRMAN CROSBY: Opposed?

1 Aye's have it.

2 Okay. Anything else on consultant's status report,
3 "out of sequence" policy decisions, RFA-1 process and
4 schedule?

5 So we will -- we will post the RFA-1 on our website.
6 That may be -- how do we do that? You may access it for a
7 license application for --

8 COMMISSIONER MCHUGH: I think the way we do it is --
9 because this is all going to be done electronically -- the
10 medium is going to be the -- the application will be
11 posted, the specimen application will be posted with the
12 blackouts of the things we consider presumptively
13 confidential. And the applicants simply -- or the
14 interested party simply downloads the forms and proceeds,
15 so that tomorrow we put up a notice to the public that we
16 are now accepting applications, RFA-1 applications, from
17 those who are interested in a slots license.

18 And then on -- and that's what the -- that's what the
19 notice says.

20 CHAIRMAN CROSBY: Right. But the issue is issuing the
21 RFA, not accepting applications.

22 COMMISSIONER MCHUGH: That we are issuing the RFA and
23 accepting applications for. That's the wording of it.

24 And then on Friday we say we're issuing

1 applications -- an RFA and accepting applications for
2 Category 2 -- Category 1 license.

3 CHAIRMAN CROSBY: But is there -- but anybody can
4 access our website and download the thing.

5 COMMISSIONER MCHUGH: That's right.

6 CHAIRMAN CROSBY: Whichever one they're --

7 COMMISSIONER MCHUGH: That's right.

8 But we haven't -- they can download the drafts now.

9 But we formally issue -- by doing that in accordance
10 with our vote that we just took a minute ago, we formally
11 issue it by the posting RFA-1 application for the slots
12 parlor and only for the slots parlor.

13 CHAIRMAN CROSBY: Okay.

14 COMMISSIONER MCHUGH: The record will be clear that
15 that's what we've done.

16 CHAIRMAN CROSBY: So when we post that on Wednesday
17 and then again on Friday, we just need to have accompanying
18 language that makes that clear that we're complying with
19 this vote of the commission to sequence it in this way.

20 COMMISSIONER MCHUGH: That's right.

21 COMMISSIONER ZUNIGA: We'll also advertise it in
22 newspapers. We're required to.

23 CHAIRMAN CROSBY: Right.

24 COMMISSIONER ZUNIGA: We'll take steps to do that.

1 CHAIRMAN CROSBY: But the advertising in the
2 newspapers doesn't necessarily have to be sequenced?

3 COMMISSIONER ZUNIGA: No.

4 CHAIRMAN CROSBY: So -- okay.

5 MR. INGIS: Chairman, may I suggest that in your
6 notice that you also provide a contact person available to
7 answer any questions that may arise?

8 COMMISSIONER MCHUGH: Yeah. The instructions now
9 are going to direct -- and that'll be part of the
10 instructions -- to the person who will be the gatekeeper
11 for the questions for the moment. You may change that
12 later. But there is a gatekeeper listed in the
13 instructions, and that person will see to it that the
14 questions are filtered either to you or some commissioner
15 or somebody.

16 CHAIRMAN CROSBY: Who is that? Is that Jamie?

17 COMMISSIONER ZUNIGA: Yes.

18 CHAIRMAN CROSBY: Okay. Okay.

19 MS. REILLY: Questions will go into an e-mail box. An
20 e-mail address.

21 COMMISSIONER MCHUGH: Yes.

22 MR. MICHAEL: Chairman, Steve has offered his home
23 number if you'd like.

24 COMMISSIONER ZUNIGA: It's his cell phone.

1 CHAIRMAN CROSBY: Okay. Anything else on all this?

2 Thank you all very much.

3 MR. CARROLL: Thank you.

4 MR. INGIS: Thank you.

5 CHAIRMAN CROSBY: Very exciting.

6 Okay, 3(d) is a PMA Consultants' update.

7 Would you introduce yourselves again?

8 MR. LIBBY: Sure.

9 Good afternoon. It's a pleasure being here again.

10 I'm Scott Libby with PMA Consultants. I'm the project
11 manager for the assignment.

12 Along with me today is Angel Arvelo, who is going to
13 give the commission a brief update since the last time we
14 spoke to you on September 25th: some of the accomplishments
15 of the schedule and then a four-week look ahead.

16 You should have a brief memo-type handout that he'll
17 speak to.

18 MR. ARVELO: Yes. Two handouts. One is 11 by 17
19 printed-out schedule and the other one is a memo-type
20 printout.

21 MR. LIBBY: Yup. We'd like to use the memo-type
22 format going forward. I think it's a little bit easier to
23 communicate progress to you and look ahead versus the
24 graphic. The graphic speaks in a little bit more technical

1 nature.

2 But we're obviously open to suggestions. Whatever
3 suits the commission.

4 CHAIRMAN CROSBY: Okay.

5 MR. LIBBY: I'll turn it over to Angel and he'll
6 begin.

7 CHAIRMAN CROSBY: Sure.

8 MR. ARVELO: Good afternoon.

9 As Scott pointed out, we -- the last time we gave an
10 update to the commission was back on September 25th. Back
11 then we explained the roadmap to the February, 2014, date
12 for the Category 2 license.

13 Right now we're still shooting for the same date,
14 going through the publishing of that RFI for the Phase 1
15 applications, going through the scope of licensing. That
16 kicks the actual applications, and that would be to the
17 background investigations, review with the Mass. Gaming
18 Commission hearing periods. Then that would jumpstart the
19 negotiations then with surrounding communities and the
20 hosting communities by referendum, and that would lead to
21 the final review of the commission and award the fairest
22 license.

23 That's basically the critical path that is, if you
24 will, the activities that are taking the date out there to

1 February of next year.

2 One thing that we wanted to mention is, in the last
3 couple of weeks we've been working with the commission,
4 with Commissioner Zuniga, with Eileen Glovsky, and in
5 contact with some of the gaming consultants to try and to
6 review some of these situations, especially for the
7 Category 2 license, to see if we can beat that February
8 date and bring it a little bit earlier.

9 We're still reviewing that and we're looking for
10 opportunities to make that happen. Hopefully in the next
11 couple of weeks we can have a decent draft of that.

12 As Scott pointed out, we drafted kind of like a memo
13 to use as a cheat sheet for the schedule, kind of like a
14 bullet point. We wanted to touch base on the -- kind of
15 like the progress, the milestones we have achieved in the
16 last couple of weeks since our last update.

17 And we actually want also to give you kind of like a
18 preview of what's coming the next four weeks, kind of like
19 a four-week look ahead schedule, if you will.

20 In the last couple of weeks, we have achieved hiring
21 of the racing director. Originally that was -- in our
22 first shot we were trying to get that by sometime early
23 November. So we actually beat that by a good three weeks.
24 So that was definitely good news.

1 And also we started the public procurement of
2 investigation services. That's -- that's something that --
3 it's ongoing right now.

4 And the other one is the publishing of the
5 regulations, Phase 1, by the Mass Racer. We were shooting
6 for that for last Friday. From my understanding it's --
7 that's going to happen not today, but tomorrow.

8 COMMISSIONER MCHUGH: Now, the regulations were
9 published and are now effective. They were published on
10 Friday.

11 MR. ARVELO: Oh, they did?

12 MR. LIBBY: Yes.

13 MR. ARVELO: Okay. Great. Yeah.

14 MR. LIBBY: That was achieved.

15 MR. ARVELO: That's -- that's a date we had.

16 I just -- I couldn't find it in their website. And talking
17 to Commissioner Zuniga, he thought that probably that would
18 happen tomorrow. But --

19 COMMISSIONER MCHUGH: Right.

20 MR. ARVELO: If that would be -- if that's the case,
21 that's great news.

22 COMMISSIONER MCHUGH: Yeah.

23 MR. ARVELO: Just so I'll give you a preview of
24 what's -- what are the milestones that we have scheduled

1 for the next couple of weeks. Kind of like the high
2 points.

3 We have this achievement as the gaming consultants
4 just mentioned it coming out today or tomorrow.

5 We have the -- one of the things that needs to happen,
6 kind of like on the critical path, those kind of critical
7 activities that are scheduled for the next couple of weeks,
8 is the publishing of the RFA Process for the Phase 1
9 Applications. We'll talk about that hopefully tomorrow,
10 and it seems like Friday is the second one.

11 And also the start -- the drafting of the scope
12 licensing for the investigations for the Phase 1
13 Applications.

14 CHAIRMAN CROSBY: This says "Drafting of the Scope of
15 Licensing."

16 Is there -- is there something to be drafted or is
17 this just the process of -- this is just the process of
18 scoping of licensing?

19 COMMISSIONER ZUNIGA: It is the process.

20 MR. ARVELO: That's a good -- yeah.

21 CHAIRMAN CROSBY: Okay.

22 MR. ARVELO: I'll update that.

23 COMMISSIONER ZUNIGA: The determination of scope of
24 licensing.

1 CHAIRMAN CROSBY: Right.

2 MR. ARVELO: Thanks for that correction.

3 Other things that need to happen to comply with the
4 regulations, we need to start developing the RFA for the
5 research agenda.

6 Also need to -- one thing -- one thing I've expanded
7 the schedule. Maybe you can take a look at that in the
8 second page of the printout.

9 It's -- we develop a what we call a fragment, which is
10 like a separate kind of activities, to track internal hires
11 in the Mass. Gaming Commission that need to happen to
12 support the application and investigation process.

13 And one of the key things that would need to happen in
14 the next four weeks in order to be ready to support what's
15 coming in the next couple of months is the hire of the
16 ombudsman. We need that -- we had that scheduled for this
17 week.

18 CHAIRMAN CROSBY: That's actually --

19 MR. ARVELO: My understanding is that it's on track?

20 CHAIRMAN CROSBY: It's on the agenda for today.

21 MR. ARVELO: Yeah. Is on the agenda for today.

22 I didn't want to give it up, but . . .

23 We -- one thing that we also have there that we need
24 to start working on is convening for the Gaming Policy

1 Advisory Committee.

2 We also need to continue the procurement process
3 toward the investigation services; the interview of
4 applicants for the joint counsel and for the executive
5 director position.

6 And the other section -- the last section we have in
7 the schedule right now, there are big things coming our way
8 in the next couple of weeks: The drafting of the MOUs,
9 especially the investigatory MOUs with the federal
10 agencies, and to start the drafting of the other MOUs with
11 other agencies, the interagency MOUs.

12 That's the -- that's an overview of what the status of
13 the schedule is right now, the progress we have made in the
14 last couple of weeks, and what we're looking forward to in
15 the next four weeks.

16 CHAIRMAN CROSBY: Questions or --

17 COMMISSIONER ZUNIGA: Something that we have that is
18 not represented yet in this schedule but it -- this was not
19 yet the intention, is thinking about resources that we will
20 need for -- we will need to staff up for the receipt of
21 those applications eventually after we finish those
22 investigations and the process for RFA Phase 2.

23 In other words, we've talked a little bit about
24 whether we need to procure advisors that will help us

1 evaluate those proposals, the Phase 2 proposals. And I
2 know part of that was -- it's a little bit contingent on
3 the hires that we are indeed making now, like the ED and
4 the ombudsman, etc.

5 But because these procurements do take a bit of time,
6 it's just something that we need to start thinking about,
7 what those may -- may or may not be.

8 CHAIRMAN CROSBY: Right.

9 COMMISSIONER MCHUGH: I think this is -- I have one
10 specific question and then a general question.

11 What is the -- what is the "Meet House and Surrounding
12 Communities"?

13 MR. ARVELO: I think that's --

14 COMMISSIONER MCHUGH: What's the substance of that?

15 MR. ARVELO: I think that's a process that we
16 anticipated. I mean, right now we -- the schedule
17 contemplates a window to -- for the applicants to engage
18 with the surrounding and hosting communities and to hold a
19 referendum.

20 What we thought that, although we have a specific
21 window for that, the actual engagement with those
22 communities, that -- that process, that conversation would
23 actually start happening much earlier than that.

24 I mean, even without leading to a referendum, that --

1 that back and forth, that engagement of the community will
2 start happening --

3 COMMISSIONER MCHUGH: Oh, I see.

4 MR. ARVELO: -- as soon as -- as soon as possible.

5 COMMISSIONER MCHUGH: That's for the applicant?

6 MR. ARVELO: That's for the applicant. Yes. Yes.

7 CHAIRMAN CROSBY: But as a practical matter, also, our
8 ombudsman will be aggressively --

9 COMMISSIONER MCHUGH: Right.

10 MR. ARVELO: Yeah. There will be more people involved
11 with that. We have a specific window for the actual
12 referendum for the actual application, but the engagement
13 of the community will start happening hopefully early next
14 year or probably within the next couple of months.

15 COMMISSIONER MCHUGH: I understand that now.

16 But my second question goes back to something you
17 began with, and that is that in the future you thought it
18 would be helpful just to have the memorandum.

19 I really think that this is enormously helpful. And
20 at one point I asked whether it was possible to have this
21 entire thing available in a read-only mode on the shared
22 drive or someplace so that we could go to it and look at
23 it.

24 As I look, for example, at page 2, with the -- where

1 we have do the hiring, and think about what that means to
2 support, that's a very helpful summary for the pieces that
3 I'm engaged in to keep track of.

4 And there are other things in here that are enormously
5 helpful, both to see what deadlines are looming and to
6 think about critically places where we might collapse
7 things in the graphic presentation, and then to look below
8 at what goes into the top line graphic presentation, is,
9 I think, enormously helpful.

10 So I would reiterate my question as to whether or not
11 it's possible -- whatever we do at these meetings --

12 MR. ARVELO: Yes.

13 COMMISSIONER McHUGH: -- possible to have this
14 available in a read-only mode as it comes up so that if
15 you're working on this in the late afternoon sometime, you
16 can just go and see where the latest --

17 MR. ARVELO: Yeah. Certainly.

18 MR. LIBBY: Absolutely.

19 MR. ARVELO: We can -- it's -- you know -- it's just
20 this representation, we can actually dump this into Excel,
21 in any other format -- I put it more in a table format.

22 MR. LIBBY: Maybe just to clarify, I wasn't looking to
23 replace the schedule with the bullet point; more of a
24 supplement. I think the supplement more is just a high-

1 level --

2 COMMISSIONER MCHUGH: It's a discussion piece.

3 MR. LIBBY: -- discussion piece.

4 COMMISSIONER MCHUGH: Yeah.

5 MR. LIBBY: But we fully intend on providing the
6 schedules to you on a regular basis.

7 MR. ARVELO: Yeah. I think the schedule keeps the
8 overall picture, you know, from now until the first
9 license.

10 COMMISSIONER CAMERON: Mm-hm. Yes.

11 MR. ARVELO: But the intent of the memo was to give a
12 more concentrated view of what's happening in the next four
13 weeks. What are the next -- the various milestones that
14 need to happen in the near future.

15 MR. ARVELO: A term we use in the construction
16 business is "grow back to success." We take this, this
17 little checklist, we set up meetings with our contractors
18 and we try to drive the priorities from the schedule.

19 People look at the graphics, could be interpreted ten
20 different ways. Try to set one general course of thought.

21 So that's the idea behind the memo.

22 COMMISSIONER MCHUGH: Yeah. No, I see now.

23 And I think that's -- obviously that works. And
24 that's enormously helpful.

1 It's also nice to be able to put that in the context,
2 particularly after the meeting when you're thinking about
3 it.

4 MR. ARVELO: Well, we can certainly share -- we can
5 certainly prepare kind of like a table format of all these
6 activities and put it in a table, if that's helpful for
7 anyone.

8 COMMISSIONER MCHUGH: Well, this format for me at
9 least is fine.

10 COMMISSIONER ZUNIGA: Yeah. I'll make sure to send
11 out an e-mail when the recent update is there. I'll
12 update it and put it on the shared drive. I'll make sure
13 to do that.

14 CHAIRMAN CROSBY: You're training Eileen or somebody
15 on our staff --

16 MR. ARVELO: Yeah. We did.

17 CHAIRMAN CROSBY: -- to do this. Right?

18 MR. ARVELO: Yeah.

19 CHAIRMAN CROSBY: Because in addition to the read-
20 only, I mean, if we're sitting -- if we were sitting at
21 this meeting or sitting at an update or whatever, we may
22 want to look at these things ourselves. And I think it's
23 important to have.

24 We were always intending to have you all build this

1 thing for us --

2 MR. ARVELO: Yes.

3 CHAIRMAN CROSBY: -- and tell us how to use it.

4 MR. ARVELO: Yes.

5 CHAIRMAN CROSBY: And then eventually to transition
6 and have us be able to manage it ourselves.

7 MR. ARVELO: Yeah.

8 CHAIRMAN CROSBY: And whether it's Eileen or somebody
9 else, I think that's an important transition.

10 MR. ARVELO: And we have that capability now --

11 CHAIRMAN CROSBY: Right. Okay.

12 MR. ARVELO: -- as well.

13 CHAIRMAN CROSBY: The one thing that would be great
14 to add onto this -- and you could get it by talking to
15 Janice -- is our space needs.

16 We're in a -- we know we've outgrown our space and
17 we're on a time line. It's going to be an absolutely
18 critical path in about -- when do we get the space built
19 out so we can put in the new people.

20 And that would be a good addition to this.

21 MR. ARVELO: Okay. Yeah. That would necessarily --
22 who would be the right person to talk to?

23 CHAIRMAN CROSBY: Janice.

24 COMMISSIONER CAMERON: Yeah. I would have a couple of

1 updates, too.

2 One would be the IEB.

3 COMMISSIONER MCHUGH: Okay.

4 COMMISSIONER CAMERON: Hiring process which is ongoing
5 now as we speak, interviews, whatnot.

6 And the other would be, we're just about to start a
7 process where we're going to be looking at our simulcasting
8 and paramutual wagering.

9 COMMISSIONER ZUNIGA: That's -- that is on the first
10 page, Commissioner.

11 COMMISSIONER CAMERON: Is it?

12 COMMISSIONER ZUNIGA: Yeah. It's this little blue,
13 little process here, the -- right under the summary.

14 COMMISSIONER CAMERON: In blue?

15 MR. ARVELO: You mean the statutory process?

16 COMMISSIONER ZUNIGA: Yeah. The statutory and
17 regulatory changes.

18 COMMISSIONER CAMERON: Statutory and regulatory
19 changes. Okay.

20 So that includes all of them?

21 COMMISSIONER ZUNIGA: Yup.

22 MR. ARVELO: If you certainly have more detail than
23 that, we can -- we can break it down.

24 COMMISSIONER CAMERON: Because we'll have deliverables

1 there. I want to make sure --

2 MR. ARVELO: That would be very useful to have in
3 there.

4 COMMISSIONER ZUNIGA: We could expand -- expand on
5 these.

6 But it's represented here.

7 COMMISSIONER CAMERON: Okay.

8 CHAIRMAN CROSBY: And Jennifer may very well want to
9 add into this the --

10 COMMISSIONER CAMERON: It's more racing details.

11 CHAIRMAN CROSBY: -- task force, all this stuff. The
12 implementation of --

13 COMMISSIONER CAMERON: Yes.

14 CHAIRMAN CROSBY: -- the new --

15 COMMISSIONER CAMERON: Agreed.

16 CHAIRMAN CROSBY: -- everything. You know, that would
17 be a great thing.

18 MR. LIBBY: We'll meet and have a separate discussion
19 and meeting.

20 COMMISSIONER CAMERON: Good. That'd be great. Thank
21 you.

22 CHAIRMAN CROSBY: Anything else on this?

23 It's a great document.

24 COMMISSIONER MCHUGH: It's very helpful.

1 COMMISSIONER CAMERON: Thank you.

2 COMMISSIONER MCHUGH: Thank you.

3 CHAIRMAN CROSBY: I'm going to ask for a quick recess,
4 and we'll come back in five or ten minutes.

5 (Hearing suspended.)

6 (2:03 p.m.)

7 (Hearing reconvened.)

8 (2:08 p.m.)

9 CHAIRMAN CROSBY: All right. I'm ready to reconvene
10 our Meeting No. 31 on October 16th.

11 On 3(d) there was one other item that drives us out of
12 the time line.

13 Commissioner McHugh pointed out that we owe an annual
14 report pursuant to the legislation. He did a draft which
15 Elaine and I have looked at and made some edits to.

16 If we are -- I think it's pretty close, but if you
17 either have -- I was going to say, if anyone has anything
18 particular, to talk about it.

19 I think it's really just meant to be a progress
20 report, which is the way we -- maybe in the future we'll
21 flush this out a little more. But right now we're just
22 trying to figure it out quickly.

23 Does anybody have any comments or does anybody just
24 want to send updates that are additional items to what

1 we've done in the first few months?

2 COMMISSIONER ZUNIGA: I'll just throw one thing for
3 consideration. I don't believe it's particularly
4 imperative.

5 But if we wanted to include any kind of reporting
6 relative to financial expenditures -- and I will also speak
7 to that --

8 CHAIRMAN CROSBY: Well, that's a good point.

9 COMMISSIONER ZUNIGA: -- briefly --

10 CHAIRMAN CROSBY: Yeah.

11 COMMISSIONER ZUNIGA: -- in the next one.

12 CHAIRMAN CROSBY: Okay. Actually, after we -- maybe
13 you could just send me -- you know, fashion it somewhere.
14 Maybe it's a second -- maybe it's another header or maybe
15 it's under -- probably under "Operational Initiatives."

16 COMMISSIONER ZUNIGA: Yes.

17 CHAIRMAN CROSBY: Just -- if you could send me a
18 bullet point that puts it there. Great. That's a great
19 addition.

