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P R O C E E D I N G S

>> CHAIR JUDD-STEIN: Good morning, Austin. We are calling to order meeting number 276 of the Massachusetts Gaming Commission on Thursday, September 12th, 2019, at 10:00 a.m. at our offices here on 101 Federal Street. We'll begin with item 2, Commissioner Stebbins, please.

>> COMMISSIONER STEBBINS: Good morning, Madam Chair. In front of you I have the meetings from the August 15th, 2019, Commission meeting. I'd move the adoption of the minutes from that meeting, again, subject to any grammatical corrections or other immaterial changes.

>> CHAIR JUDD-STEIN: Any discussion?

>> COMMISSIONER ZUNIGA: I'm sorry. I did have a question, and I should have asked Director Wells. Maybe somebody will remember. On page 5, when she talks about the junket licensing requirements, she clarified that at the very end of that page 5, she clarified that when the IEB is referring to junkets, they're specifically referring to junkets and Macau. I thought it was not Macau. In the context of marketing, we're not really talking about licensing the junkets in Macau or whatever it is there.

>> MS. BLUE: We can make that change.

>> COMMISSIONER ZUNIGA: Okay.

>> CHAIR JUDD-STEIN: Any other suggested edits or questions or comments? Shara's not here, but they're excellent. Do I have a second?

>> COMMISSIONER ZUNIGA: I second with that correction.

>> CHAIR JUDD-STEIN: All those in favor?

[Vote taken]

Opposed? 4-0, thank you. As you can see, we're missing today Commissioner Cameron. I think she's on a lovely golf course at the Ryder Cup. The Cup in Scotland. So we are hoping that she has good Scotland weather, but we are missing her today.

Okay. Administrative update, Director Bedrosian.

>> MR. BEDROSIAN: Good morning, Commissioners. A couple things I wanted to update you on. Just as a reminder, we traditionally release gross gaming revenue for the previous month on the 15th. The 15th is a Sunday. So as we follow our past

practice, we'll release that on Monday, the 16th. So just an FYI.

The next thing I want to do was to give you an update on some staffing issues, what I call open positions. Some of which are open but are in the interviewing process and/or background process. We have a senior Enforcement Counsel that is in the interviewing process. In fact, some interviews are happening this morning. We have gaming agents in metro Boston. We have three people in background check and may have an additional position for a backfill on someone we found out may be leaving us. So if there are folks who are interested in being a gaming agent, please keep posted with our website, and that may be an opportunity for someone.

We have a senior systems engineer. We have an offer out with a background check in process. We have an IT cloud specialist position. We haven't interviewed that one because that one is contingent upon some structural IT changes, which that's another issue I may come back to with and explain with our CIO. So just hold off on that one, please.

We do have, however, a senior service desk specialist. We have an offer made to a great individual who's in the background check right now. We expect that should be taken care of relatively soon. And also, the IEB lost their open source specialist. So we're in the process of refining that job posting and having that posted. You have to get an HRD template. We'll get that done and get that out soon. So those are our open positions. Does anyone have any questions on those? And just in case you do, I brought our HR person. Okay. Thank you.

The next thing I want to do is recognize Director Vander Linden who was asked to serve -- Singapore has a National Council on Problem Gaming. Within that National Council, they have an International Advisory Panel. And Mark has been asked to serve on the International Advisory Panel, which I think is a tribute to a lot of the work that he and I would say in part the Commission does on responsible gaming.

Previous members of that are people we know, Dr. Volberg has been a previous member of that, Keith White has been a previous member of that. And I think Mark will do a great job. And as much as I think we are a leader, I also believe that participating in that will benefit us also. So I just wanted to congratulate Mark on that and let you all know about that.

>> COMMISSIONER ZUNIGA: Yeah, let me just add to that point. I think, as you alluded to, Director, the work that we've done here is recognized, and we talked about this before. It's recognized in other places as really important for the industry, for the business model, and, of course, most importantly, for the players. And I really think that Director Vander Linden could comment at a later time, either today or a later Commission meeting, and give more details of the trip that he already took.

>> MR. BEDROSIAN: Sure.

>> COMMISSIONER ZUNIGA: And some of the feedback that he -- what we learned from what they wrestle with in other jurisdictions. Singapore is really a premier market in Asia and one that, again, as you say, we could learn from. But it's great that he was asked to participate and that he's able to do that.

>> MR. BEDROSIAN: Great. Thank you.

>> CHAIR JUDD-STEIN: I just want to note that Director Wells just came in. Is there any need to clarify that to go over with Director Wells the edit on the minutes? We're good.

>> COMMISSIONER ZUNIGA: I think we're good.

>> CHAIR JUDD-STEIN: Excellent. Thank you so much. And congratulations to Mark.

The next item on the agenda is consideration of a petition filed with the Massachusetts Gaming Commission relative to the 2016 denial of the application for a gaming license submitted by Mass Gaming and Entertainment. Before we begin, and if you'll indulge me I would like to explain the process that we will follow today. We are here on a procedural legal matter. Accordingly, we will begin by asking our lawyers to brief us on the law pertaining to reconsideration or reopening of previous agency licensing decisions. We will then allow the petitioner to present its position to the Commission.

We expect that presentation to be limited to the very narrow issues related to reconsideration that are properly before the Commission today. Of course, any Commissioner may ask any question or offer any comment during the course of either presentation. Because this is a legal matter, we will not be opening the floor for public comments today. However, regardless of the outcome of today's review, there will be an appropriate time for public comment and input on the subject of a gaming establishment in Region C in the future.

To that end, I would like to acknowledge receipt by the Commission of numerous written comments relative to Region C-related issues. Since these comments were largely not directly related to the narrow issue now before us, they have not been included in the public materials for review by the Commission today. Again, these materials may be reviewed at the appropriate time in the future, and they're very critical to our process.

Before I continue, I'd like to acknowledge the presence of -- at least we know of one elected official, our Mayor Rodrigues, who is here from Brockton today. I hope we haven't missed anyone else. Thank you, Mayor, for being here today, and thank you for your continued interest in this important subject matter and commitment to ensuring the best possible outcome for the region, for the Commonwealth as a whole.

We'd like to also pause for a moment at this point and remember a person who would undoubtedly have been present here today, the late Bill Carpenter, Mayor of the City of Brockton. Bill was a great champion for the city of champions, a tremendous advocate for the region, and as I understand it, all-around good man. We'll keep him in front of mind today during these proceedings.

At the conclusion of the presentations by the Commission's counsel and MG&E's counsel, the Commissioners will discuss the matter in open meeting and vote on the outcome. The first question that we'll consider is whether the Commission has the authority to reconsider a previous decision relative to the award of a gaming license. Secondly, if we determine that we do possess that authority, we will decide whether there are sufficient grounds in this case, whether they exist to properly exercise that authority to reconsider the Commission's 2016 decision.

As I mentioned, we are here today on a petition submitted by Mass Gaming & Entertainment for reconsideration of the Commission's prior decision to deny its application for a gaming license. It's important to clarify a few points at the outset because this is not uncomplicated. If the petition is allowed and the Commission agrees to reconsider its prior decision, it does not mean that the gaming license is

awarded to Mass Gaming & Entertainment, and they can go ahead and commence construction of a casino in Brockton.

Instead, such a decision would only meet if the Commission agrees to set up a further proceeding in which we would review the prior application again and determine, based on the particulars of the submission, including public input, whether to award the gaming license. On the other hand, if the Commission denies Mass Gaming & Entertainment's petition today, it does not mean that there will never be a casino in Brockton or elsewhere in Region C. As long as the Region C gaming license has not been awarded, the Commission may choose to reopen Region C to bids from any interested party including Mass Gaming & Entertainment at any time.

The question as to whether to reopen Region C is not before the Commission today, however. Do any of my fellow colleagues have further comments before we turn over to our lawyers?

>> COMMISSIONER O'BRIEN: Thank you, Madam Chair. Just to follow up on the scope of what we're here for today. I did want to clarify there were a number of submissions by MG&E's counsel, particularly the one that came in this week. And just from my perspective going forward for our counsel and for MG&E's counsel, to me anything beyond page 5 in that submission is really beyond the scope of what we're talking about today. I want to hear what has to do with the question of law, do we have the authority, and should we. So I just want to make clear as we go forward to not only the parties here but any other parties, anything past page 5 in that submission to me is beyond the scope of why we are here today.

>> CHAIR JUDD-STEIN: Any further comments or considerations? I think that Commissioner O'Brien has raised an important point. We did receive a PowerPoint, I believe, yesterday from MG&E, and that is included in our documents that was publicly posted. And I don't believe that any minds have been made up. In terms of relevancy, we would have to be convinced, of course, as to the -- how they're relevant to the narrow issue before us. I'm speaking for myself when I say "we." I really should only say I would have to be convinced. And we will allow you the opportunity to make sure to be heard on all of that. When -- I -- when we -- I believe you'll be going second, and then you can explain this. Okay. Excellent. And thank you.

So I think at this point, barring any other comments -- excuse me -- that we will turn now to Attorney Blue, Attorney Grossman, that's Catherine Blue and Todd Grossman. I understand that we've allocated -- this is probably the best news for all of us -- about 20 minutes for each argument. I only say that not for our front row but for the folks behind, that we are limiting our presentations in a fair way. And we thank you for proceeding.

>> MS. BLUE: Thank you, Madam Chair and Commissioners. This morning the legal department has a brief presentation regarding your discretion and authority to reconsider this matter. Mr. Grossman will be going through the PowerPoint that we put together, and it will also be up on the screen. So go ahead, Mr. Grossman.

>> MR. GROSSMAN: Thank you and good morning, Madam Chair and Commissioners. As Ms. Blue mentioned, we did prepare a PowerPoint that we'll run through, help us run through some of the legal issues relative to this matter. As the Chair referenced previously, the Commission did receive a request from Mass Gaming & Entertainment seeking a reconsideration of a previous licensing decision.

Upon receipt, the Chair asked that the legal department take a look at whether that is an issue that the Commission can properly consider.

So we'll focus our remarks on that. The first question as we lay out here, then, is can the Commission reconsider or reopen a previous decision relative to the award of a gaming license? The obvious companion to that question is question number 2 on the first slide, which is if the Commission can reconsider or reopen a previous decision, what are the appropriate grounds upon which to base such a decision on? So let's jump right into the first question on the next slide. The threshold issue, as we mentioned, presently before the Commission is whether or not the Commission can reconsider or reopen a previous decision relative to the award of a gaming license. And let's be specific about what the previous decision was.

Mass Gaming & Entertainment has requested the Commission reconsider its August 11th, 2016, decision to deny its application for a gaming license to construct a gaming establishment in Brockton, Massachusetts. Their request is in the packet for anyone to take a look at, as is that 2016 decision. It is important to note what they have not asked. So mass gaming & entertainment has not and has never in the past appealed that decision to a court or otherwise or in any way asserted that the matter was incorrectly decided as a matter of law or wasn't supported by the facts in the record. This is an important distinction as we walk through the present consideration, as there are certain time line issues that come into play.

