

1 THE COMMONWEALTH OF MASSACHUSETTS
2 MASSACHUSETTS GAMING COMMISSION
3 PUBLIC MEETING #134
4 Volume IV

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6
7 COMMISSIONERS

8 Gayle Cameron

9 James F. McHugh

10 Bruce W. Stebbins

11 Enrique Zuniga

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19 September 15, 2014 10:30 a.m. - 4:45 p.m.

20 BOSTON TEACHERS UNION HALL

21 180 Mt. Vernon Street

22 Dorchester, Massachusetts

23

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

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3 COMMISSIONER MCHUGH: Good morning,
4 everybody. Last week we began these licensing
5 hearings, each Commissioner made a presentation
6 regarding the section of the application to
7 which he or she had been assigned. We are here
8 now to collaborate on the presentations we made
9 and all of the information we've accumulated
10 over the period of time that we've been dealing
11 with these applications and with the
12 information given to us by the applicant.

13 We are very grateful to the Boston
14 Teachers Union for allowing us to use the hall
15 here today. This is a busy week in Boston.
16 Virtually every convention center and meeting
17 room is being occupied. It's good for the
18 economy. And we are very grateful that we were
19 able to find this good facility here through
20 the goodwill and graciousness of the teachers
21 union.

22 As I mentioned several times during
23 the course of the proceedings last week, our
24 presentations were not preliminary score sheet.

1 Each was instead an analysis by one
2 Commissioner of the application and the section
3 of the application for which he or she was
4 responsible, the conditions the Commissioner
5 recommended in light of those facts and his or
6 her analysis of what those facts revealed.

7 Nevertheless, preliminary
8 scorekeeping is inevitable and it occurred with
9 perhaps predictable results. But last week's
10 proceedings involved individual views and
11 assessments not the Commissioners'. And
12 fortunately the Commission has before it two
13 competitive applications and the process of
14 making those collaborative judgment begins
15 today.

16 We're going to start with a brief
17 discussion of the responses we received last
18 week to the conditions which we asked the
19 applicants to respond to. We'll then ask
20 General Counsel Blue to provide a brief outline
21 of the legal framework within which we are
22 operating, primarily so that all who are
23 watching from afar will understand that
24 framework. Then we'll turn our collaborative

1 attention to the overview section of the
2 application.

3 For those of you who followed the
4 proceedings last week will remember that we
5 each presented our views of the section of that
6 overview presentation but did not come to an
7 overall rating. And we'll do that this
8 morning.

9 We'll then begin with substantive
10 discussions of the applications and proceed
11 until we reach a decision.

12 Consistent with the approach, I
13 should say, that we took last week there will
14 be no press availability from this point
15 forward until we reach a decision. Elaine
16 Driscoll, our public information officer whose
17 contact information you have will be available
18 to answer questions as we proceed. Elaine
19 needs no introduction, but there she is here in
20 the front row for those of you who don't know
21 her.

22 I should say that we are streaming
23 today from a hot point. And because of
24 bandwidth issues the stream is not available on

1 iPhones or iPads. It is however fully
2 available on our website as it has been
3 throughout these proceedings. Any other
4 preliminary remarks a Commissioner would like
5 to make?

6 Let me begin. And we're going to go
7 with respect to the sort of high-level review
8 of the conditions in the order that we received
9 -- in the that order we engaged in the
10 presentations. So, I'll go first.

11 I had one condition for Mohegan Sun
12 Essentially that it submit for the Commission's
13 approval the materials that it was choosing to
14 use in construction of the facility, having in
15 mind the importance of the various elements of
16 it and the care with which they needed to be
17 installed, and the choice of design materials.
18 We wanted to be kept informed of that and have
19 an opportunity to look at those before they
20 were actually installed. And Mohegan Sun
21 agreed to that condition.

22 For the Wynn proposal, I had
23 proposed to the other Commissioners that we ask
24 for a response on two conditions. One that

1 they rethink a design of the building and
2 submit it to us, and not a command that we have
3 a design review but that they rethink the
4 design and submit it to us for analysis and to
5 the public so that they could take a look at
6 it.

7 And also that they allow us and give
8 us an opportunity to approve the materials that
9 they were going to use. And I particularly in
10 my presentation concentrated on a material
11 known as EFIS. We got in response to that an
12 assertion and description, thoughtful
13 description -- by the way all of these
14 responses are now available and posted as we
15 started this morning.

16 So, you can see for yourselves what
17 the responses were. We got a response about
18 the good qualities of this EFIS material and no
19 agreement to submit materials to us for our
20 approval prior to their implementation. And no
21 response at all really to the request that they
22 give thought to a redesign and think about a
23 redesign that we could take a look at.

24 There was also a reference in the

1 response to the AIA criticism of the building.
2 The AIA, as I thought I made -- took claims to
3 made clear when I gave the presentation was not
4 the Commission's response. That was an outside
5 body that took a look at it.

6 And I mentioned that I was troubled
7 by the unfortunate language that they had used
8 to characterize some of their findings. But in
9 the response, there's a statement that
10 basically the AIA thought we should conform
11 more to the neighborhood. The suggestion adds
12 a note of humor to the moment, perhaps we
13 should have adopted the shape of a fuel storage
14 tank or a big-box retailer, notably the
15 surrounding structures in the neighborhood.

16 Well, I'm not sure that that was an
17 opportunity for a moment of humor. The point
18 that I made in the presentation and part of the
19 request for thought about redesign was the
20 conformity of and utility of and energy of the
21 building in its context.

22 Part of that context, as I also
23 mentioned, is that when one approaches the city
24 from the North down Route 93, there' is a

1 rather dramatic first glance of the city around
2 Medford which you see emerge through the trees,
3 the city of Boston and the metropolitan area.

4 And then the next thing you see is
5 the towers of the windmill, and if the license
6 is awarded to Wynn, this building. So, this
7 will be a gateway building that leads to the
8 city. And that is what I was trying to get at
9 when I made my presentation and when I made
10 that request for response to the proposed
11 condition.

12 There's one other feature of the
13 response that I'm going to take because no
14 Commissioner was responsible for it. And that
15 is that there is a change in the definition of
16 effective date of the license. The effective
17 date license -- And this is really the same as
18 the effective date of the license that we
19 issued to MGM in Springfield. The effective
20 date of license is three days after, would be
21 three days after the voters reject the third
22 ballot question on the November ballot if they
23 do.

24 They may not and then of course the

1 consequences are obvious. But if they do,
2 three days after that the license becomes
3 effective.

4 And the response to that condition,
5 which is a boiler-plate condition was that the
6 effective date would be changed if the license
7 were issued to Wynn to three days after the
8 certification of a no vote on question three or
9 the date when the Department of Revenue issued
10 a directive saying that the six percent tax,
11 withholding tax -- not a six percent holding
12 tax. That the holding tax on the \$600 wins
13 would not be applicable to table games.

14 The Wynn applicant and the other
15 applicants have made that proposal to us.
16 There's a provision in the current statute that
17 if anybody wins over \$600, a withholding has to
18 be withdrawn from the winnings before they are
19 paid. And that in our view as well as in the
20 applicants' view has an important downside
21 effect on the flow, particularly of table
22 games.

23 That's not what's done under the
24 federal statute. That's not what's done under

1 the standards in place in other states. We
2 recommend to the Legislature that they change
3 that and will continue to.

4 But the Wynn response said that the
5 license would not become, if they were granted
6 a license, effective until Legislature made
7 that change or the DOR, the Department of
8 Revenue said it was inapplicable to table the
9 games. I will have more to say about that
10 later.

11 Those were the responses on which I
12 wanted to touch. Next was Commissioner Zuniga
13 in the presentations. So, if you'd make your
14 analysis that would be great.

15 COMMISSIONER ZUNIGA: Thank you. My
16 section had conditions to the Mohegan Sun
17 applicant. And I will take them in the order
18 that I made them.

19 I discussed the notion of additional
20 equity from the structure, from the financing
21 structure. And I specifically asked for 100
22 million more in equity available to begin
23 construction given the cash that in my
24 estimation would be needed at that time.

1 The applicant responded in a couple
2 of different -- with an aspect that I believe
3 ultimately addresses the concerns I had. And
4 that I should clarify additional equity does
5 not mean additional capital investment. It
6 just changes the nature of where the money is
7 coming from. Ultimately, the investment amount
8 remains the same just for those who might not
9 appreciate the difference between the debt and
10 equity or capital structure.

11 The applicant does propose to change
12 the capital structure in the following manner.
13 They would have \$50 million more to come in the
14 form of common equity, which is what I
15 characterize to be the equity that gets paid
16 last, which is what in my view gives a lot of
17 confidence relative to the long-term view of
18 the investment.

19 They propose to have another \$50
20 million of preferred equity, the one that was
21 characterized during my presentation as
22 behaving somewhat like a loan or like debt
23 because it had a stipulated sum and it had a
24 term that for one was much smaller than the

1 term of the license. You might remember the
2 term of that preferred equity is 10 years with
3 calling rights after five years.

4 The applicant in my view to address
5 some of those concerns proposes that the second
6 \$50 million of preferred equity would be the
7 same, but now has a stipulated rate of 12
8 percent as opposed to 15 percent. And this is
9 true for all of the equity that they would
10 have. That's on top of the 60 million
11 preferred equity that was originally put
12 forward.

13 And importantly, to address one of
14 the comments that we made relative to the
15 position that the applicant could find itself
16 in controlling 60 percent of the board that
17 would effectuate the callability of that
18 preferred debt, the applicant has proposed that
19 when it came to that decision the board members
20 appointed by Brigade would not vote into
21 calling that debt, the new preferred debt.

22 It would only be up to the remaining
23 board members to analyze and decide whether
24 calling that payment of that debt now at 12

1 percent would be more beneficial to the project
2 than say continuing to hold to that debt.

3 In addition, the applicant states in
4 the response that 50 million of additional
5 equity would come in the form of equity
6 guarantee. Now, that on its face-value looks
7 like the condition has been improved but I
8 would argue, and I will that the guarantee
9 already existed in the form of the multiple
10 backstop that Brigade provided for a number of
11 different funding or debt situations.

12 You'll remember that the applicant
13 proposes to lease all of their equipment. And
14 in case of cost overruns there, Brigade would
15 backstop that. There was a similar situation
16 with the third-party hotel funding. If there
17 were cost overruns say on the hotel
18 construction dollars or the amount that others
19 like New England Development and Finard would
20 have to bring in, and they couldn't, Brigade
21 would again backstop that.

22 So, they have put forward a general
23 guarantee here that I would argue is equivalent
24 to the backstop situation that they had before.

1 So, although I was looking for the
2 100 million more to come in the form of common
3 equity, I do recognize that the preferred
4 equity has the stipulated interest has been
5 reduced and perhaps more importantly the
6 callability of that preferred equity has been
7 put on the board members that are not the ones
8 from Brigade.

9 So overall, that's an improvement to
10 the capital structure. I would say that the
11 structure although not the same in terms of the
12 condition does satisfy the intent of the
13 condition that I brought forward. I can pause
14 there to answer questions. I know I got into a
15 couple of technical terms without the help of
16 any visuals, but would you like me to continue?

17 COMMISSIONER MCHUGH: Any questions
18 from any of the Commissioners? I do have a
19 question, but I'm going to save it until later
20 when we get into more substantive discussions.

21 COMMISSIONER ZUNIGA: Okay. Next, I
22 would address the notion of the marketing
23 restriction. The marketing restriction, I will
24 repeat as I said last when I was putting this

1 condition. This is a notion that the applicant
2 provided originally to the Commission.

3 My intention in putting a condition
4 on this area was emanated from how could this
5 really work, and how does it reconcile with the
6 way that the market -- that we view the market
7 opportunities for this area. The marketing
8 restriction you might remember was limited to
9 an area of zip codes in and around Greater
10 Boston.

11 The condition as presented extended
12 the market area to all of the New England
13 states that we see the market for Region A
14 extending to, notably New Hampshire, all of
15 Massachusetts, Connecticut and Rhode Island.

16 The applicant has responded that
17 they would be willing to extend that marketing
18 restriction to Massachusetts, Rhode Island and
19 New Hampshire like we asked. They included now
20 Maine, which we didn't, but they have carved
21 out Connecticut out of the marketing
22 restriction.

23 They also proposed that additional
24 locations or additional promotions may be

1 offered to customers regarding of the location
2 including New York, New Jersey, Pennsylvania
3 and I believe that's it. All of those
4 properties that the applicant is able to draw
5 from those states, all of those promotions
6 would be offered to all of those customers in
7 an equal basis. You could redeem promotions in
8 Pocono Downs, for example, or Connecticut or
9 Massachusetts.

10 In a way, they are extending a
11 little bit that market notion of equal market
12 to by including those other states.

13 I will read some of the comments I
14 have from our consultants on this piece.
15 Although Connecticut was excluded from the
16 amended specified zone, Mohegan Sun MA has
17 proposed that any gaming promotion offered to
18 any current or future tribe gaming operations,
19 Mohegan Tribe gaming operations to any
20 customers regardless of their location could be
21 redeemed at Mohegan Sun MA.

22 This provision provides that
23 customers in Connecticut cannot be offered
24 promotions greater than that which are

1 redeemable at Mohegan Sun MA.

2 So, although Mohegan Sun has
3 modified this condition, the modifications are
4 consistent with the intent of the marketing
5 restriction -- of the condition as put forward
6 to the applicant. Again, with the carve out of
7 Connecticut but at least in exchange of that
8 with additional states.

9 COMMISSIONER MCHUGH: Traded Maine
10 for Connecticut.

11 COMMISSIONER ZUNIGA: Traded Maine
12 for Connecticut, I could argue that they are
13 different markets but I understand their
14 flagship operation is in Connecticut. And I
15 can understand why they do this.

16 They also have advanced the notion
17 of giving the Commission approval rights over
18 that marketing restriction standards and
19 procedures. One that you remember
20 Commissioner, you were not interested in going
21 down that path perhaps from an ideology
22 standpoint.

23 COMMISSIONER MCHUGH: Philosophy.

24 COMMISSIONER ZUNIGA: Philosophy. I

1 on the other hand thought that it was important
2 to have the Commission, this Commission or a
3 future Commission have the ability to really
4 understand how an audit how that is being
5 applied.

6 So, that in my view is something
7 that they have advanced that furthers the
8 intent that I had in putting that condition
9 forward. I can also pause there if there's any
10 questions for this?

11 COMMISSIONER MCHUGH: Questions?

12 COMMISSIONER CAMERON: No.

13 COMMISSIONER MCHUGH: Again, I may
14 have some later. I want to discuss, and I
15 think we all do these conditions in the context
16 of overall deliberations. But I don't have any
17 questions at the moment.

18 COMMISSIONER ZUNIGA: Okay. Third,
19 and I third and last. The applicant has
20 advanced an additional condition, not one that
21 we proposed, but they termed this in additional
22 condition that they call this an applicant
23 proposed condition. Brigade will fully divest
24 all of its holdings in Mohegan Tribal Gaming

1 Authority debt securities by the opening date.

2 This is a self-imposed condition, as
3 I mentioned. One that I would argue given the
4 acceptance of the marketing plan condition that
5 I just spoke about, the divestiture of Brigade
6 from Connecticut I, in my opinion, would be
7 indifferent to.

8 I know what they are putting it
9 forward. We made in the presentation the
10 comment that because Brigade has interests in
11 both Connecticut and Massachusetts that there
12 would be a potential for -- if they were to
13 leave or an exit their interest in say
14 Massachusetts whether the interest of
15 Massachusetts would be protected or the
16 interest of the Commonwealth.

17 Since we have addressed it in my
18 view, at least in some way with the marketing
19 restriction, the divestiture in my mind is not
20 a significant thing. But if they're willing to
21 do that that's their prerogative. I can also
22 answer questions on that.

23 COMMISSIONER MCHUGH: I don't have
24 any questions. Again, we are going to get into

1 the impact of the condition responses later in
2 the discussion. But I take a different view of
3 that divestiture offer.

4 And we can talk about that when we
5 get into things later. Again, these are simply
6 the recitations by one Commissioner. We
7 haven't started the deliberations yet, but I
8 did want to put that one on the table.

9 COMMISSIONER ZUNIGA: That was my
10 summary unless somebody had any other comments
11 or questions.

12 COMMISSIONER MCHUGH: Okay. Any
13 other comments, questions? All right. Let's
14 turn then to Commissioner Cameron for a summary
15 of the responses to the mitigation.

16 Remember that some of these
17 responses are highly technical and really
18 require close reading. And we're trying simply
19 to get a high-level response to the content as
20 we see it. But as the deliberations proceed,
21 we will get into more detail. And the
22 conditions themselves are posted on the
23 website. Commissioner Cameron.

24 COMMISSIONER CAMERON: Thank you,

1 Commissioner. So, I'll just try to summarize
2 the condition that we proposed and the response
3 that we received.

4 The first part of our condition had
5 to do with the best and final that Wynn had
6 originally proposed and that's the BAFO as we
7 refer to it, that is the best and final. The
8 major differences -- What we did is take that
9 original BAFO and say that this will apply.

10 In our response there were some
11 changes made to that BAFO. The first being the
12 upfront payment was a combination. It was \$1
13 million up front. It was a combination of 750
14 upfront payment. Those are public safety
15 needs. And then a \$250,000 payment for traffic
16 improvements. That \$1 million in this response
17 was increased by \$1.75 million.

18 So, that \$1 million piece is now 2.7
19 million increase. And there's some specificity
20 therefore for 1.5 million to be dedicated to
21 Sullivan Square over the long-term. So, that's
22 the first difference in our condition as
23 opposed to response.

24 And then with regard to annual

1 payments, the original BAFO included annual
2 payments of 1.6 million for other mitigation
3 that could be public safety, water
4 transportation and a million for
5 transportation.

6 That now has been increased. So,
7 that's combination \$2.6 million. Those would
8 have been annual payments. That has been
9 increased to 3.6 million in annual payments.
10 And that would be 1.5 to Sullivan Square and
11 2.1 for other, meaning other mitigation water,
12 public safety and transportation could be
13 included there as well.

14 So, if we add those numbers up, we
15 are looking at the original Wynn best and final
16 had a total of about \$46 million in payments.
17 And this new proposed offer is now \$63 million,
18 and a minimum of 30 million to Sullivan Square.
19 And that could go up depending on how much of
20 those other payments were dedicated to Sullivan
21 Square. So, that's the best and final.

22 If we move on to the specifics of
23 our condition, the next area we had long-term
24 solution and short-term solution pieces of this

1 condition. And much of this was stripped or
2 Wynn did not agree to many of these conditions.

3 The first piece of that, if you
4 recall, we had said that Wynn is to complete
5 the MEPA process and receive permits for short-
6 term mitigation at Sullivan Square by July 1,
7 2015. Again, we did not want this to be a
8 situation that dragged on for a long, long
9 time.

10 And the response was the permit
11 application, they would get a permit
12 application back to us within 90 days.

13 The second piece of that condition
14 was the other side of Sullivan Square, we're
15 talking about Main Street and Rutherford Ave.
16 We had in our condition said that that other
17 side would be mitigated regardless of whether
18 MEPA required such mitigation provided that the
19 city of Boston requires the mitigation.

20 This was not agreed to. And the
21 implication was that the additional monies that
22 were proposed as part of the BAFO that I just
23 explained could be used to cover those
24 improvements if needed.

1 And another piece of the condition
2 was for Wynn develop and update a plan to
3 improve public safety vehicle access.

4 Again, this was not agreed to. More
5 money in the original BAFO would cover that as
6 well. And those communities would use their
7 own judgment.

8 Certainly, that Wynn would comply
9 with the stated goals for alternative modes of
10 transportation. That's the 29 percent we spoke
11 of last week. That is part of the MEPA
12 filings. So, that will have to be done as per
13 MEPA.

14 And the last piece here would be our
15 ability to enforce some of these conditions
16 through measures as reducing the use of parking
17 spaces in the on-site garage, variable pricing.
18 This was not agree to. Wynn believes they can
19 better manage their facility.

20 Continuing on with some of our
21 specific plans with regard to transportation --
22 reduction in transportation vehicle trips. We
23 had originally talked about 10 percent of the
24 cost of long-term, going to the long-term

1 redesign.

2 That was not agreed to. We got
3 those numbers. We explained how we got those
4 numbers. Again, it's the Friday peak. But
5 that was not agreed to. It would've been a
6 cap. Again none of that was agreed to.

7 Then the additional transportation
8 management reduction in vehicles portion, the
9 20,000 vehicles over. The example would have
10 been if they exceeded by 200 vehicles, it would
11 have been an additional four million.

