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THE COMMONWEALTH OF MASSACHUSETTS

MASSACHUSETTS GAMING COMMISSION

PUBLIC HEARING

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

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SEPTEMBER 11, 2012, 1:00 p.m.

SPRINGFIELD TECHNICAL COMMUNITY COLLEGE

One Armory Square, Scibelli Hall

Springfield, Massachusetts

1                   CHAIRMAN CROSBY: I am Steve Crosby, the  
2 Chair of the Massachusetts Gaming Commission. And I'd  
3 like to call to order our 26th public meeting here at  
4 Springfield Technical Community College in Springfield.

5                   I didn't need any reminding of this, but  
6 I did see a CNN show about 9/11 a couple of days ago that  
7 brought back to me what is never very far away which is  
8 both the incredible horror of that event and the  
9 incredible heroism of that event. And I think it would  
10 be appropriate to have just a moment of silence in memory  
11 of the folks who died both at that event but also  
12 subsequent to the event in our effort to try to make good  
13 on it. So, a moment of silence.

14

15                   (A moment of silence)

16

17                   CHAIRMAN CROSBY: We will start first of  
18 all with just the quick approval of minutes. There are  
19 minutes from first August 22 -- of August 28, sorry.

20                   COMMISSIONER MCHUGH: August 28 and  
21 September 4.

22                   CHAIRMAN CROSBY: I had a couple of quick  
23 -- under additional hires, it says that the General  
24 Counsel position we are leaving the posting open until

1 mid-October. Is that accurate?

2 COMMISSIONER MCHUGH: Yes.

3 CHAIRMAN CROSBY: And if I'm not mistaken,  
4 isn't the woman, the licensed jockey Abad Cabassa, isn't  
5 that a woman?

6 COMMISSIONER CAMERON: No, that is not.

7 CHAIRMAN CROSBY: Okay, never mind that.  
8 Does anybody else have any?

9 COMMISSIONER ZUNIGA: I have a typo that  
10 may have already been corrected, but page three of August  
11 28 meeting minutes, towards the middle of the page refers  
12 to HRD, the Human Resource Department --

13 COMMISSIONER MCHUGH: Yes, I see that.

14 COMMISSIONER ZUNIGA: -- Training.

15 CHAIRMAN CROSBY: There are a couple of  
16 other typos. Anything else, Commissioner?

17 COMMISSIONER STEBBINS: Yes. There is  
18 just a quick typo on the second line in the paragraph right  
19 below that in the report from the Director of  
20 Administration at the end of the line. It is probably  
21 she not Ahe.

22 COMMISSIONER MCHUGH: All right. Thank  
23 you.

24 CHAIRMAN CROSBY: Do you want to move?

1                   COMMISSIONER MCHUGH: So, I move that the  
2 minutes of August 28 with those corrections be adopted.

3                   COMMISSIONER CAMERON: Second.

4                   CHAIRMAN CROSBY: All in favor? I.

5                   COMMISSIONER MCHUGH: I.

6                   COMMISSIONER ZUNIGA: I.

7                   COMMISSIONER STEBBINS: I.

8                   CHAIRMAN CROSBY: Opposed? The I's have  
9 it.

10                   Now the minutes for September 4. On page  
11 five, the bottom paragraph, whether not weather. And on  
12 page six, this one is a little bit substantive, the  
13 conversation about the destination gaming facilities.  
14 The point that I was trying to make and I think  
15 Commissioner Stebbins and I ended up talking about it and  
16 we are not acting on is not so much promoting tourism as  
17 promoting out-of-state and out-of-country guests, really  
18 building on the notion of destination as opposed to  
19 convenience resorts. I think it needs to be redrafted  
20 slightly just to make that point.

21                   COMMISSIONER MCHUGH: All right.

22                   CHAIRMAN CROSBY: Anything else, anybody  
23 else thoughts? Move?

24                   COMMISSIONER MCHUGH: With that

1 correction, I move that the minutes of the September 4  
2 meeting be approved.

3 COMMISSIONER STEBBINS: Second.

4 CHAIRMAN CROSBY: All in favor? I.

5 COMMISSIONER MCHUGH: I.

6 COMMISSIONER ZUNIGA: I.

7 COMMISSIONER STEBBINS: I.

8 CHAIRMAN CROSBY: Opposed? The I's have  
9 it.

10 We get to the meat of our agenda. We have  
11 put the first item on the agenda, the Mayor of Springfield  
12 and his representatives, Mayor Sarno. Those of you who  
13 watched us know that some issues were raised concerning  
14 the consultant selection and the process that the Mayor  
15 is using. The Mayor very, very courteously volunteered  
16 to postpone their process until we have a chance to get  
17 together and talk with them about some of the issues.

18 We are principally here on a fact-finding  
19 mission to try to clarify our understanding of what is  
20 going on in these issues and also to make sure that you  
21 and your folks understand our issues as well, our  
22 perspective as well. We asked the Mayor if he wanted to  
23 sort of set the stage by walking us through the process,  
24 and he accepted. So, welcome Mr. Mayor. Thank you for

1 coming.

2                   MAYOR SARNO: Thank you, Mr. Chairman and  
3 to the Board Members and to Bruce Stebbins, Mr. Baseball,  
4 glad that you came out here in Springfield. I'd like to  
5 also like to thank Chairman Joe Wagner for being here,  
6 City Council members and members of the community.

7                   I will be opening with a statement. And  
8 then I will turn it over to my City Solicitor, Ed Pikula  
9 and my Chief Development Officer, Kevin Kennedy and then  
10 our consultant from Shefsky and Froelich, Attorney Mike  
11 Schaller and Attorney Kimberly Copp.

12                   The City's goal is to bring the best  
13 possible casino development proposal to the City and its  
14 residents and the Commonwealth. We are doing this  
15 through an open and transparent process. Prior to  
16 releasing our RFP, we met with the City Council, community  
17 groups, neighborhood groups. And we continue to meet  
18 with such groups to update them on the process and seek  
19 their input.

20                   Our process includes the hosting of public  
21 meetings where residents can furnish comments and deliver  
22 their input on the casino proposals. We believe each of  
23 the affected constituencies must work together to achieve  
24 our goals.

1           The City and the Commission each have a  
2 role to play in this process and must work cooperatively  
3 in this endeavor. We must move forward in the spirit of  
4 mutual cooperation keeping politics out of this process.  
5 Political posturing has no place in this process. This  
6 opportunity is far too important to let politics play a  
7 role in it.

8           Through our RFP process, the City  
9 administration will take the lead in selecting one or more  
10 developers with whom to negotiate a host agreement. And  
11 will negotiate such host agreements, community  
12 agreements. The City Council will then have its  
13 opportunity to review, consider and approve or disapprove  
14 of the host community agreement. The City voters will  
15 have the ultimate say on the host community agreement  
16 through their vote on a ballot question that we presented  
17 to them.

18           Finally, the Commission will have its  
19 opportunity to review and select a casino proposal from  
20 Western Massachusetts. This development provides  
21 tremendous opportunity for jobs for our Springfield  
22 residents and much-needed tax revenue. We look forward  
23 to bringing this tremendous opportunity to the City and  
24 the Commonwealth with all constituencies working

1 together cooperatively.

2           At this point in time, I would like to turn  
3 it over to my City Solicitor. Or actually, I believe  
4 Chairman Wagner will be speaking if I'm correct. Then  
5 I will have my City Solicitor, Ed Pikula speak to you and  
6 will entertain questions. And also Kevin Kennedy, my  
7 Chief Development Officer and our consultant to answer  
8 any and address any issues or questions that may arise.

9           Thank you again, Chairman Crosby and to the  
10 Board. I deeply appreciate you coming to the City of  
11 Springfield. And I deeply appreciate Chairman Wagner  
12 speaking on behalf of this issue. Thank you.

13           CHAIRMAN CROSBY: Mayor as you go, I'll  
14 speak for myself, but I'm sure I am speaking for the others  
15 as well. I have absolutely no doubt that you are looking  
16 to make the best deal for Springfield. I don't doubt that  
17 for one second. And I don't doubt your integrity in doing  
18 that.

19           Reasonable people can differ about things.  
20 And we may or may not differ. I don't know. But there's  
21 no question in my mind about what you're trying to do for  
22 the people of Springfield and I appreciate that.

23           MAYOR SARNO: Thank you, Mr. Chairman.

24           CHAIRMAN WAGNER: If you prefer to take



1 the development officials, that's fine. I'll leave that  
2 to your discretion.

3 CHAIRMAN CROSBY: Chairman Wagner, you  
4 are a distinguished guest. I think we'd like to have your  
5 two-cents worth. Well, it's more than two-cents.

6 Chairman Joe Wagner, the House Chairman of  
7 the Joint Committee on Economic Development and  
8 Technology, his committee -- he was one of the architects  
9 of this legislation. And his committee is one of the  
10 committees to which we report much of our work. Thank  
11 you for coming, Mr. Chairman.

12 CHAIRMAN WAGNER: Mr. Chairman, thank you  
13 very much. And I will be brief. I did understand the  
14 political call for two-cents worth. It will be brief.  
15 I want to just take an opportunity and just a moment to  
16 welcome all of you back to Western Massachusetts and to  
17 thank you for your efforts to this point.

18 Having in your hands an undertaking as  
19 mandated by the Legislature to bring online a new  
20 industry, which we hope if done correctly will bring  
21 thousands of new permanent jobs across this Commonwealth  
22 and hundreds of millions of dollars in new state revenues.  
23 And I have appreciated the public comments, Mr. Chairman,  
24 of you and other Commission members for your

1 understanding of and respect of the legislative intent,  
2 even though much of it is subject to interpretation by  
3 the Commission. That in fact was how it was intended to  
4 be.

5                   We couldn't very well give you the charge  
6 and then try and micromanage how it is the Commission went  
7 about your business. So, I for one have been pleased with  
8 the way in which this rollout has happened. I know that  
9 we would all like to see it evolve quickly and to happen  
10 yesterday, if you will. But I think we understand the  
11 practical realities facing everyone.

12                   It took the legislature many, many years  
13 of conversations and deliberations and debates to finally  
14 enact something into law. So that it would take the  
15 Commission some period of time to try and pull things  
16 together and move it forward in the best and most  
17 productive way is something that I understand and I am  
18 appreciative of.

19                   I sit here today wearing several hats.  
20 Obviously, I chair -- I am the House Chairman of the Joint  
21 Committee on Economic Development and Emerging  
22 Technologies. My committee had oversight of the matter  
23 of expanded gaming before it became law.

24                   But I also represent the people of Chicopee

1 who in the case of a consideration of a resort casino here  
2 in Western Massachusetts may or may not be a surrounding  
3 community. My city in fact may be contemplated as a host  
4 committee going forward. I wouldn't know that at this  
5 particular point in time although I know it has been  
6 discussed.

7           So, I wear my economic development hat, the  
8 Chairman's hat. I wear a hat, which has me representing  
9 the people of Chicopee who are impacted by this. I wear  
10 the hat of a Chicopee resident and also as a father of  
11 two young children. And I understand all of the issues,  
12 particularly the quality-of-life issues that go to what  
13 it is we are trying to do. So in that respect, I  
14 appreciate your call from minute one, never mind day one,  
15 for a process that would be transparent, open,  
16 aboveboard, free of politics. And I think that you have  
17 met the standard that you have outlined as this thing has  
18 evolved to this point.

19           I want to talk about particularly as it  
20 relates to your fact-finding mission, Mr. Chairman and  
21 to the Commission, I want to talk about some of what we  
22 hope to accomplish legislatively in fashioning the matter  
23 that are now charged with carrying forward.

24           We looked at what other states did in terms

1 of best practices. We looked at what happened in other  
2 states with respect to the potential for pitfalls and  
3 difficult circumstances that we might not like to deal  
4 with but that we understand as a Commonwealth we will have  
5 to deal with.

6           We try to protect in fashioning this  
7 legislation other sectors of industry even as we know and  
8 understand that there will be impacts on existing  
9 businesses as we bring a new industry online. And not  
10 all of those impacts good impacts. We wanted to protect  
11 the Lottery and the billion-dollar industry that we have  
12 here. And we wrote that into the legislation and charge  
13 you and communities in terms of host agreements and  
14 potential developers with looking at those things as  
15 well.

16           We gave a good deal of consideration to  
17 process and process-related issues. And we talked  
18 openly about transparency. I don't think that we  
19 contemplated legislatively what we are watching evolve  
20 here in Springfield with respect to there being any number  
21 of operators. I think we all envision that in any  
22 community, the community would partner with a developer  
23 and that they would move forward a proposal.

24           Springfield's circumstance, at least to

1 this point in time is certainly unique with two developers  
2 having indicated an interest in Springfield and perhaps  
3 more who will follow.

4 I do think that local officials in  
5 Springfield -- I want to be careful about how I make this  
6 point. I agree with you that I think that local officials  
7 have tried to be transparent. And I understand that this  
8 is new for everyone. Just as you're trying to get the  
9 entity of the Gaming Commission online and getting it to  
10 a point where you think it needs to be, I know that local  
11 officials are in fact trying to do the same thing.

12 I watch with great interest wearing many  
13 hats because I want to see a successful effort here in  
14 Western Massachusetts no matter where a facility would  
15 be located. What I have seen, and I am not pointing  
16 fingers at developers, but I think I get politics pretty  
17 well. And the politics I see being played is more often  
18 than not being played by those people who would be casino  
19 interests and who realize there is one ticket potentially  
20 to be drawn here in Western Massachusetts. And everyone  
21 wants to impact that process from arm's-length.

22 So, I have no doubt that you understand all  
23 of that, but sometimes the clutter gets in the way. I  
24 don't want that to impact from the hats I wear and from



1 Just one point, I understand, I think, your statement  
2 about knowing politics as you see it. And I do want to  
3 make clear that the issues that we are interested in  
4 talking about arise from our own judgments. This is not  
5 about responding to anybody's complaints or anything.  
6 It's totally independent and I think actually were raised  
7 by us before there was any squawking in the media.

8               So, I totally agree with you. We will do  
9 everything in our power to try to keep this as  
10 non-political in that sense as possible. But we are  
11 responding here to concerns that are in our judgments.

12               CHAIRMAN WAGNER: And I understand that  
13 and I didn't mean to suggest that you were doing anything  
14 other than that. I do think as I observe this from where  
15 I sit that everyone involved officially as the  
16 Commission, local officials in Springfield and other  
17 local officials who have made comment, it is not just  
18 Springfield, but in particular Springfield and because  
19 of some of the issues recently raised, I really think that  
20 everyone is stepping forward with the idea that the  
21 process, whatever the process will be and it is unique  
22 if we are talking about Springfield, we had not envisioned  
23 this, but I do think everyone has tried to put forward  
24 their best foot.

1 I think things have been transparent. I  
2 think that people have tried to offer things up in the  
3 right way. And where there would be disagreement, I  
4 think your words, where there would be disagreement that  
5 disagreement can be the subject of dialogue, discussion,  
6 ultimately resolution. As you know and you've been  
7 around and I'm in a business where we disagree often,  
8 myself and my colleagues, but civilly. Thank you so  
9 much.

10 CHAIRMAN CROSBY: Thank you very much.

11 Gentlemen, do you want to introduce yourselves?

12 MR. PIKULA: Certainly, Edward Pikula, I  
13 am City Solicitor for the City of Springfield.

14 MR. KENNEDY: My name is Kevin Kennedy.  
15 I'm the Chief Development Officer for Springfield.

16 CHAIRMAN CROSBY: Thank you for coming.  
17 Mr. Pikula, nice to put a face to your voice. Do you want  
18 to start out with some opening observations?

19 MR. PIKULA: Certainly, if I may. The  
20 Massachusetts Gaming Act provides the Commission with the  
21 authority to award a very valuable right, a regional  
22 monopoly to run the only casino in Western Massachusetts.  
23 Under the Act the City's government participation in this  
24 process is negotiating the best host community



1 agreements.

2           The Commission will be choosing the  
3 licensee but not until the executive branch of government  
4 under the City of Springfield's Plan A charter, strong  
5 mayor form of government, has negotiated one or more  
6 agreements with developers, the City Council has approved  
7 a host community agreement, and an election of voters has  
8 approved the agreement.

9           The gaming industry is highly specialized.  
10 And where the casino operators all have very high-powered  
11 consultants and in order to negotiate the best agreement  
12 or agreements possible with these companies, the City  
13 needs to retain the same high-powered consultants that  
14 the casino operators utilize.

15           While we are rightfully concerned about  
16 the appearance of any conflict of interest, state law  
17 provides for the filing of the disclosure under Chapter  
18 268A section 23(b)(3) to dispel any appearance. And such  
19 a filing has been made in this situation by the  
20 consultants. I have a copy for you today and I will  
21 include that with a copy of my remarks for the record.

22           The City issued an RFP and followed a  
23 process similar to the Commonwealth when the Gaming  
24 Commission sought qualified experts to obtain casino

1 advisory services. And the City drew on the same pool  
2 of experts as did the Commission. And a review of the  
3 pool of qualified consultants shows they have all  
4 represented many casino operators throughout the  
5 country.

6           During the city's RFP process to retain a  
7 consultant, Shefsky and Froelich disclosed to us that it  
8 represented MGM in the State of Illinois at the time it  
9 submitted its response to the RFP. At the interview as  
10 the potential for Penn National competing for a gaming  
11 license came to our attention, it was also disclosed the  
12 consultant has represented and represents that operator.

13           In addition the consultant has represented  
14 Hard Rock Cafe in the past. However, the consultant is  
15 not representing any gaming operator interests in  
16 Massachusetts and has agreed to forgo any such  
17 representation until the representation of the City of  
18 Springfield has been completed.

19           Our consultants have advised us that they  
20 have reviewed the applicable legal and ethical  
21 regulations concerning the matter in the State of  
22 Illinois and in the Commonwealth and have concluded that  
23 no conflict of interest exists, which would prevent their  
24 engagement by the City.

1           To confirm that all conflict of interest  
2 provisions are complied with, our consultants are able  
3 to seek an opinion from the State Ethics Commission, which  
4 includes all of the pertinent background information so  
5 that a formal opinion can be issued outlining any  
6 limitations in more detail.

7           The City is not a party, which would  
8 request that opinion. Our consultants have done that on  
9 their own. Such opinions are confidential and would not  
10 be subject to public disclosure, of course, unless agreed  
11 to by the consultant.

12           The lawyers working on behalf of the  
13 operators in Illinois are excluded from working under the  
14 scope of the City of Springfield contract. In addition,  
15 the lawyers working for the City of Springfield are walled  
16 off from working on matters in Illinois.

17           Indeed our consulting team of Mr. Froelich  
18 and Schaller and Ms. Copp have informed the City that they  
19 have not performed any services for the casino companies  
20 who have announced an interest in locating in the City  
21 in at least several years.

22           City consultants of this nature are  
23 considered special municipal employees under the State  
24 conflict of interest law, Chapter 268A. As special

1 municipal employees under the State statute, the  
2 prohibitions of accepting other employment are less  
3 restricted than in other situations. In the City's  
4 contract with the consultant, the consultant and the City  
5 specifically agreed that the attorneys from the law firm  
6 and team providing services are permitted to render legal  
7 services to and be employed by other governmental bodies,  
8 private persons and firms so long as such employment does  
9 not interfere with or conflict in any way with the work  
10 for the City of Springfield and such that those employees  
11 are considered special municipal employees as defined by  
12 State law.

13           In this situation, the Commission should  
14 be aware that the City is seeking payments of the  
15 consultant's cost from developers pursuant to provisions  
16 of the Gaming Act. The City's consultants have  
17 recommended a process that has been utilized successfully  
18 in Michigan. And this process is designed to develop a  
19 proper competitive process to cover the City's expenses  
20 pursuant to the statutory provisions and specifically  
21 Mass. General Law Chapter 23K, section 4, clause 7. And  
22 section 9, clause 13 provides that a municipality is  
23 authorized by the Act to seek funding for professional  
24 services to examine or evaluate a cost, benefit or other

1 impact. And casino operators may be required to provide  
2 and pay for advisory services and technical assistance  
3 as may be necessary for the reasonable costs related to  
4 legal, financial and other professional services that are  
5 required for the negotiation and execution of host and  
6 surrounding community agreements as provided in section  
7 15 of the Act. And to require that such costs be paid  
8 for by the applicant for a gaming license with the  
9 Commission.

10 The City has asked the consultant to appear  
11 before you today to discuss the RFP process, which has  
12 been outlined so far and which remains being drafted,  
13 particularly in light of our delay in issuing the RFP.  
14 We thank you for your assistance and cooperation.

15 CHAIRMAN CROSBY: It sounds like you're  
16 taking this in two bites. One is to talk about the  
17 consultant selection process and then also about your  
18 RFQ/P process as well, right?

19 MR. PIKULA: Yes.

20 CHAIRMAN CROSBY: Which I think makes  
21 sense. I have a couple of just factual questions. You  
22 may have said this, I'm not sure you did. Did the City  
23 Council, did they approve this in any way? Are they  
24 involved in any way? Were they involved in any way?

1 MR. PIKULA: In the RFP of selecting a  
2 consultant?

3 CHAIRMAN CROSBY: In the selection of the  
4 consultant, yes.

5 MR. PIKULA: That is not SOP for the City.  
6 In the City of Springfield where we have Plan A charter,  
7 the Mayor carries out all of the executive functions.  
8 The City Council is the legislative branch.

9 So, as the gaming legislation recognizes  
10 as its definition the governing body for purposes of the  
11 statute is the Mayor and the City Council. But the local  
12 aspects of this, which are different for Palmer or  
13 Chicopee or Springfield or any other local community, is  
14 that Springfield has a Plan A charter.

15 And under its Plan A Charter where the  
16 Mayor holds the executive authority, the legislative body  
17 the City Council does not. And it's standard for any  
18 economic development process that it is the Mayor that  
19 is responsible for administering and bringing those  
20 agreements to a negotiated state. And then once  
21 executed, bringing them to the Council for approval.  
22 That is different than they may do it for board of  
23 selectmen or town manager or other situations.

24 CHAIRMAN CROSBY: Was it then approved by

1 the Council? Is that what you said?

2 MR. PIKULA: No. The only approval we  
3 needed for a consultant was the appropriation of the  
4 funds, which was included in the budget. All contracts  
5 for employment are made by the Mayor subject to  
6 appropriation, not approval by the City Council. No  
7 contract in Springfield for employment other than some  
8 specially designated in the charter go before the City  
9 Council.

10 CHAIRMAN CROSBY: I understand that.  
11 When the budget item was approved, which I think I  
12 understood you to say the budget item was approved by the  
13 City Council, did the City Council know about the  
14 representation of MGM and Penn National?

15 MR. PIKULA: My recollection is the budget  
16 process preceded the selection of a consultant.

17 CHAIRMAN CROSBY: One other quick, when  
18 was the request for an opinion made to the Ethics  
19 Commission?

20 MR. PIKULA: Friday, September 4 -- I'm  
21 sorry, August 31.

22 CHAIRMAN CROSBY: August 31, okay.

23 COMMISSIONER ZUNIGA: Has the City  
24 engaged the services already of Shefsky and Froelich?

1 Have they signed a contract?

2 MR. PIKULA: Yes.

3 CHAIRMAN CROSBY: Are there other  
4 questions?

5 COMMISSIONER CAMERON: I have a couple of  
6 questions about that process. Back to the City Council,  
7 Sir. When were they made aware of this issue where the  
8 law firm selected presently represents two of the  
9 potential bidders here in Springfield, they represent  
10 them in other states? When were they made aware of that?

11 MR. PIKULA: Being made aware of it on a  
12 formal basis is not something that typically happens  
13 other than through the normal process. It was disclosed  
14 in an RFP. That RFP was a public record and anyone who  
15 wanted to see that RFP knew that.

16 We looked at that as a favorable thing for  
17 the City in that we knew that we were going to be getting  
18 that same sort of firepower that the casino operators had.

19 COMMISSIONER CAMERON: I'm sorry. You  
20 looked at what as a favorable?

21 MR. PIKULA: The fact that they had  
22 experience representing casino operators.

23 COMMISSIONER CAMERON: The same two  
24 casino operators that are bidding here in the City, you



1 looked at that as providing firepower?

2 MR. PIKULA: Certainly. If you're  
3 negotiating and you are going to be dealing with tactics  
4 and strategies from the industry, you're going to want  
5 to know what is coming and you are going to want a  
6 consultant so that we have that same sort of leverage.

7 COMMISSIONER CAMERON: How do you respond  
8 to another casino potential bidder who is claiming that  
9 they see a conflict? How would you respond to that  
10 potential bidder?

11 MR. PIKULA: I would say that the conflict  
12 of interest laws in the State are set forth in Chapter  
13 268A. The standards there are objective standards.  
14 They are not based on any sort of an arbitrary process.  
15 And we need those sort of objective criteria when we  
16 review these. That that matter is pending before the  
17 State Ethics Commission to be decided by them.

18 We have reviewed this. Our consultants  
19 have reviewed it. We are confident that there is no  
20 conflict of interest under Chapter 268A. We are conflict  
21 (SIC) that we filed the proper disclosures pursuant to  
22 section 23(b)(3).

23 Again, that would be the type of disclosure  
24 that would be made at the time of an RFP. The plan was

1 to attach the disclosure to the RFP so that anyone would  
2 see that at the time of bidding. That would be the proper  
3 time to disclose it to the world.

4 COMMISSIONER CAMERON: My question is you  
5 asked for or actually the law firm asked for an opinion  
6 from the State Ethics Commission after this became an  
7 issue not before. Did you or the law firm not see that  
8 as an appropriate action before you hired them?

9 MR. PIKULA: No. I think that the issue  
10 is -- And again in the nature of being City Solicitor,  
11 I am commonly called upon to review conflict of interest  
12 opinions. We certainly had reviewed this situation at  
13 the time of contracting with the consultant. And as I  
14 said, I am of the opinion there is no violation of Chapter  
15 268A.

16 Then what needs to be done is to dispel any  
17 sort of appearance of a conflict by the filing of a form  
18 pursuant to section 23(b)(3) of the Act.

19 COMMISSIONER CAMERON: Sir, do you have  
20 any idea when the Ethics Commission will rule on this  
21 matter?

22 MR. PIKULA: I do not. I think the  
23 consultant maybe has had those conversations. Again, as  
24 I said, the person who has a potential conflict is the

1 party that has the right to the opinion. So as I said,  
2 our consultants can maybe have some more information on  
3 that.

4 COMMISSIONER CAMERON: Last question,  
5 Sir, if the State Ethics has a different opinion than one  
6 that you believe is so, do you have any idea how you will  
7 proceed?

8 MR. PIKULA: If that is a situation that  
9 occurs, and I don't think that will happen, but obviously  
10 that is a possibility and we will review it.