20 Any other --

21 COMMISSIONER STEBBINS: Just two quick additions as I
22 was reading through it. I didn't know if we wanted to talk
23 about this fall's -- probably under "Operational" -- talk
24 about the fact that we had the multiple-location regulatory

1 meeting which probably is -- I think we experienced
2 something never tried anywhere else before.

3 CHAIRMAN CROSBY: I think that's here somewhere,
4 unless -- well, plan to loosen live stream the day-long
5 public conference. Is that the one you're talking about?
6 It's the third bullet point on page 4.

7 Sorry, Erin.

8 THE COURT REPORTER: Oh, I apologize.

9 COMMISSIONER MCHUGH: Just a minute. Could I
10 interrupt just so we could get this back on track?
11 I neglected to look in that direction myself.

12 And so what we've done is reconvene the meeting and
13 have just begun to take a look at the Item 3 --

14 CHAIRMAN CROSBY: (d).

15 COMMISSIONER MCHUGH: -- 3(d). No. That's --

16 CHAIRMAN CROSBY: Yeah. That's just -- it comes out
17 of that item.

18 COMMISSIONER MCHUGH: Oh, it comes out of the item.

19 CHAIRMAN CROSBY: Yes.

20 COMMISSIONER MCHUGH: In any event, we've just begun
21 to talk about the draft report to the legislature, and
22 we're going through the draft report -- had just begun
23 that.

24 And Commissioner Stebbins raised a point about the --

1 a multi-location meeting being held. And Commissioner
2 Crosby was --

3 CHAIRMAN CROSBY: Oh. Hold on. I'm sorry.

4 You're talking about the three-site meeting?

5 COMMISSIONER STEBBINS: Right. The three-site
6 regulatory meeting.

7 CHAIRMAN CROSBY: Yeah. Absolutely. Good. Right.

8 COMMISSIONER STEBBINS: And then the other --

9 CHAIRMAN CROSBY: Three's -- that was hearings on the
10 regs?

11 COMMISSIONER STEBBINS: Right. The hearings and the
12 RFA-1 regs.

13 CHAIRMAN CROSBY: Three-site hearings on regs.

14 CHAIRMAN MCHUGH: That's never been done before.
15 I -- I think. To my knowledge.

16 CHAIRMAN CROSBY: In the world? In the history of
17 humankind?

18 COMMISSIONER MCHUGH: Probably the history of
19 humankind, actually. Yeah.

20 COMMISSIONER STEBBINS: And in fact, we've also held
21 two of our commission business meetings outside of --
22 outside of Boston.

23 The other thought that occurred to me, especially
24 under the "Operational Initiatives," is, is there a way we

1 can maybe segment some of the bullets into different
2 categories? Like, we have a couple of bullets that are
3 intermingled on racing.

4 COMMISSIONER McHUGH: Mm-hm.

5 COMMISSIONER STEBBINS: Some are hires. Some are
6 contractors.

7 If we can maybe kind of subcategorize those so they'd
8 all be kind of lumped together.

9 CHAIRMAN CROSBY: Do you want to take a quick stab at
10 that and --

11 COMMISSIONER STEBBINS: Sure.

12 CHAIRMAN CROSBY: -- send it to me? That'd be great.

13 COMMISSIONER STEBBINS: Yeah.

14 CHAIRMAN CROSBY: That's a good idea. That may be
15 instructive on the other stuff, as well, just to make it
16 easier to read.

17 So if you want to look at more than the -- more than
18 just operations, too, that'd be great.

19 COMMISSIONER STEBBINS: Yeah.

20 CHAIRMAN CROSBY: Anything else on that?

21 Did we get all the racing stuff?

22 COMMISSIONER CAMERON: I think we're in good shape.

23 The couple of bullets covers --

24 CHAIRMAN CROSBY: Okay.

1 COMMISSIONER CAMERON: -- gives us an idea of what
2 we're doing.

3 CHAIRMAN CROSBY: Okay. Great.

4 Okay. Item 4, "Administration." Director Glovsky is
5 out of the country.

6 "Personnel searches." I don't know that there's
7 really anything to talk about other than what we talked
8 about, which is as on the chart. They're all underway.

9 Is there anything --

10 COMMISSIONER ZUNIGA: We posted --

11 CHAIRMAN CROSBY: I'll put it to the ombudsman in a
12 second.

13 COMMISSIONER ZUNIGA: Yeah. We -- we posted a couple
14 of positions for temporary positions for specific project-
15 based research generalist position. So that's been posted.

16 CHAIRMAN CROSBY: Right.

17 COMMISSIONER ZUNIGA: Director Glovsky had already
18 talked about it, but now she had asked me to post it.

19 CHAIRMAN CROSBY: All right. Okay.

20 So we're presently -- we presently are looking for ED,
21 executive director; director of investigations and
22 enforcement; general counsel; staff counsel; what else?

23 COMMISSIONER MCHUGH: Fellowship attorney.

24 CHAIRMAN CROSBY: Fellowship attorney. Our -- the

1 ombudsman, which we'll talk about today. It's --

2 COMMISSIONER ZUNIGA: Executive assistant.

3 COMMISSIONER CAMERON: And I'm going to report during
4 my racing board --

5 CHAIRMAN CROSBY: A couple of racing people.

6 COMMISSIONER CAMERON: -- a couple of --

7 CHAIRMAN CROSBY: Okay. And a couple of executive
8 assistants.

9 And also there is a staff generalist position.

10 That's all this is -- for the public, these are all on
11 our website. These are all open searches. But there's a
12 lot of -- so there's a lot of hiring going on right now.

13 Okay. Anything else on -- on administration?

14 Finance and budget. Commissioner Zuniga, do you want
15 to --

16 COMMISSIONER ZUNIGA: Yeah.

17 CHAIRMAN CROSBY: -- step in?

18 COMMISSIONER ZUNIGA: Yes. I can first speak to what
19 I submitted as part of the packet a summary report of
20 expenditures, the first quarter expenditures report.

21 This is on a cash basis, so there could be certain
22 costs incurred during, especially, the month of September.
23 The last weeks of September, they are not yet reflected
24 here because they have not been dispersed.

1 We're not -- we're not reporting on an accrual basis.
2 This is on a cash basis.

3 I've also submitted a budget-to-actual little summary
4 report here, as well, for your consideration.

5 I spoke to these last month -- last meeting last week
6 that when comparing to the prorated budget, the "salaries"
7 line item is underspent only by virtue of the fact that
8 we're ramping up, literally as we speak, as we were just
9 talking about.

10 But the other line items are tracking as --
11 essentially as projected.

12 I can also take any questions, or also reiterate
13 that a couple of important factors are not being reflected
14 in the budget, but they never were.

15 Those are the incremental costs of investigations
16 which are anticipated to happen which will be assessed on
17 the applicants, so there is not -- I did not see a need to
18 reflect them in the budget -- as well as any expenditures
19 relative to a research agenda that we have not yet
20 ascertained for determining whether they would come from
21 the Public Health Trust Fund or anywhere else.

22 CHAIRMAN CROSBY: If they don't --

23 COMMISSIONER ZUNIGA: Yeah.

24 CHAIRMAN CROSBY: -- it's going to be a bit of an

1 issue.

2 COMMISSIONER ZUNIGA: If they -- if they don't, yes.

3 CHAIRMAN CROSBY: All right.

4 COMMISSIONER ZUNIGA: It would be -- it would be a bit
5 of an issue. Yes.

6 CHAIRMAN CROSBY: Okay. No, this is great to have.

7 Have we -- the statewide allocation percentages, that
8 is a negotiable item, we understand. Right?

9 COMMISSIONER ZUNIGA: I'm not sure.

10 CHAIRMAN CROSBY: Okay.

11 COMMISSIONER ZUNIGA: I don't know the answer to that
12 question.

13 I've -- the negotiable piece that you may be alluding
14 to may be the difference between spending from an
15 appropriation, which gets charged at 10 percent or so, or
16 spending from a trust, which gets charged at a different
17 rate.

18 This is particularly important for racing operations
19 because when racing came under the Gaming Commission, it
20 lost the appropriation, but we have the ability to spend
21 from the trust that's --

22 CHAIRMAN CROSBY: Right.

23 COMMISSIONER ZUNIGA: -- that was given to us, if you
24 will, that we became the trustees of.

1 So that delta really applies for racing.

2 My understanding -- and that of, I believe, the
3 Comptroller, as well -- is that we will be subject to the
4 10 percent statewide indirect allocation.

5 COMMISSIONER MCHUGH: And what is that?

6 COMMISSIONER ZUNIGA: It's paying for the overhead of
7 the Commonwealth. All agencies pay into the indirect
8 costs, paying for our secretaries of state and things like
9 that.

10 COMMISSIONER MCHUGH: So you pay -- 10 percent of
11 whatever you spend goes to this --

12 COMMISSIONER ZUNIGA: To the indirect way.

13 COMMISSIONER MCHUGH: Oh.

14 COMMISSIONER ZUNIGA: Yup.

15 COMMISSIONER MCHUGH: Now --

16 COMMISSIONER CAMERON: Isn't there a waiver that can
17 be applied for with those costs?

18 COMMISSIONER ZUNIGA: Not to my knowledge.

19 COMMISSIONER CAMERON: Okay.

20 COMMISSIONER ZUNIGA: I mean, one could make the
21 argument that it's the state charging itself.

22 But nonetheless, this is a mechanism that they have
23 come up with to distribute -- to allocate among the
24 different agencies.

1 CHAIRMAN CROSBY: Well, and we don't pay for -- other
2 than through a mechanism like this, we don't pay for our
3 payroll system, for example. Right?

4 COMMISSIONER ZUNIGA: Correct.

5 CHAIRMAN CROSBY: And we don't pay for benefits
6 management.

7 COMMISSIONER ZUNIGA: Correct.

8 CHAIRMAN CROSBY: There's a lot of -- there are a lot
9 of services.

10 COMMISSIONER ZUNIGA: Oh, yes.

11 CHAIRMAN CROSBY: You know, we don't pay for our --
12 there are a lot of services.

13 COMMISSIONER McHUGH: Some IT stuff.

14 COMMISSIONER CAMERON: Indirect --

15 CHAIRMAN CROSBY: Some of the -- yeah. Some of the IT
16 stuff.

17 COMMISSIONER ZUNIGA: Well, just for -- that is
18 correct, technically.

19 And there are -- we do get certain chargebacks,
20 though.

21 CHAIRMAN CROSBY: Mm-hm.

22 COMMISSIONER ZUNIGA: Because there are certain
23 elements that, depending on usage, we start to get certain
24 chargebacks.

1 CHAIRMAN CROSBY: I think it might be a conversation
2 that's worth having with A&F just, you know, so we see if
3 there's any flexibility there.

4 I've negotiated overhead fees when I was on the other
5 side of the table.

6 COMMISSIONER ZUNIGA: I'm sure it's worthwhile.

7 CHAIRMAN CROSBY: Yes. My guess is that this -- this
8 may be especially helpful for the startup money that we
9 were given, or especially worthwhile. I'd be, you know,
10 interested to see the flies, if you will, after that.

11 CHAIRMAN CROSBY: Well, that's a good point. I mean,
12 it's -- when the casino operators, you know, are being
13 assessed, in effect, to pay the expenses of the regulation
14 of the casinos, it's not unreasonable that they pay
15 whatever an appropriate overhead rate would be.

16 But when we're borrowing money from the Rainy Day Fund
17 to get up and running -- of course, that's all going to get
18 paid back anyway. So I don't know. It's an interesting
19 question. It's worth a conversation.

20 COMMISSIONER ZUNIGA: That's my point about bringing
21 from one pocket and putting it into another.

22 CHAIRMAN CROSBY: Yeah. Right. Right.

23 COMMISSIONER ZUNIGA: We'll just have to deal with
24 that.

1 CHAIRMAN CROSBY: Right.

2 Okay. Anything else --

3 COMMISSIONER ZUNIGA: Yeah.

4 CHAIRMAN CROSBY: -- on that, on the budget?

5 COMMISSIONER ZUNIGA: Yes. As part of that I wanted
6 to -- I submitted a short summary memo relative to the
7 contract extension of the gaming consultants which I was
8 given the authority to negotiate.

9 And I have summarized here for -- for you. It has a
10 budget implication, so I wanted to also make you part of
11 the discussion under this line item.

12 Both sets of consultants and myself, with the help of
13 Director Glovsky, have agreed -- have a tentative agreement
14 on extending the rate -- their contracts, their ongoing
15 contracts as part of this ongoing help that they have for
16 us.

17 Under the terms that I've articulated in this memo,
18 there's a slight increase in the lump-sum monthly fee that
19 they had -- that we had been operating under, because
20 there's a recognition that there is more effort coming up
21 as part of both -- as part of everything that we have to do
22 for RFA Phase 2.

23 There's a number of policy decisions. There is
24 anticipated that there will be more meetings and more

1 travel. And we've considered that.

2 And I also wanted to mention that when I first drafted
3 the budget, I had anticipated -- because that was the
4 assumption that I made -- that such an extension would take
5 place in six additional months.

6 But we -- given all the frame that we have now come to
7 understand a lot more of, we believe it makes sense to make
8 that extension be for the remaining of the fiscal year,
9 which is effectively starting October and ending June 30th
10 of the following -- of Fiscal Year '13.

11 So this extension creates a bit of a gap, if you will,
12 from a budget perspective, but I believe that we will be
13 able to manage according to the same level.

14 CHAIRMAN CROSBY: What do you mean by "a gap"?
15 Meaning because it's eight months rather than six months,
16 it's a bigger number than we had originally budgeted?

17 COMMISSIONER ZUNIGA: That's correct.

18 CHAIRMAN CROSBY: Okay.

19 COMMISSIONER ZUNIGA: That's correct.

20 CHAIRMAN CROSBY: But presumably that'll come out of
21 next fiscal year?

22 COMMISSIONER ZUNIGA: That's correct.

23 CHAIRMAN CROSBY: It's not necessarily -- you're not
24 necessarily talking about more dollars in overall; you're

1 talking about when they're spending.

2 COMMISSIONER ZUNIGA: Yes.

3 CHAIRMAN CROSBY: Right.

4 COMMISSIONER ZUNIGA: This fiscal year.

5 So my previous figure, or my previous report, the
6 number for consultants that's part of the second line item
7 that I budgeted here is a little understated only for
8 gaming consultants. There's other consulting work that's
9 part of that, as well.

10 That's not my only point.

11 I don't think there's a need for a big budget revision
12 at this point. I just wanted to make that part of our --
13 part of the report.

14 So I was intending with this memorandum to submit for
15 your consideration, discussion, and eventual approval or
16 ratification, really, of what I've negotiated with the
17 consultants, which is the monthly fee as stipulated herein
18 for the summary scope of work that's also stipulated here.

19 CHAIRMAN CROSBY: Yeah. And just to make sure,
20 this -- I mean, this is not something that Commissioner
21 Zuniga has been doing on his own hook. There's been a lot
22 of iteration back and forth to analyze these numbers and to
23 think about it and to make sure that we're on the right
24 track.

1 And I think all of us who have talked about it feel
2 comfortable with it.

3 Are we ready? Are we ready to --

4 COMMISSIONER ZUNIGA: I can take any question --

5 CHAIRMAN CROSBY: -- formally go forward?

6 COMMISSIONER ZUNIGA: Yeah. That was my intention.
7 My recommendation is to ratify the tentative agreement with
8 the gaming consultants to extend the contract for the
9 amount and terms stipulated -- stipulated in the memos that
10 I have.

11 CHAIRMAN CROSBY: Is there a second?

12 COMMISSIONER STEBBINS: I second.

13 CHAIRMAN CROSBY: I would just say, first of all, to
14 reiterate, we've looked at these closely, and we have felt
15 that we have gotten very good service from our consultants.
16 We -- they have never said, "Sorry, we can't do that, it's
17 not in the scope." They've never said to us, "Yes, we can
18 do it, but it's going to cost you more money." They've
19 always been tremendously responsive and flexible, almost,
20 I'd say, remarkably so. So I think the Commonwealth, you
21 know, is getting very good value for the money.

22 And I think we've learned, this is a business where
23 you need to trust the people that you work with. You need
24 to trust their discretion. You certainly need to trust

1 their integrity, but even more subtle issues of just nuance
2 and -- and I think we've found them to be really reliable,
3 high-integrity, thoughtful people who have helped us go out
4 of our way to help -- they have gone out of their way to
5 help us figure out what is the way to serve the public
6 interest the best.

7 So I, for one, feel very good about having picked
8 them. And as everybody knows, we -- they really were the
9 two best companies in the country that we could come up
10 with. And we put the two of them together to put a team --
11 to create a team with the help of Kathy and Kristen. And I
12 think it's worked really, really well. So I'm very much in
13 favor of this.

14 COMMISSIONER MCHUGH: I agree with all that, and would
15 just add a minor point, and that is that the initial
16 contract did not include any effort directed toward the
17 regulations.

18 And the amount of time and energy that that took is an
19 ample basis for concluding that the more complex Phase 2
20 regulations are going to take an enormous amount of time
21 and effort, thus, justifying all by itself an increase of
22 the fee that the consultants are being paid.

23 Plus the fact that the individualized interactions
24 with the interested parties and the applicants are going to

1 require, in all likelihood, an enormous amount of time, as
2 well.

3 So I echo everything that the chairman said about the
4 quality of the service we've gotten thus far. But looking
5 ahead, it seems to me that the increase is well justified
6 and will cover the significant added work we're going to
7 expect of them over the next eight months.

8 COMMISSIONER CAMERON: Yeah.

9 CHAIRMAN CROSBY: Anybody else?

10 COMMISSIONER CAMERON: Yeah. I would just reiterate
11 all of those things and say that the personal touch has
12 been tremendous.

13 I know for me, finding out what others are doing in
14 other jurisdictions to really evaluate our steps moving
15 forward has been very helpful.

16 And I know I pick up the phone frequently to ask
17 questions, whether it be investigations or, you know,
18 some licensing question, whatever it may be. And I get --
19 I always get a call back that day. And if research is
20 needed, it's done immediately.

21 So I'm very, very pleased, also, and it's been
22 tremendously helpful with my responsibilities.

23 CHAIRMAN CROSBY: Great. Anybody else?

24 COMMISSIONER STEBBINS: Very pleased. I would say

1 that even if they weren't sitting in the room.

2 CHAIRMAN CROSBY: So pass on those comments to your
3 compatriots, please.

4 COMMISSIONER ZUNIGA: Yeah.

5 MR. CARROLL: We thank you very much for this
6 opportunity, and it has been our pleasure and we've enjoyed
7 it as much as any other professional thing we've done.

8 CHAIRMAN CROSBY: Thank you.

9 COMMISSIONER CAMERON: Thank you.

10 COMMISSIONER ZUNIGA: Thank you.

11 Just to reiterate --

12 CHAIRMAN CROSBY: Why don't we probably vote before he
13 says that.

14 MR. CARROLL: I reserve that.

15 CHAIRMAN CROSBY: Pull that back. Yeah.

16 COMMISSIONER ZUNIGA: Both sets of consultants have
17 worked very well with the commission, which I believe is
18 also a testament to what they are articulating as their
19 intention to continue to do that and -- on the level of
20 money that they're charging us.

21 CHAIRMAN CROSBY: Yeah. And the collaboration between
22 the two has worked out well, too.

23 COMMISSIONER ZUNIGA: Yeah.

24 CHAIRMAN CROSBY: It's another -- it was kind of an

1 unknown. We threw together these two teams --

2 COMMISSIONER ZUNIGA: Right.

3 CHAIRMAN CROSBY: -- and it's just worked well.

4 Any other thoughts?

5 All in favor?

6 COMMISSIONER ZUNIGA: Aye.

7 COMMISSIONER CAMERON: Aye.

8 COMMISSIONER MCHUGH: Aye.

9 CHAIRMAN CROSBY: Aye.

10 COMMISSIONER STEBBINS: Aye.

11 CHAIRMAN CROSBY: All opposed?

12 The aye's have it.

13 MR. CARROLL: Thank you again.

14 CHAIRMAN CROSBY: Thank you.

15 COMMISSIONER CAMERON: Thank you.

16 MR. CARROLL: I reiterate what I said.

17 CHAIRMAN CROSBY: All right. Thank you.

18 Okay. Where are we?

19 You want to do --

20 COMMISSIONER ZUNIGA: I have --

21 CHAIRMAN CROSBY: You had some other topics? Yeah.

22 COMMISSIONER ZUNIGA: I have a topic.

23 On the budget topic, I will continue to monitor, but
24 there is -- I just want to throw one thing for early

1 consideration. I don't think it's an issue right now.

2 But one read of the legislation allows us -- or
3 actually, this is very clear. The legislation allows us to
4 assess the commission's costs proportionately on the number
5 of gaming positions to our licensees.

6 I happen to believe that that is probably a very
7 straightforward way of assessing costs proportionately.

8 If -- and I could go back to the specific section.
9 But if that means -- if one read of that means that we can
10 only assess those costs until there's a gaming operation,
11 meaning, you know, table positions or slot positions, we
12 may have a problem in terms of funding between sometime in
13 the near future and that point which is in the farther
14 future.

15 If, however, we have the ability to assess on the
16 projected positions --

17 CHAIRMAN CROSBY: Right.

18 COMMISSIONER ZUNIGA: -- which is what would be my
19 read --

20 CHAIRMAN CROSBY: Really?

21 COMMISSIONER ZUNIGA: -- then we are trending okay
22 relative to our expenditures, because what we're projecting
23 is to grant the first licenses February of 2014, and
24 perhaps sooner if we can -- if we can earn a time, as Angel

1 was describing, on the slots parlor license.