12 None of those proposed pieces of the
13 condition were agreed to. The Wynn team
14 looking for more certainty. They certainly are
15 more comfortable with specifics.

16 The last piece here was that Wynn
17 may petition the condition (SIC) to refund any
18 unused funds in the long-term solution if not
19 commence within 10 years. The response we had
20 in return was pretty much a seven year. So,
21 it's a change in the starting point of that
22 condition which really would bring that down to
23 seven years.

24 We had a parking condition that was

1 not agreed to. That would have been a report.

2 With regard to site cleanup, Wynn
3 has said that if it's part of a public process,
4 they would comply. We had a little more
5 generic here that we thought that was really
6 important to participate in a public process.

7 And a look back study was the final
8 piece of our condition. That was after
9 construction, after one year of operation and
10 after five years, and that was not agreed to in
11 the response from Wynn.

12 That's just a general outline of the
13 condition that we put forth and the response
14 which was considerably different.

15 COMMISSIONER MCHUGH: All right.
16 Questions?

17 COMMISSIONER ZUNIGA: Can I ask on
18 the overall numbers how we get to the 46 and
19 the 63 million or would that be later?

20 COMMISSIONER MCHUGH: Can I make a
21 suggestion that we hold that because the
22 transition between the BAFO and the proposal
23 that was put forward in response is a little
24 complicated.

1 And I would like to have some help
2 in creating a spreadsheet of some kind so that
3 we could put that up on the board and make sure
4 that we all understand what it is. Because it
5 is complicated and a number of different
6 strands tie into each other, and I think we
7 need to unravel that. So, if you don't mind,
8 I'd like to hold that until we can all get
9 there.

10 COMMISSIONER ZUNIGA: That's fine.

11 COMMISSIONER MCHUGH: Other
12 questions or comments? I have one to make and
13 that concerns an error or a disconnect between
14 the condition to which we asked Wynn to respond
15 and the one that was presented in our
16 presentation.

17 In our presentation, in Commissioner
18 Cameron's presentation there was a proposed
19 condition that the Wynn team obtain the permits
20 needed for Sullivan Square short-term
21 improvements by July 1, 2015.

22 She and I both communicated with
23 staff as the more technical conditions were
24 being prepared for delivery to the applicants.

1 And I guess I was imprecise because that
2 condition wound up as all permits necessary for
3 everything be obtained by July 1, 2015.

4 Apparently, I was imprecise in
5 communicating what that condition was. But it
6 was simply intended to be simply a condition
7 that the permits for the Sullivan Square short-
8 term improvements be obtained by July 1, 2015.
9 And that was so, as Commissioner Cameron just
10 said, this did not drag on forever. That's a
11 big concern that I think many of us have.

12 There is also in the formal set of
13 conditions that went to both applicants, went
14 to the Wynn applicant a statement that if that
15 isn't complied with the license will be
16 revoked. Well, that's nothing new.

17 These are license conditions every
18 one of them. So, if there is not compliance
19 with a license condition then the Commission
20 has the power to revoke the license. So, that
21 piece was not different from at least what was
22 implied in the presentation. But the other
23 piece was a product I gather at my
24 miscommunication.

1 All right. Anything to say about
2 that? Commissioner Stebbins.

3 COMMISSIONER STEBBINS: Thank you,
4 Mr. Chairman. I'll start with the proposed
5 license conditions on Mohegan Sun, MA and their
6 replies and comments.

7 The first one was with respect to
8 their loyalty card program. We had asked that
9 they provide us annual data about how the
10 points are redeemed, the success of the
11 program, the companies that are participating
12 in it.

13 Mohegan Sun replied the license
14 condition is reasonable. They also wanted to
15 make a slight adjustment in a reference that
16 for the first year of the program that they
17 estimated the amount to be spent off-site at
18 participating Momentum Loyalty program
19 businesses was going to be \$17 million.

20 The next item was with respect to
21 surrounding community agreements and vendor
22 purchases. Again, we had pointed out that we
23 thought some of the numbers being committed to
24 in both surrounding community agreements and a

1 projected local spend did not align. We asked
2 that Mohegan Sun MA provide obviously a blanket
3 good commitment to reach those goals but asked
4 that they just make sure that the reason for
5 what could be considered a misalignment of the
6 funds be communicated not only to MGC but also
7 to the communities that had signed surrounding
8 community agreements and they accepted that
9 condition as proposed.

10 The next condition was with respect
11 to notification of selection of a general
12 contractor. Obviously, we are anxious and
13 focused on making sure that commitments for
14 MBE, WBE and VBE's participation in
15 construction and design are met.

16 This as you know was a similar
17 condition that we provided to MGM with respect
18 to their project and that the general condition
19 is for whoever the general contractor is and
20 Mohegan Sun MA meet with the Commission to talk
21 about those commitments. Mohegan Sun MA
22 accepted the condition as proposed.

23 Mohegan Sun MA, similar to
24 Commissioner Zuniga's license condition, also

1 proposed a condition. That is within 30 days
2 of designation as the Region A licensee, MSM
3 and what they propose an independent consultant
4 chosen by the Commission will prepare and
5 review a domestic and international marketing
6 plan and also give us authority to approve such
7 plan as a condition of license.

8 As you know, we also have asked our
9 other licensees to provide us with kind of a
10 tourism marketing plan I believe within 60 days
11 of when they open. What Mohegan Sun MA is
12 suggesting is something a little more
13 thoughtful, talking more to marketing both
14 domestic and international visitors and
15 certainly saw through our comments that this
16 was a priority.

17 So, I think there's an opportunity
18 to explore this condition further maybe in our
19 deliberations and talk about how it might tie
20 into existing license conditions. But they
21 offered that up to us as kind of their proposed
22 condition of license.

23 Turning to Wynn MA, they had three
24 license conditions to respond to. The first

1 was with respect to economic development, we
2 asked them to consider a license condition to
3 hire no less than 75 percent of their project
4 employees from within 30 minutes of Everett as
5 they had communicated during the June 25 host
6 community hearing.

7 They came back and suggested that we
8 edit that slightly and say Wynn will use good-
9 faith efforts to hire no less than 75 percent
10 of the project employees from within 30
11 minutes. Their proposed amendment is somewhat
12 consistent with the written response they
13 provided to us at the host community hearing
14 and certainly seems consistent with surrounding
15 community agreements that they've signed.

16 Hiring preference, we talked about
17 Wynn offering a hiring preference to qualified
18 Suffolk Downs employees in the event that
19 Suffolk Downs closes upon the award of a
20 license. This is to ensure some consistencies
21 with the statements again at the Everett host
22 community hearing.

23 As we went back and saw, there
24 certainly is a related provision to this in the

1 Act, not our statute, but in the Act about
2 permanently employed Suffolk Downs employees.
3 And I'd like to also talk about this condition
4 a little bit further when we get to our
5 deliberations, but certainly accepting that
6 condition as proposed.

7 And the third license condition that
8 was suggested was asking Wynn MA to commit to
9 provide medical and dental benefits to
10 unionized and nonunionized employees at the
11 project at least commensurate with the benefit
12 programs offered by Wynn's Nevada gaming
13 facilities.

14 Wynn responded that they would like
15 some flexibility to operate the project as is
16 necessary to maximize both the interest of the
17 Commonwealth as well as to when shareholders
18 and employees. They suggested adopting
19 language saying consistent with its best
20 practices will commit to provide its employees
21 with competitive medical and dental benefits
22 that are commensurate also with those provided
23 in the region. That was their response to that
24 third condition. That's it.

1 COMMISSIONER MCHUGH: All right.
2 Any questions about any of those? Well, each
3 of those responses of course speaks for itself.
4 They're posted on the website. We got them all
5 by the deadline of 5:00 on Friday.

6 We looked at them over the weekend.
7 We'll continue to look at them. And they will
8 play a role in the discussions that will begin
9 when we begin the substantive deliberations.
10 Though we don't have questions and discussion
11 about them now, we will no doubt have as we
12 proceed.

13 Now though I would like to proceed
14 to the second item on the agenda, which is to
15 hear from General Counsel Blue about the broad
16 legal framework under which we're operating.
17 This isn't the first time we've heard this, but
18 primarily for the benefit of those who may be
19 watching from afar. General Counsel Blue.

20 MS. BLUE: Good morning,
21 Commissioners. I would like to call your
22 attention to a few legal matters before you
23 start today.

24 First of all, Chapter 23K includes a

1 list of certain findings that you will need to
2 make as you go through your deliberations. I
3 know you are well familiar with these findings
4 since you've done them for the Category 2's and
5 the Category 1, Region B application.

6 The Commission also in a higher
7 level, the Commission may also just one
8 Category 1 license in each region. Today we
9 are considering the grant of a license in
10 Region A.

11 If the Commission is not convinced
12 that an applicant has met the eligibility
13 criteria and provided convincing evidence, no
14 Category 1 license may be issued. The
15 Commission has full discretion as to whether or
16 not to issue a license.

17 Applicants have no legal right or
18 privilege to a license. And the period of the
19 license is 15 years and begins when the
20 Commission approves the opening of the gaming
21 establishment for operation.

22 The Commission's proceedings, which
23 began with the submission of the RFA-2
24 application are administrative and legislative

1 in nature. They are not adjudicatory. The
2 applicant has been required to present all of
3 the information required by the Commission.

4 The RFA-2 administrative proceedings
5 have involved public hearings. They have not
6 been adversarial in nature. They have involved
7 no specific charges, legal rights or
8 privileges. They've provided no opportunity
9 for cross-examination of witnesses under oath.

10 They've afforded the opportunity for
11 public comment including unsworn statements and
12 letters of support, opposition or concern by
13 persons advocating for or against the
14 application.

15 This proceeding will involve a final
16 decision to grant or deny a gaming license.
17 And that rests at all times within the
18 discretion of the Commission. The Commission
19 will ultimately grant or deny the applications
20 before it. As was in the case in the
21 Commission's Region B decisions, the Commission
22 will enter into an agreement to award a license
23 with the successful applicant in substantially
24 the same form used as Region B.

1 The form of the ultimate license
2 will be a decisional form similar to that used
3 for the issuance of the Category 2 license and
4 will include a statement of findings as to how
5 the applicant proposes to advance the
6 objectives in Chapter 23K. I'm happy to answer
7 any questions.

8 COMMISSIONER MCHUGH: Now in the
9 past in each of the prior occasions, we have
10 made the licensing decision. We've made it
11 contingent on acceptance of the conditions. We
12 have voted to award the license, and then we've
13 come back and signed in public the formal
14 agreement, if you will, to issue a license.

15 And then we had followed that with
16 after that agreement is signed, with the formal
17 license, which includes the findings that the
18 statute requires. Those findings take some
19 time to write out. And we don't want to keep
20 everybody here in the room for two or three
21 days while we do that.

22 Is that the process you envision
23 that we would follow in this instance?

24 MS. BLUE: Yes, that is correct.

1 COMMISSIONER MCHUGH: So, we'll make
2 a decision, sign the agreement and then the
3 findings and formalities will follow that. All
4 right. Any questions from anybody? Okay.
5 Thank you very much, General Counsel Blue.

6 All right. Let's go onto the next
7 item of the agenda, which is a return to the
8 overview section of the presentations.

9 Melissa, could we get that section of the
10 presentations up so everybody can follow what
11 we are doing.

12 Again, for those who were not
13 present last week, we each made presentations.
14 Each Commissioner had been assigned to one of
15 the five areas of the application to analyze,
16 work with a team and then make a report to the
17 other Commissioners about.

18 In the past, we've had five
19 Commissioners. And this was Commissioner
20 Crosby's section, the overview section.
21 Commissioner Crosby recused himself as everyone
22 by now knows. So, we divided this up among us
23 all and we all took a piece of it. But because
24 we can only reach collaborative conclusions in

1 a public session we were unable to reach an
2 overall rating for this section. So, we'll now
3 begin to come back and go through it and come
4 to an overall rating.

5 Why don't we just to make sure that
6 we're all on the same page here go through it
7 one question at a time in the order of the
8 questions this time, unless you've got it up
9 another way Melissa. Do you have it in the
10 presentation way?

11 Okay. So, my two questions would be
12 first. So, there are nine questions. We
13 presented them in the order that we were --
14 made the initial presentations. So, they're
15 not in the numerical order. That's irrelevant.

16 I thought we'd go first, go through
17 the conditions, take any questions that anybody
18 has and then see if the individual ratings
19 needed any adjustment and then at the end make
20 some judgments about the overall rating.

21 So, let me just get it up here,
22 question two that's right. I'm just trying to
23 get the presentation here. Everybody else is
24 way ahead of me, I'm sure. Question two has to

1 do with destination resorts.

2 And the question is some visionaries
3 in the gaming business describe an evolution of
4 gaming facilities from convenience casinos to
5 destination resorts to city integrated resorts.
6 Explain what if any meaning city integrated
7 resorts has to you and how you anticipate
8 following its principles if in fact you
9 subscribe to them. Additionally, please
10 explain how the project you propose embraces
11 the Legislature's mandate to present
12 destination resort casinos rather than
13 convenience casinos.

14 And I gave my response there, and I
15 gave the reasons for the response. And I rated
16 Mohegan Sun sufficient and Wynn and Everett
17 outstanding. I based on the response to the
18 condition with respect to marketing, would like
19 to revisit the sufficiency for the Mohegan Sun
20 condition.

21 When I made that suggested rating, I
22 was focusing primarily on the reports dealing
23 with the zip code restrictions, the assessment
24 that a very small percentage of the income they

1 were targeting would come from overnight or
2 more than an hour away visitors. And it seemed
3 to me that in that context the Mohegan Sun
4 Resort was really one, as I said in the rating,
5 one of a number of attractions in a city rather
6 than a destination that would lure people in to
7 look at a variety of things while they were
8 here.

9 The revised marketing plan, and I
10 went back and read since I made that
11 presentation, the original marketing plan which
12 when read in the context of the PKF assessment
13 is ambiguous. Because that original marketing
14 plan did have a great deal to say about pulling
15 people in front afar, but the more specific
16 figures were based on the PKF marketing plan
17 which was disavowed and then re-embraced.

18 There was some ambiguity, but the
19 revised marketing plan in response to the
20 conditions coupled with Commission oversight
21 leads me to believe that that rating can be,
22 should be upgraded to very good if we accept
23 the proposition that that's what's going to
24 happen.

1 So, I'd propose to do that but I'd
2 welcome some discussion. That's simply some
3 thoughts that I've had since I made the
4 presentation.

5 COMMISSIONER CAMERON: I agree. In
6 fact, I was going to point out that I thought
7 the proposal was better than sufficient as I
8 understood it from the beginning. So, I would
9 agree with your reassessing this. And as it
10 stands now, it's a very good proposal.

11 COMMISSIONER MCHUGH: So, you
12 disagreed with it from the get-go.

13 COMMISSIONER CAMERON: I did.

14 COMMISSIONER MCHUGH: All right.

15 COMMISSIONER ZUNIGA: The Mohegan
16 Sun applicant however, still depends on the
17 region, the New England region to drive its
18 business not just from their projections or the
19 marketing restriction. I think it does help in
20 that regard. I think it puts everybody on an
21 equal footing at some level.

22 But I believe still the case that
23 the applicant that Mohegan relies a lot more,
24 certainly a lot more on the local market

1 whether that includes now Rhode Island and New
2 Hampshire, Rhode Island more than anybody else
3 because New Hampshire was included.

4 Whereas you'll remember from my
5 section Wynn projects less from the local
6 market and a lot more from the outside market.
7 That would easily explain the difference if
8 you're suggesting this would be still a very
9 good and outstanding and we could leave it
10 there.

11 But through its market, the view of
12 the market what we view as their go-to market
13 strategy, I think there's a real difference
14 because one is really attempting to go
15 internationally to the high-end and to places
16 outside of even the region.

17 COMMISSIONER MCHUGH: I hope we can
18 discuss that and I know we will discuss that
19 more as we proceed. But I did not mean to
20 suggest that there is an equivalency between
21 the two.

22 I simply meant that it seemed to me
23 that both reading the original proposal and
24 then looking at the sort of fortified original

1 proposal with the response to the condition
2 warranted an upgrade. I'll stop there.

3 COMMISSIONER STEBBINS: I also would
4 not disagree with your interest in changing
5 that rating. As I always looked at this
6 question talking about a city integrated
7 resort, I think we are all mindful of the old
8 stereotype, which is just draw them in and
9 don't let them leave until they've lost every
10 dime and then send them on their way.

11 I think in my presentation also we
12 credit Mohegan with doing a lot of aggressive
13 outreach to businesses in the immediate area.
14 They talked about a strategy to draw people to
15 Revere Beach. They talked about a strategy to
16 pull people up along the North Shore to
17 Gloucester and Lynn and Salem and other
18 communities.

19 So, I credit them with that. I
20 think that to me defines more of a city
21 integrated resort. There's certainly plain
22 evidence that they are not just trying to have
23 you experience their building and then find a
24 way home.

1 The second half of the question is
2 your plan a destination resort casino rather
3 than a convenience casino? I think that line
4 starts to get a little blurry when we think
5 about where their market draw is coming from
6 and where they expect their patron base to come
7 from.

8 But certainly with the concept of
9 the city integrated resort, I think they've
10 been pretty aggressive in trying to again push
11 customers back outside the door through
12 transportation means, through the proposed
13 reward program. And again, it's part of their
14 strategy to have people explore not just Revere
15 and Revere Beach but the rest of the region.

16 COMMISSIONER MCHUGH: I take it that
17 the concept of a city integrated resort is not
18 necessarily different from a destination resort
19 casino as you look at it? Can they be the same
20 thing? They don't always have to be, I
21 suppose.

22 COMMISSIONER STEBBINS: In my mind,
23 there is some differences.

24 COMMISSIONER MCHUGH: That's

1 interesting. What's the difference?

2 COMMISSIONER STEBBINS: A city
3 integrated resort, and it's interesting we've
4 spoken about with tremendous accolades about
5 the MGM facility out in Springfield. And I see
6 that being a city integrated resort. It
7 connects well with what was around it as found
8 connections to a lot of the different
9 attraction but yet is probably not a
10 destination resort casino because it has a
11 primary draw from that region.

12 We have two projects here that are
13 not in the same situation as MGM because there
14 isn't a lot of built up development around
15 them. They're hoping to all be a spur for
16 additional economic development. That would be
17 a quick down and dirty distinction.

18 COMMISSIONER MCHUGH: No, that's
19 really interesting. That's interesting because
20 the model that at least I took away from the
21 Mohegan Sun response to this question was the
22 large Harrah's Casino in New Orleans, which as
23 I think about it is not probably what I think
24 of as a destination resort either but it is

1 surely a city integrated resort.

2 On the other hand, it seems to me
3 that both of these applicants in their
4 marketing approach are looking to bring in
5 people to a destination that is different from
6 say the Harrah's in New Orleans in a different
7 way. Maybe not, but I suppose we could just
8 get hung up on definitions and not ever get to
9 substance. Anymore discussion on that?

10 I see a consensus then to change the
11 rating for Mohegan Sun in question two to very
12 good. Do I see that correctly?

13 COMMISSIONER CAMERON: Yes.

14 COMMISSIONER MCHUGH: Let's go onto
15 question three, outward looking. How do you
16 propose to merge the creation of a destination
17 resort casino or slots parlor with the concept
18 of creating an outward looking physical
19 structure? That is an establishment that
20 relates to and is integrated with the host and
21 surrounding communities, leverages
22 Massachusetts existing assets and enhancing and
23 coordinates with Massachusetts existing tourism
24 and other leisure venues. And I rated them

1 both very good in this area, although, they
2 were very good in different ways.

3 This is largely, I think, a function
4 of the sites. Mohegan Sun's approach to the
5 outward look centers on its relationship with
6 existing businesses and attractions rather than
7 a physical openness. Again, the MGM is the
8 sort of antithesis of both of these sites.
9 It's embedded in the middle of a downtown area
10 and is open and encourages a lot of pedestrian
11 walk through and flow. Neither of these sites
12 is really amenable to that.

13 So, they find an outward looking
14 nature in different ways, but it seems to me
15 both are very good. The Wynn approach is in an
16 area that you have to get to first. But once
17 you get to it, there's several in and outs of
18 the structure. And there are public spaces.
19 And there are connections to the surrounding
20 areas via the walk.

21 And then in the presentation I
22 mentioned the boat piece of this in which you
23 connected to the entire region as you were
24 riding to the casino. So, that was the basis

1 for all of that. I don't propose to change
2 either of those, but welcome comments or
3 thoughts.