11 Typically, when these opinions come out,  
12 they talk about restrictions and limitations that have  
13 to be put in place. I don't see this coming out as saying  
14 somehow this is a prohibited transaction or anything of  
15 that nature. But we will review whatever opinion that  
16 is provided to us and deal with it appropriately.

17 COMMISSIONER CAMERON: You made mention  
18 that this is not a public record, this Ethics opinion.  
19 Does the law firm and the City intend to make this public?

20 MR. PIKULA: It would not be the City's  
21 call. That would be something for the consultant.

22 COMMISSIONER CAMERON: The consultant  
23 works for you, Sir. So, you wouldn't ask them to do that?

24 MR. PIKULA: Certainly, we would hope that

1 they would. But as I said, we have to respect the  
2 confidentiality provisions in 268A. In that respect, we  
3 have cooperated with the State Ethics Commission. Can  
4 we get you any documents? Is there anything we can help  
5 you to do? Can we provide you with any information?  
6 That would be our role. But it would be up to the  
7 consultant to ask for and the Commission to rule on.

8 COMMISSIONER CAMERON: Thank you.

9 COMMISSIONER MCHUGH: Before I ask a  
10 question, let me apologize for keeping you waiting today,  
11 Mr. Mayor, Mr. Chairman. I know your time is valuable  
12 and I apologize for being late. I perhaps feel  
13 spiritually closer to Springfield than geography  
14 permits. I do apologize.

15 You said the disclosure has been filed.  
16 Can we have that disclosure?

17 MR. PIKULA: Yes. That's with the City  
18 Clerk's office, but I do have a copy which I can submit  
19 with my remarks.

20 CHAIRMAN CROSBY: When was that filed?

21 MR. PIKULA: They FedEx'd it to my office  
22 on August 31. And I believe it was received on the fourth  
23 and I believe that's when I sent it down to the City  
24 Clerk's office.

1                   CHAIRMAN CROSBY:  Other questions?

2                   COMMISSIONER MCHUGH:  That was my only  
3 question.

4                   CHAIRMAN CROSBY:  This may turn out to be  
5 a place where there are reasonable people can differ, I  
6 do want to make a couple of points.

7                   First of all, we talked to Shefsky and  
8 Froelich.  They are an outstanding firm.  There's no  
9 issue about that.

10                  Secondly, as you know, to tell you the way  
11 I'm thinking about this, there are three levels that the  
12 Ethics Commission will advise about.  The first is  
13 whether actually is in fact a legitimate conflict of  
14 interest, as you said.  Secondly, is whether there is an  
15 appearance of a conflict of interest.  But the Ethics  
16 Commission will go on either orally or in writing and  
17 sometimes talk about situations which require an even  
18 greater sensitivity than the letter of the law to issues  
19 of conflicts and appearances and so forth.

20                  In an opinion which was written for us, I  
21 will just quote a sentence that the Ethics Commission  
22 wrote:  "Of course there may be situations where it would  
23 be better to go beyond what the law requires and abstain."  
24 That's from them.  It talks about a sensitivity to the

1 issue of appearance.

2                   What I think is in our minds is that there  
3 is this extraordinary sensitivity to this particular  
4 issue. And we are trying as hard as we can to hold  
5 ourselves to an extraordinarily high standard. We will  
6 err. We all do. We are writing ethics rules. We are  
7 mandated by law to write ethics rules, which are above  
8 and beyond those which are already in place.

9                   All of us, to make sure that none of us are  
10 besmirched by the actions of one another, all of us need  
11 to go out of our way to be extraordinarily sensitive to  
12 what could possibly be construed as the opportunity for  
13 or the potential for something other than total  
14 objectivity and the merits in this process.

15                   I know I've said this to you before. I  
16 want to be candid and say publicly what I've said  
17 privately. So, I do want to say one other thing, that  
18 we are mandated -- we have as part of our mission statement  
19 as you know and you have spoken to a mission to try to  
20 establish the principle of being fair and transparent and  
21 participatory as you are as well. But Section 1 also  
22 gives us in our purposes "to insure public confidence in  
23 the integrity of the gaming licensing process", "to  
24 insure public confidence in the integrity of the gaming

1 licensing process." And it is under that purpose that  
2 we are thinking about this and trying to reason  
3 back-and-forth with you as to what's the appropriate  
4 course of action. Does anybody else --

5 COMMISSIONER MCHUGH: I'd just like to say  
6 that while I agree with the sentiments, everybody agrees  
7 with the sentiments, I think, that we need to be as  
8 transparent and to use your phrase, Mr. Chairman, squeaky  
9 clean in all aspects of this process as we possibly can  
10 be.

11 The process is itself an important element  
12 of what we are doing. We've got statutes that deal with  
13 conflicts of interest. We've got an agency that is  
14 charged with enforcing those statutes. We have an agency  
15 that has demonstrated in the past and continues to  
16 demonstrate that it is not a toothless tiger. We have  
17 the --

18 CHAIRMAN CROSBY: That is the Ethics  
19 Commission.

20 COMMISSIONER MCHUGH: The Ethics  
21 Commission. We have the capacity, clearly, an agency  
22 that has been vigorous in enforcing the ethics laws  
23 throughout the recent past at least. We have civil and  
24 criminal penalties in the ethics statute for violating

1 the ethics rules. There is a provision that says that  
2 if the ethics laws are violated that the consequence, the  
3 decisions made as a result of the violations can be  
4 undone.

5                   Then we have the power to, as you rightly  
6 point out, shape and patrol the field on which we are  
7 playing, the entire gaming operation. But the question  
8 is how do we shape that? And it seems to me that we all  
9 agree that a fair way to shape it is by announcing rules  
10 and standards by which the conduct of others must be  
11 measured. And we have a lot of opportunity to do that.

12                   We are in the process now of creating and  
13 will soon promulgate an enhanced ethics code. It is  
14 perfectly within our purview to say that everybody  
15 involved in the process must adhere to certain provisions  
16 of that. And to draft provisions of that in mind -- with  
17 that objective in mind.

18                   So, we have an opportunity to do the kind  
19 of patrolling that I think we all feel is necessary to  
20 ensure the outcome on which we all agree. The question  
21 is for me at least speaking as one Commissioner, and I'm  
22 sure we share this, the process that we use to make the  
23 commitment to a fair process. And I know that we are  
24 committed to a transparent and fair process for



1 promulgating the rules of the game so that everybody knows  
2 the standards by which they are.

3 MR. PIKULA: If I may, I would echo the  
4 comments of Commissioner McHugh in that we do have State  
5 agencies to deal with these issues. We do have a  
6 Legislature who has written laws dealing with these  
7 issues. We have regulations dealing with these issues.

8 So, when you say there is another test here  
9 but it is not articulated in any sort of a process that  
10 has been set forth, we potentially cross the line of  
11 having any process and go contrary to those purposes that  
12 we set forth in the first place. If those types of  
13 decisions have been delegated to a State agency who has  
14 handled that type of work appropriately and that we all  
15 have confidence in, before we take any further steps, we  
16 need to see what that agency's ruling will be.

17 CHAIRMAN CROSBY: That was certainly our  
18 conclusion on Tuesday. And we had hoped that maybe we  
19 would have that decision. And we don't, I gather.

20 So, we may at the end of our meeting talk  
21 further amongst ourselves about whether we want to say  
22 anything more. I think at this stage of the game, we have  
23 said all there is to say. And we appreciate all of you  
24 speaking to the issue.

1                   And I reiterate that I don't doubt the  
2 faith of the parties here. We are talking about a very  
3 subtle issue here and nuance in appearance only.

4                   Do you want to move onto the second item?

5                   COMMISSIONER ZUNIGA: I actually have a  
6 question, a process question that you may get into Mr.  
7 Kennedy. It is also relative to the ethics question. Is  
8 the City currently planning on issuing the RFR that was  
9 planning to issue last September 5?

10                  MR. PIKULA: You can talk to the Mayor and  
11 the CDO about that, but as far as I'm concerned until we  
12 have more answers from here and elsewhere, I think it is  
13 on hold.

14                  CHAIRMAN CROSBY: Mr. Kennedy?

15                  MR. KENNEDY: Thank you, Commissioners.  
16 Let me preface my remarks by maybe answering one of your  
17 questions, Commissioner McHugh -- I mean Commissioner  
18 Cameron.

19                  If your question was if the Ethics  
20 Commission ruling came back in the negative basis what  
21 would we do? I think that is what I heard you say. My  
22 friend the City Solicitor is a very good lawyer and  
23 protects our interests to a great deal and I appreciate  
24 it very much. From a practical point of view, I can

1 assure you I will be recommending to the Mayor that we  
2 take the necessary steps to correct it. I will let that  
3 be said for itself.

4 I guess I am the one that is guilty of the  
5 situation that we are in here aside from the ethics part.  
6 The fact that we have four or more competitors here, I  
7 guess I take the guilt and I'll take the responsibility  
8 happily.

9 I recommended to the Mayor back some eight  
10 or nine months ago when Ameristar was our only potential  
11 operator, that we not join Ameristar as a partner. That  
12 we try to embark on a strategy that will result in more  
13 competitors and more operators and provide us with a  
14 greater choice. I thought that was what the Legislature  
15 was interested in and I thought that's what you as a  
16 Commission would be interested in.

17 Today I can happily say that we definitely  
18 have four. There is another one I think that is in town  
19 looking about. And goodness knows, maybe there are more.  
20 We would happily take them on in our situation. The  
21 question then becomes, okay, now that you've got a number  
22 of operators, because nobody else has written the book  
23 here in Massachusetts, what do you do about it and how  
24 do you go about a process that can result in maximum

1 benefits for both the locals, us, you as representing the  
2 State of Massachusetts and the whole region?

3           So, what we have embarked upon is the  
4 process that I think we have sent you a copy of some of  
5 our information. Let me try to address some of the  
6 situations I think that are in front of us.

7           First of all, on the issue of consultants  
8 and the jobs the consultants perform. I've been in this  
9 business for the better part of 30 years. And I've dealt  
10 with consultants for the better part of 30 years. And  
11 we've received an awful lot of good advice from previous  
12 ones that I've worked with and I can tell you right now  
13 that Shefsky and Froelich has given us good advice to this  
14 point.

15           But I will also stress to you the fact that  
16 I'm using the word advice. Shefsky and Froelich, as is  
17 any other consultant, is not the decision-maker. The  
18 decision-maker will ultimately be the Mayor and the City  
19 Council. And I would think that myself and our Solicitor  
20 and others will have some influence in the process. But  
21 I can assure you Shefsky and Froelich are not the  
22 decision-makers in this process.

23           We fully recognize the value of this  
24 project, especially from an economic development point

1 of view. This, while it is a gaming operation, we are  
2 going to treat it as an economic development project.  
3 That is where the real value lies to the City, the region  
4 and Massachusetts.

5 We intend to maximize the benefits for all  
6 of those connected. We also intend to control the  
7 development of this facility within the city limits if  
8 the Gaming Commission grants us a license. We believe  
9 the best way to maximize the benefits is to create that  
10 open transparent process that the Mayor talked about that  
11 the Solicitor talked about and that you are fully aware  
12 of.

13 We intend to work with our surrounding  
14 communities so we can insure benefits for all. It would  
15 be incorrect to assume that all of the jobs and vendor  
16 benefits from this potential \$1 billion project will only  
17 remain within the boundaries of Springfield. As we do  
18 with Union Station or Westover Air Reserve base in  
19 Chicopee or the Big E in West Springfield, we will  
20 communicate with each other and cooperate with each other  
21 to the fullest extent possible.

22 We are anticipating that we will be  
23 negotiating a host community agreement on the basis of  
24 public safety, education, tourism, arts and culture,

1 economic development. And we will also consider a  
2 gambling mitigation effort.

3           Whether the casino license is granted to  
4 Springfield or Palmer, we intend to work with and use our  
5 voting power on the Pioneer Valley Transit Authority to  
6 create a fully integrated transportation system in  
7 conjunction with the casino.

8           In conclusion, let me assure you and the  
9 citizens of Springfield and the region that we will  
10 maintain our focus on creating the best world-class  
11 casino possible. We will not be distracted by the noise  
12 that goes with the process. Working with you, we will  
13 attain the best result possible for Massachusetts.  
14 Thank you and I am ready to answer any of your questions.

15           CHAIRMAN CROSBY: Thank you, Mr. Kennedy.  
16 Commissioners?

17           COMMISSIONER ZUNIGA: Yes. I have a  
18 couple of questions. Has the City in the past or recently  
19 studied or commissioned studies to figure out regardless  
20 of an operator to figure out where in the City might a  
21 project of this magnitude have the best impact?

22           MR. KENNEDY: Well, we know that Ameristar  
23 is in the eastern portion --

24           COMMISSIONER ZUNIGA: Forget about

1 operators. Just conceptually anywhere in the City, is  
2 there a place that would be most beneficial that would  
3 increase the desirable traffic and would mitigate the  
4 undesirable traffic, just to say on one aspect, on  
5 traffic?

6 MR. KENNEDY: No. I think the simple  
7 answer is no. We don't want to prejudge these. With  
8 this project as we look at the potential operators that  
9 are there, there are pros and cons with all of them. It  
10 would be very difficult to pick out the ideal location  
11 because quite frankly I don't think any one of the four  
12 are going to be the ideal location. What we need to do  
13 is to pick out the best location. I can't answer you any  
14 more directly than that.

15 COMMISSIONER ZUNIGA: I also, I am curious  
16 about the criteria that you will use that you have drafted  
17 in the RFR, I guess, that is still being drafted. Could  
18 you explain a little bit more what criteria is going to  
19 be for selecting the rights to negotiate with one or more?

20 MR. KENNEDY: Well, I'd have to consult  
21 all of the detail and I don't think I can do that in this  
22 situation. But I can tell you generally that what we are  
23 looking for is an economic development proposal that is  
24 going to satisfy and fulfill our greatest needs. And by

1 that on the face of it every one of the proposals is going  
2 to satisfy the job requirements because it's going to  
3 create 3000 construction jobs. It's going to create 2500  
4 continuing jobs. It's going to provide us with a great  
5 deal of tax revenue. It's going to provide a great deal  
6 of benefits on the basis of a host community agreement.  
7 And it goes on and on and on.

8           And we should also mention that each one  
9 of the operators has a philanthropic side. So that  
10 besides the benefits that we are talking about on the host  
11 community side, I think everybody's going to benefit a  
12 great deal more.

13           We are also interested from our point of  
14 view -- and there has been a great deal of discussion here  
15 with the University of Massachusetts locating here to  
16 Springfield. There will be significant needs by all  
17 casino operators in the so-called workforce development  
18 world. So, there may be some ability to do some  
19 partnerships there. And we are going to investigate all  
20 of those.

21           The criteria that you're talking about,  
22 what kind of a corporate citizen are they going to be?

23           COMMISSIONER ZUNIGA: I'm sorry. Go  
24 ahead. I interrupted.



1                   MR. KENNEDY: I'm just going to talk about  
2 the type of corporate citizen we judge them to be, the  
3 financial stability of the company that we can see. Then  
4 we would defer to you further on that because your  
5 financial investigation is going to be far more  
6 exhaustive than ours. So, we would defer to you in terms  
7 of that.

8                   Thirdly, I think that we are also looking  
9 at an area where can it do us the most good, where we have  
10 the most need in Springfield. One of the areas that  
11 easily comes to mind is the south end of Springfield where  
12 a tornado went through on June 1, 2009. We have  
13 significant needs there.

14                   We also need to make judgments on what is  
15 in our infrastructure in each one of the four locations,  
16 because that will require a great deal of effort on all  
17 of the casino operators because there are many, many,  
18 utility related functions that go below grade, especially  
19 in the downtown. We anticipate contracting out for  
20 wastewater study, water study, transportation studies  
21 all of those kinds of things. So, that we make sure that  
22 we maximize what we're doing.

23                   So, I'm being a little bit evasive, not so  
24 much evasive but I have to give you a general answer until

1 we actually see the specifics of each one of the  
2 proposals. And then we will try to judge them on a  
3 specific basis.

4                   COMMISSIONER ZUNIGA: I appreciate that.  
5 I guess I am interested in the criteria for selection that  
6 you will apply in terms of choosing to negotiate with --  
7 choosing to select one or more.

8                   MR. KENNEDY: I'll tell you what, if I  
9 could let my friend the Solicitor answer that. There are  
10 some specific criteria.

11                   MR. PIKULA: Yes. I believe as Mr.  
12 Kennedy indicated public safety and the jobs and the  
13 education, those are the general areas of criteria that  
14 there will be.

15                   But this is planned to be a two-phase.  
16 And our consultants will talk more about this. But Phase  
17 1 is really to who is out there and who is really going  
18 to be interested in doing this? It is not at that point  
19 that there will be any selection being made other than  
20 that, who is willing to help us cover the costs, because  
21 that is a big issue, of how to pay for these consultants  
22 now to do some of the studies that you are talking about.  
23 Those are the types of things we are looking at in Phase  
24 1.

1                   Phase 2 is where there will be a selection  
2 criteria. That, as I said, nothing is carved in stone  
3 with that other than what is in the statute. At this  
4 part, we have looked at the same criteria that the statute  
5 has to try to match up.

6                   COMMISSIONER ZUNIGA: That criteria I  
7 read in the statute to be one that the Commission would  
8 apply not necessarily one that the City apply. I am  
9 interested in the process that you are mentioning -- and  
10 lets go back to Phase I for a minute -- have you considered  
11 requiring the operators that are out there to submit their  
12 application fee to the Commission? Is that a requirement  
13 with the RFR as you have drafted it, because we currently  
14 only have one operator that has submitted that fee.

15                   MR. PIKULA: Actually, we have discussed  
16 putting in Phase 2 that anyone who is going to be  
17 submitting is going to have to also have submitted their  
18 \$400,000 to the Commission.

19                   What we're looking to do is try to make a  
20 process that is complementary to what you do. For  
21 example, we understand your vetting process is very  
22 detailed. We don't have the resources to do that. But  
23 we don't want to make anyone do anything they don't have  
24 to do for you. So, the information they would be

1 providing would be some of the same materials that they  
2 would provide to you. So that anything they did put  
3 together for us would be in anticipation of putting it  
4 together for you.

5                   So, that when we get to Phase 2 as you  
6 indicated, all right, if you really are going to be  
7 serious, what we considered saying is you are required  
8 as part of Phase 2 to pay your application fee to the State  
9 so that that process will get going and the resources will  
10 be available to the Commission to start on their process.  
11 So that hopefully when we get to the finish line, there'll  
12 be some coordination that either the Commission doesn't  
13 have to wait long for the City to conduct its vote and  
14 vetting. And really those issues are very of local  
15 interest, not legal but economic development wise that  
16 you mentioned what is best for the City.

17                   Process wise, we want to see how we can  
18 dovetail things together. That's where our consultants  
19 have used this process in other states. And when we went  
20 through the RFP process and we recognized we had this  
21 unique issue, we asked all of the consultants how do we  
22 deal with this? And to the tee, they all suggested you  
23 need to do an RFP process to narrow it down.

24                   You need to narrow it down for yourselves.

1 You need to narrow it down for the Commission.  
2 Otherwise, there is going to be a long excessive expensive  
3 process. No one had a really good explanation of how that  
4 would work other than the consultants we selected who said  
5 let me tell you how we did it in Michigan. They explained  
6 they followed a two-tiered process, step one, step two.

7 Now we had some flesh on the bones. We had  
8 a process that had been tried elsewhere. It had worked  
9 successfully. And that was one of the most appealing  
10 parts of why this consultant was selected. They had been  
11 there and done that.

12 We were searching, how are we going to deal  
13 with this? That was one of the most difficult things that  
14 we saw going back to April when we were looking for  
15 solutions.

16 MR. KENNEDY: Let me, if I don't insult you  
17 by reading from something. I have the specific criteria  
18 that you referred to if you want me to read it, I can to  
19 you.

20 We are expecting that each one of the  
21 operators will propose a project that will A - make a  
22 significant and lasting contribution to the City and the  
23 Commonwealth increasing sustainable economic benefits  
24 from tourism and conventions. Two - be a catalyst for

1 additional economic development in the City. Three -  
2 create good paying jobs and new employment opportunities  
3 for City residents. Four - support utilization and  
4 participation of local and small-business suppliers and  
5 vendors including minority business enterprises, women  
6 business enterprises and veteran business enterprises.

7           Five - support utilization of existing  
8 City entertainment venues. Six - mitigate any adverse  
9 impacts of the project on the City and the surrounding  
10 communities. Seven - provide additional revenue for the  
11 City. And it's expected that the project will be  
12 completely unique, providing a standard of service and  
13 excellence that will be known throughout the Northeast  
14 region of the United States. If that answers your  
15 question.

16           COMMISSIONER ZUNIGA: Let me press if I  
17 may. How, if I'm an operator do I know that I have  
18 exceeded the expectations of the City in any one of those  
19 criteria? The point I'm trying to make, is to the extent  
20 that it is most specific and can be assigned -- and the  
21 City can assign a particular score, let's say, I don't  
22 know if this is what you are thinking, somebody can really  
23 hopefully try to think outside the box and be creative  
24 with their proposal.

1                   But some of the criteria that you outlined,  
2 Mr. Kennedy, seems a little broad. And I know it's  
3 difficult. It's inherently difficult to score them one  
4 against each other. But you do articulate that you will  
5 be narrowing down in what you are setting out to do. In  
6 my opinion, to the extent you can narrow that be as  
7 specific as possible when it comes to telling the public,  
8 the operators where your priorities may be in terms of  
9 what you want to see out of these proposals will be to  
10 everybody's benefit.

11                   MR. KENNEDY: Well, these are the general  
12 categories. You are correct, we are going to have to make  
13 judgments on that. And like a construction process known  
14 as CM at-risk I intend or expect that when we get the  
15 proposals in, we will be going back to them and say you  
16 might want to do a little bit better in X-Y-Z category  
17 because maybe this other operator propose something else.

18                   We are going to drive a process here that  
19 is going to result in the best deal possible for not only  
20 us but in the best deal possible for the Commonwealth.  
21 So, we are going to push them. I will freely admit to  
22 that.

23                   COMMISSIONER CAMERON: Can I add another  
24 question? Mr. Kennedy, I am going to refer to your letter

1 to Chairman Crosby outlining the process. And I just  
2 heard what you've all said about wanting to compliment  
3 our process.

4 My concern with that or my question with  
5 that is that your process is complete before even our  
6 deadline for accepting applications. My question is  
7 this, and I am going to refer to your letter and this is  
8 on page three, the second paragraph where you say that  
9 the City believes that by conducting its selection  
10 process on its proposed timetable, the City will be  
11 relieving the Commission of the burden of conducting  
12 these suitability investigations.

13 So, what you're saying is although you say,  
14 for example, the financial investigation which you have  
15 listed as five days -- I'll be honest with you, I am not  
16 familiar with any kind of a financial investigation that  
17 can be completed in five days.

18 If you're going to relieve us of the  
19 burden, I think what I'm hearing there is that some of  
20 these entities may not even apply to us. I have a  
21 question about that. For example, if you select someone  
22 who ends up not coming through our suitability process  
23 in a favorable manner -- later on in the letter, it talks  
24 about then you will know how to go back and renegotiate



1 a host agreement with one of the other entities. What  
2 if one of those entities hadn't even applied to us?

3 MR. KENNEDY: I think one of the answers  
4 to you without being specific is we can conjure up any  
5 number of speculative situations that may or may not  
6 happen and come up with a question that we can't answer.

7 Secondly, I will say to you that I think  
8 I specify that I referred to the financial review on a  
9 very high-level. So, we are not proposing that we are  
10 doing the same type of review that you would do. We know  
11 that.

12 Thirdly, I think that our process, we can  
13 do the process within the time constraints that we have  
14 laid out. I think it is practical. It's definitely  
15 doable. I think one of our goals that we want to have  
16 done here is we want to have an operator that can go forth  
17 and apply for one of your licenses as soon as you are ready  
18 to ask for that application. And as I understand the law,  
19 we have to have our process completed before that  
20 particular operator can apply for a license.

21 COMMISSIONER CAMERON: Question about why  
22 did you consider -- I'm not sure about your timeframe  
23 here. Did you consider waiting until we completed the  
24 suitability investigation which then gives you a very

1 thorough idea of financial suitability? You mention in  
2 the letter that well, they all have licenses in other  
3 jurisdictions. The suitability investigations do  
4 change from year to year.

5                   For example, there is one casino operator  
6 that has multiple licenses that ran into significant  
7 suitability issues and withdrew their application in one  
8 jurisdiction. There is another that received a  
9 conditional license because their financial  
10 circumstances have changed dramatically. And there is  
11 a third that was in the licensing process and completely  
12 lost their financial backing and had to withdraw from the  
13 process at the very late stages.

14                   So, I think your comments about well, they  
15 all are licensed in other jurisdictions, I am just  
16 concerned that --

17                   MR. KENNEDY: Again, I don't think we can  
18 cover every contingency, but we do plan on adjusting where  
19 we need to adjust as we go along. We do have a reasonable  
20 expectation that the operators that we have before us are  
21 probably going to be vetted by you successfully.

22                   Although the possibility does exist that  
23 that may not be true and we may have to adjust. And if  
24 we have to adjust, we will adjust. I should also add that

1 your process -- the timing part of it has changed from  
2 time to time over the last six months or so. So, it's  
3 been a little bit difficult from our end of it to actually  
4 apply. I don't mean that as a criticism. I understand  
5 that you've had to make some adjustments yourselves.

6           MAYOR SARNO: The operators are very  
7 pleased that there has been a process put in place on the  
8 local level. I have to speak wearing a hat of a Mayor  
9 now. We're in a unique situation. Many a times the  
10 Mayor, whether it's Boston or other place, has to drive  
11 an agenda for economic development to retain companies  
12 or bring companies in to their jurisdiction.

13           Our strategy was to maximize the  
14 competition in order to drive the most aggressive deal  
15 for the taxpayers, the residents and the business  
16 community of the City of Springfield. My job, our job  
17 is not here to cater to any kind of casino operators.

18           Our job is here to drive that competition.  
19 And I think the comment I used before on some of the RFPs  
20 we are looking to do is smoke out who are the contenders  
21 and who are the pretenders as we move forward.

22           The final say obviously and that's  
23 democracy. The voters will have final say. And  
24 obviously, the Gaming Commission will have final say over

1 it. We are very hopeful to have something in the City  
2 of Springfield. But it puts us in a unique perspective,  
3 the competition. And I think that's what the letter of  
4 the law, the Legislature saw fit about maximizing  
5 competition.

6           We have not done as other municipalities  
7 has said it's going here. This is the one that's coming  
8 in, period. So, we are trying to be open about the  
9 competition. To drive the best deal not only for the City  
10 of Springfield, Mr. Chairman, but for the Commonwealth  
11 of Massachusetts. And it is important as you see with  
12 the casino operators, they have firepower. They have  
13 consultants, attorneys, etc.