2 Then, you know, we are in general a big picture, so
3 far, so good with our expenditures.

4 Now, our expenditures are going to grow and there's a
5 number of things that are going to happen between now and
6 the issuing of licenses.

7 But nonetheless, I wanted to bring that up for a
8 general awareness because I think it's important to
9 consider.

10 CHAIRMAN CROSBY: Does anybody have -- Bob Carroll or
11 Commissioner McHugh may have a read of that legislation off
12 the top of your head?

13 Not "Bob."

14 COMMISSIONER ZUNIGA: It's Section --

15 CHAIRMAN CROSBY: Guy and Bob. I'm sorry.

16 COMMISSIONER ZUNIGA: Section 56, small section 56.
17 I can quote you directly, if you're interested. It doesn't
18 answer your question.

19 CHAIRMAN CROSBY: Go ahead. Go ahead.

20 COMMISSIONER ZUNIGA: "Any remaining costs necessary
21 to maintain regulatory control" -- not governed by the fees
22 of the slots parlor or the -- the Rainy Day Funds submitted
23 to us -- "shall be assessed annually on gaming licensees
24 under this Chapter in proportion to the number of gaming

1 positions at each gaming establishment."

2 COMMISSIONER MCHUGH: So what's the issue?

3 CHAIRMAN CROSBY: Well, the question -- the question
4 for the moment that's being raised is, does that -- does
5 that become operative once somebody is licensed with a
6 certain number of gaming positions, from that point forward
7 they can be assessed, or does that become operative only
8 when the gaming positions are up and running?

9 COMMISSIONER MCHUGH: I have a personal view. But I
10 think this is the kind of issue that, if discussed sort of
11 from the hip is likely to create --

12 CHAIRMAN CROSBY: Yeah.

13 COMMISSIONER MCHUGH: -- concerns that may not
14 otherwise exist, then that we'd be -- do well to take a
15 close look at the statute, its context, think it through,
16 and then make a reasoned judgment --

17 CHAIRMAN CROSBY: Yeah.

18 COMMISSIONER MCHUGH: -- of where we are.

19 It's an interesting issue.

20 COMMISSIONER CAMERON: We have to do some more
21 research.

22 CHAIRMAN CROSBY: Right. And I think you're
23 raising it because you want to get it on the table, and
24 there are --

1 COMMISSIONER ZUNIGA: As early as possible.

2 CHAIRMAN CROSBY: -- there are other issues in the --
3 in our funding schedule that we need to think through. And
4 it's never too soon.

5 So thank you for bringing that up.

6 COMMISSIONER McHUGH: Right. No. I think it's
7 important.

8 CHAIRMAN CROSBY: And we will, you know, get some
9 legal advice and so forth and think about that. That's a
10 good -- a good point.

11 COMMISSIONER ZUNIGA: That was it for budget update.
12 I had a couple of other things for .

13 CHAIRMAN CROSBY: Yup.

14 COMMISSIONER ZUNIGA: The commission will recall that
15 I was given the authority to negotiate a sole-source
16 contract with consultants for the purpose of conducting the
17 investigations.

18 I took a look at the time frame that our schedule
19 allows for and I believe that there is enough time for us
20 to conduct a competitive and get the comfort level that
21 comes with that.

22 So I wanted to report to the commission that an RFR
23 has been posted for investigations. And we hope to get
24 responses very soon and in time for the -- the director of

1 IEB who will be upcoming and the responses that we get from
2 prospective applicants.

3 CHAIRMAN CROSBY: Right. And Commissioner Zuniga and
4 I did discuss this, and it seemed like as long as we can --
5 we were all concerned for a lot of reasons -- particularly,
6 time -- and as long as we could do it within the time frame
7 to get a competitive , that that was clearly the preferred
8 way to go, and we felt that was within his authority to go
9 ahead in taking that kind of a move. But it would
10 probably make sense to have us ratify his actions.

11 The RFR will be up for ten days, and it's been widely
12 distributed. And we will then move very quickly to
13 hopefully be ready to go on or about the same day that the
14 completed RFA-1s come in.

15 Do you want to move to ratify your --

16 COMMISSIONER ZUNIGA: Sure. If there's no more
17 questions, I'd move that we continue with the progress of
18 the RFR that I have put forward and look to see responses
19 that might come in and have this commission ratify this
20 approach for the of investigations -- the competitive of
21 investigations.

22 COMMISSIONER STEBBINS: Second.

23 CHAIRMAN CROSBY: Any other discussion?

24 COMMISSIONER MCHUGH: Well, we discussed this at some

1 length at one of our prior meetings. We took a different
2 course at that meeting.

3 So I think it's fair to say that having thought
4 through and considered it, as the chairman and Commissioner
5 Zuniga did, the desirability of proceeding with a non-
6 competitive approach to this for the reasons that we
7 discussed -- which we initially decided to take for the
8 reasons we discussed at some length at a prior meeting,
9 that this is a change of direction in favor of a
10 competitive process and is designed to ensure the kind of
11 transparency, notwithstanding the fact that we're
12 authorized to take a different -- we're authorized to take
13 the non-competitive approach, that we're taking this
14 approach in an effort to continue the transparent way that
15 we've been doing things from the outset and ensuring that
16 the appearance of transparency as well as transparency is
17 there.

18 So I am in favor of revising our prior approach, and
19 notwithstanding the percent of reasons that we had for
20 taking it and following the approach that we now decided to
21 undertake.

22 CHAIRMAN CROSBY: Right.

23 COMMISSIONER CAMERON: And I know that Commissioner
24 Zuniga has spent a lot of time and effort on this issue, as

1 we -- as he does on every fiscal issue. And I respect his
2 judgment and certainly his expertise with this matter and
3 defer to his good judgment here.

4 CHAIRMAN CROSBY: Yeah. And my two cents, too, is
5 that it's clearly better always to do a competitive where
6 you possibly can.

7 We clearly are authorized. There's no question about
8 this. If we feel like it's in the Commonwealth's interest
9 for us to do the job to have some other kind of a . But
10 where humanly possible, competitive is clearly better.
11 That's what we decided to do.

12 So I think we're all on the same page with that one.

13 Any other discussion?

14 All in favor of the motion?

15 COMMISSIONER ZUNIGA: Aye.

16 COMMISSIONER CAMERON: Aye.

17 COMMISSIONER MCHUGH: Aye.

18 CHAIRMAN CROSBY: Aye.

19 COMMISSIONER STEBBINS: Aye.

20 CHAIRMAN CROSBY: Opposed?

21 The aye's have it.

22 Just to round up the discussion, or update, the
23 stenographic services order was issued and responses are on
24 October 26th, and we also received three responses for

1 financial advisory services that we solicited.

2 They're thoughtful, and I don't know if you had
3 contemplated, Mr. Chairman, discussion about that. But I
4 just wanted to give an update that those responses came in
5 and there were -- that's positive because we got three of
6 them.

7 CHAIRMAN CROSBY: I think -- absolutely. Because we
8 need to resolve this. We've been talking about it now for
9 quite a while.

10 And just to reiterate, you know, we did decide -- we
11 made a tentative decision that we thought finding a
12 financial advisor who could help us talk to the financial
13 markets to facilitate the financing of anybody who's
14 interested in coming to Massachusetts in a gaming facility
15 and maybe to increase competition for the licenses that are
16 up for grabs was a good idea.

17 And we've gone back and forth on this. We got these
18 three proposals. And we've continued to think, even as
19 we've reviewed these.

20 And I think that my sense is -- at this point, but I'm
21 not -- my mind is not made up on this -- but on the two
22 issues.

23 One is, you know, is there anything that we can do to
24 encourage and facilitate the financing of these deals for

1 the folks who want to do business in Massachusetts.

2 And I think the general consensus is that what we can
3 do to encourage financing is to have a clear,
4 understandable, predictable, reliable, stable process which
5 is above reproach.

6 And if we do that, which is what we are in the process
7 of doing, the financial folks will be there, whether it's
8 equity or debt.

9 And to think that we under this time frame can add
10 very much trying to appeal other than reiterating the
11 clarity of our process I think is illusory. You know,
12 there's not much we can add there, particularly given the
13 time frame.

14 On the second issue about encouraging competition,
15 particularly with the issue in eastern Mass., we have all
16 been very straightforward in saying that our job is to get
17 the best deal for the Commonwealth, which -- meaning the
18 best economic development, the most jobs, the most revenue,
19 and the minimal negative consequences. That's our job.

20 To do that, competition is a plus. And we have said
21 repeatedly, "Look at western Mass." The first bidder came
22 in at 800 million, the second bidder came in at 807
23 million, the third bidder came in at 900 million.

24 Those folks are putting their best foot forward. It's

1 a competitive environment. That's what America's all
2 about. That's what the legislation anticipated.

3 So to the extent that we can promote competition, that
4 is clearly in the public interest.

5 And I think we have made a point of going out of our
6 way to make it plain that there are -- there are -- nothing
7 is certain out there, this is a level playing field.
8 Nobody has a leg up over anybody else in terms of our
9 judgments.

10 But if anybody's listening, they can tell that this is
11 an open field. Western Mass. is open, Eastern Mass. is
12 open, the slots parlor is open.

13 And if anybody's listening, they know that we are
14 anxious to have multiple bidders for all those licenses.

15 To think that we can do much more than say those
16 things repeatedly in the various ways that we have, in
17 official meetings and unofficial meetings, again, is
18 illusory. You know, I don't think -- I've come to the
19 conclusion that there's really not very much we can add.

20 So I have sort of reluctantly come back from the idea
21 of thinking that it's worth doing this.

22 The other side of it, sort of, is, hey, there's no
23 downside except to spend some money, and it's nontrivial
24 money. And maybe we do something good.

1 But we've got an awful lot going on here. And for
2 something which has, I think, a minimal chance of real
3 positive gain, I'm not sure it's worth it.

4 That's sort of where I am at the moment.

5 COMMISSIONER ZUNIGA: I think that's well summarized.

6 I feel pretty much the same -- the same way.

7 I was originally thinking that there could be a
8 real -- real value in spending some money to explore, you
9 know, who the players, what other factors may be, who --
10 what players are missing, etc., from the eastern Mass.
11 section.

12 But it's not clear after going through the
13 responses -- which are insightful, and I can speak to
14 them in a few minutes.

15 It's not clear that there will be a lot of game for
16 the commission for these -- if we conducted this exercise.

17 There would be one valuable thing, I suppose. One of
18 the responses suggests conducting a survey; that the amount
19 or time or level of that survey remains -- remains to be
20 seen as to how effective that could be in letting us know
21 the factors that are contributing, but certainly not
22 determining one applicant for Region A.

23 That could be an exercise in just finding some
24 insights; not necessarily changing or affecting the field.

1 So . . .

2 COMMISSIONER MCHUGH: I haven't had a chance to read
3 these. I was away.

4 But from the outset, I -- but the analysis you both
5 have given strikes me as a sound one. We've got a lot
6 going on, and the incremental value we could add to the
7 process by engaging these kinds of efforts strikes me as
8 low.

9 And the expenditure of money, even somebody else's, is
10 not something we ought to do just because we can do it.

11 I take it that we will revisit that idea of a
12 financial advisor in connection with analysis of the RFA-2
13 applications, or even the RFA-1. But this is not aimed at
14 that.

15 So I --

16 CHAIRMAN CROSBY: I think that's definitely accurate.
17 Yeah.

18 COMMISSIONER ZUNIGA: That is definitely -- one of the
19 responses certainly alludes to that -- actually, two --
20 that there's real value for the commission in understanding
21 the financial assumptions behind the proposals that will
22 come to the commission upon -- after that Phase 2.

23 But the early efforts, if you will, that we initially
24 contemplated is less clear about their marginal value.

1 COMMISSIONER CAMERON: I thought the most -- the most
2 persuasive statement came by the chair when he said we
3 should focus on what we need to do moving forward in the
4 licensing process, the investigations standing up the
5 commission, and some of the ancillary things sometimes can
6 distract us in figuring out what is essential, is
7 important.

8 And that was very persuasive to me, that we really
9 should be focusing -- especially where there's a low
10 probability of it being effective, so . . .

11 CHAIRMAN CROSBY: Right.

12 COMMISSIONER STEBBINS: I also just think of the
13 chairman's comment about probably what any developer and
14 any other financing sources would be looking to how
15 credible our plan is and our time line is and our ability
16 to meet those time lines probably helps them more than --

17 CHAIRMAN CROSBY: Right.

18 COMMISSIONER STEBBINS: -- anything else we might be
19 able to do at this point.

20 In terms of the, you know, the idea of the, you know,
21 the survey to see why we got competition or didn't get
22 competition is an interesting suggestion, but I'm thinking
23 maybe we're somewhat past the time frame of where that
24 might be valuable to us.

1 But you know, should we consider at some point, if a
2 potential licensee, you know, would approach us for our
3 help in having those conversations with potential financing
4 sources, is that something we ought to consider down the
5 line?

6 CHAIRMAN CROSBY: If a licensee were to approach us, I
7 would say sure. You know, we would -- you know, we'd be
8 sensitive to whatever the issues are. But --

9 COMMISSIONER STEBBINS: Right.

10 CHAIRMAN CROSBY: -- we would certainly be -- you
11 know, once a licensee comes in, we'll still be regulators,
12 but they'll be our partners and we'll be wanting to do
13 everything we can to support them.

14 So I would say sure, in that environment.

15 COMMISSIONER ZUNIGA: One of the insights that I
16 gained from reading and thinking about this is, is that
17 what the chair also described relative to -- the money will
18 find the deal. It's not really the other -- the other way
19 around.

20 The financing may not necessarily by itself generate
21 a deal, which was perhaps a very, very early assumption
22 about -- when we started to think about the so-called trip
23 to Wall Street.

24 Wall Street will be there, and even out -- those

1 outside of Wall Street will be there for operators who have
2 a good proposal.

3 CHAIRMAN CROSBY: Right. And even the fact that we've
4 been talking about -- so we've gotten feedback just over
5 the course of the last month and a half that even as we've
6 been talking about this, people have heard.

7 And it's, you know -- just for the record, you know,
8 this commission believes that competition is in the
9 interest of the Commonwealth. Nobody has a lock in western
10 Mass. Nobody has a lock in eastern Mass. Nobody has a
11 lock on a slots parlor. We are open and anxious to have
12 aggressive competition for all of our licenses.

13 And that is a message that we have given before and we
14 will continue to reiterate.

15 But I think this means of pursuing that is probably
16 not the way to go.

17 Okay.

18 COMMISSIONER ZUNIGA: That's it for .

19 CHAIRMAN CROSBY: Are you done?

20 COMMISSIONER ZUNIGA: Yup.

21 CHAIRMAN CROSBY: That was quite a bit.

22 Commissioner Cameron. Racing Division.

23 COMMISSIONER CAMERON: Yes, Mr. Chair.

24 As part of my responsibility that was designated to

1 me by all of you for racing, one of the issues I dealt
2 with is an issue that the kennel owners brought to me soon
3 after.

4 And I prepared a memo just outlining some of the basic
5 facts in this matter. And I'll just briefly summarize
6 this. And it's really just a tentative decision, and I
7 think we should all vote -- vote on this.

8 And the issue brought before me -- I thought of them
9 as legal in nature. They were interpreting the law, these
10 issues, and monies that the kennel owners thought were due
11 to them, and Consumer Affairs, who had responsibility at
12 the time, interpreted the law a little differently. And as
13 we know, with any law, sometimes things are a matter of
14 interpretation and can be interpreted differently.

15 But because it was a legal matter, I thought that our
16 legal counsel should be involved. So at my request, Ms.
17 Nina Pickering Cook of Anderson & Kreiger assisted in an
18 informal -- they brought me these concerns informally --
19 "they" being the kennel owners -- and I suggested to them
20 that certainly I wasn't going to make a legal decision or
21 make recommendations to the full commission with regard to
22 a legal issue, so we would have an informal meeting in
23 which each of the parties could lay out their -- lay out
24 their concerns.

1 So we had that meeting. And both parties just
2 explained their concerns.

3 And the kennel owners' main concern was -- it had to
4 do with unclaimed winning tickets, which are commonly
5 referred to as "outs monies" in the greyhound racing world.
6 And these were monies from 2008 and 2009 which ended up in
7 the Racing Stabilization Fund as a result of the
8 legislation.

9 They thought that both of those years, the monies they
10 were entitled to. We had our -- like I say, Anderson &
11 Kreiger assist us with this, and I believed after reading
12 the -- after listening to the presentation, after listening
13 to our legal counsel that, in fact, the 2008 monies, the
14 kennel owners and their representative made a -- made a
15 persuasive case, because the law was not enacted at that
16 time. The law wasn't enacted till a month after those
17 monies would have been due to them.

18 But with the 2009 monies, in fact, the law was in
19 effect, and those monies should have and did rightfully go
20 into the Racing Stabilization Fund.

21 So it is my recommendation to the full commission that
22 we -- that we pay the owners, the greyhound owners --
23 kennel owners, rather -- for those 2008 outs monies which
24 are now in the Racing Stabilization Fund, but that the 2009

1 monies were put in there as the law required.

2 The last issue that they brought before us was an
3 issue around simulcast monies that were -- that are paid
4 into the Racing Stabilization Fund. The kennel owners
5 believe that both Suffolk and Plainridge should be paying
6 into that fund because they simulcast greyhound racing at
7 those facilities.

8 And again, research -- in looking into this matter,
9 the law does not speak to the monies going into that
10 account, only coming out of that account.

11 So the representatives have been advised that that
12 would be an issue that they'd have to take up with the
13 tracks themselves if they think that they are owed monies.

14 Mr. John O'Donnell is the spokesperson for the kennel
15 owners. That was -- he was appointed to that role by the
16 rest of the kennel owners.

17 And he's been verbally advised of the findings here
18 and the recommendation that I'm making to all of you, and
19 he has had an opportunity to speak to -- and he knew that
20 the other alternative to this would be, he could come
21 before the full commission with this matter.

22 It's my understanding that they have decided that we
23 made a reasonable settlement offer to them, they understand
24 the issues, and are willing to close this matter by -- by

1 settling with the '08 outs monies, and they're willing to
2 sign a written agreement stating same.

3 So it is my recommendation that we vote on approving
4 the '08 outs monies, that we will make payments to those
5 kennel owners -- there are 22 of them, by the way, and
6 we're talking about approximately \$500,000. And we do have
7 the breakdowns of the kennel owners and what monies would
8 be owed each of them.

9 So it's my recommendation that we -- I make a motion,
10 actually, that we pay the kennel owners for the '08's
11 monies; the '09's monies are in the account and should
12 stay there. And that that could be -- that could take
13 place after the individual owners sign an agreement
14 stating same.

15 COMMISSIONER STEBBINS: So this effectively becomes
16 the last payment to the kennel owners?

17 COMMISSIONER CAMERON: There are -- there are other
18 monies that are legislated.

19 COMMISSIONER STEBBINS: Statutory. Okay.

20 COMMISSIONER CAMERON: But this was -- this was an
21 issue that they brought to our attention, to my attention,
22 which -- a decision was made which they disagreed with.

23 The other -- the other pieces of the legislation,
24 there is no -- there is no dispute with those payments.

1 The payments will stop in 2014.

2 COMMISSIONER ZUNIGA: Just for my edification --

3 COMMISSIONER CAMERON: Mm-hm.

4 COMMISSIONER ZUNIGA: -- is part of what may have been
5 a different interpretation here the fact that the unclaimed
6 tickets have a duration of a year, if you will? That it
7 takes a year for them --

8 COMMISSIONER CAMERON: Well, that's correct.

9 COMMISSIONER ZUNIGA: -- to become officially
10 unclaimed?

11 COMMISSIONER CAMERON: It's really almost two years
12 later in which they are paid.

13 COMMISSIONER ZUNIGA: Right.

14 COMMISSIONER CAMERON: But yes. You need to give the
15 individuals who actually won a year to claim --

16 COMMISSIONER ZUNIGA: Yup.

17 COMMISSIONER CAMERON: -- before that becomes what is
18 commonly referred to as the outs monies.

19 COMMISSIONER ZUNIGA: The outs. Right.

20 COMMISSIONER MCHUGH: I think -- and correct me if I'm
21 wrong, Commissioner -- that part of their claim, in
22 addition to the Department of Public Utilities' -- or the
23 Licensure --

24 COMMISSIONER ZUNIGA: Licensure.

1 COMMISSIONER McHUGH: -- claim was that at the time
2 the legislation went into effect, that there wasn't --
3 there were no purse accounts left into which to pay the
4 money because racing had been abolished before, so there
5 was no place to put the money. They can put the money in
6 the pocket of the kennel owner. It doesn't have to have a
7 purse account. So I think that was part of it.

8 COMMISSIONER ZUNIGA: That was part of that.

9 COMMISSIONER CAMERON: I believe this was -- I think
10 you're absolutely correct. And this was a good faith
11 effort on the part of Consumer Affairs --

12 COMMISSIONER ZUNIGA: Right.

13 COMMISSIONER CAMERON: -- who handles the financial
14 matters. Department of Professional Licensure uses
15 Consumer Affairs for all their fiscal issues. They do not
16 have their own fiscal people.

17 So that's why the decision was a Consumer Affair
18 decision to be made. And I do believe it was a good faith
19 reading of the law and an interpretation, but because the
20 responsibility was ours, you know, it was -- I felt like we
21 needed to take a look because they brought us this issue
22 and did that in conjunction with Anderson & Kreiger.