4 COMMISSIONER CAMERON: I agree with
5 your assessment.

6 COMMISSIONER MCHUGH: Everybody?
7 All right. Then let's move onto Commissioner
8 Zuniga for four and six and that's it, right?

9 COMMISSIONER ZUNIGA: Four and six,
10 yes. Number four describes the competitive
11 environment in which you anticipate to operate
12 over the next 10 years. How you plan to
13 succeed in the environment without taking
14 revenues away from other Massachusetts gaming
15 establishments, racetracks or businesses.

16 When I presented this and looked at
17 this question, I thought of it as having
18 several layers potentially, one within Region
19 A, one within the state, one within the broad
20 region and beyond.

21 The question here of competition is,
22 I believe, has a couple of different aspects to
23 it. The question does speak specifically to
24 taking away revenues from other Massachusetts

1 establishments. But I think it really alludes
2 to the notion that the whole eastern seaboard
3 in the United States is itself a competitive
4 and getting competitive aspect -- area.

5 I did mention the marketing
6 restriction when it came to Mohegan Sun in the
7 narrative here. I do however, think that with
8 the product that Wynn proposes, investing more,
9 having a larger capital investment, having
10 product differentiation and segmentation, his
11 emphasis on the high-end and targeting the way
12 they price their product and they build it
13 would put them in an advantage when it came to
14 Mohegan Sun.

15 The fact that again this applicant
16 is trying to go further away to get customers
17 is perhaps underestimating some of the
18 customers available here, in my opinion, builds
19 on the decisions we made before. And I did
20 talk about the notion of building a portfolio.

21 If we were building a portfolio, the
22 decisions we made in the past are with the
23 slots parlor that does target more the notion
24 of convenience, the notion of close. There's

1 of course no rooms there. With MGM, the way
2 the structure of the region, the city lends
3 itself for the drive from the region. It's
4 well connected to main arteries, etc. And in
5 my view what Wynn proposes is trying to
6 capitalize on people who would come here from
7 far away a lot more than what Mohegan proposes.

8 COMMISSIONER MCHUGH: How does that
9 impact the competitive environment for 10 years
10 in your view?

11 COMMISSIONER ZUNIGA: We are
12 Massachusetts. We are looking at it from how
13 do we compete for all customers out there,
14 whether they reside in Massachusetts close by
15 or far away. And if we have different product,
16 product that targets different segments with
17 the Commonwealth can be competitive,
18 competitive with either in the form of
19 recapturing dollars that are currently leaving
20 or attracting dollars that are not currently
21 coming here.

22 So, it's as if we were a consumer
23 products company that had different market
24 segments and try to get to all of the consumers

1 out there. Many of them overlap clearly. Many
2 patrons will ultimately go to all of them. But
3 if they are in different trenches of the market
4 segment, we would appeal to more segments of
5 the population out there.

6 COMMISSIONER MCHUGH: So, the idea
7 that the Wynn proposal is clearly aimed almost
8 exclusively at an upscale, highly upscale
9 market is in your view a selection of a segment
10 of both the local and international market that
11 differentiates it from Mohegan Sun and makes it
12 more durable?

13 COMMISSIONER ZUNIGA: Well, it
14 complements, makes the whole casino industry in
15 Massachusetts more durable, more sustainable.

16 Wynn is not exclusively going after
17 the high-end as you suggesting. They are
18 forecasting, predicting that a significant
19 portion of the revenues will still be from the
20 regional market which is very important.
21 You'll remember from our assessment, the HLT
22 market assessment, they were lower than our
23 lower end, but it's still a big number. It's
24 about 600 million that they expect to capture

1 from the regional market.

2 Mohegan, however, is over in their
3 revenues from the regional market from our
4 assessment. And it becomes a question of what
5 would you rather have somebody who may have
6 overestimated what's available in the regional
7 market or underestimated what's available?

8 This goes to another notion that I
9 advanced, I believe, in this question as well
10 relative to the flexibility. I talk about that
11 at the end of this question. The margins that
12 I glean from the finance application are
13 healthier with Wynn. We could get into that
14 more if you want. But the amount of interest
15 that the applicant pays over Mohegan Sun has
16 been modified slightly, by the way, with the
17 new preferred equity but not in my view
18 significantly. I would have to kind of run the
19 numbers.

20 And a way to stay competitive for
21 the facility -- Nobody is going to get
22 everything right. That goes for Penn. That
23 goes for MGM. And their ability to react to
24 the market threats, the market competitiveness,

1 whether New Hampshire ever approves casinos,
2 which is out there, or depending on what New
3 York does relative to the areas that they are
4 currently doing, is going to introduce factors
5 in the competitive environment that applicants
6 have to be able to react to.

7 And this is a theme that cuts across
8 the finance section. And if you have margins
9 in your cost estimates as well as your other
10 costs that would allow you to change certain
11 things, you would be more flexible if you
12 didn't anticipate everything in the market and
13 you had to change gears.

14 COMMISSIONER MCHUGH: Yes, I get
15 that. But I guess I will come back to this
16 regardless of what we do with this criterion
17 when we get to the projections.

18 There's no question that Wynn has
19 succeeded in a very competitive market in Las
20 Vegas and has been wildly successful in Macau,
21 also a competitive market. But Mohegan Sun is
22 and remains the largest grossing casino in the
23 northern hemisphere. They've been pretty
24 successful too. And that hasn't all come from

1 Uncasville.

2 So, I hear you on the interest
3 differences. I hear you on the financial
4 structure differences for this facility. But I
5 just wonder whether the focus primarily on the
6 high-end market is enough to give over the
7 long-term one applicant a competitive edge on
8 the other, particularly when the other hasn't
9 abandoned that market it just has not -- I
10 don't want to diminish the emphasis that Wynn
11 has on that. But Mohegan Sun hasn't abandoned
12 that section of the market.

13 Anyway, any other questions or you
14 got any other thoughts about this?

15 COMMISSIONER CAMERON: I think we'll
16 get into this more as we explore all of these
17 aspects. I'll hold for those discussions.

18 COMMISSIONER MCHUGH: Bruce, do you
19 have anything you want to add here?

20 COMMISSIONER STEBBINS: No.

21 COMMISSIONER MCHUGH: Is everybody
22 content with leaving this one as it is? So,
23 let's move on. I've made my thoughts
24 regardless of how we come out here. I do want

1 to revisit this as we go downstream. Okay.

2 Outside marketing that's you too.

3 COMMISSIONER ZUNIGA: Collaborative
4 marketing, how do you intend to market
5 aggressively outside of Massachusetts and
6 internationally, perhaps in cooperation of
7 existing industries and organizations.

8 This dovetails into the notion that
9 I've already advanced. Wynn has a lot of
10 people dedicated nationally and internationally
11 towards bringing people to their Vegas
12 operation and Macau operation. They clearly
13 are in their financials, their operations plan,
14 their marketing plan clearly states this as a
15 big part of their business model.

16 They are silent when it comes to
17 specific marketing efforts in terms of doing it
18 jointly, but they are doing it themselves in my
19 view. So, I will leave it at that.

20 COMMISSIONER MCHUGH: I read the
21 Mohegan Sun proposal as being really farther
22 along than Wynn was and more concrete in its
23 marketing plans -- not its marketing plans, it
24 its effort to work with affiliated entities,

1 the tourism bureau, the convention center,
2 other facilities in this region.

3 And to be sure, Wynn has all of the
4 attributes you said, but I thought that Mohegan
5 Sun had more fully integrated its outreach and
6 its focus into the attractions that were here,
7 the marketing efforts that were here, the
8 Greater Boston Visitors Bureau and the like.

9 COMMISSIONER ZUNIGA: Well, it's one
10 thing that they answer in the question that's
11 certainly the case. The question was a little
12 bit more direct or has an element of how do you
13 plan to collaborate.

14 And Mohegan does speak a lot about
15 collaboration. I think the main goal of the
16 question in my view is marketing aggressively
17 outside of Massachusetts. And I think there is
18 a real difference because they have the
19 infrastructure.

20 Wynn has a big infrastructure
21 dedicated to that. I know this is going to be
22 a theme, but with what they are able to capture
23 of the high-end that high-end brings more
24 dollars because if they visit farther or they

1 can most afford it that brings in more dollars.

2 So, I see the difference between
3 somebody trying to work together to get a
4 customer from far away while somebody saying
5 let me do it and when they are here the region
6 will benefit.

7 COMMISSIONER MCHUGH: All right. I
8 hear you. Other comments? Commissioner.

9 COMMISSIONER CAMERON: So, what
10 you're saying is they will do it on their own.
11 They won't collaborate.

12 COMMISSIONER ZUNIGA: Not
13 necessarily. I say they're silent. They're
14 silent on how they responded on specifically
15 organizations like MOTT or the Greater Boston
16 Convention Bureau, which is specifically --

17 COMMISSIONER CAMERON: That's the
18 question, right?

19 COMMISSIONER ZUNIGA: Well, it also
20 includes marketing aggressively which is the
21 main thrust of the question.

22 COMMISSIONER MCHUGH: Well, we read
23 the question a little bit differently. I read
24 it as looking not only for aggression but

1 collaboration. That's I think the point that
2 Commissioner Cameron was making.

3 COMMISSIONER ZUNIGA: It says
4 perhaps in cooperation.

5 COMMISSIONER MCHUGH: Yes. And I
6 was looking for an answer that helped us with
7 the perhaps piece. I don't want to get into
8 it. Bruce, Commissioner Stebbins do you have
9 any thoughts on this?

10 COMMISSIONER STEBBINS: Maybe I'm
11 reading the question too pointedly also. We're
12 talking about marketing aggressively outside
13 Massachusetts and internationally, perhaps in
14 cooperation with existing industries and
15 organizations. And I think Mohegan tended to
16 do better in that part of the question in terms
17 of identifying partners.

18 Again, now we're somewhat crossing
19 boundaries of replies and answers to other
20 questions in how I'm looking at this. There
21 was certainly a collaborative approach, but I
22 didn't necessarily see in this question that
23 they were -- in their reply to this question
24 driving a plan.

1 Certainly, one of the things I had
2 talked about was how well do you know the
3 landscape from any number of various operating
4 scenarios. They certainly know who the
5 partners are. It just for me tended to get
6 okay, we know you know who the partners are.
7 We know who you want to work with. But then
8 for me it just kind of stopped.

9 But yet we find other pieces of a
10 more aggressive plan in other parts of
11 questions and one of the questions I'm going to
12 address later.

13 COMMISSIONER CAMERON: It stopped
14 for which operator, for which applicant?

15 COMMISSIONER STEBBINS: Again, my
16 viewpoint, for Mohegan. It talked about yes,
17 these are the people I want to work with. Not
18 to put too fine a point on it, but they had the
19 right names of the organizations, which was a
20 big help in my mind.

21 But there's knowing who my partners
22 are going to be. There's also a question I
23 think as Commissioner Zuniga pointed out of how
24 much are you going to take charge. Then

1 there's we'll partner with them and the goal of
2 the partnering but not too many specific
3 strategies outlined beyond that.

4 COMMISSIONER CAMERON: So, you're
5 agreeing with this rating I think is what
6 you're saying?

7 COMMISSIONER STEBBINS: I would be
8 comfortable with this rating.

9 COMMISSIONER MCHUGH: How did the
10 Wynn applicant cross that -- How did the Wynn
11 applicant in your view do a better job on this
12 question? I hear you on Mohegan Sun outlined
13 the right names but then they didn't stop and
14 say how they implemented it, how they were
15 going to implement it. I'd just like to hear
16 from --

17 COMMISSIONER STEBBINS: Just on a
18 cursory review of the question and the answer,
19 they're identifying, again, maybe it's not all-
20 inclusive of some of the other existing
21 industries or existing organizations, but they
22 certainly focus on using a lot of tools they
23 have or identifying those tools. Maybe not
24 being completely specific about how they will

1 use them but with an overall goal of driving
2 international visitation.

3 Primarily, they talk about their
4 marketing offices and other relations they have
5 with domestic sales and services workforce.

6 And I've talked about this. It is
7 great that they talked about using them a
8 little less specific and how they would
9 actually be used, but to get to the
10 collaborative question, or the question above
11 of how do you intend to market aggressively
12 outside of Massachusetts and internationally, I
13 just saw a degree of detail that drove a
14 difference between the recommended rankings for
15 both.

16 COMMISSIONER MCHUGH: Okay.

17 COMMISSIONER ZUNIGA: Let me add
18 that like many questions on the overview
19 question, I think we need to glean information
20 from all sections of the application not just
21 from the response to this section in
22 particular.

23 COMMISSIONER MCHUGH: Right. I
24 don't disagree with that.

1 COMMISSIONER ZUNIGA: I remember
2 well Wynn's presentation relative to how do you
3 get somebody from far away to come here. And
4 there's a lot that has to do with building it
5 better here to compete with elsewhere.

6 COMMISSIONER MCHUGH: Yes, I heard
7 that.

8 COMMISSIONER ZUNIGA: That theme
9 does cut across and is corroborated in what
10 they are proposing in terms of their square
11 footage per room, the product, etc.

12 So, I do take the notion that
13 collaboration is maybe not Wynn's strong suit
14 especially in this response, but we have to
15 acknowledge that he's trying it on his own.
16 He, I believe, will do it aggressively -- They
17 will do it aggressively.

18 COMMISSIONER MCHUGH: Certainly, the
19 275 marketing employees that's in many places
20 in the world.

21 COMMISSIONER ZUNIGA: That's right.

22 COMMISSIONER MCHUGH: And the many
23 domestic sales and service workforce are a
24 driving influence in you rating.

1 COMMISSIONER ZUNIGA: That's right.

2 COMMISSIONER MCHUGH: I get that.

3 Okay. Any further discussion of this? I'm
4 happy with this rating as it is. By consensus,
5 that one stays the same. That takes care of
6 you, right?

7 COMMISSIONER ZUNIGA: It does for
8 the time being.

9 COMMISSIONER MCHUGH: For the time
10 being. Now Commissioner Cameron.

11 COMMISSIONER CAMERON: Okay. My
12 question had to do with Massachusetts brand.
13 How does the project you propose manifest an
14 appreciation for in collaboration with the
15 existing Massachusetts brand intellectual
16 knowledge, economy, biomedical, life-sciences,
17 educational and financial services, economic
18 driver and our long history of innovation and
19 economic regeneration over the 400 years of our
20 existence. We didn't look at all of the 400
21 years in this evaluation.

22 Mohegan Sun, I rated them
23 sufficient/very good. The tribal culture, the
24 traditional approach to develop a facility that

1 is compatible with the region. It's consistent
2 with New England's reserved cultural history.
3 The culture and history has provided them with
4 a deep understanding and knowledge of the
5 region. The integration with community has
6 influenced both the design features and the
7 outreach efforts.

8 Committed to the renewal of local
9 historical local institutions such as Suffolk
10 Downs and Revere Beach. Their marketing
11 approach reflects their emphasis on attracting
12 a great percentage of customers from New
13 England.

14 Wynn and Everett, very different
15 approach but again I thought it was
16 sufficient/very good. A destination, Wynn
17 proposes to add destination entertainment to
18 the multifaceted Massachusetts brand.

19 Wynn is committed to the restoration
20 of a contaminated site and to renewing the
21 connection of an underutilized industrial
22 waterfront to public access. This approach
23 aligns with Massachusetts recent emphasis on
24 recapturing the economic and recreational value

1 of its historical harbor sites. The Wynn's
2 marketing strategy to attract a higher
3 percentage of international visitors to their
4 facility is consistent with their worldwide
5 reputation.

6 So, very different but I thought
7 both did a good job with this and have an
8 understanding from a different perspective
9 altogether on how their brand would in fact
10 align.

11 COMMISSIONER MCHUGH: Thoughts,
12 questions? I have a question about how you see
13 the Wynn approach advancing the Massachusetts
14 brand. Just to clarify the question, as
15 opposed to the Wynn brand.

16 COMMISSIONER CAMERON: Well, when we
17 talk about the recreational value of the
18 historical harbor site, I thought that was an
19 important piece to what Massachusetts is trying
20 to do.

21 COMMISSIONER MCHUGH: The harbor
22 front was particularly important for you?

23 COMMISSIONER CAMERON: Yes. I
24 suppose it's a stretch when I talk about the

1 contaminated site as being part of the brand,
2 but I do see that whole revitalizing the
3 waterway is an important piece and something
4 that Massachusetts has an emphasis. And I
5 looked at it from that perspective and thought
6 it was very good from that perspective.

7 COMMISSIONER MCHUGH: Consistent
8 with a part of the Massachusetts brand being
9 particularly in this area of Massachusetts
10 being water driven or water derived, which does
11 go all of the way back to colonial times.

12 This would be a piece of fitting in
13 with that long-standing image, redeveloping a
14 waterside site for energetic uses and rescuing
15 it from the state in which currently is. Did I
16 get that right?

17 COMMISSIONER CAMERON: Yes, lots of
18 conversation around that with regard to the
19 brand, the water taxis that area being
20 underutilized at this time. Thought that was
21 an important piece and really did associate it
22 with the brand from that perspective.

23 COMMISSIONER ZUNIGA: Sort of like a
24 renewable notion, a regeneration, is that what

1 you're saying?

2 COMMISSIONER CAMERON: Yes, that's
3 in the question, the regeneration part, yes.

4 COMMISSIONER ZUNIGA:
5 Revitalization.

6 COMMISSIONER CAMERON: Yes.

7 COMMISSIONER MCHUGH: There's no
8 question it does that. And the proposal does
9 it well. Okay. I get it. Commissioner
10 Stebbins any thoughts that you have on that?

11 COMMISSIONER STEBBINS: You know,
12 it's such a broad question. And I think both
13 applicants kind of really dug down into their
14 answers and focused in on one specific piece.

15 I would almost look at both of these
16 applicants as meeting the brand of this
17 economic regeneration. Mohegan talking about
18 historic Revere Beach, the historic track.
19 Wynn talking about reclaiming economic
20 regeneration of an old industrial site.

21 So, they kind of didn't really touch
22 on all of the other pieces of the brand and
23 really focused in on one little particular
24 niche of the brand as it was asked for in the

1 question.

2 COMMISSIONER CAMERON: Which is why
3 I thought it was a split ranking, because
4 neither of them focused on the totality of the
5 question.

6 COMMISSIONER MCHUGH: That's
7 interesting and helpful. I ask that question
8 because I looked at the Wynn proposal really is
9 a self-reflective proposal, one that advanced
10 the Wynn brand exclusively. But I think you're
11 right.

12 I think that the harbor side, the
13 waterfront piece is really important
14 particularly in that region where it could be a
15 catalyst for further spreading of waterfront
16 development. So, I'm grateful for that. So,
17 I'm comfortable with that rating that we have
18 here.

19 This obviously is the value of
20 getting together and finally being able to talk
21 about these things.

22 Okay, Commissioner was that you're
23 only one?

24 COMMISSIONER CAMERON: It was. The

1 ninth question, which really didn't lend
2 itself.

3 COMMISSIONER MCHUGH: That's right.
4 Commissioner Stebbins you have five and seven
5 and eight.

6 COMMISSIONER STEBBINS: Yes. The
7 second question, which I know we didn't ask the
8 applicants about question nine, I'm sure at
9 some point we'll be hearing from all of them
10 about what would be essential to their success
11 at some point the future.

12 My question, first question is
13 question number five talking about meeting
14 unmet needs. How do you propose to work with
15 affiliated attractions and amenities to broaden
16 the market base of the gaming facility and meet
17 unmet needs in our array of entertainment,
18 education and leisure resources?

19 Again, I ranked Mohegan Sun Revere
20 as sufficient. They certainly talked about
21 working with area attractions, working with the
22 existing organizations. In their array of
23 entertainment, they talk about their
24 partnership with Citi Center to both hold

1 entertainment events at Mohegan Sun as well as
2 at Citi Center depending on the size of the
3 crowd. They talked about their marketing
4 relationship or relationship they hope to have
5 with Mass. Convention Center Authority to
6 promote convention and meeting activity.

7 They talked a great deal in this
8 question about a collaborative marketing
9 initiative for creating or intend to build a
10 collaborative marketing initiative similar to
11 what they've organized down in Connecticut
12 called Mystic Country.

13 Again, talking about creating
14 awareness of that region and hoping to create a
15 similar awareness of the region to draw people
16 to the Revere and Boston area, again, their
17 plan to draw people to Revere and to
18 communities further up along the North Shore.