14           We are east of 128 and 495 -- west but all  
15 of the action is east there and they may not think they  
16 can get over on us. We are trying to do our due diligence  
17 on this. And we continue to work with the Gaming  
18 Commission. This is very, very unique.

19           We are driving the agenda. It's not them  
20 driving the agenda. It's us, to make sure we maximize  
21 that competition. I think for any Mayor that is very,  
22 very welcoming in this tough economic development  
23 situation.

24           You look at this benefit here for the City

1 of Springfield and the surrounding areas, just on  
2 property tax revenue conservatively, \$15-\$20 million  
3 probably more. This is potentially a \$1 billion economic  
4 development proposal.

5 I have gone through five successive years  
6 of budget cuts, cutting services, laying off. We are at  
7 the bone right now. Commissioner Stebbins would know  
8 that. To have this type of tax revenue come in with a  
9 host agreement plus the jobs of anywhere from 2500 -- not  
10 only white-collar jobs, good paying blue-collar jobs for  
11 people to put food on the table, insurance, put a roof  
12 on their head plus the construction jobs, plus driving  
13 an aggressive agenda.

14 In the 1990s, and you've done your due  
15 diligence, casino operators would come into a city and/or  
16 town and say the box drops here. Here's the crumbs.  
17 Here's what you get. They know -- each one of them to  
18 a tee know that we have instructed them outside the box.  
19 They have come out with an outside the box mentality with  
20 the spinoff effects.

21 In our RFP it indicates what is going to  
22 maximize the best benefit to the residents, taxpayers and  
23 the business community of the City of Springfield. So,  
24 I think we are in a good situation where we are maximizing

1 all efforts, unlike other areas where it's one horse, one  
2 horse in that town. That's all you have. And as a matter  
3 of fact are being dictated where to go.

4 I'll look you straight in the eye, I want  
5 the best viable proposal for the City of Springfield at  
6 the best viable location. Not only for the City, but we  
7 have told the operators this has to entice and drive a  
8 good deal for the Commonwealth of Massachusetts as we move  
9 forward. So, we are trying to be completely transparent  
10 upon this and look for your guidance and advice as we move  
11 forward.

12 Just to end and I'll turn back to Mr.  
13 Kennedy and Solicitor Pikula, this is an extremely unique  
14 position, which I think the Gaming Commission and the  
15 Legislature, this is what you want, competition,  
16 maximizing it for the benefit of the taxpayers, residents  
17 and business community in the City of Springfield. Not  
18 for somebody to be dictating to the City or dictating to  
19 the Gaming Commission you need to do this. You need to  
20 do that to qualify this and that. That's what we are here  
21 to do. And we want to work cooperatively with you.  
22 Thank you.

23 COMMISSIONER MCHUGH: I understand that,  
24 Mr. Mayor. And I sympathize with that. We all want to

1 work synchronously and get the best we can both for the  
2 City of Springfield if it's the winner and for the region.

3 My concern is not so much with substance  
4 as it is with timing at this point. And I am concerned  
5 about Commissioner Cameron's point about the possibility  
6 that we find unqualified, and I recognize your assessment  
7 is the likelihood is low but it is not impossible, find  
8 unqualified someone with whom you have chosen to work.  
9 But more importantly, the host community agreement is  
10 going to be signed by January. It is unlikely, I will  
11 tell you, although we are trying to work as quickly as  
12 we can that we will have by January developed all of the  
13 criteria for which we are going to be looking in a license  
14 application.

15 Therefore, I am concerned about the  
16 possibility that you have a host community agreement that  
17 you are ready to put to a vote of the citizens that doesn't  
18 in the end meet all of the criteria that we are looking  
19 for both for local development and for regional  
20 development and for return to the Commonwealth. How do  
21 we then deal with that?

22 It seems to me we need to work  
23 cooperatively in that regard. So, I would welcome  
24 hearing from you why it isn't possible to hold off on the

1 execution of an agreement and/or the vote until at least  
2 we have promulgated regulations saying what it is that  
3 we are looking for? What it is that we want to see in  
4 the application and what values we are placing on which  
5 criteria, because you ultimately are going to be in  
6 competition perhaps in all likelihood with other  
7 proposals from other towns and cities.

8                   CHAIRMAN CROSBY: Can I add just one thing  
9 before you, I just want to build on that point. This is  
10 not incidentally an issue only for the Town of  
11 Springfield. We are in the process right now of talking  
12 with Palmer and we will be saying to them that from the  
13 standpoint of our schedule, you shouldn't close the door  
14 on your host community agreement yet, because we haven't  
15 even said yet what a host agreement is going to look like  
16 - A. And B - we recommend that you don't have your  
17 referendum until after we have approved everybody.

18                   The same thing is happening in the City of  
19 Boston and the City of Revere. So, I would then echo --  
20 Understand this is not just you guys. This is everybody,  
21 many people. The process has moved quickly on the ground  
22 faster than our process in our five and a half months in  
23 business.

24                   I personally at this stage of the game



1 don't have a problem with the RFR. The issue is, as  
2 Commissioner McHugh said can your execution of your host  
3 community agreement and your referendum be postponed  
4 until it comes after our suitability process?

5 MR. KENNEDY: When would that be?

6 CHAIRMAN CROSBY: Unfortunately, it is a  
7 variable depending on how complicated the applications  
8 are, but the timeframe as we know it at the moment is that  
9 if the completed RFA-1, the background check data would  
10 be back to us by the middle of January, we are told by  
11 our consultants that a realistic estimate for getting  
12 those done is as much as six months. It all depends on  
13 how much you have to go back and forth on qualifiers.

14 MR. KENNEDY: Six months from January, so  
15 that makes it July?

16 COMMISSIONER ZUNIGA: Yes.

17 CHAIRMAN CROSBY: Yes. So, in the nature  
18 of six months from then, we would be able to say whether  
19 people have passed background checks.

20 Then at that point there is still a long  
21 period of time. Our schedule actually anticipates that  
22 host communities and developers will do the bulk of their  
23 negotiating subsequent to the background check phase  
24 being over. There is a good probably close to a year

1 still or six to 12 months in the process once the  
2 background checks are completed.

3 MR. KENNEDY: Well, the situation here  
4 on the ground is a little bit -- We've got a problem with  
5 that timeframe. We have one operator that has already  
6 purchased property and is applying for signage rights and  
7 so on and so forth. We have other operators that have  
8 already taken options out on property affecting the real  
9 estate transactions.

10 We also are trying to figure out what to  
11 do with a tornado that came through here a year ago, which  
12 went right through one of the proposed casino facilities.  
13 Time is really of the essence with us. We can't continue  
14 to just wait in an indefinite way.

15 The second thing that I would also ask,  
16 under the legislation do we have the right to do what we  
17 are proposing?

18 CHAIRMAN CROSBY: Well, let me give them  
19 what I think our opinion is, and we are working on this  
20 very issue ourselves as you know. And we are  
21 interpreting the legislation.

22 I think our belief is that you do, but we  
23 may also have the authority to override that authority  
24 if we wanted to. We are very clear about the local

1 control that the Legislature empowered here. There is  
2 no question about that. It was largely anticipated that  
3 the process would be at the local level until the host  
4 community agreement and the referenda is concluded.

5 But, we are empowered with the right to  
6 control the "parameters" of the elections. And we  
7 believe that we probably have the right to set the  
8 schedule if we chose to.

9 COMMISSIONER MCHUGH: Can I just add to  
10 that, before we get to rights and who has got what rights,  
11 in terms of trying to operate synchronously which  
12 ultimately would be best for everybody --

13 MR. KENNEDY: I agree.

14 COMMISSIONER MCHUGH: -- it's clear that  
15 you are eager to move forward. We understand that. We  
16 are eager to move forward too.

17 We have different responsibilities. We  
18 have different things that we need to accomplish. And  
19 my concern is eager as we both are to move forward, if  
20 we move forward with competing agendas and competing  
21 schedules, we are likely to bump into each other and  
22 create a situation in which misunderstandings, conflict  
23 and ultimately do overs are a potential. So, how do we  
24 fix it?

1                   One answer is we go faster. Well, we'll  
2 go as fast as we can. We can assure you that. People  
3 told us that we couldn't get the Phase 1 regulations out  
4 in five months. We got them out as well as doing some  
5 other things.

6                   We may adhere to Chairman Crosby's  
7 schedule. We may be able to speed things up, speed things  
8 up substantially. And we've got that in mind. But  
9 suppose we can't? And suppose we come up with a criteria  
10 that are not included in your host community agreement  
11 that has already been voted on? What do we do then?

12                   How do we work constructively to deal with  
13 these two different and not necessarily competing agendas  
14 as we move forward and try and get something that works?

15                   MR. KENNEDY: I don't know the answer  
16 except that I do agree and I think we agree as a City that  
17 we would like to work cooperatively. And we are not  
18 looking at this as we are adversaries by any stretch of  
19 the imagination.

20                   But we do have certain needs on our end that  
21 I think you folks need to recognize, just as we need to  
22 recognize some of your needs. One of our issues here is  
23 we have got four or maybe five lined up, ready to go,  
24 selecting, taking options on property.

1                   We think that we have proposed a good  
2 process, fair, open, transparent. It is very difficult  
3 right now to prejudge it. And really the only way to know  
4 what is going to happen is to see how it unfolds, but we  
5 know that it worked in Michigan. And we expect that the  
6 way we are going to go about here is going to work and  
7 it's going to work for Springfield. The question is  
8 about timing, I think, Judge. And I recognize that. And  
9 I don't know the answer to that though.

10                   COMMISSIONER MCHUGH: I am just going to  
11 try it one more time and from a slightly different angle  
12 and then I'll stop. You say it's going to work for  
13 Springfield. It'll only work for Springfield if it works  
14 with the Commission's approval ultimately.

15                   What I am trying to avoid or trying to tease  
16 out here in this conversation and perhaps we can't end  
17 it today, tease out a process that insures that whatever  
18 Springfield does and whatever Palmer does is eligible for  
19 Commission approval. And avoid a situation in which a  
20 host community agreement is put to a vote of the citizens  
21 who approve it say, but it doesn't meet the criteria for  
22 which the Commission is looking. That's for me the  
23 largest concern.

24                   MR. KENNEDY: And I understand your

1 question and I recognize it. But there is no solution  
2 that goes with the question. What are you suggesting?

3 COMMISSIONER MCHUGH: There is. At least  
4 to wait for that host community agreement until we get  
5 the regulations out that outline what it is that we are  
6 going to be looking for in the agreement. The license  
7 can't be issued before we approve it in any event.

8 So, whatever else is done, and we will work  
9 as quickly as we can to get the second set of regulations  
10 out, but at least outline what it is we are going to be  
11 looking for in the application.

12 MR. KENNEDY: I am going to have to defer  
13 to the Mayor on this one, obviously.

14 MAYOR SARNO: Commissioner McHugh, I just  
15 have to point out to the Commission, we are operating on  
16 three fronts here. As you know, we faced a devastating  
17 tornado June 1, 2011. We faced a devastating northeaster  
18 that affected heavily this part of the State. The worse  
19 unprecedented weather in the City's now 376th year in  
20 existence.

21 We are building off the tornado. We have  
22 economic development projects moving whether it is 31 Elm  
23 Street, Court Square, Union Station, etc. Now we have  
24 the casino economic development project that's in the

1 play. These all have moving parts.

2           When many people thought it was time to  
3 turn the lights out on the City of Springfield after we  
4 got hit by the tornado and the nor'easter, the exact  
5 opposite happened. In eight months time not only did we  
6 have the place cleaned up, we had rebuilding and we had  
7 a plan of attack on how we move forward on an overall  
8 vision for the City of Springfield.

9           We want to work cooperatively with the  
10 Commission, but I'm here day-to-day. I am on the  
11 street. And it's very difficult to say to the residents  
12 of those affected areas who are hungry to work, hungry  
13 to rebuild to say you've got to hold on another six months,  
14 maybe another year, maybe another 18 months.

15           We have to drive an agenda. We want to  
16 work cooperatively with the Commission as we move forward  
17 and we want to work in step. It is very tedious for  
18 whether the business community, the taxpayers or the  
19 residence to say wait, wait, wait, wait.

20           We put a process across. We want to work  
21 with the Commission but I think our metal has been tested  
22 of what we have been able to do in unprecedented times.  
23 And we understand you are the ultimate authority on it.  
24 The legislation does grant -- the way we interpret it,

1 it does grant tremendous power to the local government,  
2 the CEO of the city, which I have the honor and privilege  
3 of being the Mayor on that.

4           So, we are here to work cooperatively, but  
5 we have to tell you some issues that we are going through  
6 here. And it is tough when you are on the street every  
7 day and people are saying when is it coming? Or when is  
8 a decision going to be rendered or made?

9           And I go back to the unique position that  
10 we are in. Who thought four, maybe possibly six  
11 competing for Springfield? We welcome them all,  
12 maximize. Not being told as other areas say it's going  
13 here. This is the one that is getting picked. That's  
14 what I think Mr. Kennedy is alluding to.

15           MR. KENNEDY: Let me give you a specific  
16 example of one of our difficulties with waiting is. In  
17 our tornado damaged south end, there are two very large  
18 pieces of property. One is the old south-end community  
19 center on Howard Street and the other one is Zanetti  
20 School. Our tornado rebuild plan says that we will RFP  
21 those properties as soon as practical.

22           We are in the very late stages of our  
23 negotiations with FEMA and we will have maximized our  
24 reimbursement in a matter of days if not a week or so.



1 When that comes about, we need to put those properties  
2 on the market according to our tornado rebuild plan.  
3 Both of those properties are in the zone for one of the  
4 casino proposals.

5                   So, the question comes up if we wait are  
6 we not only waiting on casinos, we are also waiting on  
7 tornado rebuild. We had a tornado hit in excess of a year  
8 ago. And we are going to be in a situation where we are  
9 supposed to just sit on properties that we have got to  
10 get back out on the market that from a practical point  
11 of view we know full well that the casino company, at least  
12 one of them, will be bidding on those. So, it is one tiny  
13 specific important example of the necessity to go  
14 forward.

15                   Not to mention the fact that what happens  
16 in a real estate situation where you have an awful lot  
17 of speculation and you have an awful lot of options that  
18 are being taken on wide swaths of your property all across  
19 the City that is not really the best of all situations.

20                   We do think that we have a process that is  
21 going to work. And I'm not saying that we don't want to  
22 work with you, because we do. But we can't just sort of  
23 talk on a level up here. We have got to bring the level  
24 down to the ground and actually figure out how we're going

1 to do this and when we are going to do this.

2 CHAIRMAN CROSBY: It may be that we should  
3 talk off-line to see whether we can work this out. But  
4 I just want to make sure we are thinking this thing through  
5 clearly.

6 If you do your process as scheduled, you  
7 will have an agreement signed in December. You would  
8 have a referendum sometime in the spring. We will be  
9 background checking whoever gives us \$400,000 and becomes  
10 an applicant. Presumably within that group will be the  
11 person that you pick.

12 We will be finishing that process  
13 something like six months, let's say, down the road.  
14 Nothing will happen. Nothing will be sped up because of  
15 you having made a decision. We go through our background  
16 check. It takes however long it takes.

17 Then come, let's say for the sake of  
18 discussion, June 30, we have passed people's backgrounds.  
19 And we now put out RFA-2, the second phase for everybody  
20 to fill out, including whoever it is that you've picked.

21 They are going to have to take our  
22 parameters. You will probably, if you do it the way you  
23 do it, you will probably have been further along the road  
24 by some amount of time. I don't know whether that is one

1 month or two or three months, but I bet it's not more than  
2 three months because you are still going to have to fill  
3 out the application.

4           Whoever else competes in Western Mass. is  
5 going to have to fill out their application. Even if you  
6 do yours in a day, anybody else in Western Mass. is going  
7 to go ahead and take the full amount of time, which is  
8 three to six months. We are not going to be making any  
9 decisions for Western Mass. until all of the applications  
10 for Western Mass. are in.

11           Then we will look at it. Once they are all  
12 in, we will then make our decision. That will take  
13 however long it takes and that won't be affected by your  
14 process.

15           As a practical matter, the time that you  
16 will save could be zero. If the other applicants in  
17 Western Mass. take the full amount of time that we permit,  
18 which is perfectly plausible, to fill out their forms,  
19 you would have saved one day. And what you will put at  
20 risk is that your bidder ends up or your host community  
21 agreement ends up somehow or another being disallowed.

22           MR. PIKULA: But we will have lost the  
23 opportunity that we have now to have the competition from  
24 all of these parties.

1                   CHAIRMAN CROSBY: You could still go ahead  
2 and have that process as soon as you want. You just won't  
3 be signing and executing your host community agreement  
4 and having a referendum until you find out for sure that  
5 the person that you picked is qualified.

6                   MR. KENNEDY: Mr. Chairman, one of the  
7 things that you definitely need to understand, a tornado  
8 went through here in June 2011. We are under extreme  
9 pressure to rebuild. One of the casinos is in the tornado  
10 area. We must be ready, even if it saves us a day. We  
11 have got to be ready to move. Our citizens expect that.  
12 We can't continue to say to our citizenry we are not going  
13 to rebuild the south end of Springfield because we are  
14 waiting to see what the Gaming Commission does. We can't  
15 do that.

16                   COMMISSIONER ZUNIGA: Is that where you  
17 think the casino is going to go perhaps?

18                   MR. KENNEDY: No, I don't. It is one of  
19 the proposals.

20                   COMMISSIONER ZUNIGA: I don't see how they  
21 are connected. You could bid out whenever that property  
22 comes out after the FEMA process. You could bid it out  
23 to whomever. Whether that ends up being a casino  
24 operator or not.

1                   MAYOR SARNO: Wait a minute. Let me put  
2 economic development, Mr. Commissioner. You put an RFP  
3 out for that. Let's say one casino company decides they  
4 are the top bid. The committee we pick says they deserve  
5 to have that property. Nothing moves for two years on  
6 preferred developer status. Those properties stay as  
7 they are, whether the Gaming Commission decides in their  
8 wisdom that Springfield gets a bid or not. And then how  
9 do we know that we have four, possibly six now that they  
10 are going to get the proposal.

11                   So, in other words, to the tornado-ravaged  
12 citizens of the City of Springfield, they are going to  
13 sit back and look at those derelict, decaying buildings  
14 until some movement is made by the Gaming Commission. I  
15 say this with all respect to you, Commissioner McHugh,  
16 that is what a Mayor on the street has to face.

17                   I just can't say wait, wait. And I know  
18 Commissioner you are mentioning put it out there. Well,  
19 if they do get those buildings on their bid -- Mr. Stebbins  
20 is aware of these things, economic development hat on.  
21 -- they are the preferred developer. That status will  
22 stay in step. That precludes anything else going on on  
23 the tornado rebuild. That's what I'm trying to say about  
24 the reality of this.

1                   That is what Mr. Kennedy and Solicitor  
2 Pikula say. I don't care if it saves us one day. We have  
3 to be ready to say here's option A, B, C and D. If I stand  
4 up there and say I really can't tell you much. I'm still  
5 waiting for the Gaming Commission. And we know that you  
6 have to do your cross the T's and dot the I's as we are  
7 doing. That is what we face in the unique situation.

8                   And we want to maximize unlike other areas  
9 where they have one horse in that town and being dictated  
10 where they should go, what they're going to do. And I  
11 would hope -- And you said you brought them up whether  
12 it's Boston, Palmer if I'm being treated differently here  
13 as the Mayor of the City of Springfield, the rules and  
14 the regulations read out the same way.

15                   We have maximized the competition here,  
16 which is not only going to benefit the City of  
17 Springfield, it's going to benefit the Commonwealth of  
18 Massachusetts to generate revenues. And I will tell you  
19 again, I don't care where it goes or who gets it as long  
20 as it's the best deal for the taxpayers, residents and  
21 business community of the City of Springfield. That's  
22 what we look to do.

23                   That's what we face as far as hold, hold,  
24 hold. Those properties can stay derelict, eyesores,

1 quality of life issues while we are rebuilding left and  
2 right throughout the whole City on our own, on our own.  
3 Thank you.

4 COMMISSIONER MCHUGH: I understand that,  
5 Mr. Mayor. And you've made the point eloquently.

6 I think from my standpoint in asking the  
7 questions of Mr. Kennedy, I simply -- I'm primarily  
8 concerned as to how we get a process that works and that  
9 works synchronously, as I said, and that doesn't lead us  
10 into a set of false hopes that can't be fulfilled. That's  
11 my goal and I know it's yours as well.

12 MR. KENNEDY: I know. And I think from  
13 our perspective we either need to slow down or you need  
14 to speed up.

15 COMMISSIONER MCHUGH: Or a little bit of  
16 both.

17 MR. KENNEDY: And I know where we would be  
18 coming from on that.

19 COMMISSIONER STEBBINS: I like the  
20 comments of my colleagues and understand the urgency.  
21 And if there is any benefit for this Commission in an issue  
22 that we've talked about in the past has been how do we  
23 generate this kind of competition across the State.

24 And certainly recognizing there is

1 authority, the City's authority to figure out who the best  
2 entity or operator is that you want to negotiate. I look  
3 at as if there are people that get kicked out of the  
4 process, maybe it frees them up at an earlier enough time  
5 that they can begin to consider other locations either  
6 in Western Mass. or in the other regions as designated  
7 by the statute.

8           So, trying to find a solution in that to  
9 let you, Mr. Mayor, I'll use your term, figure out who  
10 the pretenders and the contenders are and who you feel  
11 is going to have the best project for the City of  
12 Springfield. And at the same time keeping in mind as I  
13 think Commissioner McHugh pointed out, the additional  
14 criteria as the law lays out in section 18, all of the  
15 criteria we are going to evaluate a license on.

16           So, making sure that your interests are  
17 reflected in the agreement you want to strike. Our  
18 interests in what we want to see is reflected in the final  
19 RFA-2 process. But I want to find a way not to slow down  
20 that kind of self-selection process that you want to go  
21 through to see who has a viable project. Who is  
22 ultimately going to be the one or the two proposals that  
23 you're going to put before the voters.

24           I have a concern about just our



1 coordinating timelines, the financial background or the  
2 integrity background that we are going to do. You  
3 mentioned not asking or not requiring a bidder to step  
4 up to with the \$400,000 application to us, which until  
5 you get to your RFA or your RFP -- the second phase --

6 MR. KENNEDY: Which is October.

7 COMMISSIONER STEBBINS: -- which is  
8 October, that also in some way inhibits an applicant from  
9 even -- again, they go in this contender or pretender  
10 category. But without that \$400,000 you know we can't  
11 conduct an investigatory background. You also know that  
12 it limits their ability to interact with state agencies  
13 to get a better idea whether their transportation plan,  
14 any environmental issues that they need to talk about with  
15 state agencies that gets limited.

16 I have some kind of just broad questions  
17 about the process for you, Kevin, in terms of you are  
18 looking at an election. Do you envision an election  
19 where you have two proposals on the ballot? Do the voters  
20 of Springfield, again, because as we've all talked about,  
21 a lot of this was not foreseen in the legislation,  
22 Springfield voters be able to vote on one project on one  
23 vote? Or can they vote on both projects?

24 MR. KENNEDY: We are anticipating keeping

1 our options open on that. We do believe that one is  
2 probably the best. Of the four --

3 COMMISSIONER STEBBINS: One project or  
4 one vote? I mean one project or somebody just being able  
5 to vote on one project?

6 MR. KENNEDY: One vote, here's the  
7 project. And it's outlined in the statute what it has to  
8 say. We know that. We want to be able to maximize the  
9 competition between the operators before we get the vote  
10 stage. So, we would anticipate the competition to be  
11 intense at that point.

12 We would also be thinking in terms of  
13 having the ability to have a backup plan in case we need  
14 a backup plan for whatever reason. You have outlined  
15 some of the financial issues that go with it. And there  
16 maybe some host community agreements or whatever based  
17 on your rules and regulations whenever they come out.  
18 So, we need to be a little bit flexible there.

19 But I do believe from an electoral point  
20 of view -- Remember, we are going to be in a full-fledged  
21 electoral campaign. The airwaves are going to be full.  
22 The newspapers are going to be full. It's going to be  
23 like an electoral campaign that we haven't seen on a  
24 political basis in a long, long time.

1           There's going to be a lot of chaos and a  
2 lot of noise out there. So, it is going to be really  
3 important that we not only stay grounded, but that we keep  
4 the questions as narrow as possible. If we are doing  
5 multiple questions, I would fully anticipate  
6 difficulties with election situation. There may be  
7 those that don't agree with me on that, but I do think  
8 that it is difficult with multiple questions.

9           So, the simple answer to your question is  
10 we think that there should be one, but we will keep our  
11 options open in case we have to have a backup plan.

12           MR. PIKULA: I think if I could make one  
13 last point and that is everyone up on stage right now is  
14 dealing with something that is brand-new and a process  
15 and a statute that none of us have really seen before.  
16 But our consultants are here and they have been through  
17 this process before on both sides. So, they may be able  
18 to provide some enlightenment on some of these issues and  
19 some of these questions beyond our capabilities.

20           So, they are here to speak. And perhaps  
21 they could talk about the experiences they've had in other  
22 jurisdictions. And I think Massachusetts has a fairly  
23 unique local control mandate, which we don't see in some  
24 other states where everything is controlled at the state

1 level. And I think that the legislation here draws on  
2 the shortcomings of other legislation.

3 So, maybe our consultant could address  
4 some of your concerns more in depth and better than any  
5 of us could.

6 MR. KENNEDY: Before we get to that, I  
7 think Commissioner Stebbins said he had more than one  
8 question. Did you?

9 COMMISSIONER STEBBINS: Yes. I may save  
10 some of my questions for Shesky and Froelich. You  
11 talked about going to an operator to secure funding to  
12 do a number of studies. Because of the different  
13 potential locations are you going to be studying  
14 different topics? Do you foresee a scenario where you  
15 would ask one operator for more money than you might ask  
16 another operator for funds just based on what you need  
17 to evaluate?

18 MR. KENNEDY: No. The process will be  
19 baselined. There will be a fee for the first round.  
20 There will be a fee for the second round. And those fees  
21 should be sufficient to cover all of the studies that I  
22 mentioned in my remarks.

23 COMMISSIONER STEBBINS: Okay. And then  
24 let me throw in the last one. You talked about taking

1 an operator to a host community to negotiating  
2 surrounding community agreements. Obviously, it kind of  
3 puts the onus back on the operator to do that. But you  
4 see the City of Springfield kind of doing that  
5 hand-in-hand with an operator that you favor to have that  
6 conversation?