23 COMMISSIONER ZUNIGA: And those monies went to this
24 Racing Stabilization Fund --

1 COMMISSIONER CAMERON: Correct.

2 COMMISSIONER ZUNIGA: -- and are really effectively
3 resigned there?

4 COMMISSIONER CAMERON: Correct. Yes, they are.

5 COMMISSIONER ZUNIGA: Okay.

6 CHAIRMAN CROSBY: Okay. Any other discussion?

7 COMMISSIONER McHUGH: Did you intend to include,
8 Commissioner, in the motion that you just made that they
9 sign an agreement and a release of all claims surrounding
10 payments?

11 COMMISSIONER CAMERON: Correct. I did. I mentioned
12 the agreement, but yes, that is -- the agreement includes a
13 release.

14 CHAIRMAN CROSBY: Payments would not be made until --

15 COMMISSIONER CAMERON: Each kennel owner --

16 CHAIRMAN CROSBY: -- the kennel owner signs an
17 agreement and a release.

18 COMMISSIONER CAMERON: Correct.

19 CHAIRMAN CROSBY: Any further discussion?

20 Thank you for sticking with this one. This has been
21 complicated.

22 All in favor?

23 COMMISSIONER ZUNIGA: Aye.

24 COMMISSIONER CAMERON: Aye.

1 COMMISSIONER McHUGH: Aye.

2 CHAIRMAN CROSBY: Aye.

3 COMMISSIONER STEBBINS: Aye.

4 CHAIRMAN CROSBY: Opposed?

5 The aye's have it.

6 COMMISSIONER CAMERON: Thank you.

7 CHAIRMAN CROSBY: I'm going to exercise the privilege
8 of the chair for another brief recess.

9 (Hearing suspended.)

10 (Hearing reconvened.)

11 CHAIRMAN CROSBY: Reconvening Open Meeting No. 31 on
12 October 16th with Item 6.

13 COMMISSIONER CAMERON: Correct.

14 CHAIRMAN CROSBY: Right. Correct.

15 COMMISSIONER CAMERON: To continue with my report, Mr.
16 Chair, as you're all aware, we will be conducting public
17 hearings for the application process for R2 racetracks. We
18 will have a hearing in Plainville --

19 CHAIRMAN CROSBY: Just clarify for the -- for racing,
20 not for anything else.

21 COMMISSIONER CAMERON: Oh, I'm sorry. Absolutely.
22 This is my racing report.

23 -- for Plainville for the racetrack application. That
24 will be 10:00 a.m. on Thursday morning. And we come back

1 to Boston, here, to 1000 Washington Street for a public
2 hearing for a Suffolk Downs application process.

3 That will be followed by my monthly appeal hearings,
4 and that will be at 3:00 o'clock here, as well.

5 Another issue with -- having to do with racing is a
6 responsibility that we have with regard to simulcasting and
7 paramutual wagering regulations that need to be reviewed,
8 and we have to have our recommendations to the legislature
9 by January 1.

10 Since we do not have -- we're in the process of
11 bringing on some legal staff, but since we do not at this
12 time have the expertise with the commission, as a
13 recommendation, I spoke to a David Murray, who is the
14 former general counsel over at Consumer Affairs, and he is
15 now a consultant and has offered to assist us with this
16 project.

17 And we spoke about this once before. But we have
18 now -- Mr. Murray has completed his State Police background
19 investigation and is able and willing to start this project
20 next week. I don't know if we have to vote on that or not.
21 We did speak about it, bringing on a consultant to assist
22 us with this project.

23 I suppose we could -- I can make a motion that we --
24 CHAIRMAN CROSBY: I think that would make sense.

1 Yeah.

2 COMMISSIONER CAMERON: -- that we bring Mr. Murray
3 aboard.

4 At this time I make a motion that Mr. David Murray
5 assist us for a two-month consulting project in which all
6 of the simulcasting and paramutual wagering regulations,
7 laws will be examined, researched, and recommendations will
8 be made on -- throughout this project to the full
9 commission as to the progress of the project.

10 And again, that will be a two-month consulting process
11 which he has agreed to do. We have discussed financial
12 terms, and again, his State Police background is complete
13 and he is able to start this project.

14 I make a motion that we hire Mr. Murray to come on
15 board and assist us with this responsibility.

16 CHAIRMAN CROSBY: Second?

17 COMMISSIONER ZUNIGA: Second.

18 CHAIRMAN CROSBY: Other discussion?

19 This would include this issue about whether what the
20 law says relative to the simulcast or not?

21 COMMISSIONER CAMERON: You're talking about
22 greyhounds?

23 CHAIRMAN CROSBY: Yes. Correct.

24 COMMISSIONER CAMERON: Yes. That -- all of the

1 simulcasting will be reviewed as part of the -- as part of
2 our responsibility.

3 And we'll have the decision, but Mr. Murray will
4 assist us with the research in this matter.

5 CHAIRMAN CROSBY: Other discussion?

6 All in favor?

7 COMMISSIONER ZUNIGA: Aye.

8 COMMISSIONER CAMERON: Aye.

9 COMMISSIONER McHUGH: Aye.

10 CHAIRMAN CROSBY: Aye.

11 COMMISSIONER STEBBINS: Aye.

12 CHAIRMAN CROSBY: Opposed?

13 Aye's have it.

14 COMMISSIONER CAMERON: And with regard to racing and
15 gaming, we -- we talked about bringing a paralegal on
16 board. And we have identified an individual who has just
17 graduated from law school. Her name is Danielle Holmes.
18 She has an extensive racing background, which would make
19 her, I think, very valuable to the commission.

20 Ms. Holmes has also completed a State Police
21 background and is able to start -- with the permission of
22 the full commission is able to start employment with us as
23 a paralegal.

24 And again, she -- we have agreed to terms with her.

1 She would be assisting Mr. Murray with this project, as
2 well as assisting our new racing director with additional
3 racing projects at this time.

4 CHAIRMAN CROSBY: And she's full time?

5 COMMISSIONER CAMERON: She would be a full-time
6 paralegal for the -- for the commission. She has just
7 graduated from law school and has a tremendous racing
8 background and is very interested in coming on board to
9 work with us.

10 I think she could be an excellent addition to not only
11 the racing division, but also whatever other projects of a
12 legal nature we may -- we may have.

13 CHAIRMAN CROSBY: Great. I don't think we need to
14 vote on hiring these persons.

15 COMMISSIONER CAMERON: Okay. Just an update --

16 CHAIRMAN CROSBY: Yeah.

17 COMMISSIONER CAMERON: -- that Ms. Holmes is --

18 CHAIRMAN CROSBY: All right.

19 COMMISSIONER CAMERON: -- close to starting employment
20 with us at this time.

21 And that concludes my racing report.

22 CHAIRMAN CROSBY: Great.

23 You missed our new director, but she started. We
24 voted her in unanimously, Commissioner McHugh.

1 COMMISSIONER McHUGH: Oh, no. I was here for that.

2 CHAIRMAN CROSBY: Oh, you were here for that?

3 COMMISSIONER CAMERON: You left. Yes.

4 COMMISSIONER McHUGH: I was. Yes. I was.

5 CHAIRMAN CROSBY: That's right. Okay.

6 Okay. Item No. 7, public education information.

7 There was one -- do you want to raise this issue,
8 Commissioner Stebbins? This came from you.

9 COMMISSIONER STEBBINS: Well, I had -- I had two
10 topics that I actually wanted to bring up somewhat under
11 this --

12 CHAIRMAN CROSBY: Okay.

13 COMMISSIONER STEBBINS: -- report or under this
14 section on the agenda.

15 I think all of us received a letter from the community
16 of Charlton, I believe, a letter from their board of
17 selectmen.

18 I have -- you know, they personally addressed
19 everybody's letter, so I took a crack at replying to the
20 three concerns.

21 I spoke with the town manager out in Charlton. I gave
22 my draft to Commissioner McHugh who expertly advised and
23 gave me some recommendations and edits. And I think that
24 letter is now on your desk, if you want to sign off on

1 that.

2 You know, just some -- to another topic, I've been
3 getting some thoughts and feedback from individuals from
4 potential surrounding communities.

5 I actually spoke with a group from -- that was
6 assembled by the Pioneer Valley Planning commission last
7 week out in Springfield, a number of, obviously, western
8 Mass. communities.

9 I think it was a good session. When I followed up
10 with the executive director, he was pleased with the
11 meeting and saw that he got approached by a number of
12 potential surrounding communities.

13 Again, I think the process is kind of moving along.
14 I think potential surrounding communities are stepping up
15 and taking notice.

16 I ran into another gentleman from another potential
17 surrounding community who shared with me that, you know, he
18 is held back a little bit from approaching a potential
19 developer to pretty much say he wants to see how our
20 Phase 2 regulations unfold.

21 But you know, I think it's important for us to
22 reiterate a process for a host community or a surrounding
23 community to be mindful of our regulatory process going
24 forward, that, you know, we hope that their local process

1 is certainly going to be transparent, it's going to be
2 inclusive.

3 You know, we certainly are encouraging every
4 community to make sure that they really -- and this was the
5 point I made the other day at the PVPC meeting was, you
6 know, kind of look far afield to every possible impact that
7 could be -- could be borne by your community.

8 I have had occasion to look at a draft of a case study
9 that the Collins Institute has prepared for us on
10 Connecticut and the development of Foxwoods and Mohegan
11 Sun. And it was interesting to learn that some of the
12 impacts weren't necessarily borne by the two communities
13 where the casino was located, but by a neighboring
14 community that had lower housing and apartment-rental rates
15 and kind of felt succumbed to the issue of hot betting.

16 So again, kind of -- I think as a commission -- and
17 Mr. Chairman, you pointed out earlier and again echoed our
18 interest in saying that this is a competitive process.

19 You know, I think it's always important for us to put
20 out on the table and remind communities that as they go
21 through assessing impacts -- assessing potential impacts,
22 it's -- it helps to have an inclusive process with, you
23 know, folks from your major departments.

24 And again, this isn't necessarily just for a host

1 community. It could be for a surrounding community, as
2 well. And it's hopefully additional work that we can do in
3 light of the next item on the agenda and our appointee to
4 the ombudsman position.

5 But I think it's a message that we need to keep
6 reminding people. Again, whether they're a host community
7 or a surrounding community, kind of look far afield of what
8 you think the most immediate potential impacts are going to
9 be. But I think for surrounding communities, it might even
10 be a bigger challenge.

11 But to make that process as inclusive in the community
12 as possible and inclusive among your department heads and
13 the other folks in your local town hall or city hall as
14 much as possible.

15 CHAIRMAN CROSBY: I definitely agree with that. And
16 it's -- you think that would be pretty straightforward.

17 But your point is that we need to make sure that we
18 and our ombudsman, as soon as he or she starts, is
19 proactive in getting that message out there.

20 COMMISSIONER STEBBINS: Right.

21 CHAIRMAN CROSBY: Yeah. Well, I agree with that.

22 Okay. So we'll -- someone else?

23 COMMISSIONER STEBBINS: No. Just the item on the
24 Charlton letter.

1 CHAIRMAN CROSBY: Yup.

2 COMMISSIONER STEBBINS: Hopefully you've gotten a
3 draft.

4 CHAIRMAN CROSBY: Yeah. I do -- I do have a draft and
5 I will -- I'm not sure where it stands, but I'll do
6 something. Yeah, I thought we'd find it.

7 Chelsea is still on here. I don't know whether
8 that's --

9 COMMISSIONER MCHUGH: No. That's -- I guarantee you
10 next Tuesday we will have answers to the Chelsea question.

11 CHAIRMAN CROSBY: Right. Easy for you to say; you'll
12 be chairing that meeting.

13 COMMISSIONER MCHUGH: That's exactly right.

14 CHAIRMAN CROSBY: Okay.

15 All right. I'm pleased to say that I hope this will
16 be my last meeting where I'll be acting as acting
17 ombudsman.

18 And in my first act, I want to invite a candidate for
19 the position to come forward.

20 I was designated as the hiring manager on this
21 position, but as all of us have been working with
22 Commissioner -- whatever his name there -- Stebbins, who
23 has been doing most of it --

24 COMMISSIONER STEBBINS: This is really for your --

1 your benefit.

2 CHAIRMAN CROSBY: Western Mass. You know.

3 -- who's done -- who did the lead on this. But we --
4 but we were empowered -- I was empowered to eventually
5 narrow it down to one person if I thought that there was a
6 really strong candidate and bring that to the commission.

7 So John, why don't you introduce yourself and give the
8 commissioners a little bit of a background.

9 I am recommending that John be voted in as our
10 ombudsman. But I think everybody wants to have a chance to
11 hear a little bit about you and answer -- and ask any
12 questions.

13 MR. ZIEMBA: Great. So I spent 16 years working for
14 the state in various positions. I like to claim that I
15 have almost a unique breadth and depth of experience just
16 because there's so many different places that I landed in
17 state government. Perhaps I just couldn't, you know, hold
18 a particular job at each one of those agencies, but
19 thankfully, a good opportunity at each one of those
20 agencies I worked at.

21 In the transportation secretariat, I was acting
22 secretary, acting chairman of the T, and under secretary
23 for a number of years. I've worked on highway matters.
24 I'm very familiar with what happens with transportation

1 projects, some of the things that happen with
2 infrastructure projects.

3 I worked in the economic development secretariat.

4 I was the secretary of labor, director of labor for a good
5 period of the -- a little over a year and a half. In many
6 ways that was sort of a startup organization. I know that
7 sounds strange since labor has been around for a good
8 number of years, but the charge was to create something
9 that was fresh and new from the governor at the time.

10 Prior to that I had stints at consumer affairs and
11 business regulation. Part of that charge was overseeing
12 the state racing commission. I did some research on Indian
13 gaming at the time because at that time, which was 1998 to
14 2000, you know, there was a lot of enhanced communications
15 about what would happen with gaming and what would happen
16 with Indian gaming at the time.

17 Before that I worked at Housing and Community
18 Development as director of policy, and prior to that as a
19 legislative liaison.

20 And then prior to that I worked in -- as the chief of
21 staff to a state senator.

22 I think all of these different experiences -- I gained
23 a lot from each of these different experiences. And even
24 some of my first experiences, I think that they are -- they

1 would be applicable to this position, for example, my time
2 as a legislative liaison. I really gained an understanding
3 of the -- of the difficulties that elected leaders face in
4 working with their constituents, the pressures that they
5 face, and that a certain degree of responsiveness is really
6 what is needed with elected leaders and people in those
7 positions.

8 A certain amount of respect really goes a long way
9 despite what the particular answer might be on a particular
10 issue. And I think if given the opportunity, that's the
11 same type of approach that I would take with communities.

12 In -- since my stint in state government, I've been
13 working with the law firm of Bowditch & Dewey. I've
14 represented a number of different clients on development
15 matters. I've worked on public/private partnerships. I've
16 worked on some of the bigger projects in the state and in
17 the nation, actually, over the last couple of years from a
18 development perspective.

19 I am not a true permitting attorney, but I sit in the
20 real estate practice area of my firm and I'm very familiar
21 with everything that goes into a good permitting scheme.

22 I specialize a little bit on 43D expedited permitting
23 right when it came out of the state. And primarily why I
24 did that was because of the intersection between

1 municipalities, state government, and private entities.

2 It's my hope that this experience, both my public and
3 private experience, help equip me to provide the services
4 that would be necessary in the ombudsman role.

5 I think that I have a good feel for what
6 municipalities will need and what information they will
7 need.

8 And I think I have a good feel of how to navigate
9 through state government. I understand, you know, not only
10 the pressures of elected leaders, but pressures of the
11 people who are working on the lot of each one of these
12 agencies, and how they -- they need to approach problems.
13 And I think that could also serve the commission well.

14 So I'd be glad to answer any questions that you may
15 have.

16 COMMISSIONER MCHUGH: What is your -- what is your
17 vision for what the ombudsman role can most profitably
18 accomplish? I mean, we've laid out sort of a view of that.
19 But how do you see it working?

20 MR. ZIEMBA: Well, I think what you've outlined is the
21 dual role of the ombudsman.

22 COMMISSIONER MCHUGH: Right.

23 MR. ZIEMBA: One is to primarily interact with the
24 communities to make sure that they have the information

1 that is necessary for them to be able to make good
2 decisions.

3 And obviously there's a lot of overlap between the
4 role of the commission in trying to get the most for the
5 Commonwealth for resources, for job creation, but in some
6 regards that doesn't always necessarily mix.

7 Like, for example, the commission really has a very
8 deep responsibility to be as absolutely thorough as
9 possible in making sure that things work. And
10 unfortunately, at the local level, perhaps there isn't
11 always the level of resources that would be available to
12 make sure that the thoroughness is paid attention.

13 So I think that there's a good degree of overlap.

14 And in answering your question, what I would like to
15 bring is, I would like to be the person that is always
16 available at the community level to bring issues to the
17 fore, to the commission.

18 In my conversations with the chairman, I explained
19 that a staff position can probably do that a little bit
20 better than maybe even a commissioner because I'm not
21 necessarily on the hook for a decision that might be made,
22 but I can bring the information to the commission and I
23 can, conversely, go back to the community.

24 And on the other side, I think that there is -- there

1 is an importance to having the commission not directly
2 involved in some of the decisions that are made in the
3 agency level. They have to make their decisions based on
4 their own criteria. But there has to be that direct
5 involvement between the commission so that we know what is
6 going on and they know what the priorities are from that
7 aspect.

8 COMMISSIONER MCHUGH: One of the things that concerned
9 me from the outset and I know concerns all of us is the
10 complexity and potential length of time of the permitting
11 process.

12 Do you see a role of the ombudsman either directly or
13 through the commission in trying to deal with that in a
14 proactive manner so as tee things up and facilitate the
15 process through the extended end date?

16 MR. ZIEMBA: Yeah. I think familiarity with who is
17 going to make those decisions at the agency level is very
18 important. And to the degree that you can get quick
19 answers quickly -- I mean, good answers quickly, that is
20 sort of what we want, even if the answer is a no on a
21 particular issue.

22 Oftentimes on a permitting basis, people will hold
23 on -- or a project basis, people hold on to these beliefs
24 that may or may not be reality and then they chase those

1 for way too long. If you had more of a concrete answer at
2 an agency level, you might be able to amend your
3 development to make sure that it works a little bit better
4 for you.

5 CHAIRMAN CROSBY: What is the expedited process that
6 you refer to occasionally?

7 COMMISSIONER ZUNIGA: 40D.

8 COMMISSIONER MCHUGH: Well, it's 43D, which you're
9 familiar.

10 But there's another one that I've forgotten the --
11 I don't have that one on the tip of my tongue that A&F
12 uses -- the citation for which I've got someplace -- to
13 basically give preliminary approval to capital investment
14 projects and tee up guidelines for potential investors,
15 municipal investors, to follow in order to get the funds.

16 I'll certainly supply it --

17 MR. ZIEMBA: Thank you.

18 COMMISSIONER MCHUGH: -- the citation there.

19 MR. ZIEMBA: And I think the state has done a
20 tremendous amount over the last few years to try to
21 expedite things. They created the permitting ombudsman
22 within the economic development secretariat. Add that in
23 conjunction with the Attorney General's office in order to
24 take a look at regulatory streamlining.

1 There's been a lot of different efforts. Even at
2 highway I was a participant in the highway access review
3 that tried to speed up the process by which developers can
4 get highway access permits, which is something that
5 actually can be a major problem for some developments.

6 So I'm pretty familiar with a lot of the efforts that
7 have happened over the last couple of years. I'm sorry I'm
8 not familiar with the specific one that you mentioned.

9 COMMISSIONER MCHUGH: Well, I wouldn't, either. It's
10 a pretty obscure thing. And -- but apparently it works
11 well.

12 And it may apply in this area only by analogy. I'm
13 not sure if it applies directly to this area.

14 But anyway, I'll get you the citation.

15 CHAIRMAN CROSBY: Anybody else?

16 COMMISSIONER CAMERON: I'm certainly impressed with
17 however many agencies you've had the opportunity to work
18 within, especially state racing. So that's --

19 COMMISSIONER STEBBINS: She kind of lit up when that
20 happened.

21 COMMISSIONER CAMERON: Yeah.

22 COMMISSIONER ZUNIGA: I was trying to articulate a --
23 we have our time frame, if you will, perhaps divided in two
24 major pieces, between now and when we award a license.

1 And after awarding a license, a lot that goes in the
2 makings of a real estate development --

3 MR. ZIEMBA: Mm-hm.

4 COMMISSIONER ZUNIGA: -- a big project like this, some
5 of which may be permitting related.

6 With that -- with those two big time frames in mind,
7 I -- could you perhaps articulate for us the role of what
8 you see for the ombudsman after the award of the license?
9 A bit more nuanced about what you may see or what may be
10 necessary to what's happening at that time.

11 MR. ZIEMBA: Well, I don't know if this is really
12 contemplated in the protocol, but I believe that there is
13 going to be a continued role for the gaming commissioner to
14 remain at the table in a lot of the decisions that are done
15 at the agency level.

16 And again, I'm not saying that the commission is going
17 to be making decisions for the agencies. But a
18 coordination role -- because there are a number of
19 different agencies that are going to play a role in
20 these -- in these decisions. And obviously the state has
21 processes for coordinating some of this review through the
22 meeger (phonetic) process and other processes.