19 Wynn Everett focused on utilizing
20 their kind of luxury oriented destination, as
21 they call it in the response, to complement a
22 lot of what Boston and the rest of
23 Massachusetts currently offer for tourists.
24 They talked about strategic alliance with TD

1 Bank Garden, relationships with Boston Symphony
2 Orchestra, the Boston Harbor Association, the
3 Boston Harbor Island Alliance, as well as a
4 number of other target partnerships to benefit
5 in state and local tourism organizations as
6 part of that partnership.

7 They want to create partnerships for
8 cultural dining, historic and entertainment
9 attractions across the Commonwealth. I think
10 that was one of the differences in that reply
11 was just thinking somewhat beyond the Boston
12 area. If they're drawing somebody in for a
13 longer period of stay, getting them to actually
14 explore just beyond the Greater Boston region.

15 They also talked about, and this is
16 where I picked up the unmet needs and array of
17 entertainment -- actually the unmet needs in
18 our education resources. They talked
19 specifically in this answer about partnering
20 with Bunker Hill Community College to focus on
21 a workforce training for their five-star level
22 of service training, something that they've
23 done at Temple University.

24 So, I thought both respondents

1 answered the question well. However, I felt
2 because of some of the specifics in trying to
3 check all of the boxes within the question that
4 I had to rank Wynn just slightly above Mohegan
5 Sun Revere.

6 COMMISSIONER MCHUGH: Okay.
7 Questions?

8 COMMISSIONER CAMERON: So, with
9 regard to Bunker Hill, you see that as
10 additional training other than what -- I know
11 that Mohegan is certainly partnering with
12 community colleges as well, but this is
13 something unique?

14 COMMISSIONER STEBBINS: I looked at
15 this and saw this as we asked both applicants
16 in the other parts of the application to sign
17 agreements with the Massachusetts Community
18 College Training Institute. And both parties
19 have done that.

20 Where again I thought there was just
21 a slight variation in responding to this
22 question was Wynn talking about the uniqueness
23 of their resort and their facility and
24 backstopping that or buttressing that with

1 actually having a specific training program
2 that they've done in other places be at Bunker
3 Hill to train for this five-star level of
4 service.

5 So, it was a really detailed example
6 of how they were hoping to meet an unmet need,
7 which I am not aware of other five-star resort
8 training programs in the area, in the region.
9 I just thought it showed a little bit more
10 initiative to offer that kind of difference in
11 the rankings.

12 COMMISSIONER MCHUGH: So, did you
13 understand that they had done this program at
14 Temple or that they were aware of Temple and
15 proposed to do something similar?

16 COMMISSIONER STEBBINS: I believe
17 they've done this program at Temple and were
18 looking to create a similar program at Bunker
19 Hill.

20 COMMISSIONER MCHUGH: So, this would
21 up the reserve of people in the area capable of
22 giving five-star treatment whether they were
23 working at the Wynn facility or elsewhere?

24 COMMISSIONER STEBBINS: Right.

1 COMMISSIONER MCHUGH: All right.

2 Commissioner Zuniga any questions?

3 COMMISSIONER ZUNIGA: No.

4 COMMISSIONER MCHUGH: All right.

5 COMMISSIONER STEBBINS: Question
6 number seven, this is diverse workforce and
7 supplier base. Describe your commitment to a
8 diverse workforce and supplier base and on
9 inclusive approach to marketing, operations,
10 training practices that will take advantage of
11 the broad range of skills and experiences
12 represented in our Commonwealth's evolving
13 demographic profile. Further identify and
14 discuss the diversity within the leadership and
15 ownership of the applicant, if any.

16 I'll go through my comments first
17 and then we can come back and talk about the
18 rating. Mohegan Sun in their reply to this
19 question stressed their current status as a
20 minority owned and operated facility, a diverse
21 workforce.

22 They hit a target of 41 percent of
23 their workforce being diverse despite operating
24 in regions that are less diverse than Boston.

1 They talked about the Mohegan Sun MA diversity
2 plan similar to a plan they created for their
3 other facilities. And they will organize a
4 diversity committee to oversee its
5 implementation.

6 Their host community and surrounding
7 community agreements, they have focused on
8 recruitment and hiring in local areas with a
9 specific target of Spanish-speaking population.

10 They have engaged the Greater New England
11 Minority Supplier Development Council, the
12 Boston Minority Business Development Center and
13 are on the Corporate Council of the Center for
14 Women in Enterprise. They also expressed their
15 support for UMass Boston Commonwealth Compact
16 Project.

17 They have an inclusion policy.
18 Again, this gets to their vending, talking
19 about all contracts over 100,000 should include
20 a bid from a minority-, women- or veteran-owned
21 business, and developed a minority vendor list.
22 The company mentioned their intent to work
23 closely with our own Director Lacey going
24 forward.

1 Wynn demonstrated a track record in
2 workforce. The Las Vegas operation comprised
3 of a 60 percent diverse employees. Wynn
4 identified diversity among its workforce, non-
5 discrimination in all hiring practices as a
6 core value. They also noted several areas of
7 recognition that they've received for their
8 diversity in management and leadership
9 positions.

10 In Massachusetts, they're planning
11 to recreate a local recruitment partners effort
12 and general recruitment materials and targeted
13 marketing campaigns. They've also created
14 training and development practices including
15 leadership training. So, a number of positive
16 internal employee career pathway programs.

17 In addition, they've highlighted
18 their diverse management leadership members,
19 how they've supported some ancillary programs
20 including citizenship classes and hosted a
21 citizen swearing-in event. They've also
22 pledged to work with our supplier diversity
23 office.

24 So, again I think both of the

1 responses were very strong. I would also
2 suggest recognizing the level of detail they
3 put into both and raising them both from
4 sufficient to very good.

5 COMMISSIONER MCHUGH: All right.
6 Comments on that proposal? I'll go ahead and
7 comment. It seems to me that that's entirely
8 appropriate. The diversity that already exists
9 is impressive for both applicants. And you've
10 delved clearly into the other components of
11 that. You've been careful and thoughtful and
12 detailed about this entire subject as we've
13 gone along. And it's impressive in both cases.
14 So, I'd be happy to raise both.

15 COMMISSIONER STEBBINS: And I think
16 just to note, in talking with the WOW committee
17 they have expressed their interest in seeing
18 these ranked as sufficient. I think most of
19 their intention in doing that was based on this
20 is a lot of good information laid out.

21 It's a lot of good detail but what's
22 the follow-up? What's the monitoring? Who's
23 going to keep track of their successful
24 efforts? Obviously, that's part of our job.

1 But I think that's where some of the initial
2 interest was in ranking it sufficient. But I'm
3 happy to move both of them up.

4 COMMISSIONER MCHUGH: All right.
5 Consensus to do that?

6 COMMISSIONER ZUNIGA: I'd be fine
7 with that.

8 COMMISSIONER MCHUGH: Let's rate
9 both of them as very good. And then the final
10 question for you Commissioner Stebbins is
11 question eight.

12 COMMISSIONER STEBBINS: Sure.
13 Question number eight, which focuses on
14 broadening the region's tourism appeal. What
15 is your overall perspective and strategy for
16 broadening the appeal of your region and the
17 Commonwealth to travelers inside and outside of
18 Massachusetts?

19 Mohegan Sun, some of the detail I
20 provided talks about focused again, on drawing
21 visitors to the region, encouraging them to
22 explore Revere, the historic beach and
23 community and amenities along the North Shore
24 including Salem, Rockport, Gloucester and Lynn

1 and others.

2 They intend to use their existing
3 five million member database for those
4 marketing efforts. Again, we've talked about
5 this. Again, where they're projecting their
6 visitation to come from, again, the PKF study.
7 They've also talked about increasing
8 visitation. They want to partner with many of
9 the organizations. They've responded here
10 again with the organizations they want to
11 partner with also hoping to partner with Mass.
12 Convention Center Authority to help again be
13 part of an effort to draw conventions and
14 meetings to Boston.

15 In terms of highlighting other
16 things to do in the area, they talk about a
17 number of -- in response to this question, talk
18 about number of in-room promotions, dedicated
19 tabs on their website, promotion of local
20 attractions and businesses throughout the
21 property, using their mailings. And again they
22 talked about their Momentum Rewards program for
23 encouraging patrons to redeem points at these
24 local businesses.

1 Wynn Everett explained in their
2 reply they see an opportunity to increase
3 current entertainment and recreation spending
4 as a percentage of the total visitor
5 expenditure in Massachusetts. They highlighted
6 the fact that six percent of the 16.9 billion
7 spent in visitor expenditures is on
8 entertainment and recreation. They noted that
9 they feel that this number is considerably
10 lower than other major cities across the United
11 States.

12 So, they identified the problem.
13 They focused on drawing an establish existing
14 customer base, again comprises higher income
15 earners, people who want to tend to stay longer
16 at their hotel, utilizing their national and
17 international sales force to draw people,
18 again, from outside the region and the country
19 to the area.

20 They talked about their strategy
21 relying on creating partnerships. Again, they
22 highlighted a number of specific cultural,
23 dining and historic and entertainment
24 attractions in the Commonwealth. Want to

1 utilize TD Bank Garden for their entertainment
2 use, as well as build a relationship with the
3 Boston Pops and their BSO to enhance their
4 customer stay.

5 Wynn has a very specific program for
6 giving points, nongaming reward points and
7 their interaction with the BSO and the Boston
8 Pops would allow those privileged award members
9 to benefit from going to certain concerts and
10 events.

11 They also want to use their Red Card
12 Room key program or Wynn app. to incentivize
13 visits to other amenities. And they listed a
14 number of those. And again, their projected
15 marketing spending supports a number of these
16 marketing initiatives.

17 Again, I thought both applicants
18 answered this question well. Where I'd give a
19 stronger score is to Wynn. And it was maybe
20 with how they laid out their response.

21 Identifying what the opportunity was and how
22 that opportunity could be met with some of the
23 other initiatives and strategies that they
24 talked about in response to the question.

1 They were pretty specific, pretty
2 detailed. Again, they zeroed in on an
3 opportunity they felt that the tourist economy
4 in Massachusetts is missing out on. So, that
5 is the reason for a sufficient rating for
6 Mohegan Sun and a very good to outstanding
7 rating for Wynn Everett.

8 COMMISSIONER CAMERON: Does this
9 question differ from the tourism question in
10 your presentation? Because you rated them
11 equally there with regard to tourism.

12 COMMISSIONER STEBBINS: I did, I
13 did. And probably I took this question as a
14 standalone question. I probably analyzed them
15 a little bit differently going on based on what
16 on they provided in the answers to these
17 questions.

18 I don't know about you, but I found
19 some information -- We asked so many questions
20 of our applicants in these questions that
21 detail in a reply doesn't necessarily meet or
22 is provided in a subsequent answer to a similar
23 question.

24 COMMISSIONER CAMERON: I thought we

1 were talking about looking at the overview as
2 an all-encompassing, looking at all of the
3 answers that have been provided to us through
4 all of the categories.

5 COMMISSIONER STEBBINS: I looked at
6 this as an answer to a specific question. Even
7 though these are all overview questions that
8 you may think people could reply at a 30,000-
9 foot level, I think I was impressed in these
10 two responses was the specificity of detail and
11 targeting a specific unmet need that again,
12 kind of pushed me to give a different ranking
13 to both, even though they both in tourism
14 probably are sufficient.

15 COMMISSIONER MCHUGH: So, what's the
16 kernel of the difference. The Momentum program
17 can be used outside the facility in businesses.
18 And they've now in their condition response
19 targeted \$17 million as an actual target and
20 we'll monitor that. They both have
21 arrangements with local artistic venues.

22 The Mohegan Sun has these plans to
23 work with the various travel, local travel
24 bureaus. Wynn has the staff, the 275 people in

1 the various tourist agencies. What was the
2 core of the difference between these two,
3 particularly in light of the marketing response
4 to the conditions given by Mohegan Sun and the
5 response to the conditions?

6 I guess I just wonder if you'd be
7 amenable to upgrading of Mohegan Sun
8 particularly in light of the response to the
9 conditions to a level of at least very good and
10 maybe very good to outstanding.

11 I think that the Wynn proposal, and
12 we focused a lot on the appeal to the high-end
13 tourist from out of town and the dollars that
14 those people will bring and spend here in
15 Massachusetts. That's the plan. And I know
16 we'll talk more about that when we get there
17 and when we get to that section.

18 But in terms of trying to get people
19 here who aren't here, I wonder if Mohegan Sun's
20 plan isn't at least very good, because as -- I
21 should just put a question mark right there and
22 stop. As I heard you, I was having trouble
23 finding what the kernel of the difference was
24 that made it that big a disparity.

1 COMMISSIONER STEBBINS: Again, and
2 you are right. There is certainly a big
3 disparity between sufficient and a very good
4 and outstanding rating. Again, I was more
5 approaching this question is a standalone
6 question. Again, that was a ranking provided
7 before we understood or had been provided to us
8 a change in the marketing conditions.

9 The sufficient rating, there
10 probably is more detail here. There probably
11 is a larger strategy. Certainly, again, if I
12 keep coming back to it in terms of
13 understanding the local landscape, they
14 certainly understand who their potential
15 partners are. They certainly understand an
16 opportunity to work with the area hotels to add
17 capacity when it comes to trying to lure
18 conventions or meetings here in partnership
19 with the MCCA.

20 Again, for this and maybe we can
21 come back to it if we visit the tourism section
22 or the tourism criterion, but I'm happy to
23 bring Mohegan up to a very good. But again in
24 terms of answering these two questions, I just

1 saw more thoughtful detailed target reply on
2 how they plan a follow-up and address that
3 deficiency.

4 Again, it's just what they see as a
5 target of entertainment and recreation spending
6 by visitors that's far below other
7 municipalities or other major cities, sorry.

8 COMMISSIONER ZUNIGA: Let me just
9 mention, if we are now comparing to the rating
10 in the economic development piece that is on
11 equal footing to the tourism rating --

12 COMMISSIONER MCHUGH: Well, I
13 wasn't. I was doing this as a standalone as
14 Commissioner Stebbins did. I just wanted to
15 make that clear.

16 COMMISSIONER ZUNIGA: Let me just
17 pick up on that because you mentioned the
18 marketing restriction. The marketing
19 restriction in my view puts Mohegan on equal
20 incentive to bring visitors from outside to
21 either Massachusetts or any one of the other
22 facilities.

23 Wynn does not have that imbalance,
24 if you will, or that scenario. So, they also

1 project a lot more in their own revenues from
2 out-of-state. And I guess I've made this point
3 before, the further away and the more that they
4 depend on outside revenues, the bigger the
5 impact in my view on tourism, on tourism
6 dollars because there will be a presumably a
7 trickle-down, if you will.

8 COMMISSIONER MCHUGH: Trickle-down
9 is tricky, but I hear what you're saying. But
10 in terms of trying to attract people to the
11 region, these plans it strikes me on behalf of
12 Mohegan Sun, are very good plans. And perhaps
13 Wynn has the edge, we can revisit that later,
14 perhaps they do. They have this international
15 infrastructure. There's no question about
16 that. And based on what I know and what's in
17 the application, give the nod to them on that
18 piece. So, that would in this rating bump them
19 up a notch above Mohegan Sun.

20 But Mohegan Sun now has amplified
21 its plan, has removed and expanded its horizons
22 in terms of the primary market for this
23 facility. And now has also separated the
24 primary non-Mohegan Sun equity investor from

1 any interest in the Connecticut casinos, all of
2 which motivate success here.

3 So, it doesn't directly go to that,
4 but it does in my view direct itself at some of
5 your answers -- your concerns which I share.
6 But it seems to me that you've got a basically
7 very good tourism plan in place in Mohegan Sun
8 and a little bit better plan in place in Wynn.
9 And that's all I was suggesting to Commissioner
10 Stebbins.

11 COMMISSIONER ZUNIGA: That's fine.
12 I don't disagree with that. What makes a very
13 good and very good outstanding is always
14 tricky. I think the way we've laid out this
15 process, the real strength comes from the
16 ability to compare one against the other.

17 COMMISSIONER MCHUGH: And I think we
18 can spend probably, and I'm guilty of this,
19 spend too much time looking at these individual
20 components rather than at things holistically,
21 which we'll get to in a little while. But we
22 did start down this path. It does have
23 utility. So, I think we need to complete it.

24 That would, if you all agree upgrade

1 Mohegan Sun from sufficient to very good in
2 this category. So, that finishes the
3 individual ones.

4 Do we have, Melissa, a slide that
5 shows each of them? We do not have that for
6 this one. Let's take then a crack at the
7 overall rating -- You can put up the slide with
8 the blank. -- in light of our discussions and
9 now the revised ratings. Who wants to kick
10 that off?

11 COMMISSIONER CAMERON: Do we want to
12 get into detail here or do we want to really
13 just talk about which questions we think are
14 important or what do think?

15 COMMISSIONER MCHUGH: How would you
16 like to begin?

17 COMMISSIONER CAMERON: What I had
18 put together here is I think some of these
19 questions are more important than others.

20 COMMISSIONER MCHUGH: Why don't you
21 start there first then. That's a good
22 conversation.

23 COMMISSIONER CAMERON: I had
24 questions two, four, six and eight, I had a

1 little more value to those particular questions
2 when it comes to the overview reading. I just
3 thought in talking about the legislative
4 mandate for a destination resort, the
5 competitive environment, the collaborative
6 marketing and broadening the region's tourism
7 were really important factors in this overview.

8 All of them are important, but I
9 gave personally some more weight to those
10 questions in the overview. I think the scores,
11 we just went through them individually. So,
12 we're pretty much aligned with how we valued
13 those answers. Does someone else want to
14 speak?

15 COMMISSIONER MCHUGH: Let's focus.
16 That was a useful thing, which I want to do for
17 starters when we get to overall discussions.
18 That's the weighting of these. Comments on the
19 weighting of these two, four, six and eight as
20 being more important than the others?

21 COMMISSIONER ZUNIGA: I agree. I
22 think there is ultimately, and we will get into
23 this discussion I'm sure in the overall, but
24 there is in my view the notion of creating this

1 -- It's a stated goal of legislation, which is
2 a secure and robust gaming environment which is
3 one of the primary goals. And therefore, the
4 competitive aspect needs to be part of that.

5 It's implicit throughout the whole
6 Gaming Act that there is more economic
7 development if it comes -- if there's a lot of
8 repatriation of the dollars as well as outside.
9 So, tourism plays a big piece here. You had
10 stated Commissioner two, four, six and which
11 one else?

12 COMMISSIONER CAMERON: Eight,
13 tourism appeal.

14 COMMISSIONER ZUNIGA: So, I spoke
15 about that. Four and six as I mentioned are in
16 my view very, very much connected, one builds
17 on the other, which builds itself on question
18 number two, the notion of a destination resort.
19 So, I would agree.

20 COMMISSIONER MCHUGH: All right.
21 Commissioner Stebbins?

22 COMMISSIONER STEBBINS: There's one
23 that sticks out. Both applicants rated very
24 well on it, but it's question number seven

1 which is really the standalone question when it
2 comes to diversity, when it comes to the
3 workforce, when it comes to impacting the local
4 business base.

5 So, where some of the other
6 questions have some overlap into each other,
7 and we talked about those, seven I think is
8 certainly important and certainly something
9 that repeatedly got restated throughout the
10 statute.

11 COMMISSIONER MCHUGH: So, you would
12 give seven equal weight with the others?

13 COMMISSIONER STEBBINS: Yes, I
14 would.

15 COMMISSIONER MCHUGH: I can't
16 disagree with any of those. I can't disagree
17 with any of those. It's a broad rating. I'm
18 not sure how much the weighting helps us, but
19 there it is. They are all important question
20 and that reflects the care I guess with which
21 they were crafted. Okay.

22 COMMISSIONER ZUNIGA: Would it be
23 fair to say that each of those there's an edge,
24 however different to Wynn and the rollup could

1 reflect that in the same way?

2 COMMISSIONER MCHUGH: No. In two
3 they're the same. -- Yes, there is an overall
4 edge to Wynn if we place primary weight on
5 those. Actually, there is an overall edge to
6 Wynn if we include the other two.

7 So, it seems to me that in this
8 section the overall overview score is and ought
9 to be reflective of that. And if that's a
10 consensus view, I propose a view of very good
11 and very good/outstanding, very good for
12 Mohegan Sun and very good/outstanding for Wynn.
13 That's a proffer not an announcement.

14 COMMISSIONER ZUNIGA: Yes. I think
15 again trying to figure out whether very
16 good/outstanding is that much different from
17 very good, I think the big picture is that the
18 edge belongs at least of my view individually
19 to Wynn and in the rollup it would reflect it.
20 So, I'm fine with the overall rollup as you
21 suggested.