7 MR. KENNEDY: I think we believe that it  
8 is the operator's responsibility, but I think in the  
9 background we will be saying to them that this is a  
10 regional project. We want a regional benefit. You  
11 should be making or you need to be making agreements with  
12 the region. And that will be prior to anything going on  
13 the ballot. So, we should have some leverage.

14 Again, we need to make sure from -- anybody  
15 that has ever been in a negotiation, it's all about  
16 leverage. And we need to maintain as much leverage as  
17 possible. These casino operators are offering a great  
18 deal, but I don't for a second think -- How can I say this.  
19 I don't want to insult anybody. -- but I don't for a second  
20 think that they are going to be choirboys about how we  
21 go about the process. So, we want to be fair and want  
22 to be aboveboard, but we are not going to be pushed around.

23 COMMISSIONER STEBBINS: Thanks.

24 CHAIRMAN CROSBY: Thank you all. I

1 think I would like to hear from Shefsky and Froelich if  
2 they have things to add. I do think it makes sense. I  
3 do think thinking through this timeline carefully and  
4 seeing whether there is wiggle room in either of our  
5 positions is worth doing. So, maybe we can follow up.

6 MR. KENNEDY: I would talk in the next  
7 couple of days. But again, time is of the essence with  
8 us. So, if we can talk within the next couple of days,  
9 I'd be glad to do that if that's okay with the Mayor.

10 MAYOR SARNO: Yes, it is. Thank you.

11 CHAIRMAN CROSBY: My wife says, Mr. Mayor  
12 that small-city mayors is the Vietnam of public service.  
13 So, you have our admiration and we sympathize.

14 MAYOR SARNO: First of all, it's not a  
15 small-city mayor. We are the third-largest city in New  
16 England. Tommy Menino, my friend Tommy Menino has Boston  
17 and Worcester. But it's midsize and whether it's small  
18 or not, I'm largely out in the streets. So, I  
19 appreciate that. But we don't have a small-city  
20 mentality when it comes to negotiating and striking the  
21 best deal for the City of Springfield.

22 CHAIRMAN CROSBY: We got that.

23 Welcome. Do you want to introduce  
24 yourselves?

1 MR. SCHALLER: I certainly will. I am  
2 Michael Schaller of the law firm of Shefsky and Froelich  
3 in Chicago. Next to me is Kimberly Copp, my partner.  
4 The third member of our Springfield team is on a planned  
5 vacation in Italy. He wishes he could be here but he said  
6 that he was more concerned about his wife.

7 MS. COPP: And getting divorced if he left  
8 early.

9 MR. SCHALLER: First of all, thank you for  
10 inviting us to speak with you today and allowing us to  
11 provide some input. I've heard our firm described as  
12 high-powered and firepower and I guess that's a  
13 compliment. I prefer to think of ourselves as experts  
14 in this field.

15 I know there's been a lot of talk in the  
16 media about this appearance of conflict. And I'll get  
17 into that towards the end of my presentation. I would  
18 be happy to welcome any questions that you may have in  
19 that regard.

20 As Mr. Pikula indicated, I will address the  
21 selection process issue. One of the drawbacks of being  
22 last in a panel like this is some of what I'm going to  
23 say you've already heard, but indulge me, if you would,  
24 to lay it out at least from my perspective and in my own

1 words.

2           As you've heard, the City has settled on  
3 a two-phase RFP process for selecting the company or  
4 companies with whom it will negotiate a host community  
5 agreement. So, let me first explain how the City  
6 administration, again, from our perspective made this  
7 decision and then let me explain the process in more  
8 detail.

9           At one of our first meetings with the  
10 administration we discussed two alternatives for the  
11 selection process. One alternative involved  
12 negotiating host community agreements with all bidders.  
13 And then submitting those agreements to the voters for  
14 the ballot that's required by the Act.

15           The administration determined that  
16 negotiating and submitting multiple host community  
17 agreements presented the following issues: Number one,  
18 first and foremost, voter confusion. Would the City have  
19 to schedule multiple ballots? Which agreement would be  
20 voted on first? Would residents even vote on the first  
21 proposal if they knew there would be no additional  
22 proposals coming? Should the City place all proposals  
23 on the same ballot? Under the Act, the applicant  
24 requests the ballot measure. Would the applicants agree



1 to placing all of the proposals on a single ballot? Which  
2 proposal would be listed first? Would the voters get  
3 confused trying to understand multiple proposals?

4           Number two, one of the issues in  
5 negotiating host community agreements with all bidders  
6 is the need to spur competition. As the Mayor has said  
7 repeatedly today, the City is looking for the very best  
8 proposal to present to the voters and to the Commission.

9           If all proposers have the right to  
10 negotiate host community agreements, would they be  
11 incented to bring the City their best proposal or only  
12 a proposal that meets minimum requirements?

13           Third, use of scarce resources and time  
14 concerns. And I know this issue is one of the hot issues  
15 here. But from the City's perspective, we felt that if  
16 the Commission had to vet and evaluate multiple  
17 applications from Springfield would that cause the  
18 Commission to spend money and time on a process that it  
19 didn't have to? Wouldn't it streamline the process and  
20 speed up the timeline, which we heard today is a primary  
21 concern to the City, if the Commission had only one or  
22 two applicants to focus on.

23           Well, due to these issues, we advised the  
24 City that they follow the same two-phase selection

1 process as was used successfully in Michigan. Let me  
2 just add as an aside that the two of us and our partner,  
3 Mr. Froelich, were the team that represented the City of  
4 Detroit on its multiple casino selection process. So,  
5 we are intimately familiar with what went on.

6 In the two phase RFP as has been mentioned,  
7 the first phase is for prequalification. The goals of  
8 Phase 1 are threefold. Attract as many qualified bidders  
9 as possible. As has been mentioned in the media, there  
10 is a report and we have met with, we being the  
11 administration, have met with four possible bidders.  
12 Our firm has received inquiries, telephone inquiries from  
13 other bidders who are interested in coming to  
14 Springfield. So, the idea here is to cast as wide a net  
15 as possible again to spur competition to come up with the  
16 best proposal.

17 Second goal of this prequalification  
18 process is to determine which bidders are serious  
19 bidders, the contenders and pretenders, and have the  
20 experience, development capabilities and financial  
21 ability to develop and operate a first-class project.

22 The question has been raised and it's a  
23 good question by the Commissioner of how can we do this  
24 in five days? How can we conduct a financial capability

1 analysis? Excellent question. The answer is we can't  
2 substitute what the Commission is charged by the Act to  
3 do. We do not have an investigative team. We are not  
4 going to put the proposers in Phase 1 through those type  
5 of paces. Our experience in Detroit was that the first  
6 phase, besides as I say gathering in as many proposals  
7 as possible was also designed to eliminate what we  
8 facetiously refer to as two men in a rowboat who said if  
9 you give me the license, I can get the money. We are  
10 trying to eliminate those should any of those appear on  
11 the horizon and want to make a bid for or want to submit  
12 a Phase 1 qualification.

13                   Phase 1 will ask approximately 15  
14 questions, enough to give us a sense of who is a serious  
15 and qualified bidder. As has been mentioned by Solicitor  
16 Pikula, in Phase 1 the bidders will be required to make  
17 a non-refundable deposit to pay the City's consultants.

18                   Phase 2, which depending upon how all of  
19 the timing works out we would hope to commence in October  
20 is a lengthier and more intense process. In Phase 2, the  
21 proposers will be required to sharpen their pencils and  
22 put forward their best proposals, particularly  
23 concerning the design of the project, its various  
24 features and how the project will showcase the City.

1           As has been mentioned, in a situation like  
2 Springfield where you have an urban environment is far  
3 different than what you see in say Atlantic City where  
4 the casinos are all clustered along the boardwalk. And  
5 we have done work in Atlantic City.

6           It's far different than what you see in  
7 Colorado where we got our first experience in dealing with  
8 casinos. In Colorado, there are two streets, and anybody  
9 that has a storefront on those two streets can have a  
10 casino.

11           It is far different than the structure we  
12 have in the State of Illinois where all riverboats have  
13 to be on waterways, although that has been recently  
14 little bit more liberally loosely interpreted, but places  
15 those boats a little bit further away from the urban  
16 center.           That is why the design and as the Mayor  
17 has said the outward looking features of a casino are so  
18 important to a City and why this has to be a major part  
19 of the evaluative process. It's not only whether these  
20 casino operators are financially capable. It's not what  
21 their projections show. It's not only whether they pass  
22 a probity and suitability test. But how are these  
23 casinos going to fit within the urban fabric of the City  
24 of Springfield?

1                   The license term is 15 years under the Act.  
2 I'm sure that every casino company expects that they will  
3 adhere to all of the rules and regulations and have those  
4 licenses renewed multiple times. That means that these  
5 developments reasonably will impact the City of  
6 Springfield for generations. That's why it is so vitally  
7 important that the City play not only a big role but that  
8 it focus on this issue of the design and how it fits into  
9 the urban landscape.

10                   Phase 2 will also solicit information from  
11 the proposers concerning impacts on the City and  
12 proposers' plan for mitigation of these impacts. Again,  
13 in Phase 2 similar to Phase 1, the bidders will again be  
14 required to make a non-refundable deposit to cover the  
15 City's costs of its consultants.

16                   There's been some talk today by the other  
17 presenters about Michigan. Since we were so intimately  
18 involved in the process there, let me explain what  
19 happened there. And I think it will help shed some light  
20 on the Springfield process.

21                   Michigan authorized the three casinos in  
22 the City of Detroit. Michigan like Massachusetts  
23 required that each community -- each casino have a host  
24 community agreement. Of course in Michigan the only host

1 community was Detroit. Eleven proposers responded to  
2 Phase 1. This was after receiving dozens of inquiries  
3 from companies that expressed an interest.

4           Eleven proposers responded to Phase 1. Of  
5 those 11, seven proceeded to Phase 2. From those seven,  
6 four were selected for further consideration and then  
7 three finalists were eventually named by Mayor Dennis  
8 Archer.

9           That process to the point made earlier, the  
10 question asked by one of the Commissioners, it was a  
11 subjective process based upon enumerated criteria  
12 similar to what we are recommending for the City of  
13 Springfield. There was not a point system put in place  
14 as the City there, Mayor Archer said, there were too many  
15 factors to weigh, too much subjectivity and ultimately  
16 he had to make the call. It was his call under the State  
17 statute in Michigan, just as it is Mayor Sarno's call in  
18 the City of Springfield. So, if it was his call, he was  
19 going to do it the way he felt best represented or was  
20 the best proposal for the City. Again, in Michigan in  
21 Detroit all costs incurred by the City in connection with  
22 the selection process were paid by the casinos.

23           Just to give you an idea of the timeline.  
24 From start to finish the Detroit selection process

1 involving 11 proposers took less than five months. And  
2 today Detroit has three of the most successful casinos  
3 in the country generating over \$1.4 billion, that's  
4 billion with a B, in gaming revenues in 2011. Something  
5 we hope we aspire to be able to do here in the City of  
6 Springfield.

7 CHAIRMAN CROSBY: Excuse me, this was five  
8 months from the time the --

9 MR. SCHALLER: The selection process, the  
10 city selection process. The Michigan statute was  
11 different in one significant respect from the one in  
12 Massachusetts in that it had a preference for two  
13 enterprises that had paid for and had promoted the  
14 legislation.

15 So, that was written in, those preferences  
16 were written into the Act and was successfully challenged  
17 by an Indian tribe on First Amendment grounds. I won't  
18 get into the details, but that delayed the ultimate  
19 process by a considerable -- the ultimate opening of the  
20 casinos by a considerable period of time, the permanent  
21 casinos.

22 CHAIRMAN CROSBY: The legislation also  
23 did not have a referendum, right? There was no  
24 referendum to approve the host community agreements.

1 MR. SCHALLER: Yes and no. There was some  
2 additional -- Now this is thinking back a number of years.  
3 There was a vote that was required to amend the Act. It  
4 was not a referendum as such but there was a voter  
5 requirement as things turned out.

6 As an aside, host community agreements are  
7 required for the proposed Illinois gaming expansion that  
8 you may be aware of. Our firm represents both the City  
9 of Chicago and the City of Rockford, Illinois. And we  
10 have advised them similarly that a two-phase selection  
11 process likely results in the best outcome of those  
12 cities.

13 COMMISSIONER STEBBINS: Quick question,  
14 if I can. Obviously, the statute as the Chairman pointed  
15 out is pretty clear. I know other mid-western states or  
16 central United States states have done this. I know when  
17 they passed gaming in Ohio, it was specific to individual  
18 communities.

19 MR. SCHALLER: Right.

20 COMMISSIONER STEBBINS: What was the  
21 timing of the passage of the Michigan statute to any  
22 regulatory process they had to create? And how it  
23 coincided or synced up with the process in Detroit?

24 MR. SCHALLER: I'm glad you asked that



1 question. In Michigan the way the process worked was  
2 again the statute mandated that before an applicant could  
3 apply to the Gaming Commission, they had to have what we  
4 called -- what the statute called a development  
5 agreement, which is the same thing as the host community  
6 agreement under the Massachusetts statute.

7           So, the process was the City had the  
8 two-phase selection process, settled upon the three  
9 finalists. We contemporaneously negotiated three  
10 agreements with the casino companies, one of whom I might  
11 add was MGM. And after that was completed, then the  
12 licenses were submitted -- license applications were  
13 submitted. And the Michigan Gaming Control Board  
14 conducted its suitability and probity review.

15           CHAIRMAN CROSBY: How did the suitability  
16 tests go, background checks go?

17           MR. SCHALLER: Well, a very good question.  
18 All three casinos were licensed. There were two  
19 principles in the Greektown Casino Enterprise that were  
20 found to be unsuitable. Those two individuals who were  
21 actually controlling members of Greektown, they were not  
22 one percent, two percent members. They were a majority  
23 owners along with the Sault Ste. Marie Tribe of Chippewa  
24 Indians, which was a minority owner.

1                   This is not an Indian casino, a Native  
2 American casino. It was a commercial casino. One of the  
3 investors happened to be an Indian tribe. And because  
4 they were found to be unsuitable, the Michigan statute  
5 provides that if you have an unsuitable member that member  
6 has to be redeemed out. His interest has to be purchased,  
7 so that the applicant can move forward.

8                   Again, to the issue raised by one of the  
9 Commissioners, while yes, it is absolutely a risk and a  
10 possibility that this Commission could find the license  
11 applicant selected by the City of Springfield to be  
12 unsuitable, having practiced in this area now for over  
13 20 years, the more likely outcome, not the only outcome  
14 but the most likely outcome is that the Commission  
15 pursuant to its powers would require that that unsuitable  
16 person be purchased, be redeemed now so that they would  
17 not participate in the casino license. Again, that is  
18 something that we have seen many, many times throughout  
19 the country.

20                   COMMISSIONER MCHUGH: Could I ask another  
21 question?

22                   MR. SCHALLER: Sure.

23                   COMMISSIONER MCHUGH: When in relation to  
24 commencement of the Detroit process was the Michigan

1 Gaming Control Board created?

2 MS. COPP: I think they were formed, but  
3 they certainly did not have all of the regs and rules  
4 adopted in house.

5 MR. SCHALLER: It was much the same  
6 situation as we have here. We had the good fortune of  
7 working very closely, and this is to the point of  
8 cooperation that the Mayor spoke about and that CDO  
9 Kennedy spoke about, we've developed, we being the  
10 administration and our firm developed a very close and  
11 excellent working relationship with the late Nelson  
12 Westrin, the first executive director of the Michigan  
13 Gaming Control Board. So, anytime that an issue came up  
14 regarding licensing, suitability, the development  
15 agreements, the host community agreements, we were able  
16 to work through all of those issues with him.

17 So, my recollection is and I don't remember  
18 all of the details, but it was very close to the situation  
19 we find ourselves in here in Massachusetts where we were  
20 able to move forward on parallel paths. As I say, it  
21 worked out very well at the end of the day.

22 Again, just to continue and this has been  
23 said before that we recognize that having the host  
24 community make its selection first, there is this risk

1 that the Gaming Commission will find the applicant  
2 unsuitable resulting in a delay before the casino can get  
3 up and running, which is the last thing that either the  
4 Commission or the City wants.

5           Springfield believes that the risk of a  
6 significant delay is minimal for two or three reasons.  
7 One, as has been mentioned before we are dealing with  
8 world-class casino companies licensed in multiple  
9 jurisdictions. And yes, it is possible, we are aware of  
10 casino companies that do decide not to pursue  
11 applications in particular jurisdictions or have been  
12 asked to leave particular jurisdictions because there is  
13 a problem.

14           Again, in the situations that we are  
15 familiar with that was because the casino companies  
16 refused to buy out the unsuitable persons who the  
17 Commission refused to license. So, that in our  
18 experience, and I can't say we know every situation, but  
19 in our experience it was sort of a forced voluntary  
20 withdrawal from the jurisdiction.

21           CHAIRMAN CROSBY: I had understood that  
22 all three of the selected parties had some kind of an issue  
23 with their financing or some of their principals and all  
24 three of them had to restructure their deals in Michigan.

1 MR. SCHALLER: In Detroit?

2 CHAIRMAN CROSBY: Yes.

3 MR. SCHALLER: MGM did not.

4 CHAIRMAN CROSBY: Whatever, whether it  
5 was one or two or three, that's precisely the issue. And  
6 when you say redeem an interest, you don't just turn  
7 around and flip the switch and go buy a guy out for a  
8 half-million dollar, \$250 million dollar piece of it.  
9 That's a fairly major restructuring that has to take place

10 MR. SCHALLER: Well, yes.

11 CHAIRMAN CROSBY: Which is going to count  
12 -- which is going to take some number of days, weeks,  
13 months which has got to be akin to whatever possible  
14 savings could possibly be pulled out of the process by  
15 doing it in advance.

16 I don't understand why you would recommend  
17 to the City that they do it prior to our description of  
18 a host community agreement - A. And B - prior to the  
19 suitability. I don't see why you would recommend  
20 that --

21 MR. SCHALLER: Again, our experience is  
22 that the redemption of unsuitable persons was done very,  
23 very quickly. It was done through in one situation I am  
24 thinking of specifically was done with a promissory note

1 that was paid out over a period of time. So, it became  
2 very clear.

3           In other words, you parallel processes  
4 here. You have the six to nine months that it takes to  
5 vet and do the probity, suitability review. During that  
6 period, you are looking at the company itself. You are  
7 looking at its financial capabilities and you are doing  
8 an investigation of the actual individuals involved, the  
9 key persons. When it becomes apparent that there are one  
10 or two or whatever unsuitable persons involved that  
11 repurchase process is going on at the same time. Those  
12 negotiations are going on parallel to completing the  
13 probity review.

14           COMMISSIONER ZUNIGA: What about the  
15 second question from the Chair, because there is an  
16 element here that he's joined, which is we are in the  
17 process of, only beginning to think about the details of  
18 the Phase 2 regulations, which will include things like  
19 guidelines around host community agreements, the  
20 elections that would take place. That has not been  
21 promulgated. We have only promulgated the Phase 1. So,  
22 there is this other milestone lingering further that I'd  
23 like to understand same as the Chair. Why would you  
24 recommend that the City not wait for that?

1 MR. SCHALLER: Let me explain how I would  
2 recommend. And we have not had this discussion, but how  
3 I would recommend handling the situation.

4 The casino companies know, obviously, that  
5 having a host community agreement is only the first step  
6 in this process. They know that they have to be licensed  
7 by the Commission. What we would recommend is what I call  
8 a re-opener in the host community agreement where the  
9 casino company would agree that to the extent that the  
10 Commission comes up with requirements that are not in the  
11 host community agreement that they negotiate with the  
12 City in good faith to resolve any of those issues.

13 CHAIRMAN CROSBY: How would you determine  
14 whether that required another referendum?

15 MR. SCHALLER: First of all, it would  
16 provide in the agreement itself in the summary of the host  
17 community agreement that this was a possibility. So  
18 voters would go into this with their eyes wide open.

19 Let me also say that the way we envision  
20 the Phase 2 process to work is that we would be seeking  
21 responses to many of the same issues that the Commission  
22 is seeking information on. For example, workforce  
23 development. Workforce development is extremely  
24 important to the City of Springfield. That's part of

1 your statutory requirement as one of the criteria that  
2 must be responded to by the applicant.

3 CHAIRMAN CROSBY: We are not going to  
4 differ on the ones that we agree on. I agree with that.  
5 But there is a -- And this is not a rhetorical question.  
6 This really is a question. As a matter of fact, you did  
7 not see the potential that you represent two of the  
8 potential bidders as something that was worthy of an  
9 Ethics opinion. We did.

10 We see -- By that example, we see some  
11 substantive issues very differently. We may well see  
12 something in a host community agreement which is unusual  
13 which you have not anticipated. And given the fact that  
14 the amount of time that could possibly be saved by this  
15 expedited process, given the sequence of events that I  
16 just walked through is at best very slight. Why would  
17 you run the risk of proposing to your client that they  
18 approve an agreement prior to us saying what should be  
19 in the agreement?

20 MR. SCHALLER: Right. There are two  
21 parts to that. One is a legal response and the other is  
22 the policy response.

23 I think that Mr. Kennedy responded quite  
24 eloquently to the policy response, which is this cloud



1 hanging over certain key parcels in the City while the  
2 process is going on. And the desire of the City to  
3 eliminate as many of those clouds as possible.

4           As I said before, I think the legal  
5 response to having a requirement being imposed by the  
6 Commission, which would be properly includable in a host  
7 community agreement -- I think that's the question you  
8 are putting to me if I'm hearing you correctly. -- that  
9 you would come up with a requirement that you would want  
10 to see in a host community agreement that is not in the  
11 host community agreement doesn't impact the City.

12           So, to the extent that you came up with a  
13 requirement that we did not address in the agreement or  
14 did not address in a way that was satisfactory to the  
15 Commission, we would have a provision in the agreement  
16 that would say that the parties would reopen the agreement  
17 in order to accommodate that requirement.

18           If the casino company said we are not going  
19 to discuss that with you City of Springfield, well, it  
20 is a requirement being imposed by the Commission. That's  
21 why I don't see -- I hear the hypotheticals here. Believe  
22 me, I hear them, but I don't see the conflict.

23           COMMISSIONER MCHUGH: Let me just take  
24 that. Suppose you have a reopener agreement and you put

1 the new term in the agreement. Suppose the Commission's  
2 criteria are in addition to the substantive criteria that  
3 the host community agreement has to contain all material  
4 terms of the agreement -- that the host community  
5 agreement put to the vote has to include all material  
6 terms of the agreement between the developer and the City.  
7 And suppose the additional term is material. That  
8 necessarily would require a new vote, right?

9 MR. SCHALLER: It's possible. Again, in  
10 dealing in the hypothetical, it's difficult to respond.  
11 Again, I think that legally we can reopen the agreement  
12 to cover that material term. I would have to consult with  
13 Solicitor Pikula as far as the election laws go for the  
14 City.

15 COMMISSIONER MCHUGH: I'm trying to make  
16 this as simple as possible. If we say the host -- the  
17 Commission can establish parameters. And if we say the  
18 host community agreement has to include all material  
19 terms of the agreement between the developer and the City,  
20 and the first host community agreement does not include  
21 something that we all can agree is a material term, then  
22 we are in the revote land, aren't we?

23 MR. SCHALLER: I don't think so, but I  
24 suppose it's possible. Again, we are dealing in

1 hypotheticals. I suppose the Commission could say that  
2 no host community agreement executed before a certain  
3 date is an acceptable agreement. It's certainly  
4 possible.

5                   We are dealing with the facts as we know  
6 them today, which is a statute that says that a City shall  
7 have a host community agreement. We are trying our best  
8 to put something on the table that works for the City and  
9 for the Commission.

10                   COMMISSIONER MCHUGH: I understand that.  
11 And I'm not trying to cross examine you and pin you into  
12 an untenable position. It's hypothetical. But doesn't  
13 that exchange illustrate the danger of proceeding with  
14 a vote before we have decided as a Commission what the  
15 regulations governing host agreements are? These risks  
16 may never come to pass. On the other hand, they may.

17                   MR. SCHALLER: And if that's the case,  
18 what's the result? The result is have we lost time? We  
19 are putting forth a process that we believe will work.  
20 Is it possible that the Commission decides that a material  
21 term has been omitted? Is it possible that we conclude  
22 that it require a new vote? Yes, it's possible. But  
23 what have we lost when we have so much to gain from a policy  
24 standpoint and as the Mayor has so eloquently said from

1 an urgency standpoint? What have we lost?

2           If that's what we end up doing and I guess  
3 it's a possibility, then okay. That's where we are at.  
4 But to deny the City the opportunity to try and push this  
5 forward as quickly as possible, my perspective is a  
6 mistake, is a mistake. I understand the desire to vet  
7 all of these companies first. It's a six to nine month  
8 process as anybody who has been through this knows. It  
9 can be excruciating.

10           We believe, again, reasonable people can  
11 differ, but we truly believe as we sit here today that  
12 our selection is going to be acceptable to the Commission  
13 from a suitability standpoint. We are not trying to put  
14 you in the box and say oh, my God. We will have to start  
15 over again or anything like that. You've got to do what  
16 you've got to do. The City has to do what it believes  
17 is in its best interest, which is to get this process  
18 moving as quickly as possible in order to create all the  
19 economic benefits that have been discussed.

20           COMMISSIONER CAMERON: I have a question  
21 regarding the suitability investigation that we will be  
22 conducting. I am hearing today that you will in Phase  
23 2 you will be recommending that the perspective bidders  
24 in the City submit a \$400,000 check. Is that correct?

1 MR. SCHALLER: I'm saying and I have  
2 prepared remarks that we are going to give you that that  
3 is something that we could do. We have discussed it with  
4 the administration. And it is something that they're  
5 willing to consider.

6 COMMISSIONER CAMERON: Which means we  
7 will be conducting -- If that is the case, we will be  
8 conducting suitability investigations on all of the  
9 prospective bidders.

10 MR. SCHALLER: That's correct. And  
11 that's a decision that you can make. So, let's say we  
12 get to the point where we sign up one or more host  
13 community agreements. And let's say we have four  
14 bidders. Let's say we put into the Phase 2 process that  
15 they must submit the \$400,000. You now have applications  
16 in front of you possibly sooner than you otherwise would  
17 possibly.

18 We submit to you two host community -- one  
19 or more host community agreements. You may decide then  
20 to reorder your resources. I don't know what your plan  
21 would be at that point. You may say to yourselves, we  
22 only have so many resources. Lets concentrate them all  
23 on the one or two applicants that have host community  
24 agreements thereby speeding up the process. You may

1 decide you don't want to do that. Again, that's a  
2 decision that you have to make that we can't make.