23 But to the extent that there is one person that can
24 help collect all the information of where things sit at the

1 time, that person might be able to anticipate problems that
2 may result, and another agency or another subset of the
3 same agency.

4 And I think the ombudsman could help work with the
5 developers and help work with the agencies to identify what
6 those issues might be and how to overcome some of those
7 issues before they erupt.

8 And again, like what I mentioned, if there are certain
9 things that truly an agency will never be able to do, maybe
10 get that answer sooner rather than later.

11 When I worked at transportation, there were a lot of
12 projects that people have in their brains out there, but
13 some of them are probably never actually going to happen.

14 But to the degree that people can be realistic about
15 components of different projects, I think that that goes a
16 long way in making sure that you get things done quicker
17 and easier.

18 And a lot of that would happen, you know, as early as
19 possible.

20 COMMISSIONER STEBBINS: When we were thinking about
21 this role and this position, there was some talk that this
22 job may morph into helping the staff of the Gaming Policy
23 Advisory Committee, which earlier in the meeting we talked
24 about moving up that time line of beginning to bring some

1 of these appointees on board even though some of them are
2 still kind of in limbo because we don't know when the
3 licenses are going to get awarded.

4 And then, obviously, there are even subgroups to that.

5 Could you share with, you know, my colleagues some of
6 your work or experience in kind of working with a larger
7 group than this body of five and how you kind of keep
8 everybody focused and on task for what their
9 responsibilities are?

10 MR. ZIEMBA: I've been involved in numerous of these
11 advisory committees over time. One notably, the
12 Transportation Finance Commission and transportation
13 reform. That included a number of different outside
14 entities in order to try to achieve a policy goal.

15 I also was involved in, you know, some of the analysis
16 of turnpike equity issues. And these involved numerous
17 different entities, from the legislature, from the outside
18 world.

19 And I think as long as you have a concrete schedule
20 out there and the people understand their roles and
21 responsibilities and that you have the designated staff
22 person or two that is really going to do the true grunt
23 work that enables other folks in the commission to make
24 larger policy issues, that -- that's what's really

1 necessary.

2 And I'm all about grunt work. I've been doing it all
3 my life. And there's a lot of joy in grunt work, so --

4 COMMISSIONER STEBBINS: And we know it.

5 COMMISSIONER CAMERON: And we agree.

6 CHAIRMAN CROSBY: I think we've done it. We -- yes.

7 COMMISSIONER CAMERON: We would agree. We would
8 agree.

9 COMMISSIONER MCHUGH: One of the -- one of the things
10 that's been -- one of the -- I don't know how to
11 characterize it. One of the concerns, I guess, that's been
12 present from the outset is that of the surrounding
13 communities.

14 The host communities know who they are, they know who
15 the potential developers are. But the surrounding
16 communities I think have from the beginning had a concern
17 that they didn't have a seat at the table.

18 This -- your appointment comes at a particularly
19 opportune time because we're going to announce the
20 commencement of the application process.

21 Do you have in mind what in the first 30 days you
22 might be planning to do to -- to introduce yourself to the
23 communities or things that we, the commission, could do to
24 help you get off the ground?

1 MR. ZIEMBA: Yes. Because I would like to take
2 advantage of the wealth of experience that you folks have
3 had at least over the, you know, the several months that
4 you've been in operation because, you know -- especially
5 the chairman who's been in contact with most of these
6 communities and points of contact.

7 I believe that there is even an issue on one of the
8 agendas of points of contact at the local level of people
9 that have been in contact with the commission within the
10 first week, two weeks, it being an affirmative duty of the
11 ombudsman to reach out to each one of those communities.

12 You know, and obviously there are different sides
13 within each one of the communities, and to the extent that
14 the commission can reach out to all different sides within
15 each of those communities, I think that is really what is
16 necessary.

17 But to answer your question more concretely, I would
18 like to get the names of the folks that have been in
19 contact with you, and then we should build upon that list
20 of names because, obviously, there are probably some people
21 out there that just have not taken the affirmative action
22 to contact one of you about one of their issues.

23 And I think the commission might spend some time
24 thinking about some of those other communities that would

1 be impacted. It's not necessarily -- as we heard some
2 discussion before, it's not necessarily the community that
3 is directly most impacted, the host community, but it could
4 be, you know, one or two towns over that has a really big
5 impact. And whether or not they're specifically named as a
6 surrounding community or not, there probably is some role
7 for the commission to make sure that there's outreach to
8 them so we can take into account some of these
9 considerations when we're reviewing the applications, or
10 even beforehand, to see if there's anything that any of the
11 parties can do to ameliorate some of the issues.

12 Because I really -- when I -- I'm very excited about
13 potentially taking on this opportunity. One of the main
14 reasons that I like -- I like it is because of the
15 thoughtfulness and thoroughness that you folks have
16 approached these issues.

17 And even just taking a look at your mission, it shows
18 a great deal of thought, that you're here not only to
19 promote the benefits to the Commonwealth and to the
20 communities, but you're also here to mitigate the
21 unanticipated consequences and the anticipated negative
22 consequences. And those may happen not only in the host
23 community, but in one town or two towns over.

24 So to the degree that we can be proactive in reaching

1 out to parties, I think that does go a long way, even if
2 you can't do something necessarily for them.

3 COMMISSIONER MCHUGH: Thank you.

4 CHAIRMAN CROSBY: The only thing I would ask -- and
5 answer -- add -- and you've -- clearly you're speaking this
6 way, but I think it's important to all of us that the
7 ombudsman will be the key point of contact with these two
8 important constituencies, hugely important constituencies,
9 and we want to be known as customer-service friendly.

10 You know, if you can't get an answer, you get -- if
11 you don't have the answer, you'll get the answer. You
12 never don't take the call. You know, you just -- if the
13 municipalities and the developers feel like we're really on
14 their side and being responsive as quickly, you know, as
15 possible, that would be a real benefit to everybody.

16 And you're obviously hearing that, judging by what
17 you're saying.

18 MR. ZIEMBA: Yes.

19 CHAIRMAN CROSBY: Any other questions or thoughts?
20 Do we have a motion to support my suggestion?

21 COMMISSIONER ZUNIGA: Yes.

22 CHAIRMAN CROSBY: My nomination to --

23 COMMISSIONER ZUNIGA: I move to --

24 CHAIRMAN CROSBY: So moved.

1 COMMISSIONER ZUNIGA: So moved.

2 CHAIRMAN CROSBY: Second?

3 COMMISSIONER CAMERON: Second.

4 CHAIRMAN CROSBY: All in favor of hiring Mr. John
5 Ziemba as our ombudsman, please say aye.

6 COMMISSIONER ZUNIGA: Aye.

7 COMMISSIONER CAMERON: Aye.

8 COMMISSIONER MCHUGH: Aye.

9 CHAIRMAN CROSBY: Aye.

10 COMMISSIONER STEBBINS: Aye.

11 CHAIRMAN CROSBY: Opposed?

12 Welcome aboard.

13 MR. ZIEMBA: Thank you very much.

14 CHAIRMAN CROSBY: It's great to have you here.

15 MR. ZIEMBA: I look forward to it. Thank you.

16 COMMISSIONER ZUNIGA: Thank you.

17 CHAIRMAN CROSBY: And boy, do I have a big pile for
18 you. You like grunt work? I got grunt work.

19 Okay. On the next item in my report, is actually the
20 host and surrounding community reimbursement issues, which
21 we talked about last week and we're going to tweak. And
22 Commissioner Zuniga has been working on that.

23 COMMISSIONER ZUNIGA: Yeah. We -- I went back to look
24 at the minutes and transcript of our discussion when I

1 first presented this memo relative to a procedure for
2 reimbursement.

3 I added in revision mode for your benefit language
4 that I think addresses the concerns that were raised at
5 that time.

6 If I could go over them or ask for any questions if
7 there's -- or summarize. Whatever you may feel.

8 COMMISSIONER MCHUGH: I have just a couple of things
9 that I would like to bring up.

10 On the second page in 1-E, I'm still confused. I'm
11 not sure what's meant by the phrasing there, because it
12 looks to me like -- like a community never gets more than
13 50 percent of its expenditures.

14 COMMISSIONER ZUNIGA: No.

15 COMMISSIONER MCHUGH: And so -- I know that's not
16 the plan. So I wonder if we could just tweak the language
17 in E --

18 COMMISSIONER ZUNIGA: Yup.

19 COMMISSIONER MCHUGH: -- in some fashion to make it
20 clear that the 50 percent you're talking about -- which I
21 gather is the thrust of this -- is the balance --

22 COMMISSIONER ZUNIGA: Yes.

23 COMMISSIONER MCHUGH: -- of the 50 percent, until
24 that's exhausted, then the monies get paid in that fashion.

1 COMMISSIONER ZUNIGA: Correct.

2 COMMISSIONER MCHUGH: Yeah.

3 CHAIRMAN CROSBY: Right.

4 COMMISSIONER ZUNIGA: Would it help if I articulated
5 an example or --

6 COMMISSIONER MCHUGH: No, no. I understand the
7 thrust.

8 It's really the language which --

9 COMMISSIONER ZUNIGA: Yup.

10 CHAIRMAN CROSBY: It's really that in 1-B you get
11 50 percent and 1-E you get the other 50 percent.

12 COMMISSIONER MCHUGH: You get the others.

13 COMMISSIONER ZUNIGA: No, actually. That's perhaps --
14 no.

15 CHAIRMAN CROSBY: Okay.

16 COMMISSIONER ZUNIGA: 1-A you get 50 percent of
17 everything. 1-B you submit -- let's say the agreement is
18 \$1,000. Up front you get \$500.

19 Then you submit for reimbursement to counter out \$50
20 [sic]. You will get reimbursed 50 percent of the 250,
21 which is 125.

22 In other words, we take proportionately 50 percent
23 that we put up front with every subsequent reimbursement.

24 And perhaps the confusion is that I've made those two

1 figures 50 percent. But --

2 COMMISSIONER MCHUGH: Well, that raises a subsequent
3 question, because that means that they never get fully
4 reimbursed.

5 COMMISSIONER ZUNIGA: No. They do. They do. They
6 got 50 percent of it, you know, up front.

7 COMMISSIONER MCHUGH: Right.

8 COMMISSIONER ZUNIGA: So we -- the 50 percent that we
9 put up front, we take out 50 percent at a time as they
10 submit for reimbursement.

11 COMMISSIONER MCHUGH: So let me just -- let me --
12 maybe an example is you've got \$1,000.

13 COMMISSIONER ZUNIGA: Yup.

14 COMMISSIONER MCHUGH: You give them 50 -- you give
15 them \$500 up front.

16 COMMISSIONER ZUNIGA: Yes.

17 COMMISSIONER MCHUGH: Then they submit to you an
18 invoice for -- for -- let's make it easy -- \$600. What do
19 they get at that point?

20 COMMISSIONER ZUNIGA: Three hundred.

21 So now they have 800, you see. Because they -- they
22 were given 500, and then we give them another 50 of -- of
23 the 300 that they have spent.

24 COMMISSIONER CAMERON: So then they'd have to spend

1 another 400 to get that remaining 200 to come up to a
2 thousand?

3 COMMISSIONER ZUNIGA: That's right.

4 On that scenario, on the third payment they get caught
5 up. Because they only get reimbursed for 50 percent of
6 what they submit to us that they have spent.

7 COMMISSIONER McHUGH: What -- what -- I think that's
8 fascinating. Why are we doing that?

9 COMMISSIONER ZUNIGA: The attempt is to allow -- to
10 give these communities cash flow, to front the money, but
11 to reimburse on an audit, if you will, on the basis of what
12 they present as expenditures at the same time.

13 COMMISSIONER McHUGH: Okay. What would happen -- why
14 not -- what's the advantage of doing it that way rather
15 than saying, "We'll give you 500 up front, and then when
16 you go to -- when you spend 600, we'll give you the \$100
17 difference"?

18 COMMISSIONER ZUNIGA: That sets them out of cash flow
19 for the next 400 that you -- then they don't have cash, if
20 you will. They have to put up their own cash for the
21 following 400 under your scenario.

22 Now --

23 CHAIRMAN CROSBY: Why would -- they should float the
24 vendors, not themselves.

1 COMMISSIONER ZUNIGA: Well, then -- yeah. Sure. We
2 could -- we could take that position.

3 I guess the idea is to try to reach a compromise
4 between to main factors, is to provide cash flow, but also
5 to reimburse an audit, if you will, on a progress basis.

6 Now, communities may choose to do only one. Just
7 reimburse us once we spent everything. That may be easier.
8 This process allows that.

9 Or twice. Communities may want to come for the
10 up-front 500 and at the end for the remaining 500. With a
11 bill of 1,000 that this process envisions, they would be
12 reimbursed for 50 percent at that time.

13 Or any number of progress payments in between. And
14 that's -- the idea is to try to allow for that under this
15 process.

16 CHAIRMAN CROSBY: Well, as long as they can do this --
17 as long as this would include 50 percent up front, and then
18 I'll come get the other 50 percent when I'm done --

19 COMMISSIONER ZUNIGA: Yup.

20 CHAIRMAN CROSBY: -- that would --

21 COMMISSIONER ZUNIGA: That would suffice here.

22 CHAIRMAN CROSBY: Right.

23 COMMISSIONER ZUNIGA: In my example they say, "I have
24 a budget agreement of 1,000." They get 500.

1 And when they're done spending their thousand, they
2 submit the bill of 1,000, they get the other 500 --

3 CHAIRMAN CROSBY: Right.

4 COMMISSIONER ZUNIGA: -- because we reimburse
5 50 percent.

6 COMMISSIONER MCHUGH: Well -- okay. So let me just --
7 let me just make sure that I'm -- suppose it --

8 COMMISSIONER ZUNIGA: I did not mean to complicate
9 this, by the way, but --

10 COMMISSIONER MCHUGH: Well -- yeah. That may be the
11 first role of our ombudsman.

12 Suppose -- suppose a community asks for -- maybe I'm
13 answering my own question. Suppose a community asks for
14 \$50,000. We give them 25.

15 CHAIRMAN CROSBY: The approved amount up front was 50.

16 COMMISSIONER ZUNIGA: Right. They haven't spent
17 anything yet.

18 COMMISSIONER MCHUGH: They haven't spent anything yet.

19 We give them -- we give them 25. Now they go spend 50
20 and they come back and say, "We've spent 50. Give me my
21 other 25."

22 COMMISSIONER ZUNIGA: That's it.

23 CHAIRMAN CROSBY: No problem.

24 COMMISSIONER ZUNIGA: No problem.

1 COMMISSIONER McHUGH: And they get it.

2 COMMISSIONER ZUNIGA: They get it.

3 They submit the bills for 50. I've also included that
4 those could be the --

5 COMMISSIONER McHUGH: I see. I see. I see.

6 COMMISSIONER ZUNIGA: -- you know, we audit them. We
7 say, "Yup, this is all what the letter of authorization
8 intended." There's your 25.

9 COMMISSIONER McHUGH: I see.

10 COMMISSIONER CAMERON: Is this a common method of
11 reimbursing?

12 COMMISSIONER ZUNIGA: Well, there's -- the
13 construction industry has this retainage idea, which is
14 where this is all coming from.

15 It's usually a 10 or 5 percent in which they -- they
16 issue some initial cash so that there's working. And then
17 they start deducting proportionately until the end.

18 CHAIRMAN CROSBY: Basically what this does is, it --
19 they come -- and that's the easy way that we would -- we
20 were anticipating. Get your half up front, get the other
21 half when you're done. It can happen any time.

22 But if somebody does -- if some small town has a cash-
23 flow issue, Commissioner Zuniga has created a mechanism
24 where they could always keep ahead on the cash flow.

1 COMMISSIONER CAMERON: Mm-hm.

2 CHAIRMAN CROSBY: Which -- so there's no harm. You
3 know, we don't know anybody would use it, but --

4 COMMISSIONER McHUGH: I see.

5 CHAIRMAN CROSBY: -- as long as it's --

6 COMMISSIONER McHUGH: You're always -- you're always
7 fronting them a little bit.

8 CHAIRMAN CROSBY: You're always fronting them a little
9 bit.

10 COMMISSIONER CAMERON: Mm-hm.

11 COMMISSIONER McHUGH: I see.

12 CHAIRMAN CROSBY: So it is a small town that really
13 has cash issues.

14 COMMISSIONER McHUGH: All right.

15 CHAIRMAN CROSBY: Yeah. So --

16 COMMISSIONER McHUGH: That's fascinating.

17 COMMISSIONER ZUNIGA: But we're not always fronting
18 out all of it.

19 COMMISSIONER McHUGH: No, no. We're fronting --

20 COMMISSIONER ZUNIGA: We're just -- that's what we
21 wanted to give. Right.

22 CHAIRMAN CROSBY: But I -- you know, I think -- still,
23 I think Commissioner McHugh's point that this has got to be
24 drafted in a way that it could -- I didn't understand,

1 either, what was being said. I think I do now.

2 COMMISSIONER ZUNIGA: Yeah. I will -- I'll work on
3 that.

4 CHAIRMAN CROSBY: Was that -- Commissioner, was that
5 it for you?

6 COMMISSIONER McHUGH: I had another one that's of
7 minor substance, and I'll suggest that Commissioner Zuniga
8 just off line.

9 But the only other one that I had was, it seems to me
10 that we ought to put here in the last paragraph the fact
11 that if the agreements exceed the \$50,000, that the host or
12 surrounding community -- that the commission needs to be
13 notified.

14 But also that the applicant needs to signify that
15 he -- that it understands that the money over the \$50,000
16 is coming out of its pocket, not out of the \$400,000.

17 COMMISSIONER ZUNIGA: Yup. Yup.

18 COMMISSIONER McHUGH: As a reminder, that's what the
19 regulations provide.

20 COMMISSIONER ZUNIGA: Yes.

21 COMMISSIONER McHUGH: And it seems to me important
22 that that be brought to their attention so there's no
23 mistake about where that excess of the \$50,000 is coming.

24 COMMISSIONER ZUNIGA: Yup. I'll -- I'll make that --

1 I had initially just represented that subject to the
2 commission having had those monies, we will reimburse
3 them.

4 But it's a good distinction, and I'll make that clear.

5 CHAIRMAN CROSBY: I think maybe just informally
6 authorize Commissioner Zuniga to go ahead and finish this.

7 COMMISSIONER McHUGH: Yes.

8 CHAIRMAN CROSBY: Maybe Commissioner McHugh --

9 COMMISSIONER McHUGH: There's only one more minor
10 thing.

11 CHAIRMAN CROSBY: -- read it. You know, take a look
12 at it. And between the two of you, just go ahead and
13 finish it and give it to Ombudsman Ziemba.

14 COMMISSIONER McHUGH: Okay.

15 COMMISSIONER ZUNIGA: He can explain it, too.

16 CHAIRMAN CROSBY: I have one other quick thing, and
17 then I -- we're running a lot longer than I had thought we
18 were going to run today. So I'm going to need to take
19 another brief adjournment.

20 But just on this issue, this goes without saying.
21 Everybody's heard about the Bureau of Indian Affairs'
22 decision. They did not approve. They disapproved the
23 compact that the governor and the legislature had
24 negotiated and approved on a timely basis.

1 The -- we have double checked and it is very clear
2 that now the compact goes back to the governor and the
3 tribe to renegotiate, which they will, we're told,
4 undertake ASAP.

5 It will have to be approved by the legislature again.

6 And for the time being, our position is to continue to
7 just sit and wait until this works itself out.

8 We will -- we will have to think about how, if at all,
9 this bears on our ultimate mandate, which is to make a
10 decision about whether the land and trust is going to
11 happen.

12 But at the moment I think we just sit tight while the
13 compact goes back to the governor and the tribe to
14 negotiate.

15 And I think Commissioner McHugh circulated the letter
16 from the Indian --

17 COMMISSIONER MCHUGH: I did that. Yeah.

18 CHAIRMAN CROSBY: -- from the BIA.

19 COMMISSIONER MCHUGH: And I'm sure that you sat down
20 and read it, it was just before the meeting.

21 CHAIRMAN CROSBY: Right. Right.

22 We have a Mass. Performing Arts folks. Okay? Why
23 don't you make yourselves at home while I take one quick
24 break.

1 And then we've got a couple of other things, as well.

2 (Hearing suspended.)

3 (3:44 p.m.)

4 (Hearing reconvened.)

5 (3:48 p.m.)

6 CHAIRMAN CROSBY: Commissioner Stebbins, do you want
7 to do a quick introduction or just -- no.

8 How about introducing yourselves?

9 MR. SIEBELS: Certainly. My name is Troy Siebels.
10 I am the executive director of the Hanover Theater in
11 Worcester and I serve as the chair of the Mass. Performing
12 Arts Center Coalition.

13 MS. D'AGOSTINO: Tina D'Agostino. I'm with CityStage
14 and Symphony Hall in Springfield.

15 MR. LONGO: Vincent Longo, chief operating officer for
16 South Shore Playhouse Associates, Inc., doing business as
17 the Cape Cod Melody Tent and the South Shore Music Circus.

18 CHAIRMAN CROSBY: Great.

19 MR. SIEBELS: Thank you for taking the time to see us
20 today.

21 CHAIRMAN CROSBY: Certainly.

22 MR. SIEBELS: We're grateful for this opportunity.

23 We met with you, Chairman Crosby and Commissioner
24 Zuniga, back in the spring with Anita Walker of the Mass.

1 Cultural Council --

2 CHAIRMAN CROSBY: Right.

3 MR. SIEBELS: -- and had the opportunity to describe
4 our situation a little bit to you and are grateful for the
5 opportunity to speak to the rest of the commission.