With appeals, there are typically hard and fast time lines that would preclude review of certain matters if they were filed beyond the time lines. Whereas with reconsideration, there are different indicators that we should look at to determine whether it's okay to consider a past decision.

So on the next slide we get into the actual legal authority. This seems to be a fairly well-settled area of the law. And the established principle is outlined in the first bullet where we say -- and there are a number of cases that talk about this in slightly different language. But essentially in the absence of express or perceived statutory limitations, administrative agencies possess an inherent power to reconsider their decisions. That's exactly the situation we have before us. MG&E has asked you to reconsider a past decision.

That being said, there are limitations on that power. And the power to reconsider must be sparingly used if administrative decisions are to have resolving force on which persons can rely, meaning that obviously once a decision is made, you don't want to just go around changing decisions that people have come to rely upon unless there's a good reason for it. So that is part of this principle, that you are allowed to reconsider a decision, but you should do so sparingly and thoughtfully.

The exercise to reopen or not to reopen rests in the sound discretion of the Commission. And it's reviewable only for an abuse of discretion. So that's the outer limit as to how far courts have said that agencies can go. You can't obviously abuse the discretion that you have. And we'll go through some of the principles that you'll want to consider in determining how far you are allowed to go.

But all summed up, the courts have said that administrative agencies have broad discretion over procedural matters before them. And the courts will defer to an agency's procedural rulings and review them for error of law or abuse of discretion. The matter presently before you is such a procedural matter, and the jurisprudence tells

us that the Mass Gaming Commission has broad discretion as to whether to reopen the matter or not to reopen the matter. It's always helpful to take a look at the specific legal authority when it comes to the Commission's discretion. And we've cited this often, and you're likely very familiar with it, but it's helpful to bring up in context like this as well.

The Commission has been granted a very broad discretion itself by statute, and it's explicit. It charts in Chapter 23K, Section 1, paragraph 10 says that the power and authority granted to the Commission shall be construed as broadly as necessary for the implementation, administration and enforcement of this chapter. So we add these principles on top of the already existing jurisprudence that the courts have said apply to reconsideration.

It's also helpful in the next two bullet points we talk about to look at the vast discretion that the Commission has when it comes to the award of a gaming license itself. And the statute talks about it in a number of places. We've cited a couple here for your reference. And these are important principles to bear in mind when you are determining whether or not to reopen or reconsider this present matter.

So the statute says that the Commission shall have all powers necessary or convening to carry out and effectuate its purposes including but not limited to the power to develop criteria in addition to those outlined in this chapter to assess which applications for gaming licenses will provide the highest and best value to the Commonwealth and the region in which a gaming establishment is located.

That language, particularly the language that talks about the highest and best value to the Commonwealth and the region conveys a very clear intent by the legislature to grant the Commission broad discretion to determine whether or not to award a gaming license. So essentially you would have to satisfy yourself, based upon all the evidence and the facts before you, that any applicant has satisfied you that they will provide such value.

The statute goes on and talks about it in one other place that's worthy of taking a look at. It's Section 19A where the statute talks about the award of the Category 1 gaming license in particular. And it says that gaming licenses shall only be issued to applicants who are qualified under the criteria set forth in the chapter -- for this chapter as determined by the Commission. Within any region, if the Commission is not convinced that there is an applicant that has both met the eligibility criteria and provided convincing evidence that the applicant will provide value to the region in which the gaming establishment is proposed to be located and to the Commonwealth, then no gaming license shall be awarded in that region.

Again, it's helpful to look at the language in this provision that talks about that there has to be convincing evidence that the applicant will provide value to the region. That, again, indicates a desire by the legislature and the governor to provide a broad granted discretion to the Commission over the award of a gaming license. And that's what we have before us here today.

So let's take a quick look at the outer limits of that. What does an abuse of discretion actually look like? What does it mean? Well, the language is fairly broad, and the court has said that when reviewing an agency's decision for an abuse of discretion, that the court will look to see whether the decision was reasonable. Now, most of the things we do, we hope, are reasonable, but generally that means that they

have to be based upon the record and the facts before you. The court has offered some specific guidance, though, in the context of reconsideration or reopenings as to what it may consider to be the hallmarks of a reasonable decision.

And it said here in the second paragraph, "while each agency's decision to reopen a proceeding must be considered in the specific context of the circumstances presented and the statutory scheme involved, factors generally to be weighed by the agency include the advantages of preserving finality, the desire for stability, the degree of haste or care in making the first decision, timeliness, and the specific equities involved."

So the 2016 gaming Commission decision relative to the application of MG&E should be reviewed in the context of these principles. It has been suggested at times that there is actually a statute that may impose an impediment here, and that is Chapter 23K, Section 17G. The question is whether that imposes a barrier to your reconsideration at all.

So let's recall one of the principles we talked about a few slides back where we said that in the absence of express or perceived statutory limitations, administrative agencies possess an inherent power to reconsideration their decisions. So the question is in this context, what, if any, is the significance of Section 17G? Well, 17G itself says that the Commission shall have full discretion as to whether to issue a license. That applicants shall have no legal right or privilege to a gaming license and shall not be entitled to any further review if denied by the Commission.

The language that we want to look at closely here is the phrase "further review." What does "further review" mean? Does that mean court review? Does it mean review by the Commission, or what exactly is this provision of the law getting at? And the question being, does it impose specifically an express or a perceived statutory limitation of the sort that would preclude on its face the Commission from reconsidering the previous licensing decision as MG&E has requested? It's our position that it does not. That that's not what that statute was designed to preclude. The Commission itself has never formally opined on this section, but it seems clear to us that Section 17G was intended to preclude judicial review of the award or denial of a gaming license and that it was not intended to prevent the Commission from reviewing its own decision as to whether to award such a license.

>> CHAIR JUDD-STEIN: Mr. Grossman, I don't want to interrupt the cadence of your presentation, but it might be helpful if we do address some questions along the way. Just to be clear, in the City of Revere matter, the SJC language doesn't say address the issue of administrative review. It only addresses judicial review. And the language in the statute says further review and doesn't say judicial review. While I respect your position, would it be fair to also say it hasn't been resolved with exact clarity that this is restricted to strictly judicial review?

>> MR. GROSSMAN: That's a very fair position to take and reasonable. The opinion we offer is, ours, it's based upon our understanding of Chapter 23K and I think supported by what the SJC said in that Revere decision that you've referenced. And though the court was not squarely addressing the statute in the context we're looking at it here today, it did offer some insight as to what the purpose of the statute was. And I think it is applicable to our review.

And we've added that language here for you and everyone to take a look at. But

it's really the second piece of the quoted language that I think gets to the clear intent of that particular statute. Where the court said -- this is the second provision -- Section 17G reveals a clear legislative intent to sharply curtail judicial review of Commission licensing decisions and thereby avoid the costs and delays of protracted litigation. It seems -- so this -- I think a provision like this is somewhat unique to include in any type of licensing scheme. I've never seen one like it. I'm not saying they don't exist anywhere, but I've never seen anything quite like it. It seemed that in the development of the gaming law, the legislature and Governor were well aware that some of these decisions could be contentious. And they wanted to ensure that the decisions didn't get held up in court such that these facilities could never get constructed. So they included this language in 17G.

But it seems counter to the rest of the jurisprudence on reconsideration and reopening to apply that restriction to yourself.

>> CHAIR JUDD-STEIN: Because of the broad discretion that's afforded.

>> MR. GROSSMAN: Because of the otherwise broad discretion.

>> CHAIR JUDD-STEIN: Understood.

>> MR. GROSSMAN: As we'll get into on the next slide, there are certain situations where you would definitely want to reconsider a decision.

>> CHAIR JUDD-STEIN: And just to be clear, 17G is limited to just the licensing decision.

>> MR. GROSSMAN: Yes. It says the license.

>> CHAIR JUDD-STEIN: And -- and the Commonwealth is only given the opportunity to award three --

>> COMMISSIONER ZUNIGA: Four.

>> CHAIR JUDD-STEIN: Four in the end. Three and then a slot. So it really was a provision that was limited in scope just for our licensing decisions.

>> MR. GROSSMAN: I believe so, yes.

>> CHAIR JUDD-STEIN: But the suggestion is that finality was important. But at this point your position is it really is addressing judicial review.

>> MR. GROSSMAN: That's my position.

>> CHAIR JUDD-STEIN: Thank you very much.

>> COMMISSIONER O'BRIEN: Before we move on to the next slide, there was some discussion in the past about whether or not we would need regs if we were going to move forward and reconsider. I take it from sort of the discussion in the papers that have been submitted to us thus far that there doesn't seem to be a lot of dispute that we do not need to do that if we choose to reconsider. I just want to clarify that before we go any further into what would entail -- what would be entailed in a reconsideration.

>> MR. GROSSMAN: I don't think you would need reconsiderations, per se. You would certainly need to agree on a procedure of some sorts. We, of course, have an RFA2 procedure. I would expect that any review would be at least somewhat modelled on that. So we do have some infrastructure, though not --

>> COMMISSIONER O'BRIEN: Let me stop you. Maybe I didn't -- let me make myself clear. In terms of just the process for reconsidering.

>> MR. GROSSMAN: Oh.

>> COMMISSIONER O'BRIEN: Am I to take it from the presentation of both of the parties that we do not need any sort of regulations for that? Is that a fair statement?

>> MR. GROSSMAN: No, I don't believe you need -- this is just a procedural matter before the Commission.

>> COMMISSIONER O'BRIEN: There had been conversation about that earlier. I just wanted to make clear for the record. We're proceeding on that?

>> MR. GROSSMAN: No, I think this is the procedure. This is how we should do it.

>> COMMISSIONER ZUNIGA: I agree with that, and thanks for clarifying. It's also -- it occurs to me that these decisions are so few that for us to issue regs around it, you know, whether we have four or five, because there was one reconsideration or not, would really defeat the purpose, in my opinion, of the regulations.

>> MR. GROSSMAN: I agree.

>> COMMISSIONER ZUNIGA: Regulations to, in my mind, come for things that are going to be repeated over and over.

>> CHAIR JUDD-STEIN: I think that Commissioner O'Brien was addressing an earlier letter that was issued --

>> COMMISSIONER O'BRIEN: Right.

>> CHAIR JUDD-STEIN: -- by the Commission, raising that question, and it sounds like we've moved on based on the input from our fellow counsellors. Thank you. The only other -- before we move on, you did mention that MG&E did not pursue an appeal through the judicial process and that there were limits. Can you remind me how many -- what the time limit is for seeking judicial review on --

>> MR. GROSSMAN: Sure. If it's a 30A decision, you typically have 30 days. If it's a certiorari, 60 days.

>> CHAIR JUDD-STEIN: 60 days. In that case, the more appropriate review is certiorari. Thank you. Does anyone else have a question?

>> COMMISSIONER ZUNIGA: I think you already sort of alluded to.

>> CHAIR JUDD-STEIN: Right. And we'll reserve our right to ask questions throughout without hopefully disturbing your cadence too much.

>> MR. GROSSMAN: No, it's helpful not to get caught up in a cadence, so I appreciate that.