3 CHAIRMAN CROSBY: It wouldn't make any  
4 difference because there are likely to be other bidders  
5 from Western Mass. who will be going through the ordinary  
6 process. You cannot shortcut the process that takes  
7 place in Western Mass. no matter how quickly --

8 MR. SCHALLER: Absolutely not. I was  
9 addressing the question of whether the City -- I believe  
10 the question that was asked was why wouldn't the City wait  
11 until the Commission finishes? And what we are saying  
12 is we can't tell the Commission obviously what to do.

13 But you might consider the possibility if  
14 we submit to you -- Let's say we submit one from the City  
15 of Springfield. You may decide to put your resources,  
16 more resources to that one applicant first. And if there  
17 is one from Palmer, to Palmer at the same time rather than  
18 putting your resources to multiple bidders from the City  
19 of Springfield.

20 That's a decision you're going to have to  
21 make but at least we've teed it up in a way that we think  
22 could streamline your process should you decide to do so.  
23 That's the only point I'm trying to make.

24 CHAIRMAN CROSBY: I think we are

1 retreading trod ground.

2 MR. SCHALLER: I think so. Let me move  
3 on, if I can. Let me get to the other issue that is on  
4 the table. That is the issue that has been raised  
5 concerning the appearance of a conflict of interest  
6 involving our firm.

7 Let me say we take this very seriously. We  
8 operate in an industry where integrity is paramount,  
9 paramount. At the same time, our firm has had a gaming  
10 practice for over 20 years. As you would expect, to  
11 become an expert in this industry you have many gaming  
12 clients.

13 As reported in the media, our firm is  
14 registered in Illinois as a lobbyist for MGM and Penn  
15 Gaming. Let me explain what that means because I think  
16 it conjures up in people's minds something that it is not.  
17 In Illinois, as in many other jurisdictions, anyone who  
18 represents a gaming company in front of a Commission must  
19 register as a lobbyist. We do not work for these  
20 companies to change legislation or do anything of the  
21 sort.

22 The only work we do for these two companies  
23 in Illinois is representing them on their routine  
24 regulatory matters that come before the Illinois Gaming

1 Board. That is licensing key employees and providing  
2 guidance and complying with the Illinois regulations.  
3 All of this work, and let me repeat that, all of this work  
4 is performed by one of our partners, Mr. Paul Jensen.

5 If you take a look at the CVs that were  
6 attached to our RFP, as a matter of fact, that we submitted  
7 to the Commission initially, you will see that Mr. Jensen  
8 indicates he is the Illinois representative of MGM.

9 Mr. Jensen has not been on and will not be  
10 on the Springfield team. Similarly, no member of the  
11 Springfield team performs work for MGM or Penn. This is  
12 the way law firms traditionally, customarily handle these  
13 potential conflicts of interest. They separate  
14 themselves.

15 As you can imagine we are a small law firm.  
16 We are about 70 attorneys. In the City of Chicago we are  
17 a small law firm. You have law firms with thousands of  
18 attorneys now throughout the world. It is inevitable  
19 that these law firms will have certain conflicts of  
20 interest. The way that the profession has developed or  
21 what the profession has developed is a mechanism for  
22 separating out these conflicts.

23 Obviously, you can't have a direct  
24 conflict. I can't show up in court representing a client



1 and another one of my partners show up in court  
2 representing the party on the other side. Those are  
3 direct conflicts. Mr. Jensen -- we have followed those  
4 customary practices.

5           Mr. Jensen has been completely walled off  
6 or isolated from all information concerning Springfield.  
7 Further, no member of the Springfield team is compensated  
8 based upon the firm's work for Penn and MGM.

9           I went back and checked the numbers. In  
10 2011, the work we did for each MGM and Penn represented  
11 less than one-half of one percent of our firm's revenues.  
12 As Mr. Pikula has advised the Commission, our  
13 representation of MGM and Penn was fully disclosed to the  
14 City when we were selected as consultants. And in  
15 accordance with Massachusetts ethics laws, we filed form  
16 23(b)(3), which is a public document. That will be an  
17 appendix to the RFP Phase 1, which will advise everyone  
18 of exactly what we have done in the State of Illinois and  
19 why we believe there is no conflict of interest here.

20           And to the point that was raised on August  
21 31, our firm represented -- requested an opinion from the  
22 Massachusetts Ethics Commission that we have complied  
23 with applicable ethics laws. The reason we did not file  
24 it ahead of time is that in our view and in the view of

1 Attorney Pikula, there is no conflict. The two teams are  
2 completely separate.

3 I spoke to the attorney for the Ethics  
4 Commission on Friday. He was hoping he might get to it  
5 on Monday. I didn't hear from him on Monday. I have not  
6 heard from him today. I do expect it soon. I impressed  
7 upon him the urgency of him completing his work. And he  
8 said he was mindful of that and would do so.

9 And we are confident that it will confirm  
10 our belief that our representation of Springfield will  
11 be fair and unbiased.

12 And let me sit here today and look you in  
13 the eye and tell you we will act in a fair and unbiased  
14 manner. And I think it is unfair to the firm due to the  
15 fact that we are an expert to raise this issue that for  
16 somebody to conclude that we would have bias in this  
17 situation.

18 We cannot operate in this industry if we  
19 choose sides. We have to be unbiased experts when we  
20 represent governmental bodies in this industry. That's  
21 all I can say on that. I know I'm passionate about it,  
22 but I feel very strongly that we have been, I won't say  
23 attacked, but our professionalism in this regard,  
24 questions have been raised. That's just not right.

1                   COMMISSIONER CAMERON: Question, Sir.  
2 Will you make the Ethics opinion public when you receive  
3 it?

4                   MR. SCHALLER: Yes, we will.

5                   COMMISSIONER CAMERON: And have you  
6 thought about if the Commission believes there is a  
7 conflict or perceived conflict, have you thought  
8 about --

9                   CHAIRMAN CROSBY: The Ethics Commission.

10                  COMMISSIONER CAMERON: -- the Ethics  
11 Commission?

12                  MR. SCHALLER: What our response might be?

13                  COMMISSIONER CAMERON: Yes.

14                  MR. SCHALLER: It depends what it says.  
15 It really depends what it says. For instance, it may  
16 require us to withdraw from representing the two  
17 companies in Illinois. That is something we might want  
18 to consider if that would solve the problem. I don't  
19 know.

20                  Dealing right now from where we sit, we  
21 are confident that they're going to support our position.  
22 But should they raise a question, we will address it at  
23 that time. And yes, we will share it. Again,  
24 transparency, we have been instructed by the

1 administration to be open, candid and transparent on all  
2 issues. So, we will make that available.

3 CHAIRMAN CROSBY: You apparently also did  
4 not think that there was an appearance of a conflict.  
5 That a reasonable person might look at the fact that you  
6 represent these companies --

7 MR. SCHALLER: No, that's not the case.  
8 That's why we put it in our RFP response. We were asked  
9 about this issue and that's why we responded.

10 CHAIRMAN CROSBY: But I thought that  
11 happened after this whole kerfuffle started?

12 MR. SCHALLER: No, no, no, no, no. That's  
13 in our RFP response.

14 CHAIRMAN CROSBY: The 268A?

15 MR. SCHALLER: A full explanation of our  
16 representation of MGM is included in our response to the  
17 City's RFP.

18 CHAIRMAN CROSBY: So, you did understand  
19 that it could possibly be perceived as a conflict?

20 MR. SCHALLER: Well, I suppose yes, people  
21 who don't know the facts.

22 CHAIRMAN CROSBY: But then why not file --  
23 Why didn't you file the 268A for three months later until  
24 this became a problem?

1 MR. SCHALLER: Because it's our  
2 conclusion that there was no, there is no -- To us, it  
3 is so clear that there is no conflict. And yes, always  
4 looking in hindsight now having people say well, oh, my  
5 God they don't understand it. I really think it's rooted  
6 in a misunderstanding or not understanding of how our firm  
7 has handled this particular issue. I don't know what  
8 else to say about it.

9 CHAIRMAN CROSBY: It might be rooted in  
10 that or it might be rooted in a misunderstanding of just  
11 how incredibly sensitive these issues are. I think  
12 either is possible. Are there other issues that we want  
13 to ask?

14 COMMISSIONER STEBBINS: I just have a  
15 couple of follow-ups. You keep referring to the Michigan  
16 process. Was there an investment floor when it came to  
17 a requirement for the casinos in Detroit?

18 MR. SCHALLER: My recollection is there  
19 was not. No, there was no investment floor.

20 MS. COPP: Not in the statute but the City  
21 imposed it.

22 MR. SCHALLER: Not in the statute, but the  
23 City imposed that in its host community agreements.

24 COMMISSIONER STEBBINS: And what was the

1 City's requirement?

2 MS. COPP: It was different. What the  
3 City really dictated was what you are going to build. Are  
4 you going to build just a casino, a slots parlor? Are  
5 you going to build a hotel? Are you going to build seven  
6 restaurants or four restaurants? So, what the City  
7 dictated was more of criteria of in the RFP process what  
8 I want to hear back from you is full casino complex. And  
9 that complex must have been a minimum of 800 hotel rooms.  
10 It must have a minimum of 150,000 square feet of gaming.  
11 It must have at least four restaurants. It must have at  
12 least a square footage of convention space or meeting  
13 space.

14 MR. SCHALLER: There was no number, if  
15 that's what you were asking. But of necessity because  
16 of the scope that the City was requiring it had to be very  
17 significant.

18 MS. COPP: The lowest proposal was 550  
19 million and the largest was 750--, 800 million. They  
20 each proposed something different.

21 MR. PIKULA: One thing that has not been  
22 mentioned that I did want to mention is this is the same  
23 team that represented the City of Taunton, which again  
24 was attractive to us in that they have been in the State

1 and they had familiarity with the statute, the lay of the  
2 land. Again, that was another aspect.

3           They have already successfully guided  
4 Taunton through a process, which included the referendum  
5 process. So, Taunton again is waiting for other  
6 governmental agencies to carry out their due diligence  
7 and other aspects, but the local part is done. And we  
8 would like to be in a similar situation recognizing that  
9 it may not be over.

10           CHAIRMAN CROSBY: Anybody else?

11           COMMISSIONER ZUNIGA: I just have a very  
12 minor question. You mentioned in your Phase 1 that you  
13 are proposing or articulating for the City as to find out  
14 who is serious or who is really just not. Wouldn't it  
15 be -- If the City was to require in that Phase 1 that the  
16 proponent become an applicant to the Commission by  
17 submitting the \$400,000 application fee that the statute  
18 stipulates, wouldn't that weed out those who are serious  
19 and those who are not?

20           MR. SCHALLER: Yes. Certainly, it would  
21 do that. But it also might discourage people. Right now  
22 we think we know there is going to be four bidders. Until  
23 we actually see them come to the table, we don't know.  
24 So, we felt that at least in Phase 1 by putting in that

1 kind of requirement that they had to pay \$400,000 to  
2 become part of Phase 1 might discourage people who didn't  
3 want to write the check at this point in time.

4           Again, hypothetically it could be that we  
5 get two other bidders in and the four who have announced  
6 decide for whatever reason they're not going to play. We  
7 didn't want to discourage people in Phase 1.

8           And again, because the time period between  
9 Phase 1 and Phase 2 was so short, we just felt it was a  
10 better approach to make it easier and more attractive for  
11 people to consider competing in the City. But yes, we  
12 could have done that.

13           COMMISSIONER STEBBINS: My biggest  
14 concern is the conflict between procedures. I fully  
15 appreciate the point the Mayor has made. Lets negotiate  
16 with the people who are serious. Let's find the best  
17 project, etc. And it seems what you're suggesting is a  
18 process to will hopefully weed out the people that may  
19 not have the best proposal for the City of Springfield.

20           MR. SCHALLER: Right.

21           COMMISSIONER STEBBINS: But it seems to me  
22 you're -- And I don't have enough details about the  
23 Michigan process to see how this lines up, but you're  
24 overlaying a process you used in Detroit which did help



1 you whittle down contests. And again, I don't really  
2 know Michigan Gaming Control Board's responsibility in  
3 that process and even where they were at the time the local  
4 selection process occurred.

5 But can you see a process for Springfield  
6 to narrow down its list of suitors to one or two that meet  
7 the priorities for the City of Springfield but don't trip  
8 up or don't potentially run into a conflict with the  
9 process we have to undertake?

10 MR. SCHALLER: I think Mr. Kennedy  
11 addressed that very succinctly and that is we have to slow  
12 down or you speed up.

13 COMMISSIONER STEBBINS: And we're trying  
14 to do both.

15 MR. SCHALLER: So, maybe there's a way to  
16 meet in the middle here. I don't know. That's a policy  
17 decision that I really can't speak to.

18 COMMISSIONER STEBBINS: Just in general  
19 economic development practices and maybe the gaming  
20 sector -- it's new to us here in Massachusetts so maybe  
21 it's a little bit different, but establishing some level  
22 of predictability in a process is key for any business  
23 venture. And I would assume that this extends to gaming.  
24 To say I know what the process is. I know what the

1 timeframe is. I know what the expenses are going to be.  
2 And at the end of the day if it's a process I can follow,  
3 then but I kind of know where I'll shake out at the end  
4 of the day.

5                   But coming back and renegotiating a host  
6 community agreement -- Again, share with me your  
7 experiences if I'm not on track with this. -- I think would  
8 cause an increased level of frustration for an operator  
9 to say I've got to go back. Hopefully, they want to be  
10 here and that drives their passion more than the process.

11                   MR. SCHALLER: You are always balancing  
12 interests here. And I think that is sort of the crux of  
13 the issue here on how we are going to go about doing this.  
14 And it is helpful I think to air all of these things right  
15 now.

16                   I could turn that around and I'm not trying  
17 to be clever or cute. And that is the alternative of  
18 having the developers who have many opportunities in many  
19 jurisdictions and as well-to-do as some of them are, have  
20 limited resources. Now you are saying to them, well,  
21 stick around for the six to nine months that we think it's  
22 going to take. We don't have an Executive Director yet.  
23 We don't have General Counsel yet. So, maybe we'll be  
24 off by a little bit, but we think reasonably it's going

1 to be six to nine months, sometime into next year where  
2 we've completed our suitability. Stick around, continue  
3 paying the option fees. Continue being a presence in the  
4 City.

5                   Versus the process that the City is  
6 proposing, which is you have some degree of certainty,  
7 some degree not a complete assurance but some degree of  
8 certainty that by sometime in December or spring when the  
9 vote takes place that you've got a good chance here.  
10 You've passed the first hurdle.

11                   So, I think people again this is a balance  
12 of different interests here. We all have the same goal  
13 to get to the finish line as quickly as possible. We  
14 happen to see it, the City happens to see it a little bit  
15 differently than the Commission sees it. The City would  
16 like for policy reasons that have been articulated to  
17 possibly eliminate several of the bidders faster.

18 Again, giving the Commission the resources to focus on  
19 those if they so choose. Thereby get this done quicker.

20                   Again, you are all raising good questions.  
21 This statute is new. While it is similar to Michigan,  
22 it is not identical to Michigan. And I think that as has  
23 been said, we can work together to find out a process that  
24 will satisfy your needs and our needs. But I've sat in



1 I think we've beaten this horse to death.

2 MR. SCHALLER: I'm happy to keep  
3 responding to questions, but I agree. I think we have  
4 sort of beaten this to death.

5 CHAIRMAN CROSBY: I think we got what we  
6 were looking for. We will talk amongst ourselves and  
7 decide what if anything to do further on this. But we  
8 very much appreciate your time, your time Mr. Mayor, your  
9 staff Mr. Pikula, Mr. Kennedy. We will be in touch ASAP  
10 with Ed and Kevin and see where there's anything to talk  
11 about on this and we will think about the ethics issues  
12 as well. Hopefully there will be a decision there ASAP.

13 MR. SCHALLER: I hope so too.

14 CHAIRMAN CROSBY: We are going to take a  
15 brief like 10-minute break. It's been almost three hours  
16 and then reconvene for the rest of our meeting.

17

18 (A recess was taken)

19

20 CHAIRMAN CROSBY: We are going to  
21 reconvene, end our adjournment and reconvene.  
22 Theoretically, the next item on our agenda is a series  
23 of administrative issues, item number four. I think we  
24 will skip ahead and invite Mr. Robertson who I think is

1 here. This is from Mass. Performing Arts Council.

2 COMMISSIONER STEBBINS: No, from  
3 Baystate Health.

4 CHAIRMAN CROSBY: I am sorry this is on  
5 the issue of the Partners for a Healthier Community.  
6 Right. Okay, good. Thank you. Why don't you  
7 introduce yourself?

8 MR. ROBERTSON: I will. I am Frank  
9 Robertson. I am the Executive Director for Partners for  
10 a Healthier Community. Partners for a Healthier  
11 Community is a private not-for-profit organization. We  
12 have a relationship with Baystate. They are one of our  
13 funding partners. But our Board of Directors tells me  
14 what to do.

15 CHAIRMAN CROSBY: Great. We do have the  
16 proposal, the write-up that you distributed or somebody  
17 distributed. But maybe you could just do a real quick  
18 overview of what the proposal is and specifically what  
19 it is you're looking for from us.

20 MR. ROBERTSON: Let me give you a  
21 thumbnail. This is really a pretty timely conversation  
22 given the last couple of hours of conversation around how  
23 do you make a decision about what to require a operator  
24 to do either in terms of entering the community and

1 investing or entering the community and mitigating its  
2 effects.

3           So, this process and this proposal is one  
4 that is put out Robert Wood Johnson and the Pew Center.  
5 We came across this and we are looking at the kind of  
6 policy projects, policy initiatives that were likely  
7 under consideration that would have an impact on the  
8 overall health.

9           Let me just read out loud for folks in the  
10 audience that may not know what a health impact  
11 assessment is. I'm just going to give you the opening  
12 paragraph. This grant-making program entitled the  
13 Health Impact Project Advancing Smarter Policies for  
14 Healthier Communities, a collaboration of the Robert  
15 Wood Johnson Foundation and the Pew Charitable Trust.  
16 It encourages the use of health and tax assessments to  
17 help decision-makers identify the potential health  
18 effects of proposed policies, projects and programs.  
19 And make recommendations that enhance their health  
20 benefits and minimize their adverse effects on any  
21 associated costs.

22           So, in a sense locating a casino in Western  
23 Mass. and Hampden County has the potential for creating  
24 benefits and/or having adverse effects on the health of

1 the population. This is a particularly critical  
2 proposal for this county.

3           If you follow the county health rankings  
4 put out by Robert Wood Johnson Foundation and the  
5 Wisconsin County Health Rankings Project, Hampden County  
6 ranks last in the State on health indicators. In other  
7 words, it is the county in the State with the worst health  
8 statistics.

9           So, when you look at those statistics and  
10 you analyze health impact within Hampden County, at a  
11 local level the health problems are even magnified. So,  
12 if you look at health statistics in Center City or core  
13 urban areas it's two to three to four to five times that  
14 of the rest of the counties and then it is multiple times  
15 that of the State. And I'm speaking in a negative  
16 direction.

17           The health impact assessment is a  
18 systematic process that uses a combination of methods,  
19 tools and data sources including inputs from  
20 stakeholders to determine potential health effects of a  
21 proposed policy and plan.

22           So, that is the crux of it. It really sets  
23 in place a baseline assessment of the health status of  
24 our population in this county. In this particular case



1 in this region, since this is our health as we are as a  
2 region before the casino. And it makes a judgment based  
3 on that data and on the science and the best science and  
4 evidence available to us from a research or  
5 epidemiological or statistical standpoint, here are the  
6 likely impacts in the future. And it actually predicts  
7 -- That's the modeling that predicts the beneficial and  
8 the adverse effects. It gives us a baseline.

9           And that baseline informs the citizens who  
10 have to go and vote. It informs the local government who  
11 has to make decisions, the Commission that has to make  
12 decisions as the kind of requirements, and the kinds of  
13 investments that makes sense. And the likely actions  
14 for mitigation that also makes sense.

15           The beauty of it is it sets the baseline.  
16 So, you have a way of not just informing and shaping the  
17 initial process, but looking after the fact to see if the  
18 predictions were accurate and in fact the investments  
19 were well founded and the mitigation recommendations  
20 derived from the assessment made sense.

21           I liken it to -- I was trying to think of  
22 a way of comparing this. I map it to my lawn. So, about  
23 three years ago we started with this assessment of our  
24 lawn conditions, terrible conditions. So, we made some

1 judgments and we made some predictions as to how to cure  
2 it, how to get our lawn green and lush.

3           Every year we would look and say okay. We  
4 got that right, but we got that wrong. So, that baseline  
5 assessment of our lawn care gets upgraded every year.  
6 And we improve our work, the health of our lawn by  
7 basically creating adjustments to our mitigation plan or  
8 adjustments to how we invest in fertilizing.

9           So, if you think of --It's a weak analogy,  
10 but if you think of the health impact assessment of having  
11 that same value in this county or in this region that we  
12 really have baseline on the overall health and well-being  
13 of our citizens and then we assess it.

14           CHAIRMAN CROSBY: I think we understand  
15 that.

16           MR. ROBERTSON: That's the idea. The  
17 other piece of this that I think is particularly  
18 critical, it looks at health from a broad standpoint. If  
19 you think of social determinants of health, there are  
20 economic, social, biological conditions that create  
21 health.

22           So, broadly defined the health issues that  
23 we are looking at are those health issues influenced by  
24 our social situations, our economic conditions, etc.

1 So, it gives a really broad view of health, which is again  
2 pretty critical given the potential impact for a casino.

3           Lastly, it brings into the conversation  
4 what hasn't probably happened here to the extent it needs  
5 diverse cross section of stakeholders. What we propose  
6 is an application to Robert Wood Johnson that would  
7 create a diverse health/casino partnership. It would  
8 bring into the room multiple stakeholders from private  
9 sector, business sector, economic, workforce,  
10 healthcare, and would look at the data, look at the  
11 projections. Use that information basically not only to  
12 inform the larger decisions around location and  
13 mitigation, but we would use that information perhaps to  
14 inform very small key organizational policies as they  
15 prepare for a casino to be located in Western Mass.

16           That's the grant proposal process we would  
17 apply to this grant making organization. If we are  
18 successful in that grant, we would receive it in January.  
19 Our timeline would we would do a rapid review and in three  
20 months we would have some preliminary data, our  
21 preliminary assessment, basically paper review.  
22 Another three months out, six months out or so a much more  
23 in-depth critical analysis.

24           It's a small demonstration project. We

1 think it makes sense at least at a county level with  
2 implications for the region. We think it is a template  
3 that could be used in subsequent years because it sets  
4 a baseline only. And it does set us up for ongoing deep  
5 discussions not just informing current policy, but  
6 informing policy as it evolves or emerges.

7           The Gaming Commission and you know your  
8 rules as well as I do or the requirements, I was really  
9 quite excited to see public health strategies as an  
10 element of what you are required to deliver on. So, the  
11 health impact assessment in fact gives you some of that  
12 grounding. And it's a public health approach to looking  
13 at this initiative.

14           CHAIRMAN CROSBY: What is it that you  
15 would be looking for from us?

16           MR. ROBERTSON: Well, it would be great to  
17 have you as a full partner as part of the demonstration  
18 project looking at the health impact of this casino in  
19 this community.

20           CHAIRMAN CROSBY: A full partner would  
21 consist of what?

22           MR. ROBERTSON: From being available in a  
23 structured way or in an accountable way to hear from us  
24 our results so we become part of your agenda, part of your

1 agenda or part of your structure in the sense that we are  
2 going to provide information to you as a consequence of  
3 this assessment. We get your recognition I guess or your  
4 endorsement. Not much more than that I suspect.

5 CHAIRMAN CROSBY: Let me just quickly  
6 bring you up to speed on where we are. We have a mandate  
7 in our legislation for a very comprehensive baseline  
8 assessment, first of all, about socioeconomic indicators  
9 of all types. Yours are very broad definition of health.  
10 Ours is even broader than that, but there is a lot of  
11 intersection.

12 And then we are required to study that on  
13 a longitudinal basis over however many years gambling  
14 goes on here and watch what happens. So, we are working  
15 very hard now on putting together that research agenda.

16 And in fact, I've been thinking about  
17 going to RWJ and Pew about the possibility of  
18 contributing funding. Because even though we have money  
19 for this in our budget, this is potentially -- this would  
20 be a statewide project. This would be a very expensive  
21 project.

22 So, I'm wondering whether there is a fit  
23 here. Is yours in response to a request for proposal or  
24 is this just something you are going unsolicited?

1 MR. ROBERTSON: A direct response to  
2 request for proposal that was issued.

3 CHAIRMAN CROSBY: So, there is something  
4 out already?

5 MR. ROBERTSON: That's correct. It was  
6 issued by them with a response date of 28th of October.

7 CHAIRMAN CROSBY: The responses by the  
8 28th?

9 MR. ROBERTSON: A brief proposal by the  
10 28th, full proposal due to them in October.

11 CHAIRMAN CROSBY: What I was going to  
12 suggest and I haven't talked about this with any of the  
13 Commissioners, is maybe that we give the program officers  
14 at RWJ and Pew a call and tell them what we are doing and  
15 what we are thinking about. And see whether or not they  
16 see this as just two different projects. One, should we  
17 go ahead and we'll talk about our idea. Or whether maybe  
18 they would want to consider just folding that project  
19 into our project and collaborating with us on it. And  
20 we would make your organization be an important part of  
21 that.

22 MR. ROBERTSON: That would be exciting,  
23 yes.

24 CHAIRMAN CROSBY: If they are interested,

1 then we go wherever it goes. If they're not, then I am  
2 sure we would be more than happy to sign on. My guess  
3 is we'd be more than happy to sign on as a partner if it  
4 just turns out that you go ahead with that proposal.

5 But I'd like to explore with Pew and Robert  
6 Wood Johnson since we know the right people through this  
7 proposal to see what they think about our project.

8 MR. ROBERTSON: I think that's a great  
9 idea. I would suspect they would be very excited. The  
10 County Health Rankings Project comes out of Robert Wood  
11 Johnson. And they run that every year. They have  
12 connected that County Health Rankings Project to a  
13 project they call Roadmaps to Health.

14 We are a grantee. I am a grantee for their  
15 Roadmaps to Health initiative in this county. We were  
16 going to use that as additional leverage for them to see  
17 this is really a unique opportunity at a county level.

18 I suspect looking at this at a statewide  
19 level is as exciting if not more exciting for them. And  
20 if they're willing to bite on that then that would trump  
21 what we are proposing. I would be more than happy to  
22 step behind that proposal as well.

23 CHAIRMAN CROSBY: Are you all  
24 --Commissioners?

1 COMMISSIONER MCHUGH: I think that's a  
2 great idea.

3 CHAIRMAN CROSBY: Would you be willing to  
4 send us the contact names for the Pew and Robert Wood  
5 Johnson and we will put in a call ASAP and get right back  
6 to you. And either become a partner in yours or talk  
7 about collaborating on a bigger project.