6 As your new ombudsman said a few minutes ago, that a
7 wonderfully positive thing about the commission's job is
8 that you, in addition to provide the best value for the
9 state, also lessen any negative repercussion.

10 Our legislators saw some -- some potential negative
11 repercussion to us and they made some provisions in the
12 bill to help mitigate that.

13 And we find now, as we're in discussion and as times
14 move forward, that there are some issues of interpretation
15 in which we seek the support of the commission. And in
16 order to facilitate that, we would like to give you a brief
17 background on our situation.

18 The -- we face a unique and specific threat that --
19 it's not very intuitive. It took us many meetings to
20 convey this to our legislators, in fact. There's a lot of
21 uproar about, oh, if a casino comes in, they're going to
22 hurt the restaurant; they're going to hurt the local
23 business, whatever it might be.

24 Our issue is not that. Our issue is not that. Our

1 issue is a supply-side issue. It is very common, in fact,
2 common practice in the touring entertainment industry for a
3 casino to book touring entertainers and pay a premium of
4 50 percent or more above what a non-casino theater might
5 pay and then make that performer -- ask that performer to
6 sign in the contract a radius clause that says they won't
7 play anywhere else within a hundred-mile radius for a year
8 or more on either side. And those numbers are flexible.
9 It could be a 50-mile, 75-mile, 100-mile radius.

10 We all see significant negative impact on our
11 operations from Foxwoods and Mohegan Sun in Connecticut and
12 believe that were that impact to be multiplied many-fold
13 here in Massachusetts, that we think it would be nothing
14 short of fatal for our institutions.

15 And we are, as are those that are not represented at
16 the table here, integral to our downtowns, to the gateway
17 cities and other vibrant places in the Commonwealth.

18 We -- it really is the agents that manage the
19 performers, have a casino price. You know, if you're going
20 to book Jackson Brown, you pay one price for Jackson Brown
21 if you're a performing arts center, another if you're an
22 outdoor festival in the summer, and another if you're a
23 casino.

24 And I think that that has a long history in our

1 industry. Perhaps it's because of a perception that the
2 casino can pay more because they have a different
3 motivation to bring people through the door. Perhaps it
4 is because it makes up for the fact that that casino is
5 going to make impossible plays by that same performer in
6 other markets. So if somebody goes to -- if Jerry Seinfeld
7 plays Foxwoods, they pay more for him because he's not
8 going to play in Boston or Providence or Springfield or
9 Worcester.

10 We -- the legislature acknowledged this issue and they
11 incorporated several things into the legislation to protect
12 our existing venues. And again, there's four venues
13 represented here in front of you, but there are others that
14 are not represented here in Lowell, in Lynn, in New
15 Bedford, and other places.

16 First, they mandated that casinos not build
17 entertainment venues between 1,000 and 3,500 seats as that
18 is the size range that we would typically expect to be most
19 heavily impacted. Once you get lower than that, there tend
20 to be radius clauses much less frequent, as it's possible
21 for a performer to play a lot of spaces because they're
22 playing to, say, 500 people. If you've got a dense enough
23 population, you can play multiple spaces.

24 Once you get over 3,500 seats, you're really in almost

1 in the arena area and you're at a level of performer that
2 doesn't typically play our venues, anyway.

3 Second, they --

4 CHAIRMAN CROSBY: So they can only -- they can only
5 have a thousand to 3,500 seats?

6 MR. SIEBELS: Actually, it's the other way around.
7 They could have up to a thousand.

8 CHAIRMAN CROSBY: Up to a thousand or -- okay, yeah.
9 Right.

10 MR. SIEBELS: Right.

11 CHAIRMAN CROSBY: Got it.

12 MR. SIEBELS: Secondly, the legislation states that
13 casino license applicants submit with their application to
14 the commission a signed letter of agreement with a
15 performing arts center showing terms that will -- both
16 our parties will agree to to allow us to peacefully
17 coexist.

18 This is immensely powerful in one sense. It gives us
19 the opportunity to sit down with them and work out a
20 win/win situation. It is -- we rely on the commission a
21 little bit to ensure that those letters have any teeth or
22 enforceability to them. But regardless, we're grateful for
23 the opportunity --

24 CHAIRMAN CROSBY: You negotiate the letter. Right?

1 MR. SIEBELS: We do.

2 CHAIRMAN CROSBY: So you can negotiate the teeth and
3 the enforceability.

4 MR. SIEBELS: Interesting. Yes. Thank you.

5 And third, the legislation takes a percentage of
6 gaming tax revenues and steers it to the Mass. Cultural
7 Council to which we can apply through a grant process to
8 reimburse ourselves if we do find a negative impact.

9 I bring that up to offer full -- to give you a full
10 picture of what the mitigation is in the bill.

11 We are not big fans, frankly, of the money piece of it
12 because it may keep us in a job, but it doesn't keep the
13 performers on our stage, which keeps the people coming
14 through our door, which keep the downtowns vibrant, so
15 we're grateful for these protections in the bill.

16 As we are talking with potential licensees, there are
17 several issues that have come up or that we see on the
18 horizon in which we really need your support.

19 I mentioned that the casinos sign a letter of
20 agreement with performing arts centers. What it actually
21 says is they are required to submit with their application
22 a signed letter of agreement with impacted live
23 entertainment venues. And that term is defined in the
24 legislation as venues which are designated by the

1 commission as impacted by a specific applicant.

2 So a casino in Suffolk Downs might -- it might be easy
3 to expect that a venue in Lynn would be impacted, but the
4 reality is that we're all within a hundred miles of every
5 single potential licensee and we are all impacted in this
6 supply side issue.

7 There is the -- we never get to explore whether there
8 is a public impact, whether we can attract people to come
9 to the theater, see the show, instead of going to the
10 casino. We don't even get to explore that because if you
11 want to see the show, you've got to go to the casino
12 because it doesn't make it to the theater.

13 So whereas it is -- it's not necessarily intuitive
14 that we would all be impacted.

15 Now, at least three of the casino applicants have
16 expressed a willingness and have already begun
17 discussions with us as a group acknowledging that we are
18 all impacted.

19 It's difficult, though, to have that not be an
20 unfair disadvantage to them if it's not a level playing
21 field.

22 So we would hope that the commission would recognize
23 as impacted all of the venues that are within that range,
24 that -- the range that's blacked out in the bill, 1,000 to

1 3,500 seats, and presenting touring entertainment.

2 So by that I distinguish the venues that create
3 their own entertainment. It's not really relevant
4 because that's not what the casinos do. It's really those
5 who do exactly what the casinos try to do. The -- so
6 that's number one.

7 Number two, the legislation prohibits -- I think the
8 single biggest protection that the legislature gave us in
9 the bill was that blackout range, the thousand to 3,500
10 seats. A new casino is prohibited from building a venue
11 within that range, but the legislation doesn't say anything
12 about using an existing venue.

13 Clearly, the intent of it is to prevent the practice
14 of booking entertainment in such a way that it prevents any
15 of the other theaters in the Commonwealth from booking the
16 same entertainment.

17 I should back up a step to say that we share
18 entertainers all the time. Somebody will play Springfield
19 and then play Worcester and then play Lowell. And we are
20 in competition with one another --

21 MR. LONGO: In our own right.

22 MR. SIEBELS: -- in some sense.

23 MR. LONGO: Yeah.

24 MR. SIEBELS: If there's a performer that -- to whom

1 we need to draw 2,500 people at \$200 a ticket, a really
2 top-level performer, then we'll say, "Gee, they really
3 can't play another venue in the Commonwealth."

4 But generally speaking, we do not block one another.
5 And it's almost a given in the casino world that you are,
6 that they will block anything within that radius.

7 So the --

8 CHAIRMAN CROSBY: What would the time frame be on that
9 blockage?

10 MR. SIEBELS: It's -- they have the opportunity to
11 write -- there is no standard. Sometimes it's three months
12 either side of the date, six months either side of the
13 date.

14 But generally, especially the music and comedy
15 performers, there's a three, four-week window when they're
16 in the northeast part of the United States. So once
17 you're outside of that, it doesn't really matter. They've
18 gone on to the South Shore or the West Coast and they'll be
19 back next year, but you've lost the opportunity to bring
20 that person in.

21 So you know, the first -- our first impact -- our
22 first instinct was to say, "Well, it was the intent of the
23 bill that they not do this kind of entertainment, so we
24 should ask that they not use existing venues, as well."

1 However, at least some of the applicants in
2 Springfield have indicated a willingness or a desire to use
3 existing venues, including Symphony Hall in Springfield.
4 And clearly that's a benefit. That's a benefit certainly
5 to one of us and to the City of Springfield and to the
6 state.

7 So we are wrestling with an idea, what can we ask of
8 the commission that will help not be such a blunt
9 instrument as to say you can't do performances in a venue
10 but will allow them to partner with one of our theaters
11 without putting the others out of business.

12 And maybe the solution is in those letters of
13 agreement. If we are recognized as impacted, then when the
14 casino sits down with all of us, we can craft an agreement
15 that says, "You can partner with any one of the theaters;
16 you just can't -- you need to offer the acts -- the
17 performer needs to go in through the nonprofit or the
18 municipal venue," so that the casino booking practices
19 don't take effect. That's something that we can work out
20 on our own end.

21 But I think that the -- where you can help us,
22 I think, is preventing a casino from either -- well, the
23 legislation prevents them from building a venue in that
24 thousand- to 3,500-seat range.

1 You can help us by preventing them from doing
2 performances in an existing space unless it's in
3 partnership with somebody who can do -- who can ensure that
4 it's going to be compatible with the rest of the state,
5 with the rest of us. I think that'll put us out of
6 business.

7 CHAIRMAN CROSBY: Who would be another -- what would
8 be -- what's an example of another venue that wouldn't be
9 such a party? You'd go to a church or -- where would
10 you --

11 MR. SIEBELS: I don't have a good example of that.
12 Maybe there -- and maybe therefore, maybe there isn't one.

13 CHAIRMAN CROSBY: Almost ipso facto, they would be
14 your -- they would be almost by definition your membership,
15 wouldn't they?

16 MR. SIEBELS: Well, let me -- the next thing I was
17 going to bring up is that the legislation doesn't say
18 anything about outdoor spaces. And at least one of the
19 casinos has an outdoor space that they believe accommodates
20 between 1,500 and 2,000 people in which they'd like to do a
21 concert series. That's very close to what the South Shore
22 and Cape Cod theaters do.

23 MR. LONGO: That would actually -- that would be in
24 the summer and they would actually put us out of business.

1 CHAIRMAN CROSBY: So they're -- one of the casino
2 operators is proposing to build a 1,500 to 2,000? Is that
3 what you said?

4 MR. SIEBELS: Well, I don't think they would use the
5 word "build" --

6 MR. LONGO: They won't.

7 MR. SIEBELS: -- because the legislation says they
8 can't do that. They have an existing lawn on which they'd
9 like to offer performances.

10 CHAIRMAN CROSBY: Okay.

11 MR. SIEBELS: So I think that an interpretation
12 through the RFA and evaluation process that supports what
13 we feel is clearly the intent of the legislation, which is
14 that it not put existing spaces out of business, would
15 benefit us.

16 So to answer your former question, an existing
17 space that wasn't one of our members could be an outdoor
18 lawn.

19 It could also be a memorial auditorium that sits --
20 I think in Framingham there's a 1,500-seat space, for
21 instance. Not that there's an applicant in Framingham.

22 I'm only suggesting -- I don't -- we don't know what
23 all the spaces are around the Commonwealth that can
24 accommodate between a thousand and 3,500 people.

1 But for a casino to co-opt an existing building that
2 can support that size audience and offer performances in it
3 impacts us equally to them building a new venue.

4 MR. LONGO: Because of the talent. Because of what we
5 can't book.

6 COMMISSIONER MCHUGH: But would they -- would they do
7 that in an effort to preempt you or would they do that
8 to -- well, why would -- why would a casino in Springfield
9 or Boston or New Bedford go to a place in Framingham that
10 held a thousand or 1,500 people?

11 MR. SIEBELS: They wouldn't. They wouldn't. They
12 would use a nearby space.

13 And it may be in some of these cases -- in Palmer, in
14 Taunton -- I mean there may be -- well, there may be
15 instances where it's not relevant. I don't know of a
16 2,000-seat theater in Palmer, and if it's offsite it
17 probably doesn't do them any good, so why would they be
18 interested.

19 But we don't -- we don't know is the answer to that.

20 COMMISSIONER MCHUGH: All right. Okay.

21 MR. SIEBELS: And it's our -- it's our bread and
22 butter.

23 COMMISSIONER MCHUGH: Right.

24 MR. SIEBELS: We feel very passionately about it.

1 COMMISSIONER McHUGH: Right.

2 CHAIRMAN CROSBY: It's a little -- I mean, you -- that
3 is a little bit trickier because, you know, there is also
4 somebody who benefits from that. Somebody owns that venue,
5 you know, who's trying to make a living or -- so you know,
6 so that's a little bit trickier issue and we'll just have
7 to think about how you write --

8 MR. SIEBELS: Well, and part of it, I think, is the
9 first thing we brought up, the impacted issue. If we are
10 able to sit down and work out a letter of agreement with
11 each of the casinos that ultimately is awarded a license,
12 maybe we can try to address it through that.

13 COMMISSIONER McHUGH: If you -- if somehow the radius
14 clauses were knocked out, if the world were reinvented and
15 you knocked out radius clauses, then all your problems
16 would disappear. Right?

17 MR. SIEBELS: Actually, true. This is the first thing
18 our legislators said to us.

19 The difficulty there is it's very unenforceable
20 because it's very easy for the casino talent booker to
21 call the agent and say, "Hey, I was thinking of bringing
22 Diana Ross through the Northeast. I got an offer in
23 Boston I was thinking about doing, but do you have a date
24 open at the casino? Because if you do that, maybe I'll do

1 that instead. What do you think," wink, wink. I mean,
2 it's very --

3 MR. LONGO: They get paid more at the casino, as well,
4 sometimes double, because the casino's primary business is
5 not entertaining -- it's not entertainment; it's getting
6 people to the venue.

7 CHAIRMAN CROSBY: They would -- they would essentially
8 fraudulently conspire to not let the guy -- not let Donna
9 Summer come back again?

10 MR. SIEBELS: Yes.

11 COMMISSIONER CAMERON: It wouldn't in writing, but
12 they'd have an agreement?

13 MR. LONGO: Yes.

14 MR. SIEBELS: Right.

15 COMMISSIONER MCHUGH: Well, suppose you --

16 MR. LONGO: Welcome to the music world.

17 COMMISSIONER MCHUGH: Well, no, no.

18 But suppose you -- all right. Suppose you -- I mean,
19 hypothetically, suppose you could find an enforceable way
20 to do away with the radius clause. Then you would -- then
21 you'd be happy. Right?

22 MS. D'AGOSTINO: Well, I think if it becomes part of
23 an agreement where we could work with each other in the
24 spirit of the law as, you know, almost being partners,

1 because for years we've used the example of the Connecticut
2 casinos blocking both of our spaces in Worcester out of
3 booking somebody like a Jerry Seinfeld. I mean, it's an
4 example that we've said again and again and again.

5 You know, it was a very successful show for us. We
6 tried many times to get that particular artist back in the
7 building, but we were blocked out by the radius clauses --

8 COMMISSIONER MCHUGH: Right.

9 MS. D'AGOSTINO: -- imposed by the Connecticut
10 casinos.

11 COMMISSIONER MCHUGH: Right. Right.

12 MS. D'AGOSTINO: Recently, we've been able to
13 block-book Ron White through Lowell, Worcester, and
14 Springfield. It's a huge act. It's something that's
15 going to do really well. We went on pre-sale with it
16 yesterday. We were selling tons of tickets. It's a
17 really good thing for Springfield.

18 I never would have --

19 CHAIRMAN CROSBY: Who's Ron White?

20 MS. D'AGOSTINO: He's a blue-collar comedian.

21 CHAIRMAN CROSBY: He's a what?

22 MS. D'AGOSTINO: He is a blue-collar comedian.

23 CHAIRMAN CROSBY: Oh.

24 COMMISSIONER ZUNIGA: We might not be the target

1 audience.

2 MS. D'AGOSTINO: We wouldn't have been able to book
3 that in Springfield if it weren't for what I would call
4 friends and partners in other parts of the state, because
5 they let me know that they were making offers. And because
6 of their ability to book it, it was easily routed through
7 Springfield.

8 And we all worked with each other on those radius
9 clauses so that it would benefit each of us.

10 CHAIRMAN CROSBY: Mm-hm.

11 MS. D'AGOSTINO: So that's a positive -- a way that we
12 can positively work with each other.

13 CHAIRMAN CROSBY: Right.

14 COMMISSIONER MCHUGH: Oh, so you have radius clauses?

15 MS. D'AGOSTINO: Right. But they would -- they
16 include the other -- you know, they're --

17 CHAIRMAN CROSBY: I understand. Excluded.

18 MS. D'AGOSTINO: -- not as restrictive so that they're
19 including other venues.

20 CHAIRMAN CROSBY: So that doing away with radius
21 clauses would -- I mean, we have no power to just
22 eviscerate -- I mean, wipe radius clauses off the face of
23 the earth. But --

24 MR. SIEBELS: It is tricky.

1 COMMISSIONER McHUGH: But you use it, as well. Okay.

2 MR. SIEBELS: Well, yeah. Speaking for myself and
3 Worcester, we use it -- we used it once in the last year.

4 So it's not as common for some of us, but --

5 COMMISSIONER McHUGH: What's the order of magnitude in
6 your experience that the casino can or will outpay you?

7 MR. SIEBELS: We had one agent tell us that typically
8 they look at least 50 to 70 percent greater than the fee
9 that a --

10 COMMISSIONER McHUGH: Okay.

11 MR. SIEBELS: -- nonprofit would pay or a commercial
12 payment.

13 COMMISSIONER McHUGH: Okay. And what is -- is there
14 a -- you mentioned earlier that there's a difference
15 between the music theater rate and the performing arts
16 center rate and the casino rate. Is there -- help me with
17 that a little bit.

18 MS. D'AGOSTINO: Go ahead.

19 MR. SIEBELS: Actually, I think we're sort of all on a
20 par. We're all performing arts centers.

21 MS. D'AGOSTINO: We're very close.

22 COMMISSIONER McHUGH: Okay.

23 MR. SIEBELS: Yeah. It's really -- the other rate I
24 mentioned is the outdoor festival. Sometimes you'll have

1 performers that'll do the Bank of America Pavilion or --
2 what is it out in the west part of the state --

3 MR. LONGO: The Comcast Center?

4 MR. SIEBELS: Yeah. And they'll play --

5 COMMISSIONER MCHUGH: The Big E has a place, too.
6 Right?

7 MR. SIEBELS: Yeah.

8 COMMISSIONER MCHUGH: Yeah.

9 MR. LONGO: Can I just say something?
10 To expand on Tina's comment --

11 CHAIRMAN CROSBY: Mm-hm.

12 MR. LONGO: -- I also have two Ron White dates. So in
13 this -- not in the same time of the year, but I got those
14 two.

15 If there was a casino, there would have been one date
16 and they would have made 70 percent more than what the
17 going rate was, but there only would have been one date for
18 one year.

19 So we operate, you know, as nonprofit and municipal
20 facilities. We actually -- our actual facilities operate
21 as a nonprofit when we give our money back to the
22 communities in education in the arts for the last 61 years.

23 So us going out of business would hurt a lot of other
24 people -- other 501(c)(3)s.

1 So there's a lot of components in this. And most of
2 it's difficult because it has to do with the music world
3 and the music business, and it's very hard to change that.
4 That means it's supply side. That means if we don't get
5 the acts, we can't continue.

6 COMMISSIONER ZUNIGA: So what would be an example --
7 or how -- what's the mechanism to detect an implicit or
8 understanding of a radius clause?

9 In what appears to be -- it sounds like what you're
10 describing, Jerry Seinfeld may make a decision because he
11 only wants to play, you know, however many times in the
12 Northeast. "Agent, go find me the best venues," and that's
13 that. That could mean one or two places in Massachusetts,
14 casino or not.

15 So what -- in that scenario, what's -- how do you
16 detect that there has been or has not been a radius
17 clause?

18 MR. SIEBELS: You mean currently how do we detect it?

19 COMMISSIONER ZUNIGA: Yeah. Yeah. How would you say,
20 you know --

21 MR. SIEBELS: They will be told: "Now they're playing
22 Foxwoods. Sorry. You can't" -- yeah.

23 COMMISSIONER ZUNIGA: And that's a given?

24 MR. SIEBELS: Yeah. It's shorthand.

1 CHAIRMAN CROSBY: It's no secret at this point.

2 MR. SIEBELS: No, no. But --

3 CHAIRMAN CROSBY: It's not illegal or anything.

4 MR. SIEBELS: Right.

5 COMMISSIONER MCHUGH: Well, has anybody ever explored
6 using the antitrust laws?

7 MR. SIEBELS: I don't know that.

8 COMMISSIONER MCHUGH: I mean, it sounds to me --

9 MR. LONGO: I do have some experience with that, and
10 it has been explored, specifically right here in Boston,
11 and the outcome was it didn't have any merit.

12 MR. SIEBELS: In part -- I'm sorry. In part, I think,
13 because it is very gray. We don't have any way of knowing
14 for certain whether the performer said, "I only want to
15 play one place in New England, only one," or, "I don't want
16 to play Massachusetts, I want to play somewhere in
17 Connecticut," or -- we don't know for sure. I don't know
18 that there's a way --

19 MR. LONGO: And they're all different. Just -- almost
20 every one is different.

21 COMMISSIONER CAMERON: Are you aware of any venues,
22 any casino venues that have partnered with community
23 theaters? Is there somewhere that it's working well?