22 COMMISSIONER MCHUGH: My proposal is
23 based on something a little more than the edge.
24 I think that Wynn does have the edge here. I

1 think we've talked about this now for almost an
2 hour and a half. I think it's pretty clear
3 that what our reasons are for giving Wynn the
4 edge here.

5 But I think it's really important to
6 understand too that we have two good proposal
7 here. We don't have one in which there is a
8 vast gulf between one and the other.

9 I think that therefore the rating --
10 And these are not scores. There's not a number
11 of points that go with dark green and a few
12 less that go with the light green. We've never
13 done that. And that's not what's here.

14 And I think it's very important to
15 give a response that reflects the reality. And
16 I think the reality is that in this area we
17 have two very competitive proposals. And it's
18 from that standpoint that I recommended a very
19 good, very good/outstanding recommendation for
20 this.

21 COMMISSIONER CAMERON: I would
22 agree. It's the overview. And it's all
23 encompassing which is why this is very
24 difficult. They are both equally strong -- I

1 won't say equally. They're strong proposals
2 that we have to choose from. So, yes, I agree
3 with that rating.

4 COMMISSIONER MCHUGH: Okay.

5 Commissioner Stebbins?

6 COMMISSIONER STEBBINS: I would
7 agree with that.

8 COMMISSIONER MCHUGH: I don't think
9 we need a vote then. I think by consensus we
10 rate the Mohegan Sun Revere proposal very good
11 and rate for the overview section the Wynn
12 Everett proposal very good to outstanding.

13 All right. That brings us to the
14 end of this particular piece it also brings us
15 to lunch. So, we're going to stop now and we
16 will resume in one hour at 2:00 right here.

17

18 (A recess was taken)

19

20 COMMISSIONER MCHUGH: We are ready
21 to resume with I guess I forgot to announce
22 that this is the fourth session of the 134th
23 meeting. We've always counted off the numbers
24 of the meetings and that's what this is.

1 So, we finished the overall overview
2 rating. And now let's turn as we announced at
3 the beginning we would to a discussion about
4 the five elements of the application and at
5 least in a general sense, this isn't binding,
6 but at least it's a good discussion to have
7 about the relative weight of each of those
8 sections.

9 I recognize when we do this that
10 none of the sections is an island all by
11 itself. They all relate, have relationships
12 with the other elements. I think it would be a
13 worthwhile and we all think it would worthwhile
14 to talk a minute about the relative weight
15 because they are not all equal. And see if we
16 are on the same page with respect to that
17 because a lot of other things fall into line if
18 we are.

19 Do any of you want to start off that
20 discussion? I'll be happy to if nobody else
21 does but Commissioner Cameron?

22 COMMISSIONER CAMERON: Thank you,
23 Commissioner. I have been thinking a lot about
24 this particular region and what the important

1 elements are.

2 I think all of our five categories,
3 financial is critical frankly. We really need
4 to make sure that the winner or the strongest
5 applicant, their finances are strong. It's
6 important to the Commonwealth that this is a
7 project that can withstand any kind of a turn
8 in the economy and that that revenue and those
9 jobs are protected. So, I think that's a huge
10 piece of this.

11 As well as pieces of the economic
12 development certainly, how many jobs, getting
13 back to the legislation, jobs, good paying
14 jobs, very important.

15 And in this particular region,
16 transportation, traffic management is really,
17 really important for a number of reasons. So,
18 when I look at all of the categories, although
19 the overview kind of bring it all in, and
20 certainly elements of site and design are very
21 important as well as most of mitigation does
22 not have to do with transportation. So, every
23 piece is important.

24 But certainly I look at the

1 financing, the marketing, the jobs, the
2 salaries protecting -- Jobs goes both ways,
3 right? It's not only new jobs but a piece of
4 that is certainly protecting existing jobs.
5 So, I look at all of those elements as very
6 important here.

7 COMMISSIONER MCHUGH: All right.
8 That's a good helpful start. Other thoughts,
9 comments on that?

10 COMMISSIONER STEBBINS: I'd echo
11 some of my colleague's comments. When you
12 posed this question to us, I think where I
13 started to come down -- And we've talked about
14 this. We talked about how the Category 2
15 applicants all had different issues.

16 The one applicant in Region B had
17 certain challenges around their project. The
18 categories and their consideration or criterion
19 and their consideration are a little bit
20 different I think this time around.

21 I look at a lot of their financial
22 pieces as being critical. I look at
23 mitigation, most obviously as Commissioner
24 Cameron pointed out mostly related to traffic.

1 So, once you know you have the money, once you
2 know you can get to the site, then the thing is
3 relative to building and site design, and the
4 jobs can be realized. So, they're somewhat
5 taken in a different order as we may have
6 considered them with respect to other two
7 licensing rounds.

8 That said, when you look at section
9 18 which talks about the conditions we need to
10 look at and the findings that we need to have
11 relative to issuing a license, almost half of
12 the conditions are with respect to jobs and
13 business impact. But again, as I pointed out,
14 a lot of those things aren't realized if you
15 can't get to the location and you can't pay for
16 them.

17 COMMISSIONER MCHUGH: That's an
18 interesting approach. I don't disagree with
19 anything that either of you said but I have it
20 in a little bit different order.

21 I put the economic development piece
22 first. That's the benefit but I look forward
23 to the discussion here. The economic
24 development piece first that's the benefit of

1 the statute. That's the job creation. That's
2 the revenues. That's the spreading of monies
3 out into the community. That's the purpose for
4 which this statute was created. So, that's the
5 benefit.

6 Then I put the mitigation piece next
7 because that's the immediate cost. At what
8 cost do these benefits come and who bears that
9 cost and in what proportion? And that includes
10 both the traffic, the problem gaming, the other
11 elements of mitigation that have been so
12 thoughtfully described by Commissioner Cameron.

13 Then once you look at the cost-
14 benefit and decide that the scale tips in favor
15 of the benefit, then do you have the financial
16 structure to support this array. You can do it
17 the other way around, but that's just the way
18 it seems to me it's worth thinking about.

19 And do you have the financial
20 wherewithal to do it now and to stay with it in
21 a fluctuating market environment, the extent of
22 which we can't fully predict. All we can do is
23 look at how well the applicants insulate
24 themselves from the vicissitudes of that

1 market.

2 And then finally, the building and
3 site design piece, which I look at as a beacon
4 for attracting people to a place that will
5 yield the development that one hopes. But the
6 building and site design obviously is near and
7 dear to my heart. And while I do think it is a
8 very important element of this, I think it's
9 not the most important.

10 COMMISSIONER ZUNIGA: Let me mention
11 a couple of things. Again, it's hard to
12 disagree with any of that. But I think it's
13 important to think of some of this different
14 criteria. I think one way to think about it in
15 terms of benefits and costs I think is very
16 useful.

17 I would offer the next or the
18 following thought. There are certain areas
19 that go in each of these criteria where there
20 is a role for an agency in the state or for
21 this own Commission a little bit more active
22 role when it comes to, for example, mitigating
23 certain things. Not everything can this
24 Commission do. That's clear. But there are

1 agencies in my view that have an active role
2 here.

3 There are other areas where that
4 role is less active. And in my view, that's
5 one way to think about what the applicant
6 brings with their proposal. The shorthand of
7 all of this is obviously --

8 COMMISSIONER MCHUGH: I hate to
9 interrupt, but could you expand on that?

10 COMMISSIONER ZUNIGA: Yes. What do
11 we depend on the applicant to do most? I think
12 problem gambling is a really good example. We
13 will have regulations that will be as detailed
14 as we need them. Where frankly, cooperation of
15 the applicant is less of a concern because we
16 have the regulatory framework to do that.

17 Comparatively, I'm saying
18 comparatively there are other areas in terms of
19 coming up with the financing for example where
20 we really depend on the applicant to do it.
21 So, from my perspective, they could also be
22 viewed from the notion of where is that role
23 more active, by the agencies that are here
24 including this Commission or in this case the

1 applicant?

2 COMMISSIONER MCHUGH: I do want to
3 come back to that. It's interesting. I do
4 want to come back to it.

5 COMMISSIONER ZUNIGA: The shorthand
6 in all of this has been we approved gaming, the
7 Legislature did for the revenues and for the
8 jobs. Yes, there is costs and mitigation is an
9 important piece, but the way we come to this
10 decision is on the heels of an economic
11 downturn where this becomes -- the notion of
12 jobs, of good jobs, jobs that don't leave
13 necessarily is a very important discussion.

14 COMMISSIONER MCHUGH: I just wanted
15 to pick up on your dichotomy between the
16 applicant and the Commission is part of the
17 issue. But there are others that have to
18 participate in problem solving and the
19 collaborative effort to make these things work.

20 The statute place heavy emphasis on
21 the host community agreement, for example. It
22 places heavy emphasis on the surrounding
23 community agreements. And it places heavy
24 emphasis on community support. It places heavy

1 emphasis on a number of intangibles that allow
2 an enterprise that has benefits to survive and
3 actually get implemented because.

4 And it seems to me that the
5 Legislature was right to concentrate on those
6 things. And they go into some ways mitigation
7 but they also go into more intangibles like a
8 spirit of collaboration.

9 So, I take your point about some
10 things that we can control and some things we
11 have to rely on the applicant for. But I think
12 that's a third force there that has to play a
13 role and we have to consider the role that it
14 will play.

15 And it's not isolated roles. It's
16 how well the pieces fit together that it seems
17 to me is the critical component of this. And
18 all we can do is predict, but we really do have
19 to predict how well those pieces fit together
20 in order to have something that's sustainable,
21 effective and can be implemented within a
22 foreseeable period of time.

23 So, I wrap that all up into
24 mitigation, but maybe it's broader than

1 mitigation and goes into some other things as
2 well.

3 COMMISSIONER ZUNIGA: I think it's
4 broader. I think there's also a notion that
5 I've been thinking about how all of these
6 factors -- There's a lot of competing
7 priorities in section 18 and overall the
8 statute. There's the shorthand as well
9 relative to maximizing the good while
10 minimizing the not so good. And there's no one
11 applicant is going to maximize each one of
12 those criteria. That's almost a given but I
13 think it bears mentioning.

14 And I think how they fit all
15 together, whether one has more weight, if you
16 will, and we all know, we are all in agreement
17 that it's around economic development,
18 revenues, jobs, again, with the notion of who's
19 bearing the costs. But how they all fit
20 together, who has the greater likelihood of
21 achieving the goals, as many goals as stated,
22 corroborated or desired.

23 There's a greater likelihood
24 conversation to be had in my view. I've often

1 thought of it in terms of risks. It's
2 sometimes not very good to think about worst-
3 case scenarios, but it's useful as we make a
4 decision like this, this kind of decision has
5 to endure for at least 17 or 18 years because
6 we're not just talking about the term of the
7 license, we're talking about a period of
8 construction that's important.

9 Building on that notion of risk,
10 what makes this region different from the
11 decisions that we've made before? This is a
12 higher cost operation. The potential revenues
13 to this region are greater than the other
14 regions. All regions were treated the same in
15 terms of minimum capital investment by the
16 legislation, but from what I've learned about
17 the market assessment is that this has the most
18 potential.

19 But with a bigger operation comes
20 greater risk, right? And I'm going to come
21 back to the original point, who has the greater
22 likelihood of achieving all of the goals
23 however they fit together or weigh
24 comparatively.

1 COMMISSIONER MCHUGH: Yes. I don't
2 disagree with that. And ultimately I think it
3 comes down to an assessment of the yield, the
4 comparative yield, the comparative risk but
5 then who has the greater likelihood of being
6 able to achieve one or the other.

7 For example, if there is a greater
8 yield but a greater risk, it may be that the
9 greater yield is beyond anybody's reach. And
10 so, it seems to me that's -- And maybe we're
11 saying the same thing. It seems to me that's
12 something we ultimately have to take into
13 account.

14 I am not sure that fits neatly into
15 the mitigation category but the mitigation
16 category helps us take a look at the issues, at
17 the cost the things that have to be mitigated
18 and the things that stand in the way of success
19 in an overall proposal. And yet we have to
20 take a look at what the proposal promises.

21 COMMISSIONER ZUNIGA: I want to
22 bring up another way, another thought.

23 COMMISSIONER MCHUGH: What?

24 COMMISSIONER ZUNIGA: I want to

1 bring up another thought relative to this
2 notion of the different criteria or the
3 different sections.

4 COMMISSIONER MCHUGH: Yes. I don't
5 think we've reached a consensus. And this is
6 good conversation to create a framework.

7 COMMISSIONER ZUNIGA: There are
8 perhaps -- The way we structured the
9 application, and trust me I would probably do
10 it a little differently if we were doing it
11 right now perhaps.

12 COMMISSIONER MCHUGH: We're not.

13 COMMISSIONER ZUNIGA: We're not.
14 But if we were framing the questions, and this
15 is of course a little academic, but the way
16 these questions were put together and the
17 sections were again also grouped together, it
18 occurs to me that certain sections, namely
19 several of the questions that fall under the
20 economic development section is a section that
21 lends itself to a lot of what they promise to
22 do.

23 The applicant promises as a plan, as
24 a projection, as a vision, as intentions.

1 There's however other questions grouped in
2 other sections where that is corroborated,
3 triangulated, where we can corroborate whether
4 what they plan here, what they promise here
5 whether they can do it over there. Because we
6 start triangulating and start painting a
7 picture.

8 I think that's important to think
9 about in the role that we have not to take one
10 answer, and I know we don't intend to do this,
11 but one answer in isolation to say well, they
12 promised to do this over here. I think a
13 fundamental role of our evaluation is where
14 else have they demonstrated it? What other
15 confirming evidence do we have?

16 And by the way, that's not limited
17 to their application obviously. Their track
18 record is very important. What they do
19 elsewhere is very important. What other pieces
20 of data we can glean from all of the finance
21 information that's available publicly that can
22 tell us their financial position, for example.

23 So, there is a role for us to think
24 about each one of these sections. And I know

1 we're not thinking about them in isolation, but
2 where else from what they tell us, where else
3 do we find confirming evidence that gives us a
4 comfort level that they will be able to deliver
5 on the promises that they have made.

6 COMMISSIONER CAMERON: Can't that
7 also be said for things they don't tell us and
8 they don't promise?

9 COMMISSIONER ZUNIGA: Yes.

10 COMMISSIONER CAMERON: So, that can
11 work both ways that way of looking at this.

12 COMMISSIONER MCHUGH: Yes. And what
13 you've just talked about goes into the risk,
14 part of the risk. You can be promised the
15 moon. What's the risk that you're not going to
16 get it. And the risk you're not going to get
17 it in part -- we can't just put labels on all
18 of these things.

19 There's part that deals with the
20 finances, in part it deals with other kinds of
21 things. So, I think your idea about
22 triangulation is essential because these pieces
23 of the application don't stand alone.

24 Are we in general agreement, and

1 again, I don't want to create little boxes that
2 we consider in isolation, but just for purposes
3 of organizing a discussion perhaps, are we in
4 agreement that economic development is the
5 primary, is entitled to the greatest weight?

6 COMMISSIONER ZUNIGA: Which includes
7 revenues to the state in the form of tax on
8 gaming revenues, I would take it, not just
9 jobs?

10 COMMISSIONER MCHUGH: Yes, right.

11 COMMISSIONER ZUNIGA: Jobs and
12 revenues.

13 COMMISSIONER MCHUGH: Jobs and
14 revenues that's what this was designed to do,
15 yield revenues to the state and create jobs and
16 bring people in here.

17 Then the mitigation piece is the
18 next, is the cost piece that we ought to
19 consider. It doesn't make any difference I
20 guess whether we consider finance next or
21 mitigation next, but the mitigation piece
22 really is logically the cost of getting those
23 benefits.

24 COMMISSIONER ZUNIGA: I was thinking

1 of finance as part of the revenues piece.

2 COMMISSIONER MCHUGH: It's broader
3 than that finance though, and then the other.

4 COMMISSIONER STEBBINS: We just
5 talked about economic development related to
6 jobs, related to revenue. Talking about
7 mitigation, there's a financial piece to that.
8 All of a sudden you're beginning to segment out
9 pieces of finance as it relates to the weight
10 of these other criterion?

11 COMMISSIONER ZUNIGA: No, no. I was
12 hoping we were not doing this.

13 COMMISSIONER MCHUGH: Not doing
14 what?

15 COMMISSIONER ZUNIGA: Not boxing it
16 out in your own words. Are you ranking them at
17 this point?

18 COMMISSIONER MCHUGH: No. I'm just
19 trying to get consensus over the relative
20 weight of these pieces. And if that's what you
21 fear I'm doing and you don't want to do it,
22 let's talk about.

23 COMMISSIONER ZUNIGA: I think the
24 ability of somebody to generate revenues, just

1 to keep on that, depends on how they structure
2 the deal, for example, and how they propose to
3 fund it. So, there's a lot of finance elements
4 that come into the ability to generate
5 revenues.

6 COMMISSIONER MCHUGH: There's no
7 question about that. No question about that.
8 Let's start then if we want to get into a
9 discussion of substance, let's start with
10 economic development, shall we? Is everybody
11 prepared to do that? And take a good look at
12 the economic development information that we
13 have. And then we can talk about the finances,
14 Commissioner. Do you want to start us off,
15 Commissioner Stebbins?

16 COMMISSIONER STEBBINS: Quickly to
17 recap, we broke down economic development into
18 the three criterion, job creation, business
19 impact and tourism. Obviously, the jobs, the
20 quality of those jobs, the related HR practices
21 relative to the creation of those jobs are
22 critical.

23 Business development looking at
24 again these facilities and the applicants

1 having a positive impact on the surrounding
2 businesses, whether they be tourist related or
3 operational related.

4 And again, then the tourism impact
5 which is somewhat also gets to potentially
6 recapturing and drawing new dollars into the
7 Commonwealth.

8 COMMISSIONER ZUNIGA: Can I mention
9 something? I thought I understood that the
10 notion about economic development included more
11 pieces than the sections in economic
12 development.

13 COMMISSIONER MCHUGH: Yes. We are
14 just beginning discussion. We're not ending
15 the discussion.

16 I had questions about a number of
17 the issues that we talked about. We looked at
18 the number of jobs. And you presented a
19 thoughtful discussion about the number of jobs.
20 And the construction jobs proposed by, for
21 example, Mohegan Sun were about 1600 and by
22 Wynn about 1750.

23 But the salary differences for those
24 jobs was dramatic, 117,000 against 74,000.

1 What do we know about that difference and how
2 reliable that difference is?

3 COMMISSIONER STEBBINS: When we
4 walked through these figures, I think one of
5 the things we realized from the Category 2
6 applications is we created a spreadsheet for
7 each applicant to complete. So, this
8 information comes to us from them.

9 It isn't kind of as Commissioner
10 Zuniga talked about, trying to triangulate
11 information, but this was information that was
12 provided to us by each applicant. I think we
13 saw in the question of whether there was
14 material inconsistencies, questions were not
15 raised about this information as they presented
16 it to us.

17 COMMISSIONER MCHUGH: Is there a way
18 to triangulate that? This is a recurring
19 question, I guess that I'm going to have. And
20 that is it goes back to Commissioner Zuniga
21 your triangulation point. How do we have
22 confidence in the numbers that we are getting
23 in a variety of different categories? This is
24 one of those categories, but there are many

1 others. And how do we have reliance that these
2 are realistic numbers?

3 COMMISSIONER ZUNIGA: Well, one area
4 that I thought about in terms of construction
5 there's two data points that I will speak to.

6 Their budget, their capital
7 investment is very different. The hard costs,
8 and I could point us to the chart that I have.
9 But the hard costs for construction are two and
10 half times more when it comes to one applicant
11 as opposed to the other.

12 So, if you believe like me and I've
13 spent a lot of time in my previous two jobs ago
14 thinking about how to measure the benefit in
15 terms of jobs with the program that the state
16 had relative to their schools, a very
17 straightforward way to think about it is there
18 is direct spending in terms of construction.
19 And we can get into a good discussion as to
20 whether generally 40 percent of hard costs that
21 go into construction is material costs, another
22 40 represents labor and the other 20 is usually
23 split between overhead and profit and some
24 other indirect or equipment costs.

1 So, if you assume that these two
2 proposals are not significantly different, and
3 I don't think they are relative to how they
4 will use and grade material costs and equipment
5 costs and other challenges that they'll have,
6 and other costs that they have to spend
7 overhead for example, there is at least in
8 theory a percentage, call it 40 percent that
9 goes to labor that is directly multiplied to
10 the amount of construction costs that they
11 propose.

12 And therefore, that number would be
13 again would be held constant. It's multiplied
14 by 40 percent or some other factor but similar.
15 And the higher the spend in construction spend
16 the higher the cost of labor thus the economic
17 development of construction jobs.