The next slide we talk about the actual grounds for reconsideration. And these are taken from a variety of cases on the subject. And through those cases, we found that some of the examples of appropriate grounds for an administrative agency to reconsider a decision include things like -- and this is not an exclusive or exhaustive list -- to remedy a fraud or a mistake, to address changes in a regulation or a regulatory scheme, if governing decisional law has changed. There was one instance in which the Supreme Court actually changed a legal principle upon which a previous decision was based, and even a number of years later, going back to review that decision, was appropriate to ensure that it was in conformance with the new law. If there's a change to the applicable on-the-ground facts. Or finally, to prevent a miscarriage of justice.

The one that seems most applicable to the present matter would be a change to the applicable on-the-ground facts. We'll certainly leave it to MG&E to make that point. But of all of them, there's been no assertion of any fraud or mistake or anything like that. Those are just some of the other reasons that you could review an administrative decision. And just to get back to the time lines and the 17G discussion, these are the reasons why you don't ever want to box an administrative agency in and say you can never reconsider a decision, because you could find out -- and this has happened. Not

in our world but in the administrative law world -- where you find out, even many years later, that a decision was based on mistaken information or someone who perjured themselves or something of that nature. So you want to make sure that administrative agencies have the ability to go back and correct the error or the decision that was based on that faulty information was made.

This case comes from a sex offender registry board case which of course, is oftentimes largely based on witness testimony and expert testimony, and people get classified as sex offenders based upon this testimony. And the court said in an instance like that, if the evidence the board substantially relied on in reaching its final classification decision were subsequently demonstrated to be false inaccurate or utterly unreliable, the board would retain the discretion to exercise this inherent authority to reconsider, to prevent or mitigate a miscarriage of justice. So I think that's just an illustration as to why you don't want hard and fast timeframes or things like that assigned to reconsideration. And as we'll see coming up, timeliness and timeframes are an important factor to consider but should not be the sole consideration in making a decision like this.

>> COMMISSIONER ZUNIGA: Actually, I might stop you before we get into the timeliness because this ties into the question I had. So the grounds for reconsideration, if I could tie that slide back to two slides ago where you also talk about the factors and specific context and circumstances presented to be weighed for the reconsideration. The gaming license is clearly one of the most consequential licenses that this Commission has made or will make. In your opinion, does the magnitude of the decision factor into whether something like this should be reconsidered?

>> MR. GROSSMAN: I think you should consider everything. That, in and of itself, would not be a deciding factor. You should not just say that this is such a big decision that we're never going to reconsider it because there should be -- there might be other circumstances that would lead you -- like fraud or mistake or change in the law or some of the other things we just talked about. So it's certainly something to consider, and that's what the court did say here, that a decision to reconsider must be considered in the specific context of the circumstances. So I'd say that is a factor. But you could also consider the level of scrutiny that went into the decision and whether a lot of research went into it and preparation and thoughtfulness and things like that. So, yes, it is a consideration but not a --

>> COMMISSIONER ZUNIGA: It clearly cuts both ways. I was just thinking theoretically, if given the different consequence -- the consequential aspect of decisions, in your opinion, have the courts opined, whether those would be another factor to consider in reconsidering.

>> CHAIR JUDD-STEIN: For instance, if there is a change of law, I could imagine a change of law would -- the status of the legal landscape of the timely considered application might have deterred other applicants from applying. So if you only go back and reconsider the initial applicant or applicants and not think about those who may have been deterred from applying because of the legal landscape and the legal landscape changes, that alone shouldn't be enough to just consider -- reconsider the initial applicants, should it? You know -- in other words, factors that we'll never know which may have led to a different bidding process.

>> MR. GROSSMAN: Well, I think the answer is that any one factor could be

outcome determinative depending on what it is and how clear it is. And that's really up to the Commission as to whether the circumstances are different from the way they were back when the decision was made. As a general matter, though, I would say you want to look at these things holistically and decide based upon a number of factors, what the reasonable outcome here should be.

>> CHAIR JUDD-STEIN: But certainly the complexities of the decision present a bunch of unknowns at the time the decision was made and the applicant --

>> COMMISSIONER ZUNIGA: I think you may be alluding to the competitive environment, which was complicated and had multifactors at the time which may be changing. I think, if anything, that falls under the category of the on-the-ground facts over there in the fifth bullet, which, again, is one of the factors that we should take into account.

>> MR. GROSSMAN: We can move on to slide 9 which addresses the timeliness issue. The question has been raised as to whether there's an express time line to exercise your inherent authority here. I think we've already really covered that. But our position is that there is not. This is distinct from an appeal where there is typically a hard and fast time line. But that being said, timing is a factor to be considered. And administrative agency decisions, as we talked about, may be reviewed for an abuse of discretion. And as we said, for example, the 30A appeals typically have a 30-day deadline, so there are circumstances where there are hard and fast deadlines.

But this St. Paul Fire and Marine Insurance case was just one example where a court actually did find that an administrative agency had abused its discretion based upon the timeliness issue. And this case involved a cancellation of an insurance policy. It was a little bit complicated. And there was an administrative agency decision where the holder of the policy had appealed. They were denied shortly thereafter that the final decision was made, they learned that there had been a fraud involved that caused the cancellation of the policy. But they never -- the policyholder never took any steps to ask for reconsideration then. They waited about five years later where there had been criminal charges and other circumstances that arose. And the actual -- the DIA did reopen the case. The insurance company appealed, arguing that they waited too long. And the court said, yes, you waited too long. You knew about this five years ago. You should have raised it then. You should have sought reconsideration then.

And so that's where the finality and the timeliness and all those types of issues come into play. So there is a limit to reconsideration. And this is a good example of that. The court has said -- and we just added this here at the end. This would not be the time to do it necessarily, but if you wanted to prescribe some kind of time limit, which I don't think would necessarily be advisable because there are so many different circumstances that could arise that you could, by regulation, set a time limit on any reconsiderations of different decisions. But we don't have one at the moment, certainly, so that doesn't come into play here.

And so that's the end of our presentation. We're happy, of course, to take any questions or we can stand by as we go through.

>> CHAIR JUDD-STEIN: Because we could return to you for further clarification.

>> MR. GROSSMAN: Yes.

>> CHAIR JUDD-STEIN: You're not going anywhere.

>> MR. GROSSMAN: We'll be here.

>> COMMISSIONER ZUNIGA: You're not going anywhere.

>> CHAIR JUDD-STEIN: Any questions, Commissioner Stebbins?

>> COMMISSIONER STEBBINS: No.

>> CHAIR JUDD-STEIN: For Todd or Catherine? Eileen, all set?

>> COMMISSIONER ZUNIGA: Thank you.

>> CHAIR JUDD-STEIN: Thank you. So I understand that MG&E is represented by counsel, Goodwin Proctor. I'd love for you to identify yourselves for our record. And you know that you are being streamed. So we would love for you to be able to speak clearly into the microphone so that everybody at home can hear you as well.

>> Are you suggesting that we should get a comb before we begin?

>> CHAIR JUDD-STEIN: Do you need a little break?

[Laughter]

>> MR. APFEL: Thank you, Madam Chair.

>> CHAIR JUDD-STEIN: Please proceed. Thank you.

>> MR. APFEL: Thank you, Madam Chair and Commissioners. David Apfel. With me is Roberto Braceras from Goodwin Proctor on behalf of MG&E and on behalf of Rush Street corporate parent of MG&E and Neil Bluhm who is sitting with us here who is the founder of Rush Street and the co-owner of Rush Street and really the driving force behind Rush Street and behind this project. So there's -- there's a slogan in the law that if you agree with everything that the other side says, you really should just not open your mouth and sit down. But being a lawyer --

>> CHAIR JUDD-STEIN: Do you want to take that? Maybe I should ask your client.

[Laughter]

>> MR. APFEL: I'm inclined to do that. Being a lawyer, I think I'm constitutionally incapable of doing that.

So why don't we start with the -- quickly with the narrow legal question as framed by the -- as framed by the -- by Mr. Grossman and Ms. Blue and the Commission staff and as applied to this matter. Can the Commission reconsider MG&E's application for a gaming license? And the answer is an unequivocal yes. We really are 100% in agreement with everything Mr. Grossman said on the subject, and we're not going to belabor that. I think there's no dispute here that the -- on the very narrow legal question that the Commission does have discretion. The only dispute that has arisen is an 11th hour dispute in a letter that was submitted on behalf of the Notos which we received I think on Tuesday afternoon. And I believe is part of the Commission's packet where they take the position or lawyer on behalf of the Notos Group takes the position that the -- that the gaming law specifically Chapter 23K, 17G, which Mr. Grossman talked about, acts as a preclusion of some sort on the Commission's ability discretion to reconsider.

What the Notos Group does not do, however, in their letter is that they cite to 17G but conveniently leave out the first sentence of 17G. And the first sentence of 17G makes it clear that, quote, the Commission shall have full discretion as to whether to issue a license. They focus on the second part and the language concerning further review. And interpret that to mean that further review means that you yourselves cannot further review. But as Mr. Grossman pointed out, the SJC, I think, has clearly stated in the City of Revere versus Mass Gaming Commission case that further review specifically within the meaning of 17G means and is limited to judicial review and

doesn't in any way affect the broad discretion that is given to the Commission by virtue of the first sentence in 17G.

The Notos Group does not cite that binding authority from the SJC. So what we have here is, on one side of the ledger, we have -- we have ourselves. We have the Commission staff. We have seven justices of the SJC, and we have the law all saying you have discretion to reconsider. And on the other side, we have a -- what frankly is a self-interested party, ignoring the law and taking a different position. I don't think this is really a close call.

The next issue --

>> CHAIR JUDD-STEIN: Could you just read the first sentence to me in its entirety, please?

>> MR. APFEL: The Commission shall have full discretion as to whether to issue a license.

>> CHAIR JUDD-STEIN: Right. So that's issuing a license.

>> MR. APFEL: That's issuing a license but there's no time limit on that. There's no -- it's full discretion with regard to issuing a license and changing your mind in the process or thinking about it again or, as we're suggesting, reconsidering an earlier decision.

>> CHAIR JUDD-STEIN: So I don't think it's debated that when the application was before the Commission that there was full discretion to whether or not to grant or deny. And then the next sentence is?

>> MR. APFEL: The next sentence is, quote, applicant shall have no legal right or privilege to a gaming license and shall not be entitled to any further review if denied by the Commission.

>> CHAIR JUDD-STEIN: If denied, right.

>> MR. APFEL: If denied.

>> CHAIR JUDD-STEIN: So the question really is around the SJC has determined further review at least with respect to judicial review means that they are interpreting it as judicial review as precluded but, of course, they're allowing certiorari in terms of equities, correct?

>> MR. APFEL: That's conceivable and they've left open that possibility. But they've made it clear that they are -- they recognize that the legislature has given broad discretion to the Commission, and they're not going to interfere with that broad discretion so long as it's exercised in -- so long as the discretion is not abused. So long as it's exercised in a reasonable fashion. And there's nothing to suggest that reconsideration, under these circumstances, would be anything but reasonable. Which I think gets us to the next issue, which is the appropriate grounds for reconsidering, which is the second question as framed by Ms. Blue and Mr. Grossman.