24 MR. SIEBELS: We did a lot of research on that, and

1 there are instances where they tried to create a symbiosis
2 early on, and that has dissolved in nearly every case that
3 we found.

4 There are lots of instances where casinos do not
5 depend on performing arts to draw people. We are, you
6 know, quite near Foxwoods and Mohegan Sun, which are two
7 examples that very much use the performance to help draw
8 people to the building. That's not true everywhere.

9 And quite frankly, some of the applicants for licenses
10 in the Commonwealth have indicated that they don't intend
11 to use performances in the same way.

12 So there are applicants that would impact us very
13 little, if at all, and there are applicants that by their
14 current vocalized plans would impact us drastically.

15 So it's not that -- it's not a -- there's no solid
16 rule. Our hope is to be able to mitigate the damage from
17 one of those more predatory applicants in the eventuality
18 that they become the licensee.

19 COMMISSIONER McHUGH: If we go back to the chairman's
20 initial thought and we just back you up -- the commission
21 back you up in what the statute says is the requirement
22 that the developer come to the application process with a
23 negotiated live -- impacted live entertainment agreement,
24 venue agreement, and left you to your own devices, would

1 that be enough?

2 In other words, turn you loose to -- I mean, you
3 can't -- within reason.

4 MR. LONGO: It hasn't been done, but we'll try.

5 I mean --

6 MR. SIEBELS: Yeah.

7 CHAIRMAN CROSBY: Well, it's the same thing that we
8 say to -- the host and surrounding communities will
9 frequently say to us, "You've got to do such and such," and
10 we'll say, "Don't forget, you can do such and such. You
11 know, it's not -- you're the court of first resort, and,
12 you know, obviously, you should use that to the maximum
13 extent possible," you know. So --

14 MR. SIEBELS: That -- that -- I'm sorry.

15 COMMISSIONER ZUNIGA: No. But I do agree that, you
16 know, the hammer lies with the commission. And you know,
17 we should really look at the enforceability of the
18 question, because I don't think it has an easy answer.

19 Even if they were -- they had an MOU, if you will,
20 there's any number of things that can happen after that MOU
21 relative to operations, relative to what they may suspect
22 is an implicit or not radius clause, etc.

23 So you know, there needs to be some kind of
24 arbitration mechanism, for lack of a better word, in such

1 an MOU. And perhaps that's part of your initial point.

2 What kind of teeth could there be --

3 CHAIRMAN CROSBY: Well, you can negotiate the teeth,
4 and -- you know, and I think -- you know, everybody talks
5 to us about -- in this to make sure that we have
6 enforceable agreements and that the commission is teed up
7 to have this structure in place so that the surrounding
8 communities get the mitigation activities. You know, so
9 that's clear. That is something we will need to do.

10 But -- and we'll play a role you're asking us to play.
11 We will listen to you and we will listen to the bidders,
12 and we will -- you know, we will play a role when it gets
13 to us.

14 But when it gets to us, we're going to have a lot of
15 things on our plate, and this is going to be the only
16 thing that you guys care about. And it makes all the
17 sense in the world to collectively and aggressively
18 strategize in your negotiations now, and if -- and then
19 we'll talk about how to back you up and make sure that --
20 but you're going to be in a much better position to
21 negotiate this than we are, you know, when we're in the
22 throes of negotiating everything.

23 So that's just to say you're the court of first resort
24 and you should absolutely take that to the -- use that to

1 the maximum extent possible. Don't rely on us --

2 MR. SIEBELS: Okay.

3 CHAIRMAN CROSBY: -- just as a passive strategy.

4 MR. SIEBELS: The threshold piece that makes that
5 possible is being designated as impacted by the commission.

6 So there's a list of our theaters on the front page of
7 the document you're looking at. If -- I guess that would
8 be our ask. If you could ask -- if you could designate our
9 theaters as impacted.

10 CHAIRMAN CROSBY: This is an interesting point. In
11 the case of surrounding communities we -- can we determine
12 ex post facto?

13 COMMISSIONER ZUNIGA: Yup.

14 CHAIRMAN CROSBY: Do we do it pre -- before the fact
15 in this case?

16 COMMISSIONER MCHUGH: It works the same way as the
17 surrounding communities.

18 CHAIRMAN CROSBY: Surrounding communities. So you
19 would do it up front. Right.

20 COMMISSIONER MCHUGH: But you can go to the developers
21 and say -- and you're going to know soon, or have a clue.
22 You know who one is over here at the moment, at least.
23 Somebody else may apply, but by the end of the -- by
24 January 15th, which is the deadline for the first phase,

1 you're going to know who the potential players are, and you
2 certainly have the right to go to them and say, "We want to
3 be designated as live entertainment -- impacted
4 entertainment venues."

5 MR. LONGO: Mm-hm.

6 COMMISSIONER MCHUGH: And if they agree that you are,
7 then you are. We -- the commission has to accept that
8 agreement.

9 And then you can work out an agreement with them. If
10 not, then you can come back to the commission and seek the
11 commission's designation of you as live entertainment
12 venues.

13 But the agreement, once you -- once you get that
14 designation, either by agreement or by us, your agreement
15 with them can include the dispute resolution mechanisms,
16 the arbitration. It could include whatever enforcement
17 mechanisms, affidavits that you don't have a radius clause.

18 CHAIRMAN CROSBY: A payment of legal fees.

19 COMMISSIONER MCHUGH: There are all kinds of things
20 that you could conceivably do. I can't give you advice as
21 to that.

22 But you really could create an agreement that has
23 teeth in it and then bring it to the commission for
24 approval. So --

1 MR. SIEBELS: Okay. The -- I can foresee instances
2 where we would approach developers with a letter of
3 agreement or a proposal for terms for a letter of agreement
4 that they are not necessarily motivated to even take a
5 meeting, much less negotiate with us, take the time to
6 negotiate with us.

7 CHAIRMAN CROSBY: But don't they have to bring --
8 didn't you say they have to bring an agreement with you to
9 be part of our application?

10 MR. SIEBELS: They have to sign an -- they have to
11 provide with their application to you a signed letter of
12 agreement with impacted live entertainment venues.

13 CHAIRMAN CROSBY: Right.

14 MR. SIEBELS: But that is a term that's -- impact is
15 determined by the commission.

16 COMMISSIONER MCHUGH: But I guess what I'm saying --
17 that's right. It's determined by the commission if they
18 don't agree. And you know, they may not agree. But I
19 wouldn't write off at the outset the ability to get an
20 agreement.

21 It seems to me -- I'm not a businessperson, but it
22 seems to me if I were a businessperson in their position,
23 the fewer, kind of, contested issues I'm going to bring to
24 the licensing process, the better my chances are both in a

1 PR sense and in a "let's slide through and get my license
2 as quickly as I can" sense.

3 So there's both an economic and a PR -- I mean, in the
4 end they're both the same -- reason to deal with you
5 seriously. It may not work, but I wouldn't write it off at
6 the beginning --

7 CHAIRMAN CROSBY: Absolutely.

8 COMMISSIONER MCHUGH: -- and say it's not going to
9 work.

10 CHAIRMAN CROSBY: Absolutely.

11 COMMISSIONER MCHUGH: And the commission's there if it
12 doesn't.

13 CHAIRMAN CROSBY: And there's strength in numbers.
14 You know, you don't -- you should be talking to your
15 membership and say, "No one-offs here. We've all got to be
16 in this together."

17 Because if they can come to you -- if a casino can
18 come to you and pick off two or three and say, "Okay,
19 you're impacted, but you guys aren't," then they get
20 agreements signed with those that are impacted -- that
21 they say are impacted, you now, then it leaves us to try
22 to --

23 MR. SIEBELS: We've actually -- we've actually all
24 signed on to bylaws that -- where we've all promised

1 exactly that.

2 CHAIRMAN CROSBY: Well, that makes it -- then you've
3 really got some muscle as long as you're --

4 COMMISSIONER CAMERON: Strength in numbers.

5 COMMISSIONER MCHUGH: I know you're taking legal
6 counsel on getting it all together. Right?

7 MR. SIEBELS: Yes.

8 COMMISSIONER MCHUGH: Because we're not giving you
9 legal advice here.

10 MR. SIEBELS: No, no. Right. Understood.

11 CHAIRMAN CROSBY: And just for the record, we're also
12 hearing your side of the story, and there are two sides to
13 every story. You know --

14 MR. SIEBELS: Of course.

15 CHAIRMAN CROSBY: -- and when the time comes we'll be
16 listening to the other side or other sides of the story.

17 But you know, right now you're before us expressing
18 your concerns and we're responding to those concerns,
19 understanding that there is more to be heard.

20 MR. SIEBELS: We --

21 CHAIRMAN CROSBY: But I think it's legit for us to
22 give you our ideas about how you might approach this.

23 And you know, you've got to make your own judgments in
24 the end, but you're here in part to get our advice.

1 COMMISSIONER McHUGH: Right.

2 MR. SIEBELS: Clearly, the legislature recognized that
3 we were impacted, with a small "i," and put these various
4 protections in the bill.

5 But this is really a threshold point. So we'd simply
6 ask to -- that you recognize us as impacted, either now or
7 should it come to -- should it come to be necessary later
8 when it comes back from the commission after the casino
9 doesn't book.

10 COMMISSIONER STEBBINS: Quick question. How much
11 public financial support do all of you receive?

12 MR. SIEBELS: Our -- in Worcester, the Hanover Theater
13 received 5.1 million in state historic tax credits and a
14 \$675,000 grant from the Massachusetts Cultural Facilities
15 Fund. That was in 2007/2008. We do not receive any
16 operating funds.

17 MR. LONGO: We don't receive any funds.

18 CHAIRMAN CROSBY: That was for the new building or
19 something?

20 MR. SIEBELS: That was a restored building.

21 Now, some of our venues are municipally owned.
22 Symphony Hall in Springfield and Lynn Memorial Auditorium
23 and Lowell Memorial Auditorium are all municipal buildings.

24 COMMISSIONER STEBBINS: To get back to a point or a

1 concern you have -- and it kind of just sounds like a
2 regulatory plan words around the definition of "built,"
3 i.e., put on a foundation, put up the walls, but could
4 somebody argue with us, "Well, I rehabbed the facility as
5 opposed to built, you know, a thousand to 3,500-seat
6 theater," or, "I have the open space. I put up chairs."

7 So I appreciate the attention to that, kind of just
8 regulatory or a definition question at some point I think
9 we have to keep in mind.

10 MR. SIEBELS: Thank you.

11 MR. LONGO: Thank you. Indoor, outdoors. Same area.

12 COMMISSIONER MCHUGH: Yeah, to do that.

13 COMMISSIONER STEBBINS: We feel that the intent of the
14 legislation is clear. Obviously, you'll hear both sides
15 and decide for yourselves, but thank you for paying
16 attention to it.

17 Can we ask how the chair injured his left foot? Was
18 it kicking somebody in the shin?

19 CHAIRMAN CROSBY: Right. I would that it were.

20 I think it's an old-age problem with a tendon. So
21 I get to wear this handsome thing for at least six, maybe
22 12 months.

23 COMMISSIONER STEBBINS: Best part is we can hear him
24 coming down the hall.

1 MR. SIEBELS: Well, that means I just lost a bet of
2 questionable analogy.

3 COMMISSIONER CAMERON: Thank you very much.

4 COMMISSIONER STEBBINS: Thank you all very much.

5 CHAIRMAN CROSBY: We will -- you know, we will
6 definitely be talking. And you know, this -- the process
7 is going to be a very visible one. When we get to the regs
8 we'll deal with this. So just keep your eyes on us, as
9 well as, you know, doing your own thing up front, which you
10 heard we think is a good idea.

11 MR. SIEBELS: All right.

12 COMMISSIONER McHUGH: Okay. Great. Thank you all
13 very much for coming.

14 MS. D'AGOSTINO: Thank you.

15 COMMISSIONER CAMERON: Goodbye.

16 CHAIRMAN CROSBY: Nice to meet you.
17 Director Driscoll. Are you still awake?

18 MS. D'AGOSTINO: Yeah.

19 COMMISSIONER CAMERON: Still there?

20 CHAIRMAN CROSBY: Are you still here?

21 MS. DRISCOLL: Yeah. I considered running.

22 All right. Let's just go through this. We don't have
23 to make any --

24 CHAIRMAN CROSBY: I thought this was going to be a

1 quick one.

2 MS. DRISCOLL: I'm going to try to be. Yeah.

3 CHAIRMAN CROSBY: No, no. Not you. I meant the whole
4 meeting.

5 COMMISSIONER STEBBINS: I owe Janice money.

6 MS. DRISCOLL: I'm going to try to do this quickly,
7 and we don't have to make any decisions tonight.

8 As a matter of fact, I'd like you to think about it
9 overnight and then get back to me with your feedback
10 tomorrow.

11 But that said, we do have to decide soon. It's time
12 to decide.

13 So what I'm going to do today is -- based on the four
14 versions of the logo that we saw last week, we whittled
15 them down to two concepts, essentially.

16 And then I will say that I think JackRabbit worked
17 really hard to incorporate the various things that we liked
18 or didn't like about anyone and tried to incorporate it all
19 into various versions -- there we go -- into a variety of
20 versions.

21 Now, that said, you know, they were very strong about
22 not morphing things to the point that you compromise the
23 integrity of the original concept. You know, as you can
24 imagine, it's hard. It's something that they sort are sort

1 of like (demonstrating) -- you know, when you start to say,
2 "Well, can you put this here and put this here," they're
3 like, "Ugh," you know.

4 So I don't think they really -- they don't care for
5 that when --

6 CHAIRMAN CROSBY: Claim just to be innocents.

7 MS. DRISCOLL: And so there are a few things -- I'll
8 show you them now, but -- and basically, for example, they
9 had sent me back actually three versions of this one
10 particular concept, and I actually ended up whittling it
11 down to two because the third version was something that I
12 think we had put a little too much influence on, which
13 artistically they were really against.

14 So they did it to humor me, but probably to show me
15 why I'm not an artist.

16 And so at any rate -- so that's coming up.

17 So -- and then -- all right. Here we go.

18 Okay. So what I'm going to do today is show you the
19 logos. I'm going to show you, like I said, the two
20 concepts and a couple variations of the two concepts, a
21 final page where you can see all of them laid out, explain
22 to you a little bit more about what they told me today,
23 and the last thing I'm just going to show you is -- and
24 we're going to do it very quickly -- is just how much

1 progress we've made on the wire frames for the new website.
2 But it's just to show you progress, not to go through much
3 of it.

4 Okay. So the two concepts that we had them work on
5 was both the seal and then also the concept that showed
6 sort of an energy motion, almost like a wing-like concept.

7 (Indicating) So on this one, what we had asked them
8 to do was remove the three triangles that were the
9 abstract "M." Everybody seemed to be in agreement that
10 that was the part of that that they did not like.

11 You'll notice that in this one they also added the
12 light blue color, which was something that everybody had
13 expressed that they liked and the concept that included the
14 wing.

15 Now, the reason for this right here (indicating) is
16 because they felt strongly that, considering the seal is
17 very basic -- which isn't a bad thing, actually -- but to
18 introduce some sort of element of interest and abstract
19 into it.

20 So I had actually asked them is, "Is there any way in
21 that abstract space you could create something that is
22 almost symbolic of the wing that everybody liked?" You
23 know, "Can you combine that in that space?"

24 So that's -- this -- on this version that's what they

1 came up with.

2 And I said, "Well, what exactly is that?"

3 And they said, "Again, it's abstract. It's regal."

4 It's --

5 CHAIRMAN CROSBY: It's a bat.

6 MS. DRISCOLL: Okay.

7 COMMISSIONER McHUGH: I wasn't going to say that.

8 COMMISSIONER STEBBINS: I wasn't going to say
9 anything.

10 MS. DRISCOLL: Okay. There we go.

11 COMMISSIONER CAMERON: Don't take that test.

12 COMMISSIONER STEBBINS: Once again, by non-artist,
13 everyone.

14 MS. DRISCOLL: Yeah. So -- okay.

15 COMMISSIONER ZUNIGA: I thought it was two eagles
16 facing each other.

17 COMMISSIONER CAMERON: You did? Yeah.

18 MS. DRISCOLL: See?

19 COMMISSIONER McHUGH: I'm with the commish'.

20 COMMISSIONER CAMERON: I think it's regal.

21 COMMISSIONER McHUGH: I think it's a bat.

22 MS. DRISCOLL: Okay.

23 COMMISSIONER McHUGH: You know, bats are nice.

24 CHAIRMAN CROSBY: Did they fix the typeface? They

1 didn't on this one.

2 MS. DRISCOLL: I don't know if they did on this one.

3 CHAIRMAN CROSBY: Yeah. Okay.

4 MS. DRISCOLL: Now, something like that, by the way,
5 just so you know, once we get it down to the concept that
6 we want, things like that --

7 CHAIRMAN CROSBY: Yeah.

8 MS. DRISCOLL: -- are easy to change.

9 CHAIRMAN CROSBY: Yeah.

10 MS. DRISCOLL: And they'll actually give -- once we
11 get down to the one concept, they'll give us a couple of
12 additions of that --

13 CHAIRMAN CROSBY: Right.

14 MS. DRISCOLL: -- and then that's that.

15 Okay. Next one.

16 So back to, again, the sort of -- the triangles that
17 show strength, building upward, you know, the three spaces
18 they're saying are for, you know, fair, transparent,
19 participatory, which is why they were trying to do things
20 in threes.

21 COMMISSIONER CAMERON: Someone's going to read that
22 from that?

23 MS. DRISCOLL: No. No. It's abstract.

24 And that's why, too, they were saying, like, "Try not

1 to" -- you know, "this one abstract element," you know,
2 "allow it to be just that," you know, "without trying to
3 assign too much meaning to it."

4 Now, another one that we did have, another version of
5 this we did have was the state of -- hold on. Let's -- the
6 color's a little bit different because they just wanted to
7 show you what the metallic gold -- they tried to sort of
8 help you envision what the metallic gold would look like if
9 you used metallic gold.

10 COMMISSIONER CAMERON: Mm-hm.

11 MS. DRISCOLL: So in other words, on business cards
12 and whatnot, the stars, the gaming, the top of that
13 triangle would sort of be like a raised gold metallic.

14 So at any rate -- so yeah. So they were basically
15 saying, you know, "Don't get too caught up in the abstract
16 elements of it."

17 We did have that originally as an outline of
18 Massachusetts. But -- which was actually one of my
19 suggestions -- but they kind of talked me out of that, even
20 though they did it, because they felt like, number one, it
21 was a little like, "Okay, we get it, you're in
22 Massachusetts," you know, because Massachusetts, Mass., the
23 outline of Mass., they thought it was too simple, and also
24 it was kind of similar to the Lottery's logo which, you

1 know, we wouldn't necessarily want to do, either.

2 COMMISSIONER CAMERON: Mm-hm.

3 MS. DRISCOLL: Okay. Now, the changes that were made
4 to this version, "MassGaming."

5 So this is -- we asked them to change the type
6 because, again, everybody seemed to be in agreement that
7 Massachusetts Gaming Commission, that we were going to move
8 towards MassGaming, so we asked them to help us see what
9 that would look like. And this is the change in type on
10 that.

11 One of the things that they said to me today that I
12 thought was really interesting is, this is their favorite.
13 And the reason why they said it's their favorite is they
14 said that they're already sort of thinking ahead to, for
15 example, inside the gaming facilities where there's
16 likely to be screens with our logo on it and -- you know,
17 moving -- whether it's in the elevators, at the resort
18 casinos, or whatever the case may be, where they have all
19 the TV screens of advertisements and things like that, they
20 said with this wing there's a lot of opportunity for
21 showing a motion logo.

22 And what they mean by that is creatively they could --
23 like, in other words, it doesn't just appear as the logo.
24 It fades in, and there's a lot of motion to this. So they

1 said graphically there's a lot more you can do with this
2 one.

3 And so that's why they particularly are interested in
4 this one.

5 They also seemed to think that this one would be
6 easier to reproduce on uniforms and things like that. They
7 thought more so than the other one, and they said the
8 reason why is some of the smaller elements of that would be
9 hard to reproduce on a uniform.

10 COMMISSIONER CAMERON: I just don't see it on a
11 uniform.

12 MS. DRISCOLL: (Indicating) And then, again, it's
13 just a little slightly, very slightly different, but with
14 "MassGaming."

15 So that's -- let me give you the four. Hold on.

16 COMMISSIONER CAMERON: Do you want our comments now or
17 later?

18 MS. DRISCOLL: Yeah. I mean -- so our options are to
19 narrow it down and, you know -- like I said, the thing
20 that's difficult is artistically, you know, they say,
21 "Try not to get too far away from the original concept
22 because then you start to really compromise the integrity
23 of it."

24 That said, I mean -- you know -- and again, the other

1 option is is if we, you know, feel like these aren't going
2 in the right direction, then that's an issue that we have
3 to address, too. It does slow the progress of the design
4 for the website and things like that, though. So I would
5 caution not to go too far afield, but --

6 COMMISSIONER CAMERON: Well, if we're just talking
7 about the bottom two, that triangle thing bothers me
8 because I'm trying to figure out what it is and I don't
9 know what it is.