18 COMMISSIONER MCHUGH: But does the
19 higher spend for construction translate into an
20 annual salary that is greater proportionately
21 than a lower spend? In other words, is there a
22 dependency between the total spend and the
23 yearly salary?

24 COMMISSIONER ZUNIGA: How do you

1 mean?

2 COMMISSIONER MCHUGH: The annual
3 salary. We have a number here that says that
4 Mohegan Sun -- And I don't want to do this for
5 every number. I just am trying to get a feel
6 for how reliable, how much confidence we have
7 in the numbers that we're getting from both
8 sides on a variety things.

9 If we have 1579 jobs on the Mohegan
10 Sun side at a projected full-year equivalent of
11 74,000. We have 1765 construction jobs on the
12 Wynn side at a projected yearly equivalent of
13 117,000. How do you account for that
14 difference? The 40 percent you described
15 doesn't necessarily produce that difference.

16 COMMISSIONER ZUNIGA: Well, the 40
17 percent would be what to compare to the product
18 of these two numbers. If you multiply the
19 number of equivalencies per year times the
20 average per FYE, you would get a total number.
21 Actually, when our consultant was here
22 explaining, the product of 1579 FYE, and I'm
23 blanking of exactly what FYE means.

24 COMMISSIONER MCHUGH: Full year

1 equivalents.

2 COMMISSIONER MCHUGH: That's an
3 annual salary.

4 COMMISSIONER ZUNIGA: That's an
5 annual salary. When you multiply these two
6 these total product, the total number came to
7 about 300 million. But however, the applicant
8 is proposing to spend on construction about 380
9 million.

10 COMMISSIONER CAMERON: But I thought
11 this number came from the months of
12 construction divided by. So, it is not apples
13 to apples. I had this explained to me because
14 I had the same question. Why are the numbers
15 so different?

16 There's a 36-month schedule compared
17 to a 30-month schedule. And if you divide that
18 number by the number of full-time employees,
19 because they're working a shorter period of
20 time. One group would only work half a year,
21 let's say, that brings the number down. It
22 really isn't apples to apples here on the
23 sheet.

24 COMMISSIONER ZUNIGA: I guess I was

1 coming little bit more top-down.

2 COMMISSIONER CAMERON: Is that your
3 understanding as well, Commissioner?

4 COMMISSIONER MCHUGH: Well, I just
5 thought that that must be the missing link.
6 It's the time.

7 COMMISSIONER ZUNIGA: I asked that
8 direct question of our consultants.

9 COMMISSIONER ZUNIGA: This is where
10 the total is useful. The total spend in
11 construction, if we're still on this and I
12 guess we are, is two and a half times more for
13 one applicant than the other.

14 COMMISSIONER MCHUGH: Right.

15 COMMISSIONER CAMERON: That doesn't
16 account for this number though.

17 COMMISSIONER ZUNIGA: Why would it
18 not?

19 COMMISSIONER CAMERON: Because this
20 number is based on the number of months these
21 particular employees are scheduled to work.
22 So, it's 30 months versus 36 months and that's
23 the difference in salary.

24 COMMISSIONER MCHUGH: Well, it's the

1 total months times the total workers over the
2 total time. It's all three, isn't it?

3 COMMISSIONER ZUNIGA: So, being
4 employed more time --

5 COMMISSIONER MCHUGH: No. If you're
6 going to spend \$1 million in a year and you're
7 going to spend \$1 million in six months with
8 the same number of workers, the full-year
9 equivalent salary is going to be different for
10 the two sets of workers, right?

11 COMMISSIONER ZUNIGA: Right. I
12 guess I'm less concerned about the full-year
13 equivalency and more about the total.

14 COMMISSIONER MCHUGH: I understand
15 that.

16 COMMISSIONER ZUNIGA: If you're
17 going to spend two half times more than someone
18 else --

19 COMMISSIONER CAMERON: But that's a
20 different category.

21 COMMISSIONER ZUNIGA: I was thinking
22 of construction jobs at least for now as more
23 the total spending, however many people are
24 going to be being paid a larger or lesser

1 amount.

2 Here's the thing with this. They
3 are going to be paid what the prevailing wage
4 pays. And the trades have a real role in this
5 and they are both going to do union jobs. So,
6 whether that translates -- How the applicants
7 view or quantify their economic benefit in my
8 view is great. They probably took a little bit
9 of a different approach.

10 COMMISSIONER CAMERON: That's an HLT
11 number.

12 COMMISSIONER MCHUGH: But what this
13 discussion, and I think it's helpful, is
14 showing I think is that the projected annual
15 full-year equivalent salary is not as important
16 as the total spend, right?

17 COMMISSIONER ZUNIGA: I would be
18 fine with that.

19 COMMISSIONER MCHUGH: So, that
20 number in and of itself is interesting but is
21 reflective of a number of other things centered
22 on the total spend over total time.

23 COMMISSIONER CAMERON: Yes, I agree.

24 COMMISSIONER MCHUGH: I also wanted

1 to ask about the reliability of the disparity
2 in salaries, which is equally -- for operating
3 salaries, which is equally significant and
4 jobs. 2538 jobs in full-time equivalent jobs
5 for Mohegan Sun in year one, 3287 for Wynn in
6 year one. The average cash wage in year one
7 for Mohegan Sun 26,777, in year five 28,984.

8 The cash wage for Wynn in year one,
9 41,418 and in year five 45,362. And then
10 there's benefits on top of those cash salaries,
11 but there's a wide disparity there. Are we
12 confident that that disparity is an accurate
13 projection of what's likely to happen? There
14 we have a track record I suppose.

15 COMMISSIONER ZUNIGA: On the
16 financials that they presented on their
17 operating projections.

18 COMMISSIONER MCHUGH: The history.

19 COMMISSIONER ZUNIGA: No. The pro
20 forma cash flow that they have in the finance
21 section as to what the revenues and their
22 expenses are going to be.

23 I did mention this in my
24 presentation, when we looked at all of those

1 costs across the board between applicants, the
2 labor costs that Mohegan projects are tight in
3 our opinion, are low overall as a percent of
4 the overall expenses.

5 I believe there's examples for
6 certain positions. Mostly those depend on
7 tips. And the starting salary was low compared
8 to what we've seen elsewhere.

9 COMMISSIONER MCHUGH: Yes. There's
10 no question that the numbers are much lower on
11 the Mohegan Sun side. My question was is the
12 disparity reliable? And I take it you're
13 convinced that it is.

14 COMMISSIONER ZUNIGA: I think so.

15 COMMISSIONER MCHUGH: Let's look a
16 little bit at the capital, which is right in
17 your wheelhouse. And it's been modified by the
18 changes that came as part of the responses to
19 our conditions. Do you want to talk about
20 that?

21 COMMISSIONER ZUNIGA: What do you
22 mean by capital, capital structure?

23 COMMISSIONER MCHUGH: The equity,
24 yes, the capital structure, because it did

1 change with those.

2 COMMISSIONER ZUNIGA: Yes, it did.
3 I think there's still a big difference in my
4 opinion. I think they addressed the concern I
5 had relative to leverage. That doesn't mean it
6 puts them in equal footing in my view.

7 I think it's a good comparing,
8 triangulating and I think this is a good way to
9 think about it, not only between the two
10 applicants but with another applicant like MGM
11 who has many other operations, has a very
12 similar proposal that we are intimately
13 familiar with.

14 They gave us two options for a
15 capital structure. And you might remember
16 their equity was anywhere between those two
17 options was between 35 and 50 percent. What
18 the applicant has done here, it has improved
19 but it has taken an equity position of about
20 five percent to somewhere along the lines of 18
21 percent of the total project.

22 Having said that, they still have
23 this straddling these two positions of a
24 preferred equity and a common equity, which in

1 my view is a little unique. It's a little
2 complex in my view.

3 There's all of these other parties
4 that come into play in this capital structure
5 and that carries with it certain risks unique
6 as well. But nonetheless, yes, it was
7 improved. I think it's a little bit more
8 comfortable when it comes to leverage.

9 COMMISSIONER MCHUGH: You commented
10 when you were talking about the response to the
11 condition, you talked about the \$50 million in
12 guarantee being duplicative of the backstopping
13 guarantees that were already in place. Why do
14 you say they're duplicative?

15 COMMISSIONER ZUNIGA: I didn't say
16 they were duplicative. I think it's very
17 similar to what they had already stated in
18 their application.

19 COMMISSIONER MCHUGH: But you
20 acknowledge it's another 50 million.

21 COMMISSIONER ZUNIGA: No, no, no.

22 COMMISSIONER MCHUGH: Another 50
23 million of in effect backstopping.

24 COMMISSIONER ZUNIGA: Well, I don't

1 know. I think we already had this kind of
2 guarantee. They are now putting a number to
3 it. But when they say we'll backstop
4 everything that goes beyond what we currently
5 envision, Brigade will step in.

6 I think they have quantified what
7 that may mean. And they have thought of it as
8 a blanket 50 million equity guarantee. I don't
9 even know if it's --

10 COMMISSIONER MCHUGH: I thought
11 there were -- Let me find my chart here. There
12 were specific areas where Brigade was going to
13 backstop and there was an amount associated
14 with that backstopping obligation. That had to
15 do with the third-party hotel. And it had to
16 do with some other things. So, there already
17 was a number assigned to that commitment.

18 COMMISSIONER ZUNIGA: No, there
19 isn't, because the backstop -- because they
20 never told us how much those overruns could be.

21 COMMISSIONER MCHUGH: How much what?

22 COMMISSIONER ZUNIGA: How much those
23 cost overruns might be. They told us simply
24 somebody else is going to get financing for the

1 third-party hotel, but if they cannot get it
2 Brigade will backstop it.

3 COMMISSIONER MCHUGH: To a limit of
4 the amount for which the third-party was
5 responsible, right?

6 COMMISSIONER ZUNIGA: That wasn't
7 clear.

8 COMMISSIONER MCHUGH: I thought our
9 discussions and your presentations made that
10 clear. It was the third-party hotel. It was
11 the capital leases for some of the equipment,
12 and a backstopping commitment by Brigade.

13 COMMISSIONER ZUNIGA: It might be
14 helpful if we go to the slide, Melissa, on my
15 presentation, slide 11.

16 COMMISSIONER MCHUGH: Slide 11 in
17 your presentation?

18 COMMISSIONER ZUNIGA: Yes. So, the
19 applicant Mohegan proposes to lease furniture,
20 their equipment it's generally called here FF&E
21 but it's for the gaming.

22 COMMISSIONER MCHUGH: This is what I
23 was referring to 75 million.

24 COMMISSIONER ZUNIGA: 75 Million is

1 going to be leased. I believe they should be
2 able to lease that. But if the costs are
3 greater than that or if they are not able to
4 obtain a lease for all of that amount, I'm not
5 saying any of that amount, but some of that
6 amount, as I understand it Brigade will provide
7 supplemental financing. They'll provide more
8 money.

9 But that doesn't mean that it's five
10 or 10 or 20 million. We don't know. They're
11 the failsafe, right?

12 COMMISSIONER MCHUGH: I understood
13 the application to be a backstopping of the
14 entire 75 million if necessary, and a
15 backstopping of the third-party hotel financing
16 to the tune of 42 million, actually to the tune
17 of \$60 million if necessary.

18 COMMISSIONER ZUNIGA: That's if
19 necessary. The first choice is to go out and
20 lease that.

21 COMMISSIONER MCHUGH: I understand
22 that. But my question is why aren't you
23 considering the supplement contained in their
24 response to the condition as another 50

1 million, this time of preferred equity as
2 general backstopping, bringing the total
3 backstopping commitment to the sum total of the
4 75 and the 60 and the 50.

5 COMMISSIONER ZUNIGA: They're not
6 backstopping the preferred equity.

7 COMMISSIONER MCHUGH: I'm sorry,
8 it's an equity guarantee.

9 COMMISSIONER ZUNIGA: That's right.

10 COMMISSIONER MCHUGH: Which is the
11 same as a backstop, right -- in effect? So,
12 why isn't the total guarantee, the total
13 backstopping the 75 plus the 60 plus the 50?

14 COMMISSIONER ZUNIGA: Because they
15 might not need it.

16 COMMISSIONER MCHUGH: Yes. They
17 might not need it. But you're saying it's
18 duplicative of the 75 and the 60. Maybe I'm
19 missing something. But it seems to me they
20 added another level of guarantees to the tune
21 of \$50 million, if necessary, to put into the
22 project.

23 COMMISSIONER ZUNIGA: That's not the
24 way I saw it. The way I saw their response to

1 the condition is we will have this additional
2 guarantee that in my view was already there.
3 Maybe that's what you mean by duplicative.
4 Maybe that's the case, but it's not money that
5 they're committing.

6 COMMISSIONER MCHUGH: It's money
7 that they're guaranteeing.

8 COMMISSIONER ZUNIGA: On what?

9 COMMISSIONER MCHUGH: On an open-
10 ended commitment, on an open-ended guarantee.

11 COMMISSIONER ZUNIGA: I don't view
12 it as additional equity. I don't view it as
13 the additional equity that I was looking for.

14 COMMISSIONER MCHUGH: Well, I do.
15 So, we disagree on that. Did you want to say
16 something Commissioner?

17 COMMISSIONER CAMERON: Yes. It
18 looks like HLT is also recommending to us that
19 we look at it that way. They had reviewed all
20 three pieces of the equity as adding strength
21 to the project.

22 COMMISSIONER ZUNIGA: I beg to
23 differ. I think the two pieces that add
24 strength to the project is the 50 -- the first

1 100 million.

2 COMMISSIONER MCHUGH: We could
3 perhaps think further about this before we
4 finish. But I read this and look at it very
5 differently from the way you look at it.

6 COMMISSIONER ZUNIGA: Here's the
7 thing to also understand about those kinds of
8 guarantees, which get me back to this. They're
9 expensive for the project.

10 COMMISSIONER MCHUGH: That's a
11 different point. I understand that.

12 COMMISSIONER ZUNIGA: How good is a
13 guarantee if it's more expensive than what I
14 could get in the bank, right? If there's a way
15 to lease all of this equipment with cheaper
16 money, the guarantee is more expensive, there's
17 a real --

18 COMMISSIONER MCHUGH: I get that. I
19 understand that. If it's cheaper to get the
20 money elsewhere, then they will go get the
21 money elsewhere. I think we've beaten this to
22 death. We disagree on whether that's new money
23 or in addition to their old piece and their old
24 projection or not.

1 COMMISSIONER ZUNIGA: I want to talk
2 again about the new money piece. This
3 substitutes -- whatever they have to bring in
4 terms of new equity substitutes borrowing
5 somewhere else.

6 COMMISSIONER MCHUGH: And that's
7 good, right?

8 COMMISSIONER ZUNIGA: Which is good,
9 right. I still think, which is where I was
10 starting here the amount that they've raised in
11 terms of leverage here is still not the same as
12 what other applicant have put forward in terms
13 of risk.

14 COMMISSIONER MCHUGH: No. I
15 understand. It's a different and less equity-
16 intensive structure than what Wynn proposes. I
17 don't disagree with that. I'm just trying to
18 get a handle on whether we can agree on what
19 the elements of the enhancement were and what
20 the value of those enhancements were in the
21 overall presentation. And I think we disagree
22 on the 50 million piece.

23 COMMISSIONER ZUNIGA: The condition
24 was 100 million of common equity, equity that

1 gets paid last. And they put forward something
2 that again straddles into the preferred equity
3 and the common equity. And I don't see that as
4 strong as I would've liked.

5 COMMISSIONER MCHUGH: Can I come
6 back to economic development and jobs for a
7 minute? And ask we have thought about job
8 creation here, but we have potentially some
9 jobs that might be lost depending on the way we
10 go. Commissioner Stebbins, you looked into
11 that. Do you want to say something about that?

12 COMMISSIONER STEBBINS: We did. We
13 did an analysis. Obviously, the suggestion is
14 -- it's not a suggestion. The information is
15 out there. That should Wynn be awarded the
16 license that the racetrack at Suffolk Downs
17 would cease operations.

18 And in the memo we put together, we
19 tried to come up with a firm idea of the people
20 directly, the number of employees directly
21 employed at the track. We took that number, we
22 matched it up with the total number of FTEs
23 that Mohegan Sun would employ. And found that
24 even when you added those two numbers together

1 that they were still below the FTE count for
2 Wynn Everett.

3 We didn't extend the job impact,
4 again, beyond the permanent employees. We
5 didn't get to people providing services, people
6 involved in growing hay and a lot of ancillary
7 activities and businesses associated with the
8 responsibilities of the track.

9 We specifically went to the total
10 number of employees. We even added in our own
11 employees, Gaming Commission employees who were
12 undertaking responsibilities at the track.

13 Let me see if I can find the number
14 for you. Was that your question?

15 COMMISSIONER MCHUGH: Yes. I really
16 was trying to find out -- I know we did and
17 just trying to get you to talk to us a little
18 bit about the net jobs. And then I was going
19 to ask about whether we looked at net wages.

20 In other words, have we looked at
21 that piece of this? I know we have looked at
22 that piece of this project and wanted to know
23 what the results were. Maybe rather than look
24 at the specific numbers, what do we say about

1 the impact of that either wages or from some
2 other standpoint of that potential?

3 COMMISSIONER STEBBINS: We
4 calculated -- We came up with direct employment
5 numbers of 1133 total. We came up with an
6 estimate of that labor income of \$42 million,
7 close to 43 million.

8 COMMISSIONER MCHUGH: And there
9 would be some mitigation of that by the Wynn
10 commitment to hiring some and the obligation of
11 Wynn to hire some.

12 COMMISSIONER STEBBINS: The
13 obligation of Wynn and commitment of Wynn to
14 give some preferential hiring to the permanent
15 employees. Obviously, if the scenario plays
16 out that Suffolk concludes racing at the end of
17 this racing season, when you look at a 36-month
18 construction period, you have a gap between
19 when Wynn will open their doors and the
20 employment opportunities for the folks who are
21 permanently employed at Suffolk now. What do
22 they do for the next --

23 COMMISSIONER CAMERON: And I think
24 we are being, at least personally for me I look

1 at this as a much bigger industry. I really
2 do. I look at all of the other ancillary,
3 several thousand occupational licensees and all
4 of the other folks. There are 1400. I know
5 they're not direct employees, but other
6 employees that work at the track in a non-
7 racing capacity, and all of those other
8 ancillary folks that work in and around racing,
9 the green space.

10 I personally view this as a bigger
11 operation and one that we should look at from a
12 larger perspective than just the number of
13 full-time employees at the track.

14 So, this is a bigger piece for me
15 personally when I view these two applicants.
16 So, I looked at this memo and I thought there
17 is some value in it. That for me personally
18 it's a bigger operation and one we should
19 consider in our overall review.

20 COMMISSIONER MCHUGH: And how do we
21 consider it there? The reason we are
22 considering it is that this is a job creation
23 bill in part and a money creation bill.

24 So, in terms of job creation, we

1 have to look at it seems to me net job
2 creation. Maybe we don't. Maybe we don't.
3 And we can talk about that if somebody wants.
4 It strikes me that we have to look at it that
5 way. So, how do you Commissioner, look at that
6 overall? You say it's a much bigger thing, how
7 do should we think about it.

8 COMMISSIONER CAMERON: There's a
9 couple of ways. First of all, if you look at
10 the 1400 folks that work at the track and then
11 you look at the difference in jobs. To me that
12 piece alone doesn't give Wynn an advantage.
13 They're hiring that many more, but these would
14 be that many more jobs saved and they would be
15 saved for the entire time period without the
16 three-year gap.

17 The second piece of this, which is
18 something I don't think we're valuing anywhere
19 here is with the additional funds going into
20 the Race Horse Development fund, we are talking
21 about the potential, and there's been a couple
22 of studies done and maybe they're done by the
23 industry, so you have to be careful about that.
24 There's the potential to really grow the

1 industry.

2 And that has happened in some other
3 jurisdictions with the additional money to
4 purses they have had a greater interest in that
5 particular racetrack. And the numbers around
6 employment do grow. The breeding numbers have
7 the potential to grow. The simulcast numbers
8 have the potential to grow. So, there is that
9 potential I don't think we looked at here as
10 well.

11 COMMISSIONER STEBBINS: We did talk
12 about the potential. I think it was tough for
13 anybody to estimate what the impact of those
14 funds going into -- We do address it, but I
15 think you're right on point. It's tough to
16 analyze the potential impact on the
17 thoroughbred racing from the diversion of those
18 funds, the creation of those funds.