What are the appropriate grounds upon which to base a decision to reconsider? And, again, here we agree with the staff, you know, as the staff made it clear, Mr. Grossman made clear in his presentation, there are -- there are really many grounds on which to reconsider, and I think some of those grounds, a nonexclusive list, is on slide 8 of the Commission's -- of the Commission's -- of Commission staff's presentation. And one of those many grounds is changed factual circumstances.

The right to reconsider, the grounds for reconsideration, are expressly under the case law not limited to, as the Notos Group, again, would suggest, mitigating a

miscarriage of justice. Again, it's -- the touchstone here, the test here is what is reasonable, is what is it -- when is it reasonable for the Commission to reconsider? Here, you know, at least for today's purposes, we're certainly not going to argue that there was a miscarriage of justice in the original decision. I think it could conceivably be argued, but that's not our point, certainly not here today. Here our focus is on changed circumstances which justify reconsideration and the reasonableness of reconsideration under the circumstances.

So let's turn to changed circumstances. And we'd like the Commission to focus on three changed circumstances that have occurred between the denial decision that was made by the Commission by a vote on April 28th of 2016 and then formalized, as Mr. Grossman indicated, in a written decision that was issued, I believe, on August 11th of 2016. And what has changed since then. And we're going to focus on three changes. The first being a change with regard to the status of the Mashpee **Wampanoag**. And it's our position that the Mashpee have gone from a position that as of April of 2016 when the Commission considered MG&E's petition, initial petition, initial application, they had land and trust status. They had broken ground. They were -- they were on their way to building a casino in Taunton.

Things have changed dramatically to the point where they really have no realistic chance of ever building a casino in Region C. And we're not going to, you know, debate whether or not -- that's our view, but I think that is the natural inference from the facts of what's happened since April of 2016. Now, we know that, you know, some Commissioners may disagree with us as to how big a role the Mashpee played in the decision to deny MG&E's application. And we recognize that the Commission has concerns separate and apart from the Mashpee. They had concerns with MG&E's design. They had concerns with other aspects of the proposal, which we're prepared to respond to. But I think there really can be no question that the Mashpee and the Mashpee status as of that time was a factor --

>> COMMISSIONER O'BRIEN: Can I stop you for a moment?

>> MR. APFEL: Sure.

>> COMMISSIONER O'BRIEN: Is it your position that any change in circumstance on the ground would then allow someone moving for reconsideration to put additional evidence in on any other topic so there were multiple reasons in this case that the application was denied in 2016. Is it your position that a change in factual circumstances related to the **Wampanoag** would then allow you to present in front of us any other change in circumstance that you wanted to put in?

>> MR. APFEL: Yeah, I think there's -- I think there's a materiality test, you know, and that the change in circumstances have to be important changes in circumstances that really affect the decision or affect the people who would ultimately be affected by the decision. So it's -- you know, and obviously the Commission, in making the determination as to whether or not to reconsider, that's not reconsideration in and of itself. That's just a decision whether or not they're going to -- whether or not they're going to reconsider. And to take into account material changed circumstances, important changed circumstances, I think is valid.

>> COMMISSIONER O'BRIEN: So are your change in circumstances the **Wampanoag** status or is it beyond that?

>> MR. APFEL: It's beyond that. I mean, that's the first of the changed

circumstances. And the -- you know, but what I think is important here is to focus on the fact that you have to remember the context in which the denial was made. And when I say that the Wampanoag played a role in that denial or their status at the time played a role -- and we believe a crucial role, but we don't have to debate that right now.

>> COMMISSIONER O'BRIEN: Well, but if your change in circumstances, the Wampanoag, is there something in the vote or the public record or the decision that you want to point do that says I am saying that this is part of why you should reconsider?

>> MR. APFEL: Oh, sure. On the very day that the Commission denied MG&E's application by a 4-1 vote, then Chair Crosby noted, quote, that the 800-pound elephant in the room, closed quote, is the Mashpee Wampanoag. I mean, the Mashpee Wampanoag appeared before the Commission on March 15th of 2016. They had broken ground on April 5th of 2016, and this Commission's consideration of MG&E's application occurred in late April, and the denial was just a little over -- a shade over three weeks after the Mashpee had broken ground. There were express discussion about saturation issues, concerns about saturation, and all of that has disappeared. And I would suggest that's -- you know, that's a humongous change in circumstances.

What leads us to the conclusion that the Mashpee really don't have a realistic chance are, you know, facts, some of which, not all of which, but some of which we've outlined on slide 3. And these are just facts. You know, these are undeniable, can't be disputed that shortly after the Mashpee broke ground, Federal Judge Young here in the federal court in Boston reversed the early decision of interior and noted that the decision that they had made to give land and trust status to the Mashpee was clearly wrong, and he said, quote, with respect to the Department of Interior, this is not a close call, closed quote.

He remanded for additional consideration by the Department of the Interior. And the Department of the Interior, in September of this past year, came out with an unequivocal position rejecting an alternative ground that the Mashpee had presented for land and trust status. The Mashpee are appealing that in the courts, as you all know, it's very difficult to reverse a decision by -- you know, by any administrative agency. And here the Mashpee candidly acknowledged in a filing in federal court here in Boston, just a little over a week ago, that its current challenge to DOI's 2018 decision, quote, could possibly require additional years of litigation, closed quote. And I think that's an optimistic statement.

The Mashpee also owe their casino partner, the Genting Corporation from Malaysia in excess at this point of \$440 million which Genting is prepared to write off and has stated in its books that it's going to write off. And it has been widely reported that there is an ongoing extensive federal grand jury investigation into the financial workings of the Mashpee, which has also caused a -- or led to a recall election for the Mashpee Chairman, Cedric Cromwell, which is scheduled to take place later this week. So all of those facts which, again, are undeniable, suggest that the situation that existed when this Commission made its decision with that 800-pound elephant in the room have changed dramatically, and that 800-pound elephant has shrunk to the point of disappearance.

>> CHAIR JUDD-STEIN: Is there pending --

>> COMMISSIONER ZUNIGA: Can I?

>> CHAIR JUDD-STEIN: I'm sorry, Commissioner.

>> COMMISSIONER ZUNIGA: Just on that, if you're saying that was a big factor in the decision of the Commission at the time, that 800-pound gorilla, could that have also -- and we were conducting a competitive procurement effectively and soliciting, you know, anybody who would be interested. There was at least one other proponent before that. It never got to us. In New Bedford who was not able to put together a proposal. But, you know, that aside, could that have been a factor that prevented other applicants from coming before us to make that decision?

>> MR. APFEL: I think theoretically it could have been, although all those other applicants, I believe, dropped out for express reasons having to do with their own financial circumstances that really had nothing to do with the Mashpee, as expressed at the time. And I think you're referring to K.G. Urban.

>> COMMISSIONER ZUNIGA: I am.

>> MR. APFEL: Or others.

>> COMMISSIONER ZUNIGA: And anyone else for that matter.

>> CHAIR JUDD-STEIN: Or those that you may not even have known of could have made a business decision based on the legal landscape at the time, as you put it, the breaking of ground. There could have been somebody running their numbers and said, this factor doesn't make sense. And that's --

>> MR. APFEL: Could have theoretically. I don't think empirically that's what occurred.

>> CHAIR JUDD-STEIN: You don't have that evidence but we will never know.

>> MR. APFEL: Well, I think K.G. Urban submitted a letter to the Commission which they explained either in the letter or --

>> CHAIR JUDD-STEIN: Right.

>> MR. APFEL: -- in public comments that they were unable to get financing, which was one of the main reasons, if not the exclusive reason, why they abandoned their application.

>> CHAIR JUDD-STEIN: I think my point is that we'll never know if there was someone -- you know, I'm not being naive because I suspect that folks like you, Mr. Bluhm, would know of your competitors, but I'm just -- we really will never know if some other enterprise made a decision not to even whisper about being an applicant in light of the fact that there was breaking of ground.

>> MR. APFEL: Well, it's interesting, we have the benefit of time. And we also have the benefit now of public comments that were solicited by the Commission at the end of last year where it's been widely reported some of these changed facts regarding the Mashpee have been widely reported. And to the extent that anyone was interested or wanted to participate in a bidding process in Region C, there have been ample opportunities expressly in the context of the public comments to raise their hand and say they had such an interest, but we've heard nothing, you know.

>> COMMISSIONER O'BRIEN: Well, but that's far different than actually having an open process with no other bidders, would you say? Would you agree with that?

>> CHAIR JUDD-STEIN: An official RFR.

>> COMMISSIONER O'BRIEN: An official RFR compared to open comment period.

>> MR. BRACERAS: As a legal matter.

>> COMMISSIONER O'BRIEN: But we have a statutory framework that we have to follow in terms of if we go and issue any of these licenses, correct.

>> MR. BRACERAS: Some of the competitors are in this room right now. Even people who aren't competing have submitted letters such as the Notos Group.

>> COMMISSIONER O'BRIEN: I'm just asking on a question of law that asking for a public comment is not the equivalent of determining an open bid and whether there are other bidders, correct?

>> MR. APFEL: That's certainly true. But there was a public process. There were five initial applicants, three dropped out very quickly. K.G. Urban dropped out a bit later. And all I'm suggesting is that there have been -- there's been opportunity after opportunity after opportunity for others to at least suggest to the Commission that they may be interested. And the only thing we've heard is recently from the Notos Group which is not interested in competing. You know, they're not interested in competing for a Category 1 license. I mean, they've made clear that they -- they want to -- they're prepared to make investment of around \$300 million for a slots parlor and a horse racetrack that would require a change in the law. They don't want to compete for a Category 1 license. They want to change the rules in the middle of the game to suit their interests. And they're, frankly, the only ones who have suggested anything in all this time even though, you know, there have been opportunities -- again, many, many opportunities -- for people to say we're interested, you know, now that the Mashpee are no longer a viable candidate. So in any event, just to quickly --

>> CHAIR JUDD-STEIN: Just to add.

>> MR. APFEL: Go ahead.

>> CHAIR JUDD-STEIN: And I'm not sure if it's in the notice letter or if I'm probably read it in the press, but I believe there's legislation pending to perhaps recognize the tribe as officially in a way that it would bypass the DOI.

>> MR. APFEL: There is legislation -- there is legislation that, you know, that the Mashpee has been pushing in Congress. It's gone nowhere -- it's gone nowhere in Congress. We think that the chance of that legislation going anywhere is somewhere between zero and none even -- certainly in the Trump Administration. Even with a change in administration, there is clear bipartisan opposition to that bill in the Senate, which is not going to change even if democrats stay in control of the Senate. So we think that -- you know, the chance of that bill proceeding or making headway or close to zero, and even if it does somehow miraculously get through Congress, I think that there are very serious constitutional concerns having to do with separation of powers with respect to the introduction of that bill in the context of Judge Young's decision. You know, it really is an effort explicitly to overrule a decision by a federal judge in what is a final decision in an ongoing judicial matter. So I think that even if they somehow, some way years from now got a bill through Congress, that would lead to additional years of litigation, if anything. And certainly would not be good for Brockton or for anyone else in southeastern Massachusetts or for the Commonwealth as a whole.