10 On the left I'm not trying to figure it out. It's
11 just kind of a regal symbol. So it -- I look at it and
12 it's not something I say, "What the heck is it?" Where, if
13 I look at the triangle, I have, "What is it? What's the
14 triangle? It doesn't -- I don't understand it."

15 It just leaves me hanging, where the one on the left,
16 it just kind of flows and it's not something meant to be
17 figured out, is how I look at those two. So I prefer the
18 one on the left for that reason.

19 The other reason I like -- although I like the wing,
20 I really like that it says our whole name, "Massachusetts
21 Gaming Commission," on the round one.

22 MS. DRISCOLL: Okay.

23 COMMISSIONER CAMERON: That is more formal. It really
24 says who we are.

1 And then kind of -- you get the "MassGaming" as the
2 shorter version in that, but you still see the formal title
3 there.

4 I also see this circle -- see, I'd much -- see that --
5 see a circle like that on a uniform as opposed -- not that
6 uniform is the key here, it is not. But I just -- it
7 doesn't look like a logo, the top one, as much as it's a
8 lot of words, big words, and just -- although, I do like
9 the symbol. I just don't necessarily see the whole thing
10 as a logo. That's just my thought of the world.

11 COMMISSIONER STEBBINS: I kind of like the bottom left
12 one, also.

13 The one with the triangle kind of reminds me of a KOA
14 Campground sign.

15 COMMISSIONER CAMERON: Oh, geez.

16 COMMISSIONER STEBBINS: Sorry. And I've stayed at a
17 KOA, so I know what I'm talking about.

18 CHAIRMAN CROSBY: See what I mean about western Mass.?

19 COMMISSIONER STEBBINS: You know, I like our full
20 name. I like the "MassGaming," which is probably
21 ultimately what everybody is going to call us. I like the
22 five stars for the five commissions. I like the regal bat
23 right above it. You know, and I told you my thoughts on
24 the upper one. It looks just too much like something else,

1 so --

2 MS. DRISCOLL: Okay.

3 COMMISSIONER ZUNIGA: Yeah. I like the left bottom,
4 as well. I like the official feeling that comes from a
5 seal. After all, we are a regulatory agency with a
6 regulatory bureau.

7 I appreciate the notion -- and I can almost see the
8 movement that comes from the top, but that may be away from
9 our official business, perhaps, a little bit.

10 MS. DRISCOLL: Okay.

11 COMMISSIONER ZUNIGA: Or you know, back to the
12 official nature of our -- of the seal, the seal that comes
13 with it.

14 And I agree our whole name, but also "MassGaming"
15 accomplishes the all things

16 MS. DRISCOLL: Uh-huh. And keeping in mind, again,
17 they can make changes if we keep narrowing it down.

18 CHAIRMAN CROSBY: I think, actually, Enrique said it
19 well, that there's -- that somehow the wing just doesn't
20 associate with the industry that we're in. You know, when
21 I saw it last time it reminded me of a sailing club or
22 something. But --

23 MS. DRISCOLL: Mm-hm.

24 CHAIRMAN CROSBY: And it's -- I like the wing, and in

1 the right environment, I think I'd like that. But it
2 doesn't quite fit with who and what we are.

3 MS. DRISCOLL: Okay.

4 CHAIRMAN CROSBY: And I don't think the triangle box
5 thing worked.

6 My Rorschach test is "bat" on that other one. So I
7 don't like the bat.

8 MS. DRISCOLL: Right.

9 CHAIRMAN CROSBY: But there's other things we could
10 come up with there, so --

11 MS. DRISCOLL: Okay.

12 CHAIRMAN CROSBY: I certainly -- I lean towards the
13 badge, as well.

14 MS. DRISCOLL: Okay.

15 Jim?

16 COMMISSIONER McHUGH: Well, I'm not going to give you
17 my preference because I'm going to lose. But of the ones
18 that are potential winners --

19 MS. DRISCOLL: Okay.

20 COMMISSIONER CAMERON: It's tough to go last.

21 COMMISSIONER STEBBINS: Wow.

22 COMMISSIONER CAMERON: That's why I went first.

23 CHAIRMAN CROSBY: He's a real man of conviction.

24 COMMISSIONER McHUGH: Right. Well, no. I am. I'm

1 prepared to give you my --

2 CHAIRMAN CROSBY: Go ahead.

3 COMMISSIONER MCHUGH: I like the -- I love -- I love
4 the wing. I love the wing. I think it's -- but I think
5 they -- by taking -- the problem with that is, now, that
6 they took the full name of the commission out.

7 MS. DRISCOLL: Mm-hm.

8 CHAIRMAN CROSBY: And I don't think that you just go
9 with "MassGaming."

10 MS. DRISCOLL: You don't?

11 COMMISSIONER MCHUGH: I'm trying to figure out -- you
12 know, we have to have that in there someplace.

13 So I like the old wing one best of all still.

14 MS. DRISCOLL: Mm-hm.

15 COMMISSIONER MCHUGH: But if we're not going -- if
16 we're moving away from the old one, then I would go with
17 the one on the lower left.

18 And you can cut the ears off the bat or you could --
19 or you could find some other more --

20 MS. DRISCOLL: Right, yeah.

21 COMMISSIONER MCHUGH: -- energetic thing to put in
22 there. That still strikes me as, it's very official, but
23 it doesn't have a lot of energy. You know?

24 MS. DRISCOLL: Yeah.

1 COMMISSIONER McHUGH: It looks like -- it looks like
2 something that comes out of -- oh, you know -- the
3 artillery --

4 MS. DRISCOLL: Right.

5 COMMISSIONER McHUGH: -- division.

6 MS. DRISCOLL: Okay.

7 COMMISSIONER ZUNIGA: Although bats need their ears
8 because they're blind. We don't need deaf bats and blind
9 bats.

10 COMMISSIONER McHUGH: I'm not suggesting --

11 COMMISSIONER ZUNIGA: I'm kidding. It's a joke.

12 COMMISSIONER McHUGH: -- that we have deaf bats as our
13 symbol, I don't think they would --

14 COMMISSIONER ZUNIGA: It would be --

15 COMMISSIONER STEBBINS: "Regulators who are blind in
16 this area."

17 MS. DRISCOLL: I know.

18 COMMISSIONER CAMERON: We'll have groups protesting.

19 COMMISSIONER STEBBINS: It's not good.

20 MS. DRISCOLL: Okay. So the thought is to go back
21 with them with the seal and tell them to keep working.

22 CHAIRMAN CROSBY: You know, I think this is up to
23 you. I mean, I think that if they like the wing and
24 there's at least one of us who likes it strongly; if they

1 want to try something else, that's up to them and up to
2 you.

3 MS. DRISCOLL: Yeah.

4 CHAIRMAN CROSBY: Certainly the consensus here
5 certainly is towards the seal.

6 COMMISSIONER ZUNIGA: The majority.

7 CHAIRMAN CROSBY: Yeah.

8 MS. DRISCOLL: Okay.

9 COMMISSIONER MCHUGH: The vast majority.

10 CHAIRMAN CROSBY: The deaf majority.

11 COMMISSIONER STEBBINS: The blind and deaf majority.

12 CHAIRMAN CROSBY: Deaf, dumb, and blind majority.

13 MS. DRISCOLL: But I think -- I mean, I think the
14 good news with that, though, is is, like, that's going to
15 be pretty easy, I think. So you know, again, elimination
16 is a decision and --

17 CHAIRMAN CROSBY: Right.

18 MS. DRISCOLL: -- we are getting closer and closer and
19 closer.

20 CHAIRMAN CROSBY: Right.

21 MS. DRISCOLL: And like I said, keeping in mind it's
22 so important that, you know, this is only going to be one
23 element of many other design-type elements. So -- although
24 it's very important, certainly, it's going to be part of a

1 larger whole. So just to keep that in mind.

2 So at this point we go back to them with this one,
3 tell them we're getting there, but we want to see this
4 worked on.

5 COMMISSIONER CAMERON: Mm-hm.

6 MS. DRISCOLL: Is that fair?

7 CHAIRMAN CROSBY: Mm-hm.

8 MS. DRISCOLL: Okay.

9 CHAIRMAN CROSBY: And there was this issue about the
10 third typeface.

11 MS. DRISCOLL: Yes.

12 CHAIRMAN CROSBY: Was that intentional or not?

13 MS. DRISCOLL: Okay. I'll talk to them about that, as
14 well. Okay.

15 So in the meantime, while that's happening -- and
16 obviously, we haven't thrown a design on this yet because
17 we have to wait until, obviously, we decide on the logo,
18 because it will speak to it.

19 But I just want to give you a little bit of this.
20 We've been working really hard on the design of the new
21 website, making a ton of progress.

22 I'm not going to take you through all of these
23 details, but I just wanted to give you a little sense of
24 how far we've come on it, which is -- you know, so right

1 now, for example -- and you don't have to read all this
2 (indicating) -- but we're in the process of organizing the
3 site map, making sure that there's a home for everything
4 that we're working on that's user friendly, that makes
5 sense, you know, even down to, like, for example, we are
6 looking to where are we going to put the slots parlor
7 applications tomorrow.

8 You know, in the next two months there'll be a very
9 obvious and easy-defined place.

10 We have a really cool feature over here that --
11 some other things that we've seen that are just called the
12 "I want to, dot, dot, dot" section, you know. I want to
13 contact the commission. I want to find gaming
14 applications. I want to learn more about the tribal
15 compact. I want to report illegal gaming activity.

16 COMMISSIONER CAMERON: Big one.

17 MS. DRISCOLL: So all of that will be covered right
18 here, which I think will be really neat.

19 And so let me just show you -- so we started designing
20 the landing pages within the site and what those will look
21 like. You don't really -- you know, other than to know
22 that that's happening, you don't really need to know too
23 much more about that right now.

24 But -- hold on. Let's go to page 8 here.

1 So the home page, just to give you a sense of where
2 this is going right now. (Indicating) We've got a little
3 less than that.

4 So just to give you a sense, it will be very easy to
5 navigate right here. There'll be a special area up here
6 for compulsive gambling, and -- oops -- obviously, a
7 highlight for all of our -- and again, remember, this isn't
8 designed yet, but just the structure of it is --
9 highlighting social media presence.

10 Right here will be a revolving pick that will kick off
11 with areas that we want to really highlight like, for
12 example, a picture that -- a graphic that sort of
13 symbolizes tourism with maybe some sort of factoid right up
14 here (indicating) -- okay? -- so maybe five or so revolving
15 picks that highlights some important things.

16 Right here (indicating) is where the live stream will
17 be. We have so much video and at least a weekly live
18 stream, and that will be predominantly featured right
19 there.

20 (Indicating) Here's an area for seeking public
21 comment moving forward, but also as we start to make policy
22 decisions, it'll almost be essentially a polling place. So
23 we can maybe poll on different policy issues and things
24 like that.

1 (Indicating) This will function as almost like a news
2 ticker right here which will be just our Twitter feed that
3 just sort of is constantly ticking, almost like a news
4 crawl.

5 (Indicating) This is going to be an important section
6 right here. It's going to be basically the community
7 calendar. It's going to include a color-coded calendar
8 that has everything from open meetings to public hearings
9 to speakers bureaus engagements, to also important
10 milestones and deadlines. And that will all be color-coded
11 right here.

12 (Indicating) This is going to be our blog section.
13 And we'll be frequently posting different blog posts.
14 Everyone here is welcome to be a contributor, obviously.

15 And then I think it would be great that we can also
16 have -- set it up so that we can guest contributors, for
17 example, like Marlene Warner from the Compulsive Gambling
18 Association. She can -- she can function as a guest blog
19 writer every so often.

20 And then right here (indicating) will be the "request
21 a speaker" section where they can -- so we'll highlight the
22 speakers bureau.

23 And then right down here (indicating) is going to be
24 basically where everybody can sign up for e-notices. And

1 you can put in your e-mail address right here and check off
2 whether you want to get meeting agendas and minutes, press
3 releases, public hearing notices. You'll have essentially
4 a menu of what you want to be informed about, and that'll
5 be right here.

6 So this is really moving.

7 COMMISSIONER CAMERON: It's great.

8 MS. DRISCOLL: And like I said, we've already started,
9 you know, planning what the interior pages look like for
10 each of those. And when you click on the "About" section,
11 for example, it will be a dropdown menu that goes, you
12 know, this way (indicating) as opposed to a long menu
13 straight down that will give you the options of whatever it
14 is that you want to learn more about.

15 But it's going to be really user friendly and simple.

16 And like I said, once -- they'll do the actual designs
17 based on once we get closer to a logo.

18 COMMISSIONER CAMERON: Great.

19 COMMISSIONER MCHUGH: That's great. Looks terrific.
20 How do you get all the Latin stuff you put in there?

21 COMMISSIONER ZUNIGA: I was going to ask you to
22 translate some of that.

23 MS. DRISCOLL: It's how I write top-secret
24 information.

1 COMMISSIONER MCHUGH: That's great.

2 COMMISSIONER ZUNIGA: Elaine, remind us, is all of
3 that layout going to be part of Mass.gov framework or --

4 MS. DRISCOLL: No.

5 MR. ZUNIGA: -- is that separate?

6 MS. DRISCOLL: Yeah. We're going to have --

7 MR. ZUNIGA: They'll be going to a separate --

8 MS. DRISCOLL: Right up here on the right-hand side
9 there's going to be a link to Mass.gov.

10 Once this is up and running to go -- so it will be
11 linked to Mass.gov.

12 COMMISSIONER ZUNIGA: Yeah.

13 MS. DRISCOLL: We'll maintain a presence on Mass.gov.
14 The home page of our Mass.gov/gaming will be redesigned and
15 direct people here.

16 COMMISSIONER ZUNIGA: Uh-huh.

17 MS. DRISCOLL: So -- but Mass.gov will maintain some
18 level of static information.

19 But things that aren't ever changing, whereas this
20 will be a working, breathing, living website that will have
21 frequent changes and updates, daily changes and updates.

22 COMMISSIONER ZUNIGA: Great.

23 COMMISSIONER CAMERON: Wow. Excellent.

24 COMMISSIONER MCHUGH: It's terrific.

1 COMMISSIONER CAMERON: Thank you.

2 (Chairman Crosby confers with Ms. Reilly.)

3 CHAIRMAN CROSBY: I am supposed to speak at 5:30.

4 I had no idea this was going to go as long as it has. And
5 of course, I came over with Commissioner McHugh, and so
6 it's going to take me -- could they have -- are they
7 putting the panel first or were they just going to wait for
8 me? Can they put --

9 MS. REILLY: They'll put someone up before you. They
10 really want you to introduce the panel.

11 CHAIRMAN CROSBY: To introduce the panel? Okay. Well,
12 I'll try.

13 Sorry to do this.

14 Maybe just call a cab and I'll just go from here and
15 leave my car.

16 MS. REILLY: Okay.

17 CHAIRMAN CROSBY: Okay. Anything else, Elaine?

18 MS. DRISCOLL: No.

19 CHAIRMAN CROSBY: That's great.

20 MS. DRISCOLL: Thank you.

21 CHAIRMAN CROSBY: Exciting stuff.

22 I actually think we've only got item left, and this
23 could take a long conversation.

24 But we got five or six responses -- six, I think --

1 COMMISSIONER ZUNIGA: Yes.

2 CHAIRMAN CROSBY: -- to our research RFI. Basically,
3 we ask folks for their advice on how to do this.

4 And we got back -- interestingly, we got three
5 responses from Spectrum, from NCRG, and from Clyde --

6 COMMISSIONER ZUNIGA: Barrow.

7 CHAIRMAN CROSBY: -- Barrow --

8 COMMISSIONER ZUNIGA: From UMass Dartmouth.

9 CHAIRMAN CROSBY: -- who sort of took the position
10 that you can't really do this kind of research well because
11 there's no -- there's no methodology yet to do it.

12 The Harvard and UMass Amherst were very excited, said,
13 "This is incredible. There's a lot of methodological
14 issues to look at, but we're very excited about the idea."

15 It felt a little bit like the people who were closest
16 to the industry were sort of defensive about it, you know,
17 and didn't want us. That was kind of feeling I got.

18 But anyway, I felt -- and I think we both -- Enrique
19 and I both felt a little over our head in trying to figure
20 out how to respond to this and how to move it forward.
21 We don't have any expertise in really understanding, you
22 know, what kinds of methodologies, you know.

23 So we're trying to pull together an advisory group
24 that would have some people -- I've been hoping that

1 people from MHHS, Health and Human Services, because the
2 secretary there is the holder of the keys for the
3 expenditure, that she would have somebody that would really
4 know this stuff. And I'm not sure whether that's going to
5 work or not.

6 I've also reached out to some of my former folks at
7 UMass Boston to see if they had anybody who could kind of
8 help us wend our way through this.

9 But the long and the short of it is, I think at the
10 moment we're just going to sort of think about this.

11 I'll be away next week. If we can get together a
12 meeting this week, we'll do it. I don't think that's going
13 to happen. It's probably going to happen when I get back.
14 That would give us a few days to try to get some other
15 people that know something about this.

16 Time is a little bit getting short because, you know,
17 to do the really quality baseline stuff, the most
18 thoughtful people said they want to see us get the baseline
19 study done before the licenses are awarded, because once
20 the licenses are awarded, it'll start to affect those
21 communities. And you know, the real academics want to do
22 this as cleanly as possible.

23 So -- and that's, you know, give or take a year from
24 now. So we don't have all that much time.

1 COMMISSIONER ZUNIGA: One thought I had which is
2 similar -- because we've talked about whether we would have
3 a permanent position at some point for somebody to manage
4 this on the staff.

5 Similar to one of -- some of the things we've done, we
6 contract employees for the Boston University fellow.
7 Whether we should explore hiring somebody on a contract
8 basis to project manage this initial effort, if you will.

9 CHAIRMAN CROSBY: Yeah.

10 COMMISSIONER ZUNIGA: Like a Ph. candidate with, you
11 know, quantitative methods experience or research-type who
12 could evaluate a lot of the good thoughts that we've gotten
13 and -- you know, and help us manage time, as well, because
14 we've got plenty of other things, as well.

15 CHAIRMAN CROSBY: Right.

16 COMMISSIONER ZUNIGA: Just a thought --

17 CHAIRMAN CROSBY: That's a good thought.

18 COMMISSIONER ZUNIGA: -- as one way to perhaps -- to
19 at least find a discreet project for somebody.

20 CHAIRMAN CROSBY: Yeah. I think that's a good
21 thought.

22 And maybe -- there might be somebody from the names
23 that I've asked for from --

24 COMMISSIONER ZUNIGA: Yes.

1 CHAIRMAN CROSBY: -- UMass Boston that would be able
2 to do that.

3 COMMISSIONER MCHUGH: I've always -- well, not always
4 -- but felt like this for me, at least, this was sort of a
5 black hole. I've sort of -- you know, I haven't followed
6 it closely.

7 But if we have proposals that are now from a variety
8 of people, maybe during the next week when you're away and
9 we have some time to think about it, it would be worthwhile
10 to distribute what we have.

11 CHAIRMAN CROSBY: Yeah.

12 COMMISSIONER MCHUGH: And let us all take a look at it
13 to see if we could come up with something.

14 I mean, when you spoke, my thought was along the same
15 lines as you, I think, were saying. Maybe there's some
16 pieces in there that you could -- that you could break out
17 of this and make it something manageable.

18 I know the people over in Winthrop are already doing
19 some baseline survey stuff, and they want us -- that's sort
20 of discreet things that they're measuring.

21 Shred has some things that they're measuring, and they
22 wanted to put together ten or 15 things. It wouldn't be,
23 you know, comprehensive because you can't get a handle on
24 what comprehensive is, but you could design something that

1 you really want to know about and then get somebody to help
2 manage that. I don't know.

3 CHAIRMAN CROSBY: Yeah. Well, I definitely would --
4 I had intended to. I just haven't gotten around to it yet.

5 COMMISSIONER MCHUGH: Yeah. No, I understand.

6 CHAIRMAN CROSBY: I will do that. And then we can
7 think about that. I think that's a good idea.

8 COMMISSIONER MCHUGH: Talk about it.

9 CHAIRMAN CROSBY: Okay. Anything else?

10 MR. STEBBINS: Move to adjourn.

11 CHAIRMAN CROSBY: All in favor?

12 MR. STEBBINS: Aye.

13 MR. ZUNIGA: Aye.

14 MS. CAMERON: Aye.

15 CHAIRMAN CROSBY: Thank you, everybody.

16 (Meeting adjourned.)

17 (5:07 p.m.)

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C E R T I F I C A T I O N

I, ERIN E. BAILEY, VERBATIM COURT REPORTER, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE TRANSCRIPT FROM THE RECORD OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

I, ERIN E. BAILEY, FURTHER CERTIFY THAT I NEITHER AM COUNSEL FOR, RELATED TO, NOR EMPLOYED BY ANY OF THE PARTIES TO THE ACTION IN WHICH THIS HEARING WAS TAKEN, AND FURTHER THAT I AM NOT FINANCIALLY NOR OTHERWISE INTERESTED IN THE OUTCOME OF THE ACTION.

// Erin E. Bailey //
ERIN E. BAILEY
VERBATIM COURT REPORTER
PROCEEDINGS RECORDED BY STENOMASK.
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10/19/2012
DATE

// Elizabeth Tice //
Elizabeth Tice, President
Office Solutions Plus LLC
470 Boston Post Road
Weston, MA 02493
617-471-3510 Office
617-471-3134 Fax
LizTice@OfficeSolutionsPlusLLC.com
www.OfficeSolutionsPlusLLC.com

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DATE