8 MR. ROBERTSON: Great. And who should I  
9 send that to?

10 CHAIRMAN CROSBY: It sounds like you've  
11 got Commissioner Stebbins email, but anybody, whoever's  
12 email it is you have.

13 MR. ROBERTSON: Great, fantastic. This  
14 is bigger and better than I expected.

15 CHAIRMAN CROSBY: We are very excited  
16 about this whole project, the research project. It's a  
17 big opportunity.

18 MR. ROBERTSON: My closing comments, it  
19 goes to the theme that I was picking up. Particularly  
20 how do you know what you put in an RFP or what you required  
21 by operators makes any sense. How do you deliver it?

22 So, you now have at least from this  
23 standpoint some hard data as hard as it can be. And it  
24 is not simply the typical assessment data that you put



1 on the shelf like in a library. But this has predictive  
2 modeling. So, you are actually predicting what's the  
3 likely impact. And you are going to adjust the  
4 predictions in that modeling year to year. It is a  
5 lifelong project. It is going to impact generations.  
6 So, again, I think you are right on target with that.

7 CHAIRMAN CROSBY: That's the way we are  
8 thinking about it. We are all very interested in getting  
9 as green a lawn as we can possibly get. Thank you very  
10 much, Mr. Robertson. Thank you. All right. So, if I  
11 can be directed to follow up that, I will make some phone  
12 calls.

13 Now we are at item number four  
14 administration. It feels a little boring given what we  
15 have been talking about until now. For starters the  
16 Executive Director search update?

17 COMMISSIONER STEBBINS: Sure, just a  
18 quick update. As everybody knows, the posting closed on  
19 Friday the seventh. I'm still in the process of working  
20 with JuriStaff to schedule a couple of initial phone  
21 interviews. But I am also working with Janice as we are  
22 beginning to schedule the in-person visits to Boston for  
23 several of these leading candidates. We start that  
24 process at the end of next week. So, finalizing agenda

1 for their visit, working with them on travel  
2 accommodations, etc. But we are moving the process  
3 forward.

4 CHAIRMAN CROSBY: Remind me who they're  
5 seeing on this round.

6 COMMISSIONER STEBBINS: The agenda as  
7 we've laid it out, and you will be getting some ground  
8 rule instructions through Janice as to how we all act so  
9 we don't find ourselves in a position of running afoul  
10 of the Open Meeting Law.

11 Jen Stark from the AG's office has agreed  
12 to sit in with me and ask some questions, more pointed  
13 questions than we did over the phone. Meeting with Kathy  
14 O'Toole our consultant or project manager for our  
15 consultants. The opportunity to meet with each one of  
16 you. Again, that's where the ground rules come into  
17 play. And also an opportunity to meet with members of  
18 our senior staff, at this point all three of them.

19 CHAIRMAN CROSBY: We are respecting  
20 people's privacy at this stage of the game?

21 COMMISSIONER STEBBINS: Yes.

22 CHAIRMAN CROSBY: Great. Commissioner  
23 Zuniga, you had talked about negotiating some kind of a  
24 side agreement with JuriStaff that if we ended up finding

1 that one of their candidates of Executive Director ended  
2 up qualifying for something else. Is that done? Is  
3 that resolved?

4 COMMISSIONER ZUNIGA: It's done in  
5 spirit, if you will, but not executed in a contract. The  
6 proposal was half of the fee that was already  
7 competitive. I can speak to the General Counsel in a  
8 minute if there's relevance there.

9 CHAIRMAN CROSBY: But they do know how  
10 they are operating. We will turn that into an agreement  
11 sometime pretty soon?

12 COMMISSIONER ZUNIGA: Yes.

13 CHAIRMAN CROSBY: Additional hires,  
14 General Counsel.

15 COMMISSIONER ZUNIGA: This was going to  
16 be part of the finance update, but I might as well have  
17 it here. I have submitted a memo, memorandum to approve  
18 the negotiations to Isaacson Miller to help with the  
19 outreach, screening, vetting, in effect mostly the  
20 search for the General Counsel.

21 As we have alluded to and talked about in  
22 the past, Commissioner McHugh would function as the  
23 hiring manager, if you will. So, he would coordinate the  
24 process however he sees could be done with Isaacson

1 Miller. I am essentially serving as the procurement  
2 person here in negotiating with them. The fee proposal  
3 is customary with essentially what we are paying in other  
4 searches. And I find that to be acceptable.

5 CHAIRMAN CROSBY: Do we need to vote to  
6 adopt?

7 COMMISSIONER ZUNIGA: I would make a  
8 motion to vote to enter into a contract with Isaacson  
9 Miller as I have articulated in the recommendation for  
10 the fee stipulated at \$45,000.

11 CHAIRMAN CROSBY: Second?

12 COMMISSIONER CAMERON: I second.

13 CHAIRMAN CROSBY: Any further  
14 discussion? Presumably you are in favor of this?

15 COMMISSIONER MCHUGH: I am in favor of it,  
16 yes, Mr. Chairman.

17 CHAIRMAN CROSBY: We have talked through  
18 this thought process. Commissioner Cameron has been  
19 bringing this up too on us. I think this is a nice  
20 balance and a way to get some support and deepen the pool  
21 and so forth. So, that's great. All in favor of the  
22 motion? Aye.

23 COMMISSIONER MCHUGH: Aye.

24 COMMISSIONER CAMERON: Aye.

1 COMMISSIONER ZUNIGA: Aye.

2 COMMISSIONER STEBBINS: Aye.

3 CHAIRMAN CROSBY: All opposed? The  
4 motion passes unanimously.

5 Staff attorney.

6 COMMISSIONER MCHUGH: You want to go to  
7 that staff attorney?

8 CHAIRMAN CROSBY: Yes.

9 COMMISSIONER MCHUGH: We are down to five  
10 finalists for the staff attorney. Commissioner Cameron  
11 and I are going to interview them. We have two  
12 interviews scheduled Wednesday, tomorrow. We had  
13 three, but one withdrew. We've got one for next Monday.  
14 And the fifth I'm not sure we've lined up, but we'll have  
15 the interviews finished by next week. And we will have  
16 a recommendation if not at our next meeting -- No, we have  
17 to go through the background investigations.

18 But we will have somebody picked and going  
19 through that process I hope by next week with a prompt  
20 and successful completion of that process and then hiring  
21 the person soon.

22 Insofar as the Boston University fellow  
23 program is concerned, I've got to get on that and send  
24 them the job description we discussed and looked at and

1 get them to send us some candidates as well. That's the  
2 one-year fellowship program. So, we'll get on that as  
3 well. And I would hope we'd have that person by -- both  
4 of those people by the end of the month I would hope.

5 CHAIRMAN CROSBY: Commissioner Cameron,  
6 the Deputy Director for Investigations and Enforcement?

7 COMMISSIONER CAMERON: Yes, Mr. Chair,  
8 what I've recommended is that we also use a hybrid  
9 approach. We've been doing some local recruiting,  
10 talking to some folks who may be interested in the  
11 position. To make sure that the pool is deep and really  
12 we have great choices, it's my recommendation that we  
13 also engage JuriStaff.

14 That came by way of identifying some of the  
15 candidates for Executive Director, some of those folks  
16 had a law enforcement background and maybe interested in  
17 this position. So, we just want to make sure we are  
18 reaching out in a way that makes sense so we have a nice  
19 pool.

20 I'd like to move this along quickly. I'll  
21 be working with Commissioner Zuniga to put that together.  
22 We have a job description written. So, it's just a  
23 question of getting it out there now in a way that makes  
24 sense and begin interviewing candidates.

1                   CHAIRMAN CROSBY: You are already  
2 underway on working on that idea?

3                   COMMISSIONER ZUNIGA: Right. I can  
4 reach out to JuriStaff and essentially elicit a proposal  
5 with this details for this new search.

6                   CHAIRMAN CROSBY: Is there any reason,  
7 Commissioner, why we couldn't go ahead and post the job  
8 description? We can always switch who you send the names  
9 to. But I think we are all anxious to get rolling.

10                  COMMISSIONER CAMERON: We are.

11                  CHAIRMAN CROSBY: We are done with the job  
12 description, right?

13                  COMMISSIONER CAMERON: We are.

14                  CHAIRMAN CROSBY: So, why don't we post  
15 that ASAP?

16                  COMMISSIONER ZUNIGA: We can start with  
17 that. Just direct it to our office, Janice or  
18 Commissioner Cameron really.

19                  COMMISSIONER MCHUGH: We have to be a  
20 little careful now about the recommendations, the  
21 letters of recommendation and the like. So, it would be  
22 better if we did not have those -- It would be better if  
23 we directed it to somebody who could filter out the  
24 letters of recommendation, because they can't be

1 reviewed until we have finalists. Whatever the  
2 mechanism.

3 COMMISSIONER CAMERON: If we can do this  
4 quickly with JuriStaff, which I believe we can.

5 CHAIRMAN CROSBY: Like next week, it'll  
6 take us a week to approve the contract. It will have to  
7 be next Tuesday.

8 COMMISSIONER ZUNIGA: Like we've done in  
9 the past, posting a job description and just saying  
10 submit a resume to Janice.

11 COMMISSIONER MCHUGH: To Janice, no  
12 references.

13 COMMISSIONER CAMERON: That's how we've  
14 done it in the past. We haven't asked for references  
15 originally.

16 CHAIRMAN CROSBY: Right.

17 COMMISSIONER CAMERON: We'll move in that  
18 direction.

19 CHAIRMAN CROSBY: So, Janice or Eileen or  
20 somebody.

21 COMMISSIONER CAMERON: Janice.

22 CHAIRMAN CROSBY: That's exciting and I  
23 think we're anxious to get those. Report from the  
24 Director of Administration combined maybe with the



1 project management update. Do you have some things for  
2 us? Our Director of Administration Eileen Glovsky.

3 MS. GLOVSKY: Thank you, Mr. Chair. I'll  
4 make this as brief as possible. I know that we had  
5 anticipated having a copy of the master schedule to  
6 present but the decision was made to defer that until my  
7 next presentation to you. We just haven't had enough  
8 opportunity to review it.

9 In addition, late yesterday we received a  
10 strategic plan from our gaming consultants. I would  
11 really like the opportunity to go through that plan with  
12 a fine-tooth comb and sort of take and tie the things that  
13 we have on the master schedule. I think it would be most  
14 appropriate for us to do that before we present that.

15 Currently, Commissioners Zuniga and I  
16 will be working on the next phase of the contract with  
17 the consultants. And hope to get that done as quickly  
18 as possible. We have some additional documentation that  
19 we received today that we will be reviewing.

20 CHAIRMAN CROSBY: So, we've received a  
21 proposal from the consultants for Phase 2?

22 MS. GLOVSKY: Yes. I did want to remind  
23 the Commissioners that the deadline for submitting  
24 information to me about any potential externs that you

1 would like to have from MIT during their January  
2 independent activity period is interestingly it's  
3 Saturday. But I would appreciate having any sort of  
4 request that you might have by Friday. And we will put  
5 something together and see if we can get some interest  
6 from the students there to assist us with a few small  
7 projects.

8 I know that a few have been mentioned by  
9 some of the Commissioners. It is certainly not  
10 critical. We don't have to do it, but it would be great  
11 if we could take that opportunity.

12 Last but not least we have completed the  
13 procurement for brand identity and web development. And  
14 I know that Commissioner Zuniga will be reviewing that  
15 during his presentation on the budget update.

16 CHAIRMAN CROSBY: Just for the audience,  
17 Ms. Driscoll (SIC) was referring to a project management  
18 chart --

19 COMMISSIONER MCHUGH: Glovsky.

20 CHAIRMAN CROSBY: -- for the entire  
21 process up to and through the granting of licenses that  
22 we've talked about and will have every step of the way  
23 between now and whatever number of months out that is.

24 As soon as we feel like that is pretty

1 solid, we want to post that so everybody can see exactly  
2 what we are doing and what the critical path items are  
3 on that chart. All of this by way of saying as the folks  
4 from Springfield discussed, to give us the tools to  
5 manage this as tightly and quickly as we possibly can.  
6 So, that's great. And we did get it. None of us has had  
7 a chance to look at it yet, but it was great to get it.

8 Anything else for Ms. Glovsky? Thank you  
9 very much.

10 MS. GLOVSKY: Thank you very much.

11 CHAIRMAN CROSBY: Number five, finance  
12 budget, Commissioner Zuniga.

13 COMMISSIONER ZUNIGA: Just have  
14 submitted memorandum that describes the process for the  
15 selection of Jackrabbit Designs who is one of the  
16 respondents to our RFR for brand identity and website  
17 development.

18 I've described the process in this  
19 memorandum based on what I understand. I was not a  
20 participant to the procurement management team, but  
21 Brandon Milby and Director Driscoll were assisted by  
22 Director Glovsky in terms of the procedures.

23 The purpose of this procurement was again  
24 to have recommendations relative to services on brand

1 identity, logo creation, look, feel especially with a  
2 focus on social media. The team seems to be very excited  
3 about the proposal and it seems to be most competitive.  
4 And it's a good combination of cost-effective and  
5 creative. I'll take any questions.

6 CHAIRMAN CROSBY: I just noticed on the  
7 second page where it says Phase 3 review?

8 COMMISSIONER ZUNIGA: Yes.

9 CHAIRMAN CROSBY: The second sentence  
10 says until the technical proposal. I think that means  
11 after, after the technical proposal was completed.

12 COMMISSIONER ZUNIGA: Yes, you're  
13 correct.

14 CHAIRMAN CROSBY: First word in the  
15 second sentence.

16 COMMISSIONER ZUNIGA: Yes.

17 CHAIRMAN CROSBY: Does anybody else have  
18 comments on this process? And we know that Director  
19 Driscoll is excited about this and wants this to happen.

20 COMMISSIONER MCHUGH: You are excited,  
21 right?

22 MS. DRISCOLL: Yes.

23 CHAIRMAN CROSBY: Do you want to move?

24 COMMISSIONER ZUNIGA: Yes. So, I make a

1 motion that the Gaming Commission accept the proposal  
2 submitted by Jackrabbit Designs and pursue contract  
3 negotiation and detail scoping for the services  
4 described in the responses to the RFR 2012, dated August  
5 22, 2012.

6 COMMISSIONER MCHUGH: Second.

7 CHAIRMAN CROSBY: Any more discussion?  
8 All in favor? I.

9 COMMISSIONER MCHUGH: I.

10 COMMISSIONER CAMERON: I.

11 COMMISSIONER ZUNIGA: I.

12 COMMISSIONER STEBBINS: I.

13 CHAIRMAN CROSBY: All opposed? Motion  
14 passes unanimously.

15 Item 5B is a reference to the issue of how  
16 we handle the personnel of the Commission. Commissioner  
17 Zuniga and I were directed I think in our last meeting  
18 or recently to talk with HRD, the Human Resources  
19 Department of the Commonwealth, to understand what our  
20 rights, obligations, responsibilities, options are,  
21 etc. relative to having bargaining units or not amongst  
22 our employees.

23 We did meet with Paul Dietl who is the head  
24 of HRD and two or three people from his office. They

1 explained to us that we are presumed to be under 150E,  
2 which is the section that does put us under a  
3 collective-bargaining umbrella.

4           There are a number of ways that this could  
5 be a brought about. There are a bunch of pre-existing  
6 unions we could just opt into. Our employees could be  
7 what they call accreted into those units. We could  
8 organize, either we or we could be a part of or unions  
9 could organize our employees into new units. There is  
10 a process of votes and cards that we don't really need  
11 to get in to this point.

12           We have a fair amount of flexibility on how  
13 this is handled. We also talked about the Racing  
14 Commission employees who at the end of this year will no  
15 longer be Department of Public Licensure employees. And  
16 we have to make some decisions about them.

17           But what we decided amongst us was that  
18 Commissioner Zuniga and Director Glovsky should search  
19 around in the industry to some of our peers to try to  
20 understand what the best practices are. Do they have  
21 union shops? Are there specialized constraints? What  
22 kind of at-will rights do we have -- I'm sorry, do they  
23 have, etc. That they would come back to us and say we  
24 have looked around. Here is what we really need to do

1 in terms of our employee relationships. Then we would  
2 discuss that amongst ourselves and make a decision to go  
3 forward.

4 We only have at this point I think two  
5 employees that would come under a collective-bargaining  
6 option probably. So, it would be a while, I think,  
7 before there is enough critical mass for the unions to  
8 be interested. In the meantime, we will be  
9 communicating with them telling them what we're doing  
10 with the existing unions for the State Racing Division  
11 folks and making sure that we are collaborating and  
12 coordinating with the unions on our process as we try to  
13 figure out what the right way is for us to proceed.

14 Does that sound right to you?

15 COMMISSIONER ZUNIGA: Yes, that's a great  
16 summary. I stress the point that Director Dietl did  
17 mention that there is not a big rush. The critical mass  
18 of the employees will really dictate a lot of the  
19 timeline, but by doing this investigation it's very  
20 timely.

21 CHAIRMAN CROSBY: You will come back to us  
22 sometime in the next few weeks with an assessment or a  
23 proposal for how we really ought to handle this.

24 COMMISSIONER ZUNIGA: Yes.

1                   CHAIRMAN CROSBY: Any other thoughts on  
2 that topic?

3                   COMMISSIONER MCHUGH: Of course, I missed  
4 that meeting because I didn't pay attention to my  
5 schedule. That proposal will talk about whether this is  
6 a top-down or bottom-up process, right?

7                   COMMISSIONER ZUNIGA: Probably, yes.

8                   CHAIRMAN CROSBY: You mean, should we  
9 take the lead or let the unions?

10                  COMMISSIONER MCHUGH: Yes. My naive  
11 assumption is that it is a bottom-up process, but maybe  
12 that is not the best practice. I'd be interested in that  
13 piece as well as other details.

14                  COMMISSIONER ZUNIGA: That's an  
15 important point.

16                  COMMISSIONER MCHUGH: Not now.

17                  COMMISSIONER ZUNIGA: I guess the  
18 research would have to be somewhat retrospective as to  
19 how let's say other commissions or states may have  
20 evolved, not necessarily where they are.

21                  CHAIRMAN CROSBY: This also is a union  
22 State. I think all of the policymakers in the  
23 Commonwealth are predisposed towards having appropriate  
24 union relationships. And we want to work with them.



1                   COMMISSIONER MCHUGH:   And I'm not  
2 disagreeing at all.  Just who gets the ball rolling,  
3 because imposing a union on people is not necessarily  
4 what we --

5                   COMMISSIONER CAMERON:  That was not the  
6 recommendation by the folks.  It was actually the  
7 opposite.

8                   CHAIRMAN CROSBY:  What was?

9                   COMMISSIONER CAMERON:  The idea that that  
10 would come from the employees not from the Commission.

11                  CHAIRMAN CROSBY:  That will be part of  
12 your  research project.

13                  COMMISSIONER ZUNIGA:  Yes.

14                  CHAIRMAN CROSBY:  Item 6 Racing Division,  
15 Commissioner Cameron?

16                  COMMISSIONER CAMERON:  Thank you, Mr.  
17 Chair.  Brief report today.  With regard to operations,  
18 I am in the process of scheduling hearings.  Each  
19 racetrack must submit an application each year outlining  
20 their operations.  We are scheduling hearings on those  
21 applications, one in Plainville, one in Boston for  
22 October.  I will be representing the Commission at those  
23 hearings if there are any comments from the public on the  
24 application process.

1           With regard to a Director of Racing, we are  
2 in the process. We are conducting interviews, moving  
3 that process as quickly as possible which includes a  
4 background checks. When all of those things are  
5 completed, we will be ready to make recommendations to  
6 the full Commission.

7           The third item on the agenda to discuss is  
8 -- let me stop. With regard to operations, there is --  
9 We have one matter before the Commission. That is part  
10 of your package. That is a letter from Mr. Pocaro who  
11 is the attorney for Mr. Case. We partially took up this  
12 matter two weeks ago.

13           And we spoke about the fact that we would  
14 give Mr. Pocaro on behalf of Mr. Case additional time to  
15 object to the tentative decision. He was advised of  
16 that. He was also advised that we would be talking about  
17 this matter today.

18           If you look at your letter, it will speak  
19 to the fact that his client has asked him to write to the  
20 Commission. Just to refresh your memories about the  
21 case, this was a request for a license which was denied  
22 by the judges. An objection was filed, which I heard.  
23 On behalf of the Commission, I upheld in a tentative  
24 decision the judges' decision that this individual was

1 detrimental to racing and shouldn't be licensed in  
2 Massachusetts at this time.

3           We then received a letter from Mr. Pocaro  
4 again, an attorney out of New Jersey, requesting that we  
5 withdraw the whole application so that the hearing was  
6 never held, and that we could remove the finding from the  
7 US Trotting Association website. It is my  
8 recommendation that we do not proceed in that manner.

9           There was an objection filed. We did  
10 conduct a hearing. Everybody had an equal opportunity  
11 to present the evidence in the matter. And a tentative  
12 decision was rendered. And it is my recommendation that  
13 we do not entertain this settlement letter on behalf of  
14 Mr. Case.

15           We did give Mr. Pocaro until the middle of  
16 September to file with the Commission if he had an  
17 objection. He has sent a second letter, which is also  
18 part of your file, which says that they do not intend on  
19 filing any objection to the tentative decision but he did  
20 want the Commission to respond to his letter requesting  
21 that the entire matter be withdrawn.

22           I believe that this is an issue that we  
23 should vote as a Commission. And it is my recommendation  
24 again, that we do not -- the objection occurred. The

1 hearing was held and I do not recommend that we allow the  
2 appellant to withdraw the entire matter.

3 CHAIRMAN CROSBY: When you say the  
4 objection was heard, do you mean his application to race,  
5 wasn't it?

6 COMMISSIONER CAMERON: The license was  
7 denied by the judges.

8 CHAIRMAN CROSBY: You're right. I got  
9 it.

10 COMMISSIONER CAMERON: Which then the  
11 next course of action would be to come before the  
12 Commission. I did hold a hearing in this matter  
13 representing the Commission.

14 COMMISSIONER MCHUGH: If I could just,  
15 the term objection just so the record is clear, that's  
16 exactly what happened, but it was basically an appeal  
17 from the denial of the licensure that Commissioner  
18 Cameron heard and he has the right to appeal from her  
19 decision to us. And wants to withdraw the entire appeal.

20 COMMISSIONER CAMERON: Correct. That's  
21 well said Mr. Commissioner.

22 COMMISSIONER MCHUGH: That's exactly  
23 what you said.

24 CHAIRMAN CROSBY: Well said, Judge, Your

1 Honor. Does anybody object? Of our people the  
2 stewards, the people you are working with, does anybody  
3 support his application to withdraw? Was there a  
4 difference of opinion?

5 COMMISSIONER CAMERON: I did speak to the  
6 staff attorney on this matter and certainly let him know  
7 that I was not of the opinion that we should entertain  
8 this matter. He agreed. Certainly, it is the  
9 Commission's responsibility to respond to this matter.

10 CHAIRMAN CROSBY: I just wondered at the  
11 staff level if there was disagreement?

12 COMMISSIONER MCHUGH: This is really a  
13 decision for the Commission. It's not a decision for the  
14 staff to make at this point.

15 CHAIRMAN CROSBY: I understand.

16 COMMISSIONER MCHUGH: In terms of the  
17 record, it's important that it is done on the record that  
18 is before us, not staff discussion.

19 COMMISSIONER CAMERON: Yes, again we did  
20 notify him that we were taking this matter up today.  
21 They're aware that we would be discussing this matter and  
22 making a decision whether or not to entertain this  
23 request to withdraw the entire application.

24 COMMISSIONER ZUNIGA: He is requesting to

1 withdraw the entire application not just the appeal?

2 COMMISSIONER MCHUGH: The entire appeal.  
3 This whole thing is an appeal. The whole thing from the  
4 get-go is an appeal. The stewards made the decision no  
5 license. The appeals, first-stage appeal to  
6 Commissioner Cameron, second-grade appeal us. He wants  
7 the whole appeal withdrawn. And he's content to live  
8 with the denial by the stewards.

9 COMMISSIONER CAMERON: If we read from  
10 his language, withdraw the application and request that  
11 the denial published on the United States Trotting  
12 Association website for the ruling be withdrawn. So,  
13 he's asking --

14 CHAIRMAN CROSBY: It's even a step  
15 further, it sounds like.

16 COMMISSIONER MCHUGH: He wants to go all  
17 of the way back to the beginning of the appeal and say  
18 I am now -- We have gone forward with this. I want to  
19 take a big eraser. I withdraw my appeal. I want the  
20 whole process that existed after I filed the appeal to  
21 be erased.

22 COMMISSIONER CAMERON: Correct.

23 COMMISSIONER ZUNIGA: Commissioner's  
24 recommendation is that we deny that request.

1                   COMMISSIONER CAMERON: No, because all  
2 those things occurred, the appeal was made, resources  
3 were expended on behalf of the Commission to bring  
4 witnesses and hold the hearing.

5                   COMMISSIONER STEBBINS: Is there any  
6 precedence for this type of action being taken before on  
7 any other case?

8                   COMMISSIONER CAMERON: I am not aware.  
9 There have been withdrawals of applications. It's  
10 similar to what we are discussing with gaming. Is there  
11 a point where we allow a withdrawal? Is there a point  
12 where we don't want to allow? There are instances where  
13 withdrawals have occurred with applications. I'm not  
14 aware of anything that has gone to the point of a hearing  
15 of a decision being made on behalf of the Commission and  
16 then act like it did not happen.

17                   CHAIRMAN CROSBY: Is there any more  
18 discussion? My inclination is to go along with  
19 Commissioner Cameron's recommendation on this. I don't  
20 see any reason not to. Is there any further?

21                   COMMISSIONER ZUNIGA: I agree with that  
22 notion. I don't see why this should be revoked.

23                   COMMISSIONER MCHUGH: The basic thrust of  
24 this if we permit this, unless there is extraordinary

1 circumstances, is to allow a person to file an appeal from  
2 a stewards' ruling, see what the decision is and then  
3 after the decision comes in, decide whether or not they  
4 want to appeal, proceed with the appeal in the first  
5 place.

6                   It is a resource consumer because it is  
7 going to encourage people to do that with the knowledge  
8 that they can just erase everything if it doesn't come  
9 out the way they want.

10                   Second, it plays off the process in a way  
11 that doesn't lend dignity to the process. These are  
12 serious matters done in a serious way by the Commissioner  
13 with a significant investment in time. And it ought to  
14 be treated seriously. These things have consequences.  
15 And we can't just go through this kind of a process and  
16 then say, gee, I wish I hadn't gone down this path. I  
17 think it elevates the process to deny this and also  
18 prevents --

19                   CHAIRMAN CROSBY: The point that this guy  
20 is making is that when the judges at Plainridge decided  
21 not to license Mr. Case that he was unavailable. He  
22 couldn't be reached. And he was told later on by the  
23 judges at Plainridge that if he been able to call the week  
24 before his application could've been withdrawn and the



1 denial would not have been made public.