>> COMMISSIONER ZUNIGA: Mr. Bluhm, did you want to say something? I heard you --

>> MR. BLUHM: Yes. I want to clarify in case there's any confusion. The other parties who were bidding -- considered bidding were all doing this before the decision came out of the Department of Interior a few months before your meeting on a final decision. So that it wasn't that they were dissuaded by a decision that the land was going to be in trust. The land was not put in trust. The Department of Interior had

spent, I think, something like four years and had been unable to make any decision in this matter. It was only a few months before your final -- your decision that the Department of Interior ruled that the land should go in trust. And the other parties who were bidding, potentially, dropped out before that decision.

>> MR. APFEL: Just the last two points. Then I'm going to turn it over to Mr. Braceras. Other changed circumstances which we also regard as material changed circumstances here is that in the time between the denial and today, a casino has opened across the Massachusetts border in Rhode Island in Tiverton, the Twin Rivers Casino. And as a result of the opening of that casino, tens of millions of dollars in gaming revenue that would otherwise be coming to Massachusetts are now going to Rhode Island. Also, you know, since this decision, both MGM and Encore have opened. And we would suggest start Region C which we would argue and probably empirically the neediest region in the state has been left further behind. And with that, I will turn it over to Mr. Braceras.

>> MR. BRACERAS: Thank you, Commissioners. And taking Commissioner O'Brien's instruction to heart, I'm going to speed through many of these slides and skip over many of the slides which the Commissioners believe aren't relevant to today. And I think that was slide 6 on.

But talking about Region C where Mr. Apfel left off, I think a good place to start is, Madam Chair, at the starts talked about the grounds to exercise this broad discretion. There's great agreement that there's broad discretion. So let's talk about the grounds to exercise that. And the Commission's mission statement specifically says that the Commission is to strive to the greatest possible economic -- to provide the greatest possible economic development benefits and revenues to the people of the Commonwealth. And what this means to Region C and Brockton -- and Brockton is one of the few majority minority cities in this state. And for years, southeast Massachusetts has felt that they're the region left behind. Springfield has the MGM brand. Worcester has announced that the Red Sox are moving the AAA team there. There's a lot of investment in Worcester from the colleges there.

Boston gets the Encore. And Region C is just left behind. And Brockton needs this. And Mayor Rodrigues who came up here, he would invite, you know, some opportunity to address the Commission, either now or at the end. Mr. Bluhm, with me and without me, has visited with Mayor Rodrigues and before that with Mayor Carpenter on multiple occasions. This is really a partnership. And when you talk to Mayor Rodrigues and his chief planner, Rob May, they emphasize jobs, jobs, jobs. And as this slide talks, there would be 2,000 construction jobs, 1,800 permanent jobs for Brockton. This is a city that needs a new high school, one of the largest high schools east of the Mississippi. It needs a new high school.

We're talking about what would this mean is that we did a new report that we just submitted, an innovations report, economic study. That even with the new circumstances on the ground, the Twin River Casino, the MGM, the Encore, that this would provide \$55 million in net additional tax revenues to the state annually, every year. That takes into consideration cannibalization. We have other studies as well. I know that we've talked with staff before about this. And this is one of those things that Mr. Bluhm is looking to put as much as \$700 million of his own money into this. You know he wants to get the studies right. And he believes in this, and he believes in this

obviously for himself but also for the City of Brockton.

Now, we also talk about every year this would return \$100 million in revenue annually from Rhode Island and Connecticut. This is money that we're losing every year to the casinos. And, you know, it's in part one of the reasons why there's this bipartisan opposition to the Mashpee because the Senators, the democratic Senators in Rhode Island, are strongly opposed to any bill there.

The last point as we talk about the revitalization of Brockton and just how much that would mean. And on slide 5, Commissioner McDonald, Superior Court Judge MacDonald, he voted in favor of the application. It was a 4-1 decision. He was the lone vote in favor. And what's notable is he wanted to support and grant the license even with the prospect of the Mashpee casino just -- I think it's 15 miles down the highway in Taunton. Despite that possibility of the Mashpee casino, he still favored it. And I think his words, you know, bear repeating here. So we've got a city of Brockton that desperately needs economic development, workforce development, and the infusion of capital in order to serve its citizens. And then we have in the form of Rush Street, a private party, not a government entity, a private party that is committed to invest almost \$700 million into the community with a proven track record in three other urban areas. So I go back to the question, let's look at what a no vote means. A no vote means Brockton, we're sorry, you can't have it.

Now, again, I invite the Commission at the end of these remarks to hear from Mayor Rodrigues himself because he'll tell you just how much this means for Brockton but all of southeast Massachusetts and how they will take this to rebuild a school and have jobs.

Now, I take Commissioner O'Brien's suggestion to heart and will skip over these slides. But I think it bears worth mentioning that Neil Bluhm was a fundamental partner behind the Faneuil Hall project, the Copley Place project. You can see the before and after in successful projects. Niagara Falls, Pittsburgh, Philadelphia. And we have, for the Commission, just the dramatic success of these projects. This one is in Illinois. This one in Schenectady. You see the before and after of what the casino could look like in Worcester.

Talk about Brockton. This is what it currently looks like. This is the fairgrounds in Brockton. This is notable is that the only other issue before the Mashpee, and frankly, we all believe, as Chairman Crosby said, the 800-pound gorilla or elephant in the room. There were comments about, well, I don't love the design. This was the design. I think it looks okay. But there were comments that it didn't have this wow factor. Now, that was the only other real criticism here. And that the location on the site. We have listened to that. We have met with the city planner, Rob May, and Mayor Rodrigues. We have presented this on their recommendations. This is what they want. They want something higher that can be seen from Route 24.

The restaurants are moved closer to Belmont Street. The restaurants are accessible so that people can generate street traffic. And, again --

>> CHAIR JUDD-STEIN: Can I ask a question (Inaudible). Mr. Braceras, so I'd like to ask a question. I appreciate the fact that you do want to move ahead on these slides. As a matter of straight and strict fairness -- and Mayor Rodrigues, please know that I say this with great respect -- how do I reconcile the fact that my fellow Commissioners, in 2016, made a decision that it did deny awarding the application that

you've now come before us to ask for reconsideration, how do I reconcile on a fairness factor that you would like to move ahead not only perhaps on reconsideration of the application that was before them in 2016 but now perhaps even an enhanced application where we haven't afforded a competitor who may right now have been spending a great deal of resources to assess their market in another community that's perhaps equally needy or equally well-sited, and they've been investing in their back rooms and doing the numbers and perhaps hiring their own consultants. And a Mayor or an elected official who would also like to be here to be able to make a case for their application. How, as a matter of equity, the same equities that Judge Botsford weighed in her case. How do we reconcile that a reconsideration of a denied application?

>> MR. BRACERAS: Madam Chair, we are here for the decision of whether we have the authority to reconsider. We think that that's -- you know, that's agreed upon with the parties. Perhaps in subsequent hearings, we will discuss that question and set that question up. I think we believe very strongly that there are no such other competitors out there. There was, a year ago -- we've been at this now for more than a year. We submitted our first letter in June of last year. And part of the process that the Commission has set up has been let's have a comment period. And we got comments. We got comments from Plainridge Casino. We got comments from others. But there is no other competitor. And as you said, it's a relatively small market. We know who they are. And there are no others here. The Notos Group certainly knew how to chime in even though they're not seeking a Region C license. And I think what you'll hear from the state house, from the legislature, is they don't want to amend the bill. And the inaction in Region C has really left open for other people, like the Notos Group that isn't Region C to seek changes in the legislation, for Plainridge to try to seek changes in the legislation. There's a vacuum there. In a way it's putting form over substance because in practice, everyone knows it's out there. But that is something, you know, there could be another comment period, you know, for the next meeting to see, you know, if there are any other competitors. And, in fact, Chairman Crosby actually -- I think it was the meeting before he resigned even suggested because I think he saw that the delay in Region C. And, you know, we could perhaps go back and look at that transcript because he saw and acknowledged the problems with the delay in Region C. And he recognized them --

>> CHAIR JUDD-STEIN: And I think to be clear, we did have a little bit of work to be done earlier after my appointment, but we did acknowledge right away your motion for reconsideration and are here today in light of that. So you've prompted the discussion, and we thank you for that, and whether or not -- you know, I can't speak for my fellow Commissioners how Region C -- the discussions would have resumed, but I suspect that no one here is forgetting about, you know, the Region C. So -- but I am struck by something that Mr. Grossman, you know, brought to our attention is that we do have a statutory obligation to think about the highest and best value for the Commonwealth. And if we were to proceed on one course with you and not do a competitive bid, how can I personally, as one of four here, one of five ultimately, know that we've gotten that?

>> MR. BRACERAS: So I think the question is, you know, here we're talking what are the alternatives. Is that there's no other competitive bid out there. They would have raised their hand. They would have submitted a comment, right? So in a way it's a false option. And if you reopen it, we're talking about another three years. And

by that time, that's three more years of Tiverton and Twin River eating into it.

We're not asking for the license today. And obviously this is a very public proceeding. If there's anyone out there with more than half a billion dollars of investment that's interested in this, they'll be monitoring it. There are competitors in this hearing room monitoring this. This is not a secret. So in a way, this abstract theoretical possibility of another bidder is actually going to cost the state, you know, hundreds of millions of dollars. It would lose \$55 million a year just in tax revenue, just for the theoretical abstract, you know, possibility that there's somebody else out there. There isn't. That's the -- and if there is, they have an opportunity to raise their hand, and we see that with Plainridge trying to get a change in legislation, Notos Group trying to get a change in legislation. This vacuum in Region C to the extent it remains is going to cause further clamoring for the legislature to act. So, you know, your question brings us to, you know, really what is our penultimate slide.

You know, what are the options here? You know, do nothing. And I don't think anyone would suggest that's an option. Further market research. I mean, candidly, we can revisit the decision and grant the motion to reconsider and have time to do that. We can do -- and we expect the market research to continue. We have done three different studies. A very recent study we just submitted. And those studies take into account Encore. They take into account the growth of Twin River and Tiverton and MGM which is not completely in the market. They take all those things into consideration. And believe me, Mr. Bluhm, as much as he wants to help Brockton, he's not going to get into something where there's market problems. And he's -- every development he's done has been a smashing success. So this is a place where, in a way, we can trust the market forces.

You know, waiting for the Mashpees, that's just not going to happen. That's completely ruled out, unrealistic, just not going to happen. You know, change in the current gaming legislation. I mean, that's -- you know, further delay could invite that, and we've heard that from legislators who want to expand Region C, change Region C as long as it's a vacuum.

And the last bullet is really what we're talking about, a new competitive process. And that, again, for -- I think we're sort of inviting that. We've been inviting that the last year. This is a very public thing. We had public comment. We got hundreds of submissions. A lot of them were repeat submissions, of course. But we got submissions from market participants, right? So in a way, this has been a de facto competitive process, informal competitive process. We see the Notos Group. We see Plainridge wanting more. We now hear Worcester is looking to expand Region C. So I think de facto, informal competitive process has actually been going on. And it would just put form over substance to say, oh, you know, we're not going to exercise the discretion because there might be, sometime down the road, another competitor. But, again, we don't have to decide that today. Today it's just whether we have the authority to do it, and it seems like we're in agreement here.