19 COMMISSIONER CAMERON: And one way
20 possibly to do it would be to compare it to
21 what's happened in other jurisdictions, right?
22 And if you use similar amounts of purses
23 increased, there's one way to quantify it that
24 way.

1 Like I say, for me personally, I
2 think it's an important piece to consider.
3 It's a factor in considering these two
4 applicants. I know that we hadn't talked about
5 the bigger piece other than just the jobs. It
6 is saving an industry. Maybe that's too
7 strong.

8 We're talk about preserving jobs,
9 preserving an existing industry. And I think
10 that's worth some weight in this discussion.
11 And the potential to have this be a bigger
12 operation is there. So, it's a factor.

13 COMMISSIONER MCHUGH: So, how should
14 we get our hands around that? Some would say,
15 and some have said if you replace some jobs
16 with better jobs then ultimately everybody
17 benefits.

18 And better jobs can be defined in a
19 whole variety of ways. One by better wages,
20 better working conditions, other way to look at
21 is the quality of life that's attendant on the
22 existing jobs and the service those jobs bring
23 to a sector of the economy that is in need of
24 sustaining.

1 I'm not looking for a silver bullet
2 here. But how do we approach that kind of a
3 component of this task?

4 COMMISSIONER ZUNIGA: The prospect
5 of starting with a decision and deciding on
6 something and losing jobs is really, really
7 difficult.

8 I would argue that the lifeline that
9 could've been extended to the industry was
10 extended in the form of the Horse Race
11 Development fund. I know that practically
12 there needs to be an operating track for you to
13 be able to use the increased monies that come
14 to the purses and to the breeding programs,
15 etc.

16 Now having said that, I have to
17 recall the time that we last talked about
18 racing when we looked at the Category 2
19 applicants.

20 COMMISSIONER MCHUGH: I remember
21 that well.

22 COMMISSIONER ZUNIGA: As I recall my
23 position there, and I'll invite you to chime
24 in, in my mind back there it was a lot easier

1 to think about that incremental benefit,
2 because the applicants that got to that point
3 were very close, were very similar in a number
4 of things.

5 The one that really stuck with me
6 was because of the number of slot machines, all
7 three applicants came very close to the total
8 amount of investment, the total amount of
9 revenues and the total amount of both eligible
10 and ineligible costs. They got there very
11 different, but they gave me, at least me, a
12 great comfort level that they were very
13 competitive when it came to a lot of those
14 things.

15 So, if you strip that away, what was
16 left? And you'll remember the discussion about
17 would it be racing or would it be M3D3 as an
18 economic development engine and the potential
19 that that could bring, etc., etc. I know
20 ultimately we made the decision on a couple of
21 other factors, but we ended up discussing a lot
22 about in those terms.

23 Now my view here the lens that we
24 need to think about includes what's the cost?

1 What is the other side of those jobs? There is
2 a more than market rent the goes to the
3 operator in order to be able to sustain that
4 operation in the form of a rent, a lease.
5 Anywhere between \$35- and give or take \$70- or
6 \$80 million a year get extracted out of this
7 operation in the form of a rent in order to be
8 able to sustain those jobs that operation and
9 hence those jobs.

10 So, that is value that is comes out
11 of those revenues that are not part of the
12 capital investment or the other expenses that
13 can get economic benefit like wages on all of
14 the other number of jobs that the other
15 applicant provides.

16 COMMISSIONER MCHUGH: That that
17 money that's going to pay the rent can't go
18 into wages for the operator's employees. Is
19 that the point you're making? I'm just trying
20 to understand it, not to challenge it.

21 COMMISSIONER ZUNIGA: Maybe I'm
22 thinking about it too broadly, but you'll
23 remember my chart that even though it appeared
24 a coincidence, each of the three parties

1 involved here get a about a third of the
2 revenues that come after paying expenses.

3 COMMISSIONER MCHUGH: Right.

4 COMMISSIONER ZUNIGA: Revenues minus
5 expenses what is left to be divided among the
6 three parties in the form of a rent or
7 management fee or an incentive fee or return on
8 the preferred and common equity, they were
9 almost similar.

10 So, a third of the value from this
11 operation essentially goes to support and
12 actually pay back for some of the losses that
13 have been incurred up until now. That's again,
14 another factor to consider.

15 I without a doubt, if this decision
16 results in people being laid off the next day,
17 which could very well be the case, it is rather
18 unfortunate. But I think the way to think
19 about it as well is in terms of what are the
20 revenues or incentives that go to preserve
21 those jobs and on top of what the legislation
22 already carved out, the nine percent to the
23 Horse Race Development fund comes a third of
24 the value of this operation, the way I see it.

1 COMMISSIONER CAMERON: How is that a
2 negative though?

3 COMMISSIONER ZUNIGA: No, it's just
4 a cost-benefit. I'm not saying it's a
5 negative. That's the cost. So, it's not in a
6 vacuum that these jobs are preserved. If there
7 was more money to reinvest back into the
8 facility, if there was more ability to invest
9 more up front that would result in more
10 quality, a bigger quality for which those
11 revenues could pay for, that's part of the
12 trade-off.

13 COMMISSIONER MCHUGH: Ultimately,
14 you're saying if there's more money -- We're
15 back to the question I raised. If there's more
16 money that's not going to rent -- The money
17 that's not going to rent could be used for say
18 higher wages for the operating place. It could
19 be used for a lot of other things.

20 It's just general revenues that
21 aren't being spent on the employees. I'm not
22 sure that really answers my concern about the
23 elimination of existing jobs. But I suppose in
24 every choice one makes that has to be taken

1 into account.

2 And it is a cost-benefit thing but
3 it's a cost-benefit in terms of the existing
4 jobs that may be lost as a result of moving in
5 that direction. I'm not sure we disagree on
6 that.

7 COMMISSIONER ZUNIGA: I'm not sure
8 we do. You'll remember an argument you made to
9 that effect when we were talking about the
10 Category 2. And you'll remember that you
11 argued for the money that already goes to
12 purses and the Horse Race Development fund
13 could at least in theory suffice to preserve an
14 industry. Again, without the important detail
15 that you still need a track to be able to do
16 this.

17 COMMISSIONER MCHUGH: Right, right.

18 COMMISSIONER ZUNIGA: I might argue
19 that if that was true for the standardbred that
20 perhaps may be more true for the thoroughbred,
21 which is getting 75 percent of the Horse Race
22 Development fund in this case.

23 COMMISSIONER MCHUGH: No. I hear
24 you. I did make that argument that time. And

1 I'm not sure I'm arguing as opposed to simply
2 illustrating that the consideration is the same
3 this time.

4 And it is something that I just
5 don't want to pass over without pausing to
6 think about it. That is a cost. And it goes
7 into the cost-benefit in my view and I'm sure
8 yours as well, the cost-benefit calculus for
9 moving in one direction as opposed to another.
10 Do you want to say something more about that?

11 COMMISSIONER CAMERON: No.

12 COMMISSIONER MCHUGH: I want to talk
13 more about economic development and finance but
14 I for a variety of reasons would like to talk
15 about mitigation for a few minutes. We had
16 informally thought about how long we'd run this
17 session this afternoon. And I would really
18 like to talk about the mitigation piece of
19 this.

20 We said I think on a number of
21 occasions that for the Wynn applicant an
22 important element of the mitigation piece was
23 the transportation in and around and through
24 Sullivan Square.

1 The Mohegan Sun applicant has gone
2 through the supplemental draft environmental
3 impact report process, has gotten that filed,
4 has no significant problems that appear at the
5 moment.

6 But as the Sullivan Square piece is
7 a remaining significant piece for the Wynn
8 applicant. And our conditions had imposed --
9 not imposed, the conditions we sent out for a
10 response basically looked at a collaborative
11 response to the enormously complex problems at
12 Sullivan Square through which a significant
13 portion of the traffic has to flow in order to
14 get to the destination.

15 And basically, at a very high level,
16 without getting into the details of what we
17 asked or what we got as a response, the request
18 was or the conditions set up what was a
19 collaborative process, at least a process in
20 which Wynn had a continuing piece, the city of
21 Boston had a continuing piece, others had a
22 continuing piece.

23 And that was reflected in the fact
24 that we took the amounts of payments that Wynn

1 had committed to in the best and final offer it
2 made. We said we wanted them in addition to
3 those payments to pay another sum of money that
4 ranged depending on the total cost of the
5 project between \$10- and \$20 million.

6 And we also wanted them to
7 participate in an enforced traffic demand
8 management program that would assess impact
9 costs on a number of automobiles over and above
10 a certain level that was used as a basis for
11 the permitting.

12 The numbers at the moment aren't as
13 important as the concept there. The concept
14 was that Wynn had an incentive. We're trying
15 to create an incentive for Wynn to reduce
16 vehicle traffic through these impact payments.
17 There is a statutory criterion that focuses on
18 reduction of vehicular traffic.

19 We also because there is no host
20 community agreement inserted in the --

21 COMMISSIONER CAMERON: Surrounding.

22 COMMISSIONER MCHUGH: I'm sorry. --
23 surrounding community agreement. There is a
24 very good host community agreement. We also

1 inserted in our conditions a provision for a
2 look back provision the way a number of other
3 surrounding community agreements have. That
4 too required a continuing participation on
5 behalf of the Wynn applicant.

6 The overall response was here is a
7 set sum of money. The calculations are there.
8 We don't like uncertainty. Here is what we are
9 prepared to spend. And here is how it must be
10 spent. And however after that spend occurs the
11 traffic mitigation takes place or doesn't take
12 place that's what we are prepared to
13 contribute.

14 So, there was in the conditions a
15 continuing, in our draft conditions, a
16 continuing participation role. In their
17 response, here is a sum of money, and somebody
18 else will ultimately figure out what the
19 solution is.

20 I don't say that necessarily
21 pejoratively but it's two different approaches
22 to the same problem. There is a commitment of
23 course as there has to be to continue with the
24 Mass. Environmental Project Assessment reports

1 and comply with the conditions that come out of
2 that.

3 But I wanted to talk for a minute
4 about how comfortable we are with that
5 approach, with the difference in the approach
6 to solving those problems.

7 COMMISSIONER CAMERON: So, the
8 differences meaning what we proposed as
9 compared to --

10 COMMISSIONER MCHUGH: Basically the
11 approach rather than the numbers. Here's the
12 sum of money rather than here is what we had
13 asked, what we had suggested. Here is a
14 formula for determining how much you are going
15 to have to pay for the project as it goes
16 forward both the temporary -- really the long-
17 term solution.

18 COMMISSIONER CAMERON: I for one
19 thought the approach that we took and that's
20 why we offered the condition made a lot of
21 sense because it isn't just about a number. It
22 is about a real effort to reduce vehicles
23 through a very congested area.

24 That condition was trying to balance

1 the interests of -- the responsibility of the
2 applicant as we see it, the concerns of
3 citizens, many, many citizens which is a piece
4 of what we do here is listen to everyone and
5 certainly the concerns from the city of Boston.

6 So, the number of competing
7 interests and I think we certainly made a good-
8 faith effort to listen to everyone and put a
9 condition on the table that mitigated and
10 attempted to even reduce further the vehicle
11 transportation through Sullivan Square.

12 So, I just think there is a lot that
13 can be done with mitigation as far as
14 incentivizing people to take a different method
15 of travel. And I would've liked to have seen
16 some of that put in place.

17 COMMISSIONER MCHUGH: Other
18 thoughts? I must say I share those thoughts.
19 And I share those thoughts because we've had
20 now two rounds at the MEPA process really three
21 rounds. The draft environmental impact report,
22 the final environmental impact report and now
23 the supplemental final environmental impact
24 report that's been required.

1 We all know that that intersection
2 is a key to the success of this facility. We
3 all know that a number of other entities have
4 weighed in on it. The Metropolitan Area
5 Planning Commission, which is a thoughtful
6 group of disinterested people has said that
7 there may be no solution to that particular
8 problem.

9 And our effort was to come up with
10 one that contained a strong financial incentive
11 for Wynn to resolve and continue to have a
12 stake in resolution of the overall traffic
13 problem.

14 The thought being that if it set a
15 number, looked at a number of vehicles that
16 went into the permitting process and was used
17 as the basis for issuing permits, and more
18 vehicles than that used the facility routinely
19 therefore overstressing even the revamped
20 highway system that Wynn would have a role in
21 trying to reduce those.

22 Wynn took the position in its
23 response that that was penalizing it for
24 success. And there is something to be said for

1 that. On the other hand, this is a dense urban
2 environment. I think we stressed that several
3 times, at least I did in my presentation. And
4 the notion that you can simply continue to
5 build wider roads and then see what happens is
6 one that has limited utility in that kind of a
7 dense environment where there are a series of
8 overlapping jurisdictions and a number of
9 people and projects and concerns that are
10 reflected in the planning process.

11 So, that was my reaction to that and
12 I welcome other thoughts from other
13 Commissioners. But I'm candidly very troubled
14 by that approach before we even get to the
15 numbers.

16 COMMISSIONER ZUNIGA: In this case,
17 when it comes to the traffic mitigation on
18 Sullivan Square, we are coming at this on the
19 heels of the city having not participated in
20 the arbitration process.

21 COMMISSIONER MCHUGH: Right.

22 COMMISSIONER ZUNIGA: So, I might
23 argue that we are in a unique position, unlike
24 all of the other conditions, where at least

1 Wynn should think of it as what this could have
2 been the result of an arbitration that may not
3 have gone in their favor.

4 So, I might argue that if certainty
5 is what they need, and from their response that
6 appears to be of high value, and if we want to
7 talk about the numbers, we try to figure out if
8 we are comfortable with a number.

9 I know it was calculated in a couple
10 of different ways. And it offered a look back
11 and a range. Maybe that by itself provided a
12 level of discomfort. But if we could structure
13 it in a way like best and final offer would
14 have been put by the city, this is a condition
15 that the applicant would have to accept to have
16 their application complete in a sense.

17 So, while I know it was put forward
18 to them, it has come back with this little
19 difference of viewpoints or what you call
20 approach. I might argue maybe this one is one
21 that we simply oppose because we are in that
22 capacity.

23 COMMISSIONER MCHUGH: Why are we in
24 that basket? It seems to me that the larger

1 question here, and we don't need to answer the
2 larger question at the moment, but the larger
3 question here is how realistic if we simply
4 pick a number and say that's it, go forward,
5 how realistic is it that they're going to do
6 the to do that, number one?

7 And secondly, how desirable is it
8 that they do that rather than commit themselves
9 to participation in a sustainable traffic
10 solution even if the sustainable traffic costs
11 more than was estimated?

12 Obviously, they don't want to have a
13 facility in an area that nobody can get to.
14 That doesn't serve anybody or do anybody any
15 good. So, obviously they have some incentive
16 to solve the problem.

17 But I am troubled by the fact of
18 simply putting money on the table and saying
19 then somebody else figure out how to solve it.
20 And I recognize the intransigence or the
21 unwillingness of the city to come and sit down
22 at the table with them and negotiate these
23 things.

24 I don't know who is to blame or if

1 anybody is to blame. It's maybe just a
2 difference in approach. But that does raises
3 the specter unless there is some commitment to
4 an ongoing participation in this a question
5 about how likely this is to ever get off the
6 ground.

7 COMMISSIONER ZUNIGA: Well, there's
8 systems in place that would address that,
9 right? The MEPA process, the city permitting
10 process. I share your view as to you do need
11 the willing participation of multiple parties.
12 I did not read from their response that they
13 were not willing participants in continuing
14 with the permitting and the MEPA.

15 COMMISSIONER MCHUGH: No, no. They
16 have to do that.

17 COMMISSIONER ZUNIGA: They have to.
18 Let me just go back to every other surrounding
19 community, regardless of the size and magnitude
20 of the impacts, did come up with a best and
21 final, both the ones that went to -- that
22 negotiated that didn't get to that point, the
23 ones that came to an arbitration, this was true
24 with a couple with MGM, put together their best

1 assessment of a future condition.

2 Now I recognize Penn entered into a
3 lot of agreements that had a look back
4 provision, which we could talk more about that.
5 But I know that from what I hear on their
6 response they like predictability.

7 I'm just asking the question why
8 would we not put a number, however that is
9 calculated, the midpoint of a range, the higher
10 end of a range, whatever else, couldn't we come
11 up with a number or a number with many
12 components or a series of numbers that is
13 ultimately put forth much in the same way that
14 a best and final offer from the city would have
15 been advanced. And assuming that the
16 arbitrator or panel of arbitrators might have
17 picked the city.

18 COMMISSIONER MCHUGH: And what do
19 you do about the necessity for this thing to
20 work of the cooperation of all of the
21 permitting authorities including the city?

22 COMMISSIONER ZUNIGA: I would hope
23 that everybody is subjective and does their job
24 and part. I know that they are not off to a

1 great start, but I would imagine that on the
2 merits of the technical solutions, whatever
3 those may be, the short-term, the long-term,
4 all of that would be a process.

5 There's a process for that already.
6 There's two processes, right?

7 COMMISSIONER MCHUGH: There's the
8 MEPA process. And then there's the long-term
9 process which really the city hasn't coalesced
10 around what the long-term solution is. But
11 there are some plans. There is a preferred
12 plan.

13 But there isn't any guarantee as I
14 understand that the city has coalesced around
15 that preferred plan and is prepared to
16 implement it. So, it's a little hard to plan
17 for a solution that hasn't yet fully
18 materialized, unless the planning parties are
19 willing to stay flexible and make some
20 judgments about numbers of automobiles that
21 they are prepared to encourage to use the
22 facility, as opposed to some other mode of
23 transportation, it seems to me.

24 COMMISSIONER CAMERON: And our

1 condition really did emphasize the fact that
2 Wynn and the city have to work together. And
3 that is not the emphasis on the result that
4 came back to us.

5 COMMISSIONER ZUNIGA: Where do you
6 take that from Commissioner?

7 COMMISSIONER CAMERON: We were
8 looking at traffic counts.

9 COMMISSIONER ZUNIGA: No. I mean
10 about the emphasis that you talk about not
11 working together.

12 COMMISSIONER CAMERON: We had a
13 piece in there about permits by a certain
14 timeframe, the two would've had to work
15 together in order to accomplish that. And that
16 was removed. So, there are elements that were
17 removed that take out the ability or take out
18 the mandate that they work together.

19 And I guess my concern is that in
20 order for this to work they do need to work
21 together.

22 COMMISSIONER ZUNIGA: I don't
23 disagree. What I read when I read the response
24 was there is a permitting process that we will

1 go through. There's two processes.

2 Yes, there's a supplemental piece
3 but there is more information. I actually look
4 forward to understanding that a little bit. I
5 don't currently. There's a supplemental piece
6 that's ongoing for the short-term solution.

7 There's a permitting process that
8 will have to happen with the city of Boston.
9 And they are prepared to do that. They knew
10 that they had to do that from frankly from the
11 get-go.

12 COMMISSIONER MCHUGH: Given where we
13 are and the level of the problems that have
14 already been noted there, how optimistic are
15 you that they can get through the MEPA process?

16 COMMISSIONER ZUNIGA: Not 100
17 percent if that answers your question. I
18 cannot help but wonder -- I need to put it out
19 there. It's been out there in the media. The
20 city found itself in the unique position of
21 negotiating with two applicants for a
22 surrounding community agreement. And the
23 agreement that was struck first had a reopener
24 provision depending on the other agreement.

1 That in my view may have
2 incentivized, disincentivized, resulted in some
3 of the approach that you are now talking about
4 and describing as uncollaborative.

5 I agree that the results are this
6 lack of collaboration. But I look at the
7 incentives that may have given the genesis to
8 that lack of collaboration. I don't know where
9 that leaves us, but I at least have an
10 explanation as to what may have contributed to
11 some of that approach.

12 COMMISSIONER MCHUGH: That may be an
13 explanation. I don't know. I think it's
14 always a dangerous business to think about what
15 was on people's minds and why they
16 strategically did what they did.

17 But I don't think it's inappropriate
18 at all to look at results and potential
19 results. And it seems to me that the absence
20 of a willingness to participate in a look back
21 provision, particularly under these
22 circumstances, here's some money and you fix
23 it.

24 I don't want to diminish in any way

1 the amount of thought that went into
2 calculating the amount of money that's in that
3 response. Obviously, some thought went into
4 that. But that's an approach that is here's
5 the money and if it works fine. If it doesn't
6 work that's what we are prepared to spend.

7 That is different from this is part
8 of our issue. Traffic reduction is part of our
9 issue. We own this. And we're going to do
10 something about it. And to show that we own
11 it, here's what we are prepared to do, which is
12 what we asked them to do. The number of
13 \$20,000 per car was a number that we thought
14 was an appropriate impact fee, but there
15 certainly could be another.