2 COMMISSIONER MCHUGH: That's part of the  
3 merits of what was before Commissioner Cameron.

4 CHAIRMAN CROSBY: Does this mean that if  
5 the guy's lawyer hadn't been on vacation he would have  
6 been able to withdraw this?

7 COMMISSIONER MCHUGH: There was no  
8 evidence in front of Commissioner Cameron on any of this.

9 COMMISSIONER CAMERON: No evidence to  
10 that at all. They filed the objection. We scheduled  
11 the hearing. We held the hearing.

12 COMMISSIONER MCHUGH: This didn't come in  
13 her decision. There was no mention of this in her  
14 decision. There is no evidence about that. This is  
15 secondhand hearsay at this level never raised below.

16 CHAIRMAN CROSBY: Right. I didn't  
17 understand that.

18 COMMISSIONER STEBBINS: Commissioner  
19 McHugh, do you ever see a similar process in any other  
20 legal proceedings like this?

21 COMMISSIONER MCHUGH: Not at this stage  
22 not after the decision. It's never done. There is a  
23 procedure for withdrawing a complaint after a complaint  
24 is filed in a civil action, but even that is not automatic

1 because there are consequences to filing a complaint.  
2 This is never done in the judicial level in this way. And  
3 I'm unaware frankly of it ever being done. I've never  
4 seen one done at the administrative level but probably  
5 I wouldn't because I was in an environment where I took  
6 the appeal from the administrator.

7 CHAIRMAN CROSBY: Any other discussion?  
8 Do you want to make a motion?

9 COMMISSIONER CAMERON: Yes. I make a  
10 motion that we deny the request by Mr. Pocaro on behalf  
11 of Mr. Case that this entire matter be withdrawn.

12 CHAIRMAN CROSBY: Second?

13 COMMISSIONER STEBBINS: Second.

14 CHAIRMAN CROSBY: Any other discussion?

15 All in favor? I.

16 COMMISSIONER MCHUGH: I.

17 COMMISSIONER CAMERON: I.

18 COMMISSIONER ZUNIGA: I.

19 COMMISSIONER STEBBINS: I.

20 CHAIRMAN CROSBY: Opposed? The I's have  
21 it unanimously.

22 COMMISSIONER MCHUGH: Can I come back  
23 before we finish 5A just briefly to the application by  
24 Plainridge and Suffolk for next year is an application

1 in which they do what, Commissioner? They lay out their  
2 plans?

3 COMMISSIONER CAMERON: They do.

4 COMMISSIONER MCHUGH: And do we vote on  
5 that or do you?

6 CHAIRMAN CROSBY: This is the racing you  
7 are talking about?

8 COMMISSIONER MCHUGH: The racing.

9 COMMISSIONER CAMERON: The application  
10 itself. We hold hearings if there's any public comment.  
11 This is an area in which we will be looking as part of  
12 the working group to see if there are changes that need  
13 to be made to that application.

14 At this point because it is a timely  
15 application that has to be completed within a few weeks,  
16 we changed some basic names to the Gaming Commission as  
17 opposed to Racing. And we are moving forward with the  
18 same application at this time.

19 COMMISSIONER MCHUGH: Does that come  
20 before the Commission for ultimate approval?

21 COMMISSIONER CAMERON: I'll be honest  
22 with you, I'll have to check on the process. I was just  
23 made aware. And I asked basic questions where do we have  
24 the hearings? What's been done in the past, those kinds

1 of things. I will ask for the prior process and see if  
2 that is something we want to use again this year.

3 CHAIRMAN CROSBY: This is an application  
4 by the existing racetracks to have racing again next  
5 year?

6 COMMISSIONER CAMERON: Correct, yes.

7 CHAIRMAN CROSBY: We certainly -- The  
8 reform stuff that we are doing, all the stuff that our  
9 consultant recommended.

10 COMMISSIONER CAMERON: It's all for next  
11 year's.

12 CHAIRMAN CROSBY: We might think about at  
13 least using some of our transparency initiatives to open  
14 those meetings up.

15 COMMISSIONER CAMERON: They are open  
16 public hearings that I am scheduling at this time.

17 CHAIRMAN CROSBY: But we might promote  
18 them a little more widely and maybe run them on the web.  
19 Maybe we can think about that.

20 COMMISSIONER CAMERON: Yes, we could do  
21 that. I will be prepared next week to have some more  
22 detail as to the process for the Commission.

23 CHAIRMAN CROSBY: I had two questions the  
24 pari-mutuel and simulcast report that is due in January,

1 where is that in the process?

2                   COMMISSIONER CAMERON: I received a  
3 proposal from a former counsel to Consumer Affairs who  
4 is very interested in assisting the Commission with this  
5 process. We've asked for a little more work to be done  
6 with the proposal. He will be in our office this  
7 individual next week. Again, until we see the proposal,  
8 we vote on the proposal, I hope we can have that done  
9 within two weeks, to have that process ready to be laid  
10 out to the full Commission.

11                   CHAIRMAN CROSBY: To have found somebody  
12 to do it?

13                   COMMISSIONER CAMERON: Well, we have an  
14 individual who we think is very capable of doing it and  
15 has put forth a proposal on how to do that. So, we're  
16 working on some numbers. So, we weren't ready to present  
17 that today, frankly. Frankly, we have too large of an  
18 agenda. But we are very aware of the deadlines and we  
19 will have by the week after next we should have the entire  
20 matter settled.

21                   CHAIRMAN CROSBY: But by settled, you  
22 mean get the person to work doing the report?

23                   COMMISSIONER CAMERON: Correct, yes.

24                   CHAIRMAN CROSBY: You will coordinate

1 with Commissioner Zuniga about how we procure this --  
2 sorry Director Glovsky.

3 COMMISSIONER CAMERON: Yes.

4 CHAIRMAN CROSBY: You also had an  
5 executive assistant and a paralegal in the pipeline.  
6 Where are those?

7 COMMISSIONER CAMERON: The executive  
8 assistant, we are prepared to conduct a couple of  
9 interviews. I'll be doing that with Commissioner  
10 Stebbins. This is a very short week. We are out of the  
11 office. So, I believe we have that scheduled for next  
12 week. We are moving that process along.

13 I did have an interview with a young woman  
14 with a racing background who came into the office. We  
15 are going to move forward on trying to hire her also.  
16 I've spoken to Director Glovsky about this matter. And  
17 we are moving that process along also. It was a very  
18 positive meeting with this individual.

19 CHAIRMAN CROSBY: You are not looking for  
20 other candidates for that job or are you?

21 COMMISSIONER CAMERON: No. With her  
22 unique skill sets and it is a paralegal position, I think  
23 at this point I am confident that she has the unique skill  
24 sets working with the New York Board of Racing, she can

1 help us. We have some deadlines we have to meet here.

2 CHAIRMAN CROSBY: Okay. So, again, you  
3 can just coordinate on the process.

4 COMMISSIONER CAMERON: Yes.

5 CHAIRMAN CROSBY: We did get the key legal  
6 document apparently from the EPA.

7 COMMISSIONER CAMERON: Yes.

8 CHAIRMAN CROSBY: Were you going to speak  
9 to that?

10 COMMISSIONER CAMERON: I was, yes. Next  
11 on the agenda I received a pretty detailed package  
12 including all of the documents, all of the issues that  
13 have transpired with Suffolk Downs. They have entered  
14 into a consent decree.

15 Commissioner McHugh was good enough to  
16 assist me with this legal matter as far as taking a very  
17 lengthy document and you can see that this has been pared  
18 down to just the key issues to give us a briefing. If  
19 any of the Commissioners would like to see the entire  
20 package, I'd be happy to show it to you.

21 Just to quickly summarize what is  
22 happening here, this is the consent decree entered into  
23 with the EPA and Suffolk Downs. Some of the items that  
24 have transpired, they have agreed to pay some significant

1 penalties for waste violations and runoff issues that  
2 came to light several years ago. '08, I believe was the  
3 first year.

4           They have been working under a temporary  
5 pollution prevention measure. All of those measures now  
6 are becoming permanent with this consent decree. Fines  
7 will be paid. Compliance requirements are in place to  
8 include production area, roof runoff separation, process  
9 waste management plan. It's pretty detailed.

10           CHAIRMAN CROSBY: Do you mind telling us  
11 more about the wastewater runoff?

12           COMMISSIONER CAMERON: I know. But the  
13 important piece here is that there are significant  
14 monitoring in place here. The EPA have put in some  
15 really strict monitoring compliance measures. So, they  
16 will be out on a monthly basis to test and make sure that  
17 the plans are being followed. So, I think we can be  
18 confident. And I think that it will come to our  
19 attention if there is a problem. Like I say, after  
20 looking at this the plan is comprehensive and the  
21 appropriate monitoring is in place.

22           CHAIRMAN CROSBY: Okay. I haven't had a  
23 chance to look at it yet, but I'm interested to see it.  
24 We got a letter from William Geary, who is a lawyer and



1 former public official who has some experience in this  
2 area asking if we would like his help in monitoring. At  
3 this point, it doesn't look like we need any help for  
4 monitoring. But in any event we can postpone that until  
5 we decide whether or not we do or if we do.

6 Just for the record, he did point out that  
7 he was a part of the Shefsky and Froelich team who  
8 proposed here. He was the local lawyer who was part of  
9 that team. And he wanted to make sure we knew about that.  
10 And if we do end up talking about him, he wants us to know  
11 about it. And should there be any -- We should think  
12 about whether there is any issue there. That's just an  
13 FYI. But for the moment, we will just postpone this  
14 until we see if there is --

15 COMMISSIONER CAMERON: After looking at  
16 the compliance requirements here and monitoring  
17 measures, I don't believe there is a need at this point  
18 to hire someone to take an additional look at that.

19 COMMISSIONER MCHUGH: They can take a  
20 look for themselves at the report, Mr. Chairman, but  
21 these people have more monitors than they've got horses.

22 CHAIRMAN CROSBY: Got it. Great, thank  
23 you. Anything else on racing?

24 COMMISSIONER CAMERON: That completes my

1 report.

2                   CHAIRMAN CROSBY: Project work plan,  
3 consultant status report. Review of consultant  
4 schedule and scope, strategic plan draft. I think we  
5 pretty much covered that when Director Glovsky talked  
6 about we do have the 421-page draft of the strategic plan.  
7 We are getting the essential pieces of that copied. And  
8 we do have a schedule for going over it. I think we have  
9 a phone call tomorrow, right, where they are going to talk  
10 us through the gist. We won't be doing any deliberating,  
11 but we'll just be hearing their report to us.

12                   Then I think in two weeks we will probably  
13 have a pretty major meeting where we will be talking about  
14 the schedule, the strategic plan, how it all fits  
15 together, how do we like it and so forth. Does that sound  
16 right, two weeks from today?

17                   MS. GLOVSKY: Yes.

18                   CHAIRMAN CROSBY: Is there anything else  
19 about the consultant, item A? Item B, the September 10  
20 hearing, I guess we just need to make sure -- Well, you  
21 remind us of the process of taking our written and oral  
22 comments and processing them.

23                   COMMISSIONER MCHUGH: We are beginning  
24 that process now, Mr. Chairman. The first step is for

1 all of the comments to be distributed to all of us. I  
2 will do that tomorrow.

3           There were 11 -- Quickly this morning I  
4 sent all of them to Anderson and Kreiger which is going  
5 to take the first step. And I'll circulate them  
6 tomorrow. I sent sets over but they were hugely  
7 redundant, but I think there were about eight comments.  
8 So, I will circulate those tomorrow.

9           Anderson and Kreiger will have them.  
10 They will assemble them in a way that groups comments on  
11 the same subject together and attaches them to the  
12 portions of the regulations to which they are directed.  
13 Some are global and they don't have specific portion.  
14 They will formulate it. They will send them to the  
15 gaming consultants.

16           The gaming consultants and Anderson and  
17 Kreiger will look at them and make a recommendation. The  
18 results of that will be circulated to us early next week.  
19 We'll have them all by Friday, no later than Friday the  
20 comments. You will have the raw material tomorrow.

21           And then we will have everybody's comments  
22 by no later than next Friday. Then at our meeting on the  
23 25th, which is the following Tuesday, two weeks from  
24 today, we can decide whether we need to make any changes

1 or not. There will be recommendations that we should  
2 make changes or not make changes.

3           From what I've seen, there are no huge  
4 changes that are recommended. These are tweaking  
5 things. These are matters of detail by and large. So,  
6 I think we can easily meet our target of having all of  
7 this in a final form to the Secretary of State by two weeks  
8 from this Friday, which will allow us to release in RFA-1  
9 application form on schedule in mid-October. So, that  
10 is the schedule.

11           CHAIRMAN CROSBY: That would be the  
12 Friday after the day we talk about it at the Tuesday  
13 meeting we talk about it?

14           COMMISSIONER MCHUGH: The Friday after  
15 the day we talk about it, we have to send the completed  
16 document to the Secretary of State. It is published then  
17 two weeks later. The day it is published, it's final.  
18 Then the following week, which will be mid-October,  
19 October 12, 13 we can release the documents.

20           Simultaneously we have our forms up on the  
21 web for comment. We'll get whatever comments we get with  
22 respect to the forms. But that's not governed by the  
23 same process. That's an entirely voluntary process.  
24 So, we will keep track of that. We will brief everybody

1 on that. Everybody will get the comments we get on that  
2 as well.

3 CHAIRMAN CROSBY: Terrific. So, we are  
4 on the critical path schedule, which is great.

5 COMMISSIONER MCHUGH: Right.

6 CHAIRMAN CROSBY: Item number 8, public  
7 education and information. I've lost track of the  
8 Palmer Water and Sewer inquiry.

9 COMMISSIONER MCHUGH: Palmer Water and  
10 Sewer inquiry is one of the things that I have to get back  
11 to as well as the Chelsea things. We met with Mr. Ash  
12 and got some clarification on the questions. We have got  
13 to get back to the Commission, which I hope to do next  
14 Tuesday. Commissioner Stebbins and I will prepare  
15 something to give to the Commission and then that becomes  
16 part of the frequently asked questions responses.  
17 That's in the work.

18 We did hear from the DPU with respect, I  
19 did inquire to Commissioner Zuniga's request to the DPU  
20 with respect to the Palmer issue. The chair of the DPU  
21 wrote back with a thoughtful letter saying they really  
22 don't have a position to take on that inquiry. I will  
23 circulate that as well. I just got that the other day.

24 CHAIRMAN CROSBY: On the acting ombudsman

1 report, we have a couple of things. We did get an  
2 inquiry. It was pursuant to our hearings yesterday,  
3 which was not really the right format the right venue for  
4 them. But from the citizens committee in Palmer saying  
5 that they had basically negotiated the host community  
6 agreement and what should they be doing next.

7 I haven't spoken to their representative  
8 about it yet, but basically it's the same issues as we've  
9 been talking about with Springfield. I think I would be  
10 saying that it is desirable not to execute that until we  
11 have issued what we think should be in the agreement -  
12 A. And B - not to have the referendum until we have  
13 determined whether or not if we have an applicant whether  
14 or not they are qualified. So, I think that's  
15 consistent, but I just want to make sure that I'm saying  
16 it right to you all. Does that sound right?

17 COMMISSIONER STEBBINS: I would agree.

18 COMMISSIONER MCHUGH: I would agree. I  
19 think and I may be mistaken, but I think they said that  
20 they will have it finished, have it negotiated by  
21 December, I thought.

22 CHAIRMAN CROSBY: I misunderstood then.

23 COMMISSIONER MCHUGH: I think they said  
24 that. And then ask what the next step is. Maybe I'm

1 wrong. But I'm not sure that they have executed it yet.

2 CHAIRMAN CROSBY: No, no. I didn't mean  
3 that they have executed it. Either way, our points are  
4 still the same. It is true that a number of communities  
5 are pretty far down the road. And there is this  
6 disconnect as I said, it's not just Springfield where  
7 this issue occurs. But I do think it is important to us  
8 to take -- give pretty strong advice that those two points  
9 are important.

10 COMMISSIONER STEBBINS: December was the  
11 timeline.

12 CHAIRMAN CROSBY: Sorry?

13 COMMISSIONER STEBBINS: December was  
14 their timeline.

15 COMMISSIONER ZUNIGA: Do we have any  
16 intelligence as to whether in that particular community  
17 there's been surrounding community negotiations?

18 CHAIRMAN CROSBY: I don't know anything  
19 about it.

20 COMMISSIONER MCHUGH: I don't disagree  
21 with this advice, but I do think and perhaps we do this  
22 as part of the strategic plan discussion we're going to  
23 have in a couple weeks that we do need to have a discussion  
24 about timelines, advice, the issues that are on the table

1 now and what to say to people to give them advice.

2 I think to get to Commissioner Stebbins  
3 point, the certainty that people planning economic  
4 decisions have to have would be enhanced by at least  
5 knowing something definitive. And I think there are  
6 definitive things that we can say that will come out of  
7 this strategic plan discussion and the like. And we have  
8 got to get that up on the web and out through the ombudsman  
9 to the communities and say whatever we can say.

10 And keep updating it here because I'm not  
11 sure we've said a lot of this stuff. We've said --

12 CHAIRMAN CROSBY: No, we haven't.

13 COMMISSIONER MCHUGH: Well, we have. We  
14 have said we have that guideline for communities and set  
15 out our plan and all that stuff. And said you can go  
16 ahead and do the host community agreement but you're  
17 going to risk the problems we talked about today. But  
18 I'm not sure people have seen that and I think we need  
19 to do a better job of getting it out, which is one of the  
20 ombudsman's projects.

21 CHAIRMAN CROSBY: I agree with that.

22 Actually, it would be helpful to have the ombudsman to  
23 do this, but I think you're right. We haven't even  
24 formally said how long people are going to have to fill



1 in their RFA-1. There are a number of data points,  
2 critical path points that we need to describe. I agree  
3 with that.

4                   Also in your packet is a letter from or an  
5 email, I guess, from Troy Sielbels, the Chair of the Mass.  
6 Performing Arts Center Coalition. He and a few others,  
7 a couple of other people came to see us. I think they  
8 talked to Commissioner Stebbins and I to talk about the  
9 fact that they didn't feel the legislation -- the  
10 legislation they thought was great and gives them a place  
11 to be protected against competing entertainment venues  
12 in casinos, but how that gets implemented is pretty  
13 complicated.

14                   And they wanted to talk to us. We said  
15 it's really premature. They have now come back to us and  
16 said is now a time that we could come and talk to your  
17 Commission. The question I want to ask it are we ready  
18 to start opening up. There are others. There are some  
19 people in the construction trades that want to come talk  
20 to us. Are we ready to open up our public meetings or  
21 some portion of it and entertain people who want to come  
22 in and give us advice on things that will pertain to  
23 RFA-2?

24                   COMMISSIONER STEBBINS: I think it's

1 timely. As we are laying out a schedule, laying out a  
2 process which we don't have all of the answers to. I  
3 think we could benefit from hearing from these groups  
4 sooner rather than later and be able to figure that into  
5 our strategic planning process. We may decide after  
6 hearing from a body that it maybe a little bit premature,  
7 but too many questions about our own calendar, I think  
8 it's tough to say whether somebody's timeliness is  
9 appropriate.

10 COMMISSIONER MCHUGH: I'd agree with  
11 that. I think we ought to start. But I would really  
12 like to begin to have some kind of a framework into which  
13 to fit these discussions. As a practical matter, I don't  
14 think we can get these people, any of these people in  
15 before the next couple of weeks. And then hopefully  
16 we'll have this big framework.

17 Because I think it is important not only  
18 to try and keep track of these things, which we can do,  
19 but also to give them some and ourselves some  
20 understanding of when we are going to be able to take up  
21 these issues or that we are going to defer them until such  
22 and such a time because it goes with this piece. That  
23 kind of thing I think is reassuring both to us and to them.

24 CHAIRMAN CROSBY: I think that's a good

1 point. Actually, entertaining public comment like  
2 this, this kind of public comment is something that ought  
3 to be on our Gantt chart. Maybe it starts right pretty  
4 soon and maybe it doesn't start for a little while. So,  
5 why don't we say to them that at least the next couple  
6 of weeks is premature, but as we hone in on our scheduling  
7 tool and schedule that probably within the next month or  
8 so would be the time to start that.

9 COMMISSIONER STEBBINS: I agree.

10 CHAIRMAN CROSBY: He got in touch with  
11 you, right, Commissioner Stebbins?

12 COMMISSIONER STEBBINS: Who did?

13 CHAIRMAN CROSBY: Or did he get in touch  
14 with me? He didn't. He got in touch with Janice.  
15 Maybe Janice can get back to him. Okay.

16 The ombudsman search update, Commissioner  
17 Stebbins.

18 COMMISSIONER STEBBINS: Again, a quick  
19 recap., we had well over 40 resumes. We boiled that  
20 down to a pool of finalists to interview in-person. We  
21 have narrowed that group down to a group of four  
22 finalists. And you are meeting with all of them  
23 tomorrow.

24 CHAIRMAN CROSBY: Tomorrow?

1 COMMISSIONER STEBBINS: Yes.

2 CHAIRMAN CROSBY: And you've got a  
3 package of information that I'm going to --

4 COMMISSIONER STEBBINS: I'll be giving  
5 that to you first thing in the morning. Jaime has all  
6 of the resumes. I am sending along kind of the first  
7 round interview sheets that we did with the finalists.

8 CHAIRMAN CROSBY: If we are going to  
9 follow-up with Springfield, and I do think there is  
10 reasons -- It jumps ahead a little bit here. I do think  
11 there is reason for us to talk with them to try and clarify  
12 a little more.

13 I don't understand exactly what their rush  
14 is. And I just need to sit and talk through it. I may  
15 need someone else to do that, because we are going to be  
16 off-site Thursday and Friday. So, we need to talk about  
17 who is going to follow-up on that. I've got the day  
18 pretty well filled. We will come back to that in a  
19 second.

20 I guess we are jumping to the Diversity and  
21 Inclusion forum, which is scheduled for the 19th. Is  
22 Brandon here? Do you know how many sign-ups we have?

23 MR. MILBY: 160 or so.

24 CHAIRMAN CROSBY: 160?

1 MR. MILBY: Yes.

2 COMMISSIONER STEBBINS: What time does it  
3 start, 8:30 in the morning?

4 MR. MILBY: Registration 8:30.

5 CHAIRMAN CROSBY: 8:30 in the morning on  
6 the 19th? Is that what you said?

7 MR. MILBY: Yes.

8 CHAIRMAN CROSBY: Surprise to me.  
9 That's great. That will be a really interesting -- We  
10 got a very interesting letter from the person that is  
11 organizing this, Ron Marlow from the Governor's office,  
12 whatever it's called, Access and Opportunity about  
13 commenting on our regs., which was an interesting letter.

14 The last thing on this item eight is the  
15 proposal from AIA, which you have in your packets, the  
16 Association -- I don't know what it stands for.

17 COMMISSIONER ZUNIGA: The American  
18 Institute of Architects.

19 CHAIRMAN CROSBY: The American Institute  
20 of Architects in collaboration with Boston Society of  
21 Architects, basically what they are saying is would you  
22 value having some kind of a conversation with us perhaps  
23 another educational forum talking about the issues of  
24 aesthetics, environment, sustainability and so forth

1 that they might be able to put together.

2           As I said in my note to you, I think it's  
3 a great idea. I've actually been trying to think of a  
4 way to get some of the thinking and creativity from these  
5 kinds of folks to help us out. If everybody agrees, I  
6 will go ahead and talk to them and see if we can have them  
7 take responsibility for doing an education forum as we  
8 have done the others.

9           COMMISSIONER STEBBINS: I was excited to  
10 get this letter. I've had a couple of conversations with  
11 the folks at the Massachusetts Clean Energy Center, which  
12 are also helpful in working with building occupants in  
13 terms of energy efficiency. As we all know, one of the  
14 clauses under section 18 our evaluation criteria, which  
15 this piece doesn't get mentioned all that often, is the  
16 need for a building to try to accomplish lead  
17 certification with construction of the building as well  
18 as the general provision that we know is in the statute  
19 that any casino facility kind of blends in with the  
20 regional surroundings as opposed to spotting a big golden  
21 pyramid as we drive down the highway.

22           I think some discussion around these  
23 topics would be warranted as well as we have talked at  
24 other meetings about outside experts that can help us

1 evaluate license applications whether its regional  
2 planning agencies or what have you. Under section 18  
3 again realizing maximum capital investment of land and  
4 infrastructure is one of the criteria in our license  
5 evaluation. Maybe AIA is a great resource to help us  
6 with that type of assessment as we get to that review of  
7 final license application.

8 Kind of generating the discussion I think  
9 also comes back to the opportunity that Eileen raised  
10 about a MIT student being involved in this.

11 Architecture -- I didn't get into MIT nor did I apply but  
12 I understand that they have some type of a program related  
13 to architecture and construction. Kind of pulling all  
14 of these entities together and AIA may be able to find  
15 some other sources we haven't been thinking about.

16 CHAIRMAN CROSBY: Any advice?

17 COMMISSIONER ZUNIGA: I would agree. I  
18 think it would be helpful as they I believe they offered  
19 for them to come before one of the Commission's meetings  
20 and then just brainstorm a little bit if they are willing  
21 to do this as to what they are thinking about. I think  
22 the question about that design criteria whether this  
23 Commission could impose or should impose certain  
24 elements of design on casinos that are in addition or

1 outside of the sustainability concepts but rather on what  
2 we would like to see. I think it is very important to  
3 start considering.

4 CHAIRMAN CROSBY: In the past, we have  
5 either one or two of us have worked with designees who  
6 were going to do this for us or in one case, she did it  
7 all by herself. Would you rather and would others  
8 rather have them come in and talk with the whole group  
9 rather than meeting with say you and me?

10 COMMISSIONER ZUNIGA: It was just an idea  
11 as to an addition. Yes, we could do the meeting with them  
12 and then brainstorm that way. I guess I was thinking we  
13 might not need to wait until the next public educational  
14 forum because that does take time to put together.

15 CHAIRMAN CROSBY: Well, we don't have any  
16 real need for -- There's no rush. There will be soon,  
17 but even if it took a month to pull it together, that's  
18 plenty of time before we start thinking about --

19 COMMISSIONER STEBBINS: I kind of like  
20 this idea of maybe coming before us as a group. And even  
21 suggest to kind of give them a clear and concise talking  
22 points or discussion points, maybe kind of pick out from  
23 the statute where we think they might have some expertise  
24 and input and then just say come before us and we'll see



1 if we need to expound on it as part of a forum.