>> CHAIR JUDD-STEIN: Well, and then there's the second question. Should we proceed.

>> MR. BRACERAS: And should we proceed. And we believe that you should proceed. If the Commission wants to receive further comment on that, then we would -- you know, we could present further on that next month. There are options to,

you know, I do think it's a false alternative to look for other market participants, but the Commission could be creative in a way to do that while moving forward with Mass. Gaming, right? It's a long road to actually granting the license. We can keep moving forward. And to the extent that there are, you know, new competitors, there's another change in circumstance and a realistic market participant, you know, who wants to jump in, well, there's -- you know, that's going to happen before you ultimately grant a license here in any regard. There's -- you're not running the risk of granting a license tomorrow. I mean, if you were, we'd accept it. But you're not running the risk of granting a license tomorrow, and then two weeks from now, you know, a big corporation says, oh, we wanted in. All of those big corporations know about this. And frankly, you know, the time that this process will take as we move forward, they'll have plenty of opportunity to jump in.

You know, we talked about all of this. And these are some of the things that Mass. Gaming has already achieved. You know, and in short, it has all the host community agreements. It was found suitable already. It was found suitable. And, you know, I think the bottom line on this is that Brockton wants it. And with the host agreements, the nearby communities --

>> CHAIR JUDD-STEIN: When was the host agreement put in place? What date?

>> MR. BRACERAS: Back in '16.

>> CHAIR JUDD-STEIN: The vote was in 2016 as well? When was the vote?

>> MR. BLUHM: We actually entered into it way before the final hearing. And I should say, if you look at that list of things that we have done, it will take years for a new person. They have to find a site. They have to have a referendum. They have to -- we entered into community agreements with all of the communities around there. We did traffic studies. Economic impact studies.

>> MR. BRACERAS: And it's interesting because you meet with Mayor Rodrigues and his city planner, and they own real estate in southeast Massachusetts. There's even another parcel -- there aren't many parcels of this size that you could say oh, maybe another city or another company will come up. There's just not that many. And in fact, Mayor Rodrigues and the City Planner May actually referenced a large piece of property that has already been developed and say, you know, what are the other possible options? They're just not there, right? So, again, it's a false hypothetical abstract. But even if, you know, to protect against that, there's nothing stopping them from raising their hand and jumping in. They won't. We know they won't. There's not the land available like this near a highway that would be suitable.

And then that's -- you know, in closing I know Mr. Bluhm would just like to address the Commission.

>> MR. BLUHM: Thank you. Thank you, Madam Chair and Commissioners. I'd just add one other factor here. There have been some cities further south, okay, that have looked at this. And the economics don't work for them because they don't have the population as you go further south towards the water. And that's where the other competitors dropped out. And this site is a terrific site in Brockton. It's really just a few minutes right off of the expressway.

>> MR. BRACERAS: Route 24.

>> MR. BLUHM: And that's what makes this a viable project. But in all of these discussions, we haven't really talked about Brockton, which is so desperately in need,

and I think that's a relevant consideration in this entire discussion. I've been working on this project for over five years. This is an incredible opportunity for Brockton who has such a need for jobs, economic development, and additional revenue.

I wouldn't be undertaking this project if I thought I was going to have an economic unsuccessful project. We're going to invest, as you know, about \$700 million of which I personally am going to be putting up \$100 million plus. We have a partner who would be doing the same. I wouldn't let this go bad for our reputation. I've never had a casino project that hasn't been successful. And as much as I want to do this for Brockton, I would not -- I would not undertake it if I thought it wasn't going to work out.

So we have gotten a variety of studies in terms of the viability. And we just got a recent one to take into consideration all of the factors that have occurred over the last few years. And we got it and delivered it to you from the Innovation Group which was just completed, I think, within the last week. And their conclusion is that we get \$351 million of annual gaming revenue, plus \$55 million net additional gaming taxes to the Commonwealth.

And of that \$351 million, \$126 million comes from Massachusetts residents who are gambling in Rhode Island and elsewhere and will get additional new revenue from out-of-state parties. We also got two other studies. They weren't full studies but they gave us revenue estimates. They were Commissioned by our partner, and they were very close to the study that you have. One group GMA was less than 5% less revenue. And the other group was roughly almost 10% more than the 350. So you've got two other groups have come up with numbers very close to the 350. So we're convinced that this will be a reasonably successful project.

And I was here during all of the discussions when the decision was made after this land had been put in trust. And really, the biggest concern from everybody was the fact that should the Commonwealth have two casinos in Region C, if there was a real chance that the Indian tribe would have a casino and it was now in trust and they had just started construction. That was a massive factor in the decision. We were not asked to make changes in our proposal. It was mentioned at the final hearing. But we've made changes that would make this a better project. We're happy to do that. We've discussed that with the City, and it has a lot more wow factor.

But I take great pride in redeveloping projects in distressed areas. I've done it before. I really feel good about it. And actually, we want to make a profit, but we want to do something that's helpful for the state and the community. You could call all the Mayors and other representatives of the cities we've done this, and they'd all tell you we did exactly what we were asked for and more.

What Brockton gets out of this is huge benefits. They get about \$6 million of up-front money plus significant -- as much as \$10 million in traffic mitigation. We pay them a minimum of \$10 million every year. They get 3,500 direct and indirect jobs. 1,800 direct. We give a preference to Brockton residents for jobs. And to the extent they're not filled by Brockton, we have agreed with all the surrounding communities to give them benefit.

As far as same arrangements for local vendors, give them opportunities. And the bottom line is -- I've got to say this honestly to you all, all right? If I don't get to build this, this is not going to change my life. I was -- I was a poor kid. I got a good education. I was raised by a single mother. I got lucky. I was a partner at a big law

firm. I didn't have a dime to my name and started a real estate company, and this is America, turned out to be a great success. This won't change my life. But you all have taken away a once-in-a-lifetime opportunity for Brockton. And I urge all of you to go to Brockton and see what's going on there and the need for this project. It's 100,000 people. They have the biggest high school in New England that is in desperate need. It's a minority/majority city. Their unemployment rate is higher. There's a potential if we do this, that the residential market there would change, and people could take the train into Boston where housing is so much cheaper there that you can't believe it. So I've got my heart in doing this for Brockton. I've hung in here for a long time. But I will tell you that I wouldn't do it if I was going to lose \$700 million and ruin my reputation. So we feel this is going to be successful.

I don't think it's a home run, but it's going to be a very good investment. And I urge you to reconsider our application.

>> MR. BRACERAS: Madam Chair, the Schenectady city officials actually offered to drive here to testify on behalf of Mr. Bluhm. We told them that was not necessary, but I think Mayor Rodrigues would like to address the Commission.

>> CHAIR JUDD-STEIN: So I did establish parameters that are important in terms of fairness and equity. It is very uncomfortable for me to stick to my guns in this case because I don't want to be disrespectful. I do want to ask my fellow Commissioners before we turn to your request, Mr. Braceras, that on this narrow threshold issue, do we have other questions? That are the legal issues that are before us? Do we have other questions? Because as I said earlier, this is not uncomplicated, given our responsibilities beyond the narrow statute that you've turned to today. I'm the new kid here, but I take very seriously the overall obligations we have to the Commonwealth to achieve the highest and best value like Mr. Bluhm, I want to always do my homework, and I want to make sure we make decisions that are most informed. I have yet to be convinced that not getting more information on how a decision to go forward on your or other applications will be the best for the Commonwealth. I see that there have been studies done, and I would like to be able to confirm their accuracy. I'm not saying I don't believe they're not accurate. That's who I am, but I need to hear from my fellow Commissioners because the grounds have to be reasonable. And because of the competing statutory obligations, I want to make sure we act reasonably and don't abuse our discretion, because that discretion is broad, but it is not absolute.

>> COMMISSIONER ZUNIGA: Well, along the lines of what you articulated, Madam Chair, I think Mr. Bluhm and the lawyers present an argument, I believe, towards us reopening or considering reopening the region. Their argument relative to the highest and best value that I think ties to is one of opportunity costs and how much time it would take to reopen versus, you know, seemingly just reconsider which would also take time, admittedly. In my opinion, that's one thing for us to talk about, whether it's today or a later time. If we stick with the narrow question of the authority, which is what I think we came to do, I'm glad that there's agreement between the parties. I agree with it. I think we do have the broad authority. Now, whether we want to reconsider or not, that really is when the question of the alternative, which is well summarized in your presentation, is most relevant. Would we want to reopen, you know, verify, confirm those market studies? I do have a couple of questions of them, but I don't think it's relevant to address them right now. I'll leave them with interest because I've been

tracking that competitive landscape, for example. So I think this discussion should be around that second question, and let's just say 60/40 on if we're going to do something, we should really consider reopening for the bidding, if you will, to confirm or not, to study in more detail what is available or feasible in that region.

There's a couple of other things that come up, and I think you also mentioned them. The validity of the vote, which was now -- you know, it's bordering on four years, whether we would require a new vote or if you are able to just, you know, use -- the city is able to use that vote in that host community agreement because it has changed or not. But that's one thing that, through the opening of the bidding process, we could confirm.

>> COMMISSIONER O'BRIEN: I would agree with the Chair and Commissioner Zuniga in terms of I think it's unanimous that the Commission has the authority to reconsider the decision that was made back in 2016. As to the question of whether we should in this case, I think for a number of factors, the timeliness of it, which leads into, I think, the reasonableness of the request, also fundamental fairness and sort of a lactose argument in terms of other people who could be bidders. And while I respect the business acumen and the work that you've done, to get the highest and best value for the Commonwealth, saying take my word for it, there's no other bidders just doesn't suffice. It needs to be a fair, open, competitive, robust, transparent process. And so that, to me, cuts against the reasonableness of doing that. While the tribe status may have been a factor when you go back and look at the comments and the rationale behind the rejection and denial of the application in 2016, it does not limit itself to that. And there were other concerns about the type of jobs, the quality of jobs, the pay of jobs, the site of the location itself across from the high school that you've been talking about, the close vote in the community of 140 and change. Would that, in fact, be weighing against reconsideration at this point in terms of fundamental fairness and reasonableness to the community?

All of those factors, to me, when you weigh the basis for reconsidering something two years out in this landscape, cut against us reconsidering it at this point? A bigger conversation no one has forgotten Region C. We are all fully aware that it is out there. And I think that is a conversation for another day. But in terms of what is narrowly before us today, I would agree that we have the authority, but based on the facts -- in the decision and the facts before us in terms of changed circumstances on the ground, I do not think that this is an appropriate move for the Commission to make.