16 But it's the approach that I'm
17 wrestling with because ultimately there has to
18 be a collaboration at some level. And the
19 approach taken in this response does not seem
20 to me to be inviting collaboration.

21 In fact, and we'll get to some of
22 these numbers tomorrow that were in the
23 response, some of the money that's to go
24 annually to the city is under the response to

1 the conditions to be put in a trust fund that
2 the Commission manages and to which the city
3 has to submit invoices. And then receive
4 payments if the Commission approves the
5 invoices. I can't think of a bigger invitation
6 to disaster than that.

7 And it just strikes me as evocative
8 of an approach to this difficult mitigation
9 issue that has got a low likelihood success. I
10 don't know exactly where that leaves us either
11 at the moment, Commissioner.

12 COMMISSIONER ZUNIGA: It's hard to
13 disagree with that. Were you going to say
14 something?

15 COMMISSIONER CAMERON: It just to
16 makes your point about yield versus risk. What
17 is the risk? Even if the yield is greater what
18 is the risk? And that is what we're
19 evaluating. And that's a piece of this is what
20 is the likelihood of that succeeding.

21 COMMISSIONER ZUNIGA: What does
22 anybody make of the safeguards that were
23 contained in the legislation for the notion of
24 mitigation? The community mitigation fund was

1 established for six and half percent of gross
2 gaming revenues for among other things, things
3 that are not anticipated.

4 Now granted, there is a lot that's
5 anticipated here but we are the administrators
6 of those funds. The Gaming Policy Advisory
7 Committee provides input for that. There's a
8 mechanism to disperse those funds at least
9 conceptually now. We could iron it out later.

10 And one would argue with the
11 approach that we will take in terms of
12 informing the Gaming Policy Advisory Committee
13 with the research agenda that we're doing,
14 looking at all kinds of impacts, there's an
15 embedded look back provision in that whole
16 setup.

17 The fact that what we cannot
18 anticipate with certainty the legislation gave
19 us the tools to come back and deal with them
20 later on. This notion was put forth by the
21 applicant in their response. They're making
22 assumptions in my view that that should all go
23 there. I might disagree with that. There's
24 many other things that we might not know that

1 might be needed.

2 We haven't even thought about how
3 that fund is going to be distributed, by
4 region, by topic, etc.

5 But there is at least a safeguard,
6 in my view, when it comes to mitigation that I
7 think plays a role in this mitigation
8 conversation.

9 COMMISSIONER MCHUGH: Yes. I am not
10 sure it was that fund that they were talking
11 about or the fund is controlled by the
12 Secretary of Transportation, which we don't
13 have any control over and is for statewide
14 purposes. I suppose -- I should -- that's what
15 I assumed they were talking about but I have to
16 read it again to see.

17 And you're right. There are tools
18 there. I'm not sure the community mitigation
19 fund can fairly be spent on this because as you
20 say these kinds of things were anticipated.
21 Maybe not the traffic overload, maybe not the
22 traffic overload.

23 By overload I mean the amount of
24 traffic given a lot of success over and above

1 that predicted. But it seems to me that to
2 think that we have the tools to solve this
3 problem is really to blink reality. We are one
4 part and frankly probably the weakest part of a
5 complex that we can prod and urge to move in
6 certain directions but that we can't control.

7 COMMISSIONER ZUNIGA: I didn't
8 suggest that we had the tools to solve it. I
9 suggested there is at least one more tool that
10 could be used in the broader. I do understand
11 and agree, this is a complex problem, Sullivan
12 Square. I have been observing --

13 I read the FEIR, the traffic
14 section. I asked questions our consultants
15 about it. I know it's complex. I know it's a
16 big, big problem for people right next to them,
17 which is a very important constituency here. I
18 think however -- I thought the condition was
19 reasonable. It had some variability.
20 Obviously that caused too much heartburn.

21 But I would go back to the notion
22 that at least this condition is in my view was
23 presented in advance, but the applicant should
24 at least think of it as it could have been the

1 result of an arbitration that they might have
2 lost. So, it should be thought of as a
3 condition that gets to be imposed on them.

4 COMMISSIONER MCHUGH: The city
5 you're talking about.

6 COMMISSIONER ZUNIGA: No. The
7 applicant could have -- The city could have
8 arbitrated with them. They could have put a
9 condition similar to what we put together, I'd
10 like to think that that may have been at least
11 possible. And at least possibly an arbitrator
12 may have signed it with the city best and final
13 offer.

14 So, they would be in a position, the
15 applicant, of either accepting it or not having
16 an application that was complete.

17 COMMISSIONER MCHUGH: Right. But
18 they said that that condition is one that they
19 are not prepared to accept.

20 We could conjure different scenarios
21 but we're dealing with the scenario that we
22 have at the moment. And that's what I'm trying
23 to wrestle with. That's why it seems to me as
24 important to think about collaboration, and a

1 yes, I own a piece of this problem kind of
2 approach as it does to think about the specific
3 numbers that are on the table to deal with it.
4 Because the I own a piece of this problem issue
5 while perhaps not common and certainly not from
6 sort of an eleemosynary standpoint. It's
7 really self-interest, I think, in this
8 environment.

9 That's why that approach is
10 troublesome to me, wholly apart from the
11 numbers that are involved in the solution. As
12 I say, I don't know where that leaves us. I
13 don't know how that means that I'm going to
14 come out.

15 I do think though that if the
16 Commission as a whole is satisfied with that
17 approach that we have got to come to grips with
18 in some fashion the numbers.

19 I'm not satisfied with that
20 approach. I think I've made that clear because
21 it does not make any sense in my view, and we
22 can talk about this too because I'm only one
23 Commissioner, it doesn't make any sense in my
24 view to issue a license to either applicant

1 saying here is a whole new set of conditions
2 that we haven't put out there yet. And we'll
3 give you the license if you agree to those
4 conditions.

5 And then go into another extensive
6 back-and-forth about conditions. We've been
7 through that. We put the conditions. Asked
8 for their response. We got what they told us
9 their response would be. And it seems to me
10 that we understand that that's what they're
11 prepared to do and move forward. But others of
12 you may differ.

13 COMMISSIONER CAMERON: I know I had
14 thought about that too. Is there a way to come
15 back with something else, but maybe then the
16 same thing happens again. Maybe we have the
17 final information and we make the decision
18 based on what we have now.

19 COMMISSIONER MCHUGH: Any other
20 thoughts? That's I think an important decision
21 and maybe we need a little more time to think
22 about it.

23 COMMISSIONER ZUNIGA: Maybe we do.
24 I would like to think that had we done

1 conditions the way we did them in the past,
2 after the selection of the successful applicant
3 that the likelihood of accepting those
4 conditions at least by definition in my view
5 would be greater.

6 COMMISSIONER MCHUGH: Well, we
7 didn't do it and we all agreed not to do it
8 that way.

9 COMMISSIONER ZUNIGA: That's right.

10 COMMISSIONER MCHUGH: These are
11 unusual circumstances caused by an unusual
12 approach to this whole process. So, we are
13 where we are today.

14 And you may be right. Because if we
15 had not done it this way, the conditions I
16 suspect that we would have imposed would have
17 been far less detailed, would have had to be
18 far less detailed as they were with the
19 Category 2 and with MGM. But we are where we
20 are because of a variety of circumstances.

21 COMMISSIONER ZUNIGA: I agree with
22 that. And I think this was the right approach,
23 because there were important topics and issues
24 to address on both applicants. I am not

1 suggesting for a second that we should have
2 done it otherwise.

3 All I'm suggesting is rather than
4 what you describe as a potential back-and-forth
5 it would be the last one. It's a take it or
6 leave it.

7 COMMISSIONER MCHUGH: And how would
8 that be? That would be expressed before the
9 license award was made? It seems to me it has
10 to be. We have to know.

11 COMMISSIONER ZUNIGA: It could.
12 They already benefited from this discussion. I
13 thought they benefited from the whole
14 evaluation the first three days of last week.

15 COMMISSIONER MCHUGH: If we all
16 collectively agree on that, what's the next
17 step?

18 COMMISSIONER ZUNIGA: My message to
19 them was at least in my view this one condition
20 when it came to traffic because it came on the
21 heels of the city deciding not to participate,
22 this one condition we looked at it very
23 closely.

24 We looked at closely as we could

1 relative to a range. There's an active role
2 here for you. This one condition is a take it
3 or leave it. If they're ready to leave, they
4 might as well tell us and it might make the
5 decision a lot easier.

6 COMMISSIONER MCHUGH: The condition
7 as originally framed?

8 COMMISSIONER ZUNIGA: As originally
9 framed.

10 COMMISSIONER MCHUGH: Right. What
11 do you say to that Commissioner Cameron?

12 COMMISSIONER CAMERON: I think I
13 could think about that a little bit. I hadn't
14 thought about it from that perspective. I'd
15 like to think about that before we make a final
16 decision on that.

17 COMMISSIONER ZUNIGA: I cannot help
18 but wonder --

19 COMMISSIONER CAMERON: I think being
20 fair to both applicants and using the same
21 ground rules.

22 COMMISSIONER ZUNIGA: Which is why
23 I'm distinguishing it is unique in this regard.
24 The condition that Commissioner McHugh put

1 forward relative to the redesign was not as
2 specific as could have been put forward. I
3 think it would have been very easy for them to
4 comply and still didn't want to do it. They
5 explained their views of the EFIS and other
6 things.

7 But the notion that I'm advancing
8 here is when it came to dealing with Sullivan
9 Square, on behalf of the city, this condition
10 that we put forward could've been the result of
11 an arbitration that may have gone against them.
12 So, they at least would have to think of it in
13 terms of nonnegotiable.

14 I do get though, and maybe this is
15 where we need to get to whether it's later or
16 tomorrow that they would rather have the
17 certainty of a number. That's fine. I
18 actually understand. From a finance
19 background, they need to understand what their
20 liability is going to be. If it's something
21 that they cannot control or feel they cannot
22 control it may add too much risk for them, more
23 than what they're willing to do.

24 So, either they understand it

1 better. It has less variability or is the
2 product of a number. Pick a range, on the
3 ranges pick the midpoint or a 75 percentile or
4 the high-end. I don't know. We could talk
5 about exactly what that number might be. But
6 if we were crafting the city's BAFO, which I
7 figured we sort of were, and the applicant may
8 have found themselves in a situation where an
9 arbitrator might have sided with the city that
10 would have been it.

11 COMMISSIONER MCHUGH: That's right,
12 but that wouldn't convey the I own a piece of
13 this and I'm going to fix it piece that we're
14 looking for.

15 You just suggested a minute ago that
16 we think about collaboratively whether that was
17 a take it or leave it offer, whether we want to
18 make it a take it or leave it offer and give
19 them another chance to look at it.

20 COMMISSIONER ZUNIGA: I'm not sure I
21 follow.

22 COMMISSIONER MCHUGH: The traffic
23 piece I thought you said was a take it --
24 should be considered a take it or leave it

1 offer. The question is if that's the way it
2 should have been considered and we didn't
3 emphasize that, should we give them another
4 opportunity to look at it and take it or leave
5 it.

6 COMMISSIONER ZUNIGA: I guess that's
7 what I was suggesting.

8 COMMISSIONER MCHUGH: Yes, that's
9 what I thought. And Commissioner Cameron says
10 she wants to think about that. Commissioner
11 Stebbins?

12 COMMISSIONER STEBBINS: I want to
13 think about that as well. I want to be fair
14 regarding any licensing condition of a
15 continued back-and-forth?

16 COMMISSIONER MCHUGH: Rather than a
17 continued back-and-forth or favor a continued
18 back-and-forth

19 COMMISSIONER STEBBINS: I don't
20 necessarily favor the continued back-and-forth.

21 COMMISSIONER MCHUGH: Right. I
22 think we've gotten to a point where we have all
23 of the information we're going to get. And
24 we're talking now about an approach as much as

1 numbers. And we put numbers in there that we
2 worked very hard on.

3 Well, how should we do this? Do you
4 want to think overnight about this? Do you
5 want to take a recess for an hour and think
6 about it, talk to the consultants, think about
7 it, walk around, come back?

8 I'd like to give them some time if
9 that's the path we're going to take. And I
10 would like to move this process along. I'll be
11 guided by -- There's no artificial deadlines
12 here.

13 COMMISSIONER ZUNIGA: At a minimum,
14 I think we could easily do our recess. And
15 then if we need to come back and adjourn until
16 tomorrow, we could easily do that too.

17 COMMISSIONER MCHUGH: Take a recess
18 for us to think about whether we want to do
19 that?

20 COMMISSIONER ZUNIGA: Right. Or ask
21 the consultants. I actually thought we were
22 going to talk a little bit about the numbers
23 how they add up. That was a little hard for me
24 to follow. I was concentrating on the finance

1 piece during the weekend. I know I saw some of
2 our staff working very hard to try to put a
3 slide together. I don't know if that's done or
4 if it's better done tomorrow.

5 COMMISSIONER MCHUGH: We're going to
6 talk about the numbers. But this is, it seems
7 to me, something that gets beyond the numbers.
8 It gets to the approach. And if this approach
9 is accepted then the numbers are not something
10 that we need to deal with.

11 COMMISSIONER ZUNIGA: By approach
12 you mean this was a nonnegotiable?

13 COMMISSIONER MCHUGH: Whether it was
14 then, it is now. It's become an issue that we
15 want them to consider as a take it or leave it.

16 COMMISSIONER CAMERON: So, our
17 choice now is to take a recess and talk to
18 staff and decide how to proceed or to think
19 about it overnight and take it up in morning;
20 is that correct?

21 COMMISSIONER MCHUGH: Right.

22 COMMISSIONER CAMERON: It's really
23 just the approach and how to move forward with
24 the condition.

1 COMMISSIONER MCHUGH: Right.

2 COMMISSIONER CAMERON: The reason
3 for not waiting would be to give them as much
4 time as possible to consider it.

5 COMMISSIONER MCHUGH: Right.

6 COMMISSIONER CAMERON: I'd be fine
7 with a 30-minute. It's a critical piece,
8 right, of what we're doing.

9 COMMISSIONER MCHUGH: Critical piece
10 for us and a critical piece for them. Whatever
11 we do, let's take a 30-minute recess. And then
12 we'll come back and see whether you have any
13 further thoughts and we do as well.

14

15 (A recess was taken)

16

17 COMMISSIONER MCHUGH: We're back in
18 session now. And when we left, we left for a
19 30-minute recess to consider whether and how we
20 should approach the concept of a take it or
21 leave it with respect to the condition for Wynn
22 on the traffic issue.

23 So, let's talk about whether that is
24 something the Commission wishes to do.

1 COMMISSIONER CAMERON: I have a
2 thought on that, Commissioner. In reviewing
3 what we said over the last hour or so, I think
4 it's apparent to me that we are looking at this
5 maybe a little differently.

6 I may interpret something different
7 when it comes to finance and/or traffic. And
8 remembering that part of our process is that we
9 can hear from the applicants if we had
10 questions about their response. And I know for
11 me personally, I think, at this point that
12 would be helpful to listen to the applicants,
13 to each of them with regard to their response.
14 That may help us clarify exactly what our
15 thoughts are on moving forward here.

16 COMMISSIONER MCHUGH: Commissioner
17 Stebbins?

18 COMMISSIONER STEBBINS: Response on
19 this question alone?

20 COMMISSIONER CAMERON: No. Their
21 particular response to our conditions. One of
22 our options was in the process was to hear from
23 them if we thought it was necessary. And at
24 this point I'm saying it would be beneficial

1 for me to hear from them with regard to their
2 response to our conditions.

3 COMMISSIONER STEBBINS: Just this
4 transportation?

5 COMMISSIONER CAMERON: No, each
6 applicant. We had some issues about how to
7 interpret finance as well.

8 COMMISSIONER ZUNIGA: Yes. I think
9 that the 50 million equity guarantee questions
10 that Commissioner McHugh had relative to how
11 that dovetails with the backstop on all of the
12 other numbers and where they're duplicative or
13 mutually exclusive is a good question that I
14 would have for Mohegan.

15 COMMISSIONER MCHUGH: Commissioner
16 Stebbins, are you in favor of that?

17 COMMISSIONER STEBBINS: I'm okay
18 with that.

19 COMMISSIONER MCHUGH: I think that'd
20 be a good idea as well. I think that both
21 applicants -- I know that both applicants have
22 heard the concerns that we've expressed this
23 afternoon about specific portions of their
24 applications.

1 And before we proceed further, I
2 think that Commissioner Cameron's suggestion
3 that we hear from them directly is an excellent
4 one.

5 So, I would propose we give them
6 some time tomorrow morning, think about this
7 and come back in and we start off the day with
8 a presentation from them, perhaps about 20
9 minutes. We don't want to go through every
10 aspect of the application.

11 Some of it is numbers and we
12 understand the numbers. You've heard our
13 concerns. You've heard our primary areas of
14 concern and we would welcome some help from
15 you, some insight from you on those specific
16 areas.

17 And we'd welcome an opportunity to
18 ask you questions. So, we'll ask for 20
19 minutes. If we have questions that take you
20 beyond the 20 minutes, so be it. If we are
21 silent here, which is highly unlikely, we'd
22 look for 20 minutes to allot you, 20 minutes to
23 talk to us about the concern you've heard us
24 express.

1 There's a lot at stake here,
2 obviously. I don't need to tell anybody that.
3 And that is by far I think at this stage of the
4 day and this stage of the proceedings the best
5 way to go. So, that's what we'll do.

6 COMMISSIONER ZUNIGA: Can I ask a
7 question?

8 COMMISSIONER MCHUGH: Sure.

9 COMMISSIONER ZUNIGA: Would we limit
10 their comments to what's in the conditions? Or
11 you expressed more broadly all of the concerns
12 that we've had so far? Is there a way to frame
13 those 20 minutes which can go by really
14 quickly?

15 COMMISSIONER MCHUGH: They can. The
16 concerns I think -- We understand, and I think
17 we've made it clear in the presentations and
18 the back-and-forth on the presentations, with
19 the statements of material error, I think we
20 got the presentations and the facts basically
21 down. So, that's a good point, Commissioner.

22 I think we'd like to limit it about
23 the questions we had about the responses that
24 we didn't have an opportunity go back and forth

1 on. Both applicants have heard the concerns
2 that we've had about those responses. That's
3 primarily where the concerns have arisen today
4 as opposed to differences of weighting and
5 value.

6 So, let's limit it to the concerns
7 that have been expressed about the responses to
8 the conditions. Let's set it for 20 minutes
9 with the understanding that if questions by the
10 Commission take it further than 20 minutes,
11 we'll allow the time so that they get a 20-
12 minute shot. Does that make sense?

13 COMMISSIONER ZUNIGA: Sounds good.

14 COMMISSIONER CAMERON: Decide on who
15 goes first?

16 COMMISSIONER MCHUGH: We've gone in
17 alphabetical order up to this point. I'm
18 content to do that. Do you have a different
19 approach, Commissioner, I'd be happy to hear
20 that.

21 COMMISSIONER CAMERON: I just didn't
22 know if, maybe I'm over thinking this. Is
23 there any advantage to going -- You're only
24 talking about your own proposal.

1 OMMISSIONER MCHUGH: You're talking
2 about the concerns we've expressed to the
3 conditions you've set forward. We really don't
4 want and I think it's clear that we don't want
5 your opinion on the other person's proposal. I
6 can anticipate what those would be. We take
7 those into account. We know. So, there's no
8 advantage I don't think to going first.

9 So, we'll stand then with that
10 lineup that proposal that framework in mind.
11 We'll stand in recess now until 9:30 tomorrow
12 morning. We're going to start at 9:30 here
13 tomorrow morning. We'll be in recess until
14 then.

15 COMMISSIONER CAMERON: 9:00 is the
16 posted.

17 COMMISSIONER MCHUGH: I'm sorry.
18 9:00 was the posted time. All right, we'll
19 start at 9:00 tomorrow morning. We will be in
20 recess.

21
22 (Meeting suspended at 4:45 p.m.)
23
24

1 ATTACHMENTS:

- 2 1. Massachusetts Gaming Commission September
3 8-17, 2014 Notice of Meeting and Agenda

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6 MASSACHUSETTS GAMING COMMISSION STAFF:

7 Catherine Blue, General Counsel

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C E R T I F I C A T E

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

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

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

Proceedings recorded by Verbatim means, and transcript produced from computer.

WITNESS MY HAND this 19th day of September, 2014.



LAURIE J. JORDAN
Notary Public

My Commission expires:
May 11, 2018