2 We have concerns about these five  
3 provisions in the statute. Give us your thoughts. And  
4 keep the conversation pretty directed. And we know  
5 where we want feedback and kind of give them that upfront  
6 information. And say come in and talk to us about the  
7 lead certification piece, some of the different  
8 provisions in the statute that reflect where they might  
9 have expertise to offer.

10 CHAIRMAN CROSBY: You are talking about  
11 instead of a forum?

12 COMMISSIONER STEBBINS: In advance of a  
13 forum, something we might be able to do even a little bit  
14 quicker. I think this topic is interesting. I think  
15 the broader public is actually more interested in what  
16 these buildings are going to look like whatever community  
17 they go in to. So, it might (INAUDIBLE) having a  
18 conversation with the general public, but I'm interested  
19 in hearing from them first on some of the key provisions  
20 in the statute where they might be helpful to us.

21 COMMISSIONER MCHUGH: I think that's a  
22 great idea. I am too. I am very interested in this.  
23 I don't think we can go around and dictate what size  
24 windows are in casinos but we do have a bunch of

1 provisions. How we blend local design criteria with our  
2 requirements and how we approach the idea of lead  
3 certification. I think it would be a great topic for all  
4 of us to participate in.

5 CHAIRMAN CROSBY: Rather than a forum?

6 COMMISSIONER MCHUGH: No, I don't think  
7 they are mutually exclusive. Start with this.

8 CHAIRMAN CROSBY: We will get them to come  
9 in quickly and try to brainstorm.

10 COMMISSIONER CAMERON: I think the other  
11 we have to incorporate into this is best safety measures.  
12 That really is important when building a casino to set  
13 it up in a manner that allows for easy evacuation, the  
14 cameras, all of the things we need to do. So, I think  
15 that would be interesting to learn about as well as all  
16 of these issues.

17 CHAIRMAN CROSBY: So, we will have them  
18 come in as quickly as possible.

19 COMMISSIONER STEBBINS: I'd be happy to  
20 work on kind of pulling out the statute and sharing that  
21 back with them.

22 CHAIRMAN CROSBY: Would you follow up  
23 with them and the schedule? Maybe we can have them come  
24 as soon as next week. Anything else on item eight?



1 the first issue, which is the conflict or the perceived  
2 conflict, I think until we know the results of the Ethics  
3 that we can hold that conversation until we are aware of  
4 what that is.

5                   CHAIRMAN CROSBY: I agreed with that once  
6 and I agree with that again. Although my concern about  
7 that is if the Ethics Commission comes back saying there  
8 is no problem or saying here is how you can cure the  
9 problem, it may well be interpreted as a clean bill of  
10 health. The point that I've been trying to make is I  
11 don't think that necessarily is enough. So, waiting on  
12 that kind of puts us sort of behind the eight ball.  
13 That's my one concern about that. But I think we've  
14 agreed to wait anyways.

15                   COMMISSIONER CAMERON: I think we did  
16 express our concerns today.

17                   CHAIRMAN CROSBY: Yes.

18                   COMMISSIONER CAMERON: We didn't ignore  
19 that issue today.

20                   CHAIRMAN CROSBY: Right. And I think if  
21 they were listening, they certainly understand our  
22 judgments about this issue. And the other one?

23                   COMMISSIONER ZUNIGA: It doesn't appear  
24 that the City will be issuing the RFR in the next few days

1 if I read some of the conclusions correctly. On that  
2 notion, I suppose we could come back and think about it  
3 all the notes all of the testimony before us today and  
4 come back and talk about it in a future meeting. I would  
5 like to venture that it would have to be perhaps next  
6 meeting.

7 COMMISSIONER MCHUGH: I wonder if it has  
8 to be next meeting. If there is a way that we have  
9 overlooked -- And we heard about the Detroit experience.  
10 I very much would like to know a lot about the Detroit  
11 experience because that was held up as the model for the  
12 way everything should go. I would like to talk with some  
13 of the officials in Detroit. I'd like see what there --  
14 And I'd like to do it expeditiously because if there is  
15 some way that we have overlooked -- I think we have been  
16 well advised by our gaming consultants. I think we are  
17 trying to proceed as fast as we can. I think some of the  
18 issues that we raised today are legitimate issues.

19 On the other hand, if there is something  
20 we overlooked, I really would like to know about that or  
21 some way that we could speed it up. So, I would like to  
22 reach out to the Detroit folks and have a conversation  
23 with them, and find out more about their process, find  
24 out more about where their statutory scheme was. Was the

1 Commission stood up by the time this started or were they  
2 proceeding as we are not some hard data there? So, we  
3 could find out about that. And I think we could do that  
4 quickly and then have a discussion with them. So, I  
5 would like to proceed in that fashion.

6 COMMISSIONER STEBBINS: I agree. I  
7 truly also am interested. If we are holding up this  
8 Detroit model in knowing what the Detroit model, I want  
9 to find out more about it. And the schedule as to whether  
10 they were going through a process at the same time the  
11 regulatory scheme was being set up. That process left  
12 a lot of authority with the local municipality. They set  
13 out their own criteria as to how big they wanted it and  
14 how many hotels and restaurants they did.

15 It doesn't sound to me and again we are  
16 going off of just what was shared, that there was an  
17 obligatory or complementary state regulatory process  
18 that was aligned with that. I got the impression that  
19 it was kind of throw the best proposal out there and the  
20 Mayor will pick it. Even the comment that the Mayor said  
21 that it was a very subjective process as opposed to  
22 anything that had any type of scoring or might have been  
23 even more objective.

24 I wonder if we shouldn't convey in some

1 type of communication back to the Mayor appreciation for  
2 his team being here today but expressing what our  
3 continued concerns are and maybe what our next courses  
4 of action are relative to what they presented us with  
5 today. Just so we keep the lines of communication open  
6 and kind of suggest that we still are not blessing the  
7 process that they have laid out as it stands right now.

8                   COMMISSIONER ZUNIGA: You alluded to  
9 this, Mr. Chairman, but the deadline that they have  
10 imposed on themselves has the potential to bump with the  
11 process that we have begun to outline the schedule that  
12 we have. I still don't understand why they feel the need  
13 to be -- to have a host community agreement final even  
14 by the time that we issue the RFA Phase 1. I would  
15 understand it if that was for Phase 2. But they seem to  
16 think that they needed to do that for Phase 1 or at least  
17 that's what the schedule currently suggests.

18                   CHAIRMAN CROSBY: That's why I think  
19 following up with them. I don't understand either. I  
20 don't understand what they think they're gaining as a  
21 practical matter other than the Mayor's passionate  
22 concern about the City, which is totally understandable,  
23 and his need and wish to get something going. That I  
24 understand.

1                   But as a practical matter the way our  
2 schedule is going to run, I don't understand exactly why  
3 it matters so much. That's why I want to have some  
4 conversations. I do think we have to move pretty  
5 quickly. If we are going to take some kind of a strong  
6 stand here, it is important to everybody that we do it  
7 quickly. We should try to bring this to conclusion next  
8 week if we possibly can. If we can't, we can't.

9                   COMMISSIONER MCHUGH: To what  
10 conclusions, Mr. Chairman?

11                   CHAIRMAN CROSBY: Whether or not we are  
12 going to take a position on these two issues. I did talk  
13 with our consultants this morning about the Detroit  
14 situation, because they had referred to it in their --  
15 the City had referred to it in the thing they had sent  
16 us last night.

17                   It's a very different situation in that it  
18 was designed to have the City be the decider amongst a  
19 whole bunch of bidders to come up with three different  
20 sites. It's very, very different. As well as I was told  
21 that all three of the people had financial trouble,  
22 apparently at least one did. Somewhere between one and  
23 three had financial trouble. So, I'm not sure how much  
24 more information we need. But I'm not at all opposed to



1 figure out whatever else we can. If we can reach out to  
2 Detroit soon and see what they have to say that would be  
3 helpful.

4 COMMISSIONER MCHUGH: I just think more  
5 facts. I didn't realize we had all of these facts. I  
6 just think facts are helpful things on which to make  
7 decisions.

8 CHAIRMAN CROSBY: There's a unique  
9 thought.

10 COMMISSIONER MCHUGH: So, if we have all  
11 of the facts then I welcome hearing what they are.

12 CHAIRMAN CROSBY: The critical points of  
13 differentiation that the lawyers told me were one, it was  
14 an intentional process that the City of Detroit was going  
15 to determine who the multiple bidders were going to be.  
16 That was their assigned job.

17 Ours is an unintended consequence.  
18 Nobody was anticipating what was going on. And the City  
19 is trying to respond to something that was not  
20 anticipated. There was no local referendum. And the  
21 third point was, I was told, all three selections had  
22 various major players in their financing disqualified  
23 and they had to go back and re-jigger their packages.  
24 Those were the three points that our consultants told me.

1           So, I think we are in agreement that we're  
2 not going to do more on this today. We are going to  
3 check, any of us that thinks there's more data to be  
4 gotten, we'll be working with the City to see if there's  
5 anything else we can do. And we'll pick this up again  
6 next week.

7           The last item.

8           COMMISSIONER MCHUGH: As we close on that  
9 note, I just hope and I know we do, there is no magic in  
10 the City's schedule. And there is no magic in ours.  
11 These are all dictated by forces of one kind or another.

12           And we've got to do our strategic plan next  
13 week -- in two weeks, which is going to be a big help to  
14 us, at least to me, figuring out where we are going and  
15 how we can get there. We have met our first goal of  
16 getting the Phase 1 regs out at the time we initially set  
17 and at a time everyone thought was very ambitious, but  
18 we did it. I would like to continue to pursue, as I know  
19 we will, discussions with the City to see whether or not  
20 a different -- what flexibility we both have in terms of  
21 trying to meet legitimate needs.

22           COMMISSIONER STEBBINS: Is it fair to  
23 throw out a question. I hesitated to do this when their  
24 consultant was here, but is there another process they

1 can pursue that gets them to the same end that doesn't  
2 keep bumping up against our timeline and our statutory  
3 requirements? I don't know the answer to that, or even  
4 if that's a fair question to ask.

5 COMMISSIONER CAMERON: It didn't seem  
6 like they were willing to consider any other path,  
7 frankly.

8 CHAIRMAN CROSBY: Well, they had  
9 considered them and decided not to.

10 COMMISSIONER MCHUGH: Maybe that's the  
11 way they're staying. I'm not suggesting -- We all have  
12 to do what we have to do.

13 COMMISSIONER STEBBINS: I can appreciate  
14 the goal they are trying to reach. Again, my own  
15 viewpoint is if they send a couple of potential  
16 applicants on their way, maybe that bodes well for the  
17 rest of the region or another gaming region by giving  
18 somebody an opportunity, and we've talked about it,  
19 they've moved onto another region.

20 COMMISSIONER CAMERON: How can they send  
21 them on their way if they are going to present the  
22 \$400,000 check to us which means we will be doing the  
23 suitability investigation?

24 CHAIRMAN CROSBY: He said send them on

1 their way to another region. They can do that.

2 COMMISSIONER CAMERON: They don't have to  
3 tell us where for the suitability, but we will be  
4 conducting an investigation if they become an applicant.  
5 So, it doesn't speed up the process.

6 COMMISSIONER STEBBINS: I know what the  
7 City's goal is or at least I think I do. My comment was  
8 if their process they wind up with two they want to  
9 proceed to negotiations with and proceed to some type of  
10 host referendum ballot question with, is the State in  
11 trying to inject more competition into the process  
12 benefit by one or two or three that they choose not to  
13 work with deciding that they will look for other  
14 opportunities or other municipalities? I don't know the  
15 answer to that.

16 CHAIRMAN CROSBY: That's something that  
17 when Commissioner McHugh and I first talked with Kevin  
18 Kennedy I actually think that there is a possible benefit  
19 to that, yes. If three of the four know in December that  
20 they are out of the running in Springfield, they have time  
21 to rethink other regions or even other cities in other  
22 communities in Western Mass. I do think that is a side  
23 benefit of their truncated process.

24 I do want to say one thing. I've been



1 the integrity of the process, I think it is a role for  
2 us.

3 CHAIRMAN CROSBY: Yes. I totally agree  
4 with that. I've been clear on that.

5 COMMISSIONER MCHUGH: There's a  
6 fundamental piece there as long as we've dipped into the  
7 powder blocker that is very different.

8 CHAIRMAN CROSBY: The Springfield  
9 Armory.

10 COMMISSIONER MCHUGH: At the Springfield  
11 Armory that's appropriate.

12 Saying that somebody has to enter an  
13 agreement with somebody else is an almost impossible  
14 thing to enforce if you think about it. Because after  
15 all what we are talking about is an agreement as to which  
16 two sides have to agree, otherwise there is no agreement.  
17 Therefore, to say and this is at a very fundamental level,  
18 that any two people have to agree on something is to  
19 invite an outcome that is unenforceable.

20 For that reason, there is a basic  
21 principle in the law that nobody, no court will enter an  
22 order requiring somebody to fulfill an employment  
23 contract. There may be damages for breaching a  
24 contract, but nobody's going to require that somebody

1 fulfill an employment contract because you can't enforce  
2 it. I think there is a fundamental issue of the same kind  
3 running through this.

4 CHAIRMAN CROSBY: I'm missing that.  
5 What is that?

6 COMMISSIONER MCHUGH: If we were to say  
7 for example, that because there are four applicants there  
8 has got to be four host community agreements put up to  
9 a vote, we would be in effect saying to the City, not this  
10 City but any city you have got to enter into an agreement  
11 with somebody.

12 CHAIRMAN CROSBY: So, you are sort of  
13 agreeing with what I was saying?

14 COMMISSIONER MCHUGH: Yes, I agree.  
15 It's 5:30 that's what I get. Now you get it?

16 CHAIRMAN CROSBY: Now I get it.

17 COMMISSIONER MCHUGH: It's really very  
18 difficult to muck that deeply into the process and say  
19 you got to have an agreement.

20 CHAIRMAN CROSBY: If I put myself in the  
21 Mayor's shoes, if I were in the Mayor's shoes, I would  
22 want to take control of this process. There are issues  
23 of transparency. I am totally with you on that. I don't  
24 think I would be doing it the same way, but I feel like

1 this is his but for the schedule issue that this is his  
2 right. That's just for the record.

3 COMMISSIONER ZUNIGA: I am in  
4 disagreement with that. I appreciate your eloquence and  
5 thought. I believe that the legislation put the matter  
6 in the hands of the voters by referendum. I understand  
7 and appreciate that it's hard to enforce an agreement,  
8 but I don't think -- the issue that I see is the whittling  
9 down or the narrowing down that they are setting  
10 themselves to do.

11 I am encouraged that they are thinking  
12 about doing it transparently. From that perspective my  
13 questions as to how they are going to be scored are from  
14 the mental and I understand that is difficult because  
15 these proposals to begin with are going to be different  
16 sites and that in and of itself has complications.

17 The public especially here needs to be  
18 comforted that everybody was given a fair shot. And I  
19 think that is a paramount objective here and one that  
20 concerns this Commission. And I think that we have not  
21 seen the RFR, which we have asked for. I'd love to see  
22 it because it could hopefully inform potential bidders  
23 as to how they will be selected. I did not take much in  
24 the way of details from the presentation but --



1                   CHAIRMAN CROSBY: I think we've probably  
2 done as much of this as we can.

3                   We do have one other important issue that  
4 if we are ready to move on from Springfield.

5 Commissioner Zuniga and I had a phone call this morning  
6 with an investment banker that we have been talking to  
7 about this idea of going to New York and talking to the  
8 financial markets.

9                   As we began to realize if we are going to  
10 do this trip, we need to do it quickly because teams are  
11 probably being put together now. We asked this party two  
12 questions. First, does it really make any sense for us  
13 to do this or are we just kind of kidding ourselves? Is  
14 there any value that we could add by going to Wall Street  
15 and happy talking about what's going on in Massachusetts?  
16 Or are we kind of kidding ourselves that we really weren't  
17 going to add value in which case the conversation is over.

18                   They felt quite strongly, and quite  
19 articulately that we could have a material impact on  
20 equity players not on debt. The Bank of America types  
21 are going to belly up to this or not depending on --  
22 there's plenty of debt out there. But the equity  
23 partners and some casino developers who are on the  
24 sidelines might very well be interested in our process,

1 same point you made Commissioner Stebbins about people  
2 like to know what the rules are, what the rules of the  
3 road are.

4                   He said at a minimum there is no downside.  
5 And he said quite firmly I believe that it's added. He  
6 said, I think the bidders would appreciate it. We said  
7 we are not quite sure this is something we can do. But  
8 he said there is a way -- there might be a way to talk  
9 with people who we know to be bidders. If they're having  
10 trouble financing or if there are any issues that we could  
11 address. So, I take him at face value, take them at face  
12 value. They came back saying yes, they really felt it  
13 was a worthwhile trip.

14                   Our second question then was is there a way  
15 to do this at a price that we can live with? And the  
16 investment-banking world is such an incredibly expensive  
17 world, and as I said to them they just live with numbers  
18 that don't make any sense to anybody else on earth. And  
19 we talked about that and they did indicate some  
20 flexibility.

21                   We separated out the possibility of  
22 procuring them to help us negotiate with bidders in due  
23 time. That's a different issue. And that's a big  
24 project. This particular firm and others have done the

1 same thing, have helped Ohio and New York and the  
2 governments in other states negotiate and structure  
3 deals. That's a different issue.

4           This is simply to consult with us to put  
5 together a little bit of a roadshow where probably a  
6 couple of us would go and hit a very targeted -- They are  
7 quite knowledgeable about who the people are that would  
8 be potential investors. They talked about the fact that  
9 Carl Icahn is sitting on the sidelines now. He frequently  
10 does. He is an equity player in casino deals.

11           I think we came away with believing that  
12 if we could figure out a way to do it, it would probably  
13 be would be a good idea. We can procure from this  
14 investment banker and a handful of others that we know,  
15 we can do a pretty speedy procurement for anything up  
16 \$150,000. They are willing to bill us on an hourly rate.  
17 Their rates are in the nature of big law firms. They are  
18 anywhere from \$1000 for an hour for the principles to \$250  
19 for relatively junior people.

20           It would end up being a lot of money. I  
21 think it would be -- I think it would make us very, very  
22 distinctive. I think it puts real teeth to our mission  
23 statement where we talk about we want to have an industry  
24 here that can make an appropriate return on investment

1 in order that it serves the community well. And I think  
2 we might be able to add something.

3 Is it worth that kind of money? I think  
4 that is a decision we have to make. We wanted to get  
5 first of all see whether I said it right - A and B - get  
6 everybody's feedback on this.

7 COMMISSIONER ZUNIGA: I think you said it  
8 right. I would only add that there is something we  
9 haven't discussed much and that is engaging, having  
10 conversations with developers not just equity partners.  
11 You alluded to that but you did it briefly.

12 This notion of going to Wall Street is  
13 perhaps better summarized as engaging with players,  
14 equity partners and potential developers who maybe on the  
15 sidelines. But it also includes the potential of  
16 speaking to some of the current players as to what they  
17 may be thinking in terms of detail that they had not yet  
18 seen or questions that they have not put forward. There  
19 has been a local hearing process for that, but it is a  
20 little bit limited to the regulations we have set forth.

21 CHAIRMAN CROSBY: It's obviously a  
22 precondition here that if we were going to do this, we'd  
23 have to figure out a way -- we'd have to make very sure  
24 that there was absolute equity. We talk to everybody the

1 same way. Everybody has the same opportunity. That  
2 kind of thing. That's a precondition. What do you  
3 folks think?

4 COMMISSIONER MCHUGH: If we can do this to  
5 increase competition or increase the facility with which  
6 those already in play can get funds to commit, I think  
7 it is a good idea. If we are going to do it, we do it  
8 quickly because the qualification piece is about to get  
9 going.

10 I also think that before we do it we ought  
11 to get some advice from a securities lawyer about what  
12 we can do and what we can't do. Once we get into this  
13 area about which I know absolutely nothing except that  
14 it is shark infested.

15 CHAIRMAN CROSBY: Unlike our business.

16 COMMISSIONER MCHUGH: This is like life  
17 in the aquarium. I think we really need to have a handle  
18 on what we can say to whom, the kinds of things we can  
19 say to whom. I think there are probably broad  
20 guidelines. This is not a unique mission but I think it  
21 is one that we really need to be a little careful on. I  
22 would value a brief consultation from a securities  
23 lawyer.

24 CHAIRMAN CROSBY: Good point. Anybody

1 else?

2                   COMMISSIONER STEBBINS: I think it's  
3 worth exploring. Again, it would be great if it helps  
4 generate more competition, but it may be helpful to the  
5 operators who we know are out there shoring up confidence  
6 from their lending institutions.

7                   CHAIRMAN CROSBY: If it were something  
8 that we could do for \$25,000, I would be pushing the idea.  
9 They think this is going to be a couple of months work  
10 to really make this really good and get the appointments  
11 and go with us on the appointments. They think it's  
12 going to be a couple of months of work, which it's going  
13 to be real money.

14                   We are talking somewhere probably between  
15 \$50 - and \$150,000. I think we can cap it. I just want  
16 to make sure. That's a lot of money. It's the kind of  
17 value that an organization like this can give us. If we  
18 got one additional bidder that's worth I think a fortune.  
19 If we made the markets a little easier for any of our  
20 bidders that's clearly worth a lot of money. And this  
21 is a very specialized kind of expertise. This is what  
22 the market bares, but I just want to make sure that we  
23 have thought it through.

24                   COMMISSIONER STEBBINS: Keeping in mind

1 that timeframe as they have laid it out if it is a couple  
2 of months. In some respect, we have got some entities  
3 that have ponied up the \$400,000. Does that give us kind  
4 of a leeway to pose this question to those who we know  
5 are going to be applicants.

6 CHAIRMAN CROSBY: To ask if they think it  
7 would be useful?

8 COMMISSIONER STEBBINS: Yes. They are  
9 officially at this stage part of the process. Does that  
10 plunking down the check give us the opportunity to bounce  
11 this type of question off of them? I don't know.

12 CHAIRMAN CROSBY: Would this be a value  
13 add?

14 COMMISSIONER ZUNIGA: I would ask a  
15 different question of them, actually, but I think it is  
16 an interesting notion to ask of them some questions which  
17 is what type of information or what variables do you see  
18 in the statute let's say of what we put forward so far  
19 in our regulations, what do you think needs clarity in  
20 the Phase 2 regulations that is really making you make  
21 some projections or not? I think those could be very  
22 valuable questions.

23 CHAIRMAN CROSBY: It's a different  
24 question.

1                   COMMISSIONER STEBBINS:  You're saying  
2 take the opportunity to maybe get more detailed?

3                   COMMISSIONER ZUNIGA:  Yes.  Take the  
4 opportunity to ask those to our applicants.  They are in  
5 a different category as to what is it that you see as  
6 variables that you need to plunk into your financial  
7 model because that determines the other variables --  
8 where you need definition from this Commission.

9                   CHAIRMAN CROSBY:  I think those would be  
10 questions we would be asking if we do decide to make this  
11 trip, because we would be looking for data points.

12                   Probably most of our bidders are watching  
13 or are here.  Certainly, you're all hearing this.  We  
14 are looking for -- We are discussing this issue and I  
15 think we are open to advice on whether it's a good idea  
16 or not, if anybody's got it I think we would be  
17 interested.  Whether we could reach out and ask, do you  
18 have any instinctive response to that?

19                   COMMISSIONER MCHUGH:  I don't see why we  
20 couldn't as long as we do it in a public transparent way.  
21 I think that if we do this, I would anticipate coming back  
22 -- would there be a sharper proposal?

23                   CHAIRMAN CROSBY:  Yes.  I think we would  
24 have to do a quick procurement.



1                   COMMISSIONER MCHUGH:  An agenda item  
2 where we discuss this and then take a vote on it.

3                   CHAIRMAN CROSBY:  What I think we were  
4 looking for was a sense and if you're comfortable having  
5 us go ahead and try to tee this up further quickly then  
6 we'll do that.  It sounds like that is the consensus.

7                   COMMISSIONER MCHUGH:  I think it's worth  
8 pursuing.

9                   CHAIRMAN CROSBY:  Okay.  That was almost  
10 five hours.  Anything else on anybody's agenda.

11                   Do we have a motion to adjourn?

12                   COMMISSIONER MCHUGH:  So moved.

13                   COMMISSIONER CAMERON:  Second.

14                   CHAIRMAN CROSBY:  All in favor?  I.

15                   COMMISSIONER MCHUGH:  I.

16                   COMMISSIONER CAMERON:  I.

17                   COMMISSIONER ZUNIGA:  I.

18                   COMMISSIONER STEBBINS:  I.

19                   CHAIRMAN CROSBY:  Thank you all very  
20 much.

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22                   (Meeting adjourned at 5:47 p.m.)

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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.

//Laurie J. Jordan// Date: September 12, 2012  
Court Reporter for Office Solutions Plus, LLC  
My commission expires: May 11, 2018

//Elizabeth Tice// Date: September 12, 2012  
Elizabeth Tice, President, Office Solutions Plus, LLC  
My commission expires: August 26, 2016

- 1 ATTACHMENTS:
- 2 Attachment 1, Agenda
- 3 Attachment 2, August 28, 2012 Meeting Minutes
- 4 Attachment 3, September 4, 2012 Meeting Minutes
- 5 Attachment 4, September 10, 2012 Memorandum Regarding
- 6 Recommendation to Approve Execution of a Contract for the
- 7 Search of a General Counsel
- 8 Attachment 5, September 10, 2012 Memorandum Regarding
- 9 Recommendation to Contract for Brand Identity and Website
- 10 Development
- 11 Attachment 6, August 10, 2012 letter from Jeffrey r.
- 12 Pocaro, Esq., Regarding Walter Case
- 13 Attachment 7, September 3, 2012 letter from William J.
- 14 Geary, Esq.
- 15 Attachment 8, Consent Decree entered by Suffolk Downs
- 16 Attachment 9, August 27, 2012 letter from AIA
- 17 Massachusetts
- 18 Attachment 10, Casino Health Impact Assessment
- 19 Partnership
- 20
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- 22
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1 SPEAKERS:

2

3 Mayor Domenic Sarno - Springfield

4 Chairman Joseph Wagner of the Joint Committee on Economic

5 Development and Emerging Technologies

6 Edward Pikula, Springfield City Solicitor

7 Kevin =Kennedy, Springfield Chief Development Officer

8 Michael J. Schaller, Esq. - Shefsky and Froelich

9 Kimberly Copp, Esq. - Shefsky and Froelich

10 Frank Robertson, Executive Director of Partners for a

11 Healthier Community

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13 Eileen Glovsky, Director of Administration

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