>> COMMISSIONER STEBBINS: Not to repeat what some of my colleagues have already shared, I have certainly come to an agreement on jurisdiction when it comes to grounds for reconsideration, though there are some new facts, as they have been pointed out to us, I think Commissioner O'Brien made a good point in reviewing our record of our decision. At least for me, some of those issues did not weigh on my decision at that point to deny the application. Some of the other things that were pointed out, you know, are currently on the slide with respect to the City of Brockton, those were a lot of the facts that were presented to us at the time of the first application hearing. And, again, to echo the point, if nothing to stress our concern about this, this Commission has been well aware that the way the legislation was structured, there could potentially be some challenges for Region C. It is certainly a region that has significant economic needs. I would certainly suggest that Region B also had some

certain economic needs at the same time.

So I fully appreciate our authority to reconsider. I just struggle with the facts as it relates to grounds for reconsideration for reconsidering this application.

>> MR. APFEL: Can we make a few comments? I'll keep it very narrow.

>> CHAIR JUDD-STEIN: Absolutely. And, again, I'm in an awkward position of having been requested for the Mayor to speak. And I would offer the Mayor to give his remarks. As to my friends from Schenectady, I'm not sure where you are.

>> MR. BRACERAS: They're not here.

>> MR. APFEL: They're not near.

>> MR. BRACERAS: They didn't come.

>> CHAIR JUDD-STEIN: But I do want to offer at least two minutes or so, Mayor. You've come here and we know that you're in a very particular position right now, so thank you. With that said, again, it's -- you've heard from my fellow Commissioners on the legal issue. We will take your follow-up before we make our -- if there's a motion before us. Okay? First let's hear from Mayor Rodrigues. Thank you.

>> Mayor Rodrigues: Thank you, Madam Chair and Commissioners.

>> CHAIR JUDD-STEIN: And welcome.

>> Mayor Rodrigues: Under the circumstances.

>> CHAIR JUDD-STEIN: Yes.

>> Mayor Rodrigues: You already know and heard the issues that our city face, and it's been brought out here very clearly. We have the fourth large effort school system in the Commonwealth of Massachusetts. Boston, Worcester, Springfield and then Brockton, which possibly makes us the fourth largest community in Massachusetts. But yet when you sit down and think about it, and it's been brought out here, Boston is Boston. Worcester just got the Paw Sox. Springfield has MGM. And what does Brockton have? We, from the southeastern part of the state, feels that Massachusetts ends around 128. And the rest of us are left with crumbs. We get crumbs. And we don't have the ability to do much for ourselves because we often feel that the state doesn't do much to help us out.

Any time an opportunity shows up or presents itself, for some odd reason, the upper part of the state gets it. The western part of the state gets it. Boston gets it. And we are left with absolutely nothing. We are also the only city in Plymouth County. The only city. There's 26 -- 27 communities. 26 towns and one city. That's where the hospitals are. That's where the social service agencies are. And lately we've become the catchall for the issues of homelessness and the issues affecting the opioid crisis in our community.

We did a little survey not too long ago. We found out that over 70% of the people who are homeless in our city are not from our city. They're people that come from the outside, from the smaller towns, migrating into the city, looking for help. But what can we do to help? As a city official, we're looking at -- we don't have the resources that the Bostons and the Worcesters and Springfields have. But we have the issues that come along with cities.

I have been a supporter of this casino project since its inception. Heavily Catholic, sometimes you look at gambling -- but I'm not looking at it because of gambling. I'm looking at it because of three issues: Jobs, resources to our community, and creating a destination for Brockton, which we do not have. Recently we had a visit

from the President of Cape Verde that came to Brockton. They had to stay in Quincy because we don't have a high-end hotel to host dignitaries in our community. We don't have hotels. We don't have restaurants. Dignitaries that come into our community.

So when this opportunity came to us we're looking at it as an opportunity to get into the city, to look like a city. The jobs, when you look at it, 2,000-plus jobs. It might not mean much to Boston, with the folks sitting here, but to us it means a lot. You know, we've got a very diverse community, people who barely speak English in our community. But those individuals want nothing more than an opportunity to be able to work and provide for their families. And then when you look at resources to our community, we talked about the fact that our high school is over 50 years old. And it needs renovations ten years ago. But we can't afford to do them, you know?

Any time a project comes down the pipeline, you've got opposition from opposition. And then the state drops the ball most of the time when it comes time to helping our community out. So I ask you, what do you got to lose by helping the fourth largest community in Massachusetts? What do you have to lose? Why -- I mean, when they put up the slide as far as miscarriage of justice, that's what I see happening to Brockton and the surrounding community. There's a severe miscarriage of justice when it comes to -- when it comes to providing the fourth largest community in Massachusetts with resources and opportunities. That's all we're asking for. So I implore you, although you're sitting here saying you don't want to reopen this because there probably could be some additional competition coming down the pipeline, but I'm here basically pulling for my city. I'm pulling for my city because no one else is. The state isn't helping us. No one else is doing this. And if there's individuals who are willing to help us, please do not stand on our way and let us become the city that we should be. Thank you.

>> CHAIR JUDD-STEIN: Thank you, Mr. Mayor.

>> COMMISSIONER ZUNIGA: Thank you.

>> MR. APFEL: Madam Chair, just three quick points. I have others but I'll pass on those.

>> CHAIR JUDD-STEIN: Or Mr. Bluhm. I know he's paying for you.

>> MR. APFEL: Three quick points. One is just the reminder -- I don't think anyone really needs reminding, but it's important to keep in mind that reconsideration is not the same thing as approval. And the homework that you're talking about, the checking of the market studies the checking to determine whether or not the market really is oversaturated or not, could all be done in the context of a robust reconsideration process before a determination is made whether or not to approve the reconsideration.

The second point, all of the other alternatives including opening up a new process, which we've already been through, but all of those other alternatives, I would suggest are unreasonable and unreasonable because they necessarily and inevitably cause additional delay of at least three years before any shovel is in the ground. As compared to reconsideration which could give \$85 million to the Commonwealth immediately, and shovels would be in the ground quickly, if not by the end of this year, in early 2020, which would make an enormous difference. I mean, the Schenectady project that we flipped through, Schenectady -- Schenectady opened in 2017. The RFA process for Schenectady started at the exact same time as the RFA process for Region C. And yet they're now getting tens, hundreds of millions of dollars in revenue,

and Brockton and the southeast region are getting nothing.

And then finally, the last point is before making a decision not to reconsider or not to have a discussion about reconsideration, why not -- why not test what Mr. Braceras described as the hypothetical of other competitors? By doing what Chairman Crosby suggested about a year ago and putting out an informal solicitation of interest to see if anybody else raises their hand, if anybody else is interested and is willing to make the sort of commitment that Mr. Bluhm has made over the course of the last five years? I would think that would be an important factor to consider. If no one raises their hand, given enough time to do that, that would be an important factor to consider before determining not to reconsider MG&E's proposal.

>> CHAIR JUDD-STEIN: Thank you. Are you all set, or do you have anything additional to add, Catherine or Todd?

>> MR. GROSSMAN: Nothing further to add.

>> CHAIR JUDD-STEIN: Okay. Fellow Commissioners, do you have additional questions? Comments?

>> COMMISSIONER O'BRIEN: The only other comment that I would make in terms of the points you just raised it I keep harkening back to our obligation to have an open, competitive process and having sort of a presumptive person who's already further along in a process who's continuing to go and then inviting bidders to me, while it would test the market to some extent, I think there are risks to that as well. And so while I hear you, I would not be inclined to do that on this posture in terms of reconsidering.

>> MR. APFEL: But around those the exact sort of considerations that could be made in the context of a true reconsideration process where you're deciding whether or not to approve the project or not approve the project?

>> COMMISSIONER O'BRIEN: I disagree. I think that it gives an unfair advantage and doesn't give an open process to anyone who wants to take a look at the region.

>> MR. BRACERAS: But I don't see what the risk is. If somebody raises their hand and says, oh, you know, it's a viable alternative or it's a viable market player, it's not just, you know, some outlier individual, then that could be factored by the Commission as to whether to exercise its ability to reconsider. We're not suggesting that, you know, then no one would get a head start. The point that we're making is that there are no viable alternatives. And if this Commission decides that it's not going to even consider this question, then Region C may never be tapped because the prospect of going through another two to three-year process here where a casino would be opened, then two years after, maybe five years before any benefits to Region C, that will just chill any application. And meanwhile, you know, just the economics of it, you have Tiverton and the other Rhode Island casinos will just build up their market, you know, control as the first movers in the market. I don't see the down side to actually soliciting interest. If nothing's there, then there has to be no worries about a head start. If there is someone there, well, then that could be taken into consideration.

>> COMMISSIONER O'BRIEN: That's a very different posture than asking us to reconsider what was denied in '16. I think you're talking about two very different things.

>> MR. BRACERAS: Well, I think -- I mean, we're just asking whether you have the authority to reconsider. I think that was the question put before us. And then, you know, in the next hearing, a month, two months ahead, we can consider whether to exercise that authority that you're only here to decide whether you have. And then you

can decide whether to exercise it. And in that timeframe, there can be a solicitation of interest. And if there is, you know, great interest, then maybe that's taken into account. And if so, there are all of these other competitors.

>> COMMISSIONER O'BRIEN: I'm going to stop you for a moment. My understanding and maybe the Chair and the other Commissioners can clarify. I believe the Commission marked up for agenda and is prepared to vote on the question of do we have the authority and if we are choosing to do that today.

>> CHAIR JUDD-STEIN: If there are grounds sufficient for us to move ahead on the motion for reconsideration of the 2016 denial of the application for the license in Region C. And that's important. From the start, Mr. Braceras, I've made it very clear that I inherited this motion for reconsideration, and quite frankly, it was hard for me to understand whether or not we had the authority. So we marked it up very clearly for narrow, narrow legal issue. With that said, as I stated at the very beginning, if we make a decision to move forward with your motion for reconsideration, we would get the public input. If we decide to not move forward on your motion for reconsideration, we will get that public input.

>> MR. BRACERAS: But there would be no process. There would be no -- how would you get --

>> CHAIR JUDD-STEIN: Because Region C remains open.

>> MR. APFEL: We're suggesting a hybrid, really.

>> CHAIR JUDD-STEIN: Well, you're suggesting a hybrid, but it does take out one factor, and that is -- and that I see, I'm not sure how my fellow Commissioners see -- the topic of Region C will take into consideration, I suspect but I can't get, what the public may be interested in, but it could take into consideration factors beside who is interested in actually applying. And so you're suggesting, you know, if you determine that there's no other bidder, we could move forward on your motion. Am I wrong? Is that what you're --

>> MR. BRACERAS: No, I just think all of those factors can be considered in the reconsideration process as to whether to grant a license. What we're asking is --

>> CHAIR JUDD-STEIN: But it would eliminate a competitive bid.

>> MR. APFEL: But there -- you know, what shouldn't be ignored is that there has been a competitor process. There was a long competitive process.

>> CHAIR JUDD-STEIN: Right.

>> MR. APFEL: And only one man was left standing at the end of that process.

>> CHAIR JUDD-STEIN: But now as you've pointed out, there are changes in the market. There are changes in the legal landscape. We don't know, one, if there are other applicants. We are -- you know, you've made the great, great --

>> MR. APFEL: True, but that's what --

>> CHAIR JUDD-STEIN: Fair assumptions.

>> MR. APFEL: But that's what we're suggesting before deciding not to reconsider.

>> CHAIR JUDD-STEIN: But there are certain other assumptions that you've made that I think I would like to get more information on.

>> MR. BRACERAS: But you could get that in the reconsideration process, you would get that. And with respect to --

>> CHAIR JUDD-STEIN: It would be in the context of your motion for reconsideration as opposed to a clean slate.

>> MR. BRACERAS: Right. And there was a comment made, you know, where you were asked to take our word for it but really not. There was a comment period here. And through that comment period we saw the other players who solicited comment. And there could be another way to do that, a more, you know, a more rigorous solicitation of interest.

The denial now and the suggestion that there is absolutely no reconsideration could preclude development at all of Region C. It will have to go back to the legislature, and then there will be, you know, the law will be changed.

>> CHAIR JUDD-STEIN: Well, that --

>> MR. BRACERAS: This has taken five years.

>> CHAIR JUDD-STEIN: You know, you've stated that, but I'm not sure if all of us would agree with that. So -- I -- as I will reiterate, this is not uncomplicated, and I am very appreciative of all the time that's been taken on this subject matter and your motion for reconsideration. I do think there's more than just one avenue. You know, I'm hearing that they're the same avenues. And I think you've distinguished the two, that there are more than one as well. And Mr. Bluhm, I very much appreciate your coming in today and highlighting your commitment to the area. Brockton is very, very fortunate to have that commitment from you. But as I stated, I am very concerned about fairness and informed decision-making, and I'm not sure if I've heard the grounds today of sufficiently changed circumstances to warrant the motion for reconsideration at this time. But I turn to you all.

>> COMMISSIONER O'BRIEN: I agree. I mean, I am prepared to move on both our authority and on the substance of whether or not to move forward on the motion itself for reconsideration. I don't know how Commissioner Zuniga and Stebbins feel.

>> COMMISSIONER ZUNIGA: Well, I think it's intriguing to split it and ask for additional comments. I don't really know that we will get substantive, you know -- I don't really -- I don't think we will be satisfied as to who may be out there that could put together a proposal with enough time. I think a lot of the arguments that they make are compelling, but in my mind, that the city Mayor makes, are compelling, but they point to reopening, if anything, reopening the bidding process, not this consideration, this reconsideration that's before us.

>> CHAIR JUDD-STEIN: Commissioner Stebbins?

>> COMMISSIONER STEBBINS: I'd make that same argument.

>> CHAIR JUDD-STEIN: Do I have a motion?

>> COMMISSIONER O'BRIEN: Madam Chair, I move that the Commission find that it has the discretion to reconsider the Commission's decision denying MG&E's January 2015 application for a gaming license in Region C, as it outlined in the presentation made by the Commission legal staff, and I further move that after review of the materials submitted in the presentations made today by both Commission staff and counsel for MG&E, that sufficient grounds do not exist to support a reconsideration of the Commission's decision denying the MG&E's January 2015 application for a gaming license in Region C and that we thus do not move to -- we do not open for reconsideration.

>> COMMISSIONER STEBBINS: Second.

>> CHAIR JUDD-STEIN: Any further discussion? Questions?

>> MR. APFEL: Are we permitted to make one more comment? The -- I'm just

picking up on one thing that Commissioner Zuniga said. That a solicitation of interest doesn't need to be narrow in time. You could -- you could open up a process, say, six months and say in the next six months, we will leave it open in the next six months for others to raise their hand, to show us whether they have an interest, have a plan for Region C, and take that into consideration before foreclosing reconsideration of an existing plan that could get off the ground properly.

>> CHAIR JUDD-STEIN: The only thing I should respond -- and I go back to my initial comments -- if this motion does prevail, this in no way is precluding this company from continuing to make its bid for this work.

>> MR. APFEL: We understand.

>> CHAIR JUDD-STEIN: It would just be pursuant to a process --

>> MR. BRACERAS: It might in practice.

>> CHAIR JUDD-STEIN: Pardon me?

>> MR. BRACERAS: It might in practice. We understand legally. It could preclude anything.

>> CHAIR JUDD-STEIN: I understand. I understand. But it does mean that it becomes a process that would be different than the one you've envisioned certainly today. Any further discussion from my fellow Commissioners? We have a motion that's been seconded and before us. Any further questions?

>> MR. BLUHM: Can I make one point? I don't honestly know how long you expect us to be hanging around here for Brockton. I don't see why you can't vote that you have the authority to reconsider. And then for a period of time see what interest there is to -- for others to potentially bid on this. And then if you have no interest, then you can go back and make your decision. But to vote that you are not going to reopen this under any circumstances, I don't know how I can continue to hang in here on behalf of Brockton. I've spent millions of dollars with studies. You saw them on the list. I don't know what you lose, if anything, by simply saying that you have the right to do it. You vote for that. And then see what other interest there may be and then revisit our request. But to deny our request, I think you lose me. I can't hang around. I've been doing this for more than five years. I've spent millions of dollars. I very much want to do this for Brockton. But I don't know what the Commission or the Commonwealth loses by simply taking that intermediate step.

>> CHAIR JUDD-STEIN: I do think -- go right ahead, Commissioners.

>> COMMISSIONER ZUNIGA: You know, I was just going to suggest, would you mind maybe splitting the vote, perhaps, that the motion that you made, Commissioner? Because I think -- I think they make -- there may be a compelling reason -- I think there's a compelling argument to solicit public comment relative to anybody out there who may be interested for however long it would take. I think by necessity of closing the door now would then prompt a later decision which I understand would necessitate a lengthening of the process.

>> COMMISSIONER O'BRIEN: I'm not inclined to separate them at this point. But if you wanted to make a competing motion, Commissioner, you can make a competing motion.

>> COMMISSIONER ZUNIGA: Well, I would move that we move on the first -- that we find that we have the legal authority to have this decision, that we have the legal authority to have a reconsideration.

>> COMMISSIONER STEBBINS: I have a question around the rules of order. I mean, we have a motion on the floor. I seconded it. There's got to be some vote to either approve or defeat that motion before we consider other motion.

>> CHAIR JUDD-STEIN: I hear Commissioner Zuniga has another amendment to your motion. The next rule of procedure would be a vote on his proposed amendment. Is that correct? And to be clear, it would -- it's because you would like to be able to separate so that you could move separately on whether or not there are sufficient grounds today to support reconsideration of the 2016 application. That that's what you would want to vote on separately.

>> COMMISSIONER ZUNIGA: I stand corrected. I think the motion did say about -- it does speak about sufficient grounds to support the reconsideration. I'm prepared to vote on this motion.

>> CHAIR JUDD-STEIN: That's why this is a difficult matter.

>> COMMISSIONER ZUNIGA: Well, I'm prepared to vote on the motion that's been made and seconded. So I withdraw my second motion.

>> CHAIR JUDD-STEIN: So do we have further questions or discussion on the motion before us? Barring none, all those in favor?

[Vote taken]

Barring -- opposed?

>> COMMISSIONER ZUNIGA: No.

>> CHAIR JUDD-STEIN: Okay. 3-1. Thank you for your time. We have heard you today. We have spent a great deal of time individually. This is, of course, our opportunity to think about this together. And we have appreciated the input that we've received from our legal advisers, from you, from the others who have commented. So we are hearing you, Mr. Bluhm. And we will continue to meet our statutory obligations in a responsive and timely fashion. Thank you very much. I think we need a break.

>> MR. BEDROSIAN: Yes.

[A break was taken at 12:14 P.M.]

>> CHAIR JUDD-STEIN: All set, Austin? Great. Thank you. And thank you for everyone's patience. We are moving on to item number 5 on our agenda. This is a reconvening. We just broke on our meeting. And we have Ombudsman Ziemba and Encore. Thank you.

>> MR. ZIEMBA: Thank you, chair and Commissioners. Today Encore Boston Harbor is here to present its quarterly report for the second quarter of this year, which ended on June 30th. As you know, during that period, Encore Boston Harbor had its opening, which will be discussed by Encore Boston Harbor President Bob DeSalvio and Encore Senior Vice President and General Counsel Jacqui Krum. Before their presentations, let me turn it over to Joe Delaney, Construction Project Oversight Manager, who will give you a very, very brief status on the 90-day commitments review that is currently under way. Joe?

>> MR. DELANEY: Thank you. As you know, at the project opening, there were several items that were outlined in a memo to the Commission that were given an additional 90 days to be completed. Encore is making good progress in completing these items most of which have been completed at this point. We're still waiting on some of the backup documentation on those, so they haven't all been fully closed out. What we plan on doing is we're going to meet individually with each of the

Commissioners before the 90-day period is up to go over exact status, you know, as we're still getting items in, we can't fully close out everything, so we want to give an exact status. And then we will talk about any next steps that we need to do, if necessary. And if there are no questions regarding that, I'll turn it over to Paul.

>> COMMISSIONER O'BRIEN: I assume that that approach is you think everything is progressing that you think it will be resolved in 90 days?

>> MR. DELANEY: Yep.

>> MR. DeSALVIO: If I could add one thing. We maybe have one or two that are minor construction items that are in process. So we're just trying to rush to get them done in time.

>> MS. KRUM: I think there's a distinction between what Joe is speaking about and the license conditions. So the license conditions we're moving forward, one of those license conditions is further documentation regarding the commitment the closeouts. We've got a commitment tracker that has thousands of items on it. And I think some of those items we're trying to get before the 90 days, but we may need an extension to get some of the paperwork done so that we can demonstrate that we've closed out all of those commitments.

>> MR. DELANEY: Yeah, we're down to, I think, 30 or 40 items on those -- several thousand-item list. And a few of these things are as simple as the looming and seeding of the connector over to the Gateway Center. You know, it was seeded in June. A lot of weeds grew in, it had to be reseeded. That may not be fully stabilized so that may need a short extension to get the signoff from the Everett conservation Commission, something to that effect. The work is done. It's just really a lot of dotting Is and crossing Ts at this point.

>> CHAIR JUDD-STEIN: Excellent. Thank you.

>> MR. DeSALVIO: Okay, John? Great. Good afternoon, Madam Chair and Commissioners. Bob DeSalvio, President of Encore Boston Harbor, and I'm here with Jacqui Krum, our Senior Vice President and General Counsel. We're pleased to report on the activities surrounding our opening. I have to say from, you know, from being in the business for quite a while and going through openings, this one really ranked up there as I'd say excellent in terms of execution. You know, we said we wanted flawless. I'm not sure there is such a thing, but we came pretty close. And that is really a testament to the 5,000 team members that have joined us as part of the process and the real significant effort of their team leaders to make sure we get organized.

And it's also a testament to Wynn Resorts for giving us the opportunity to bring those team members on, the vast majority of them on, on June 3rd for a June 23rd opening, and clearly we had almost 1,000 people of the 5,000, about 1,000 came in at least, if not years in advance like some of us, but a good, solid week before that, we had the entire culinary team in, and we worked with Everett High School for them to do their training before we even had access to the building. And quite honestly, most companies would not put that kind of resource and investment into allowing team members to have a full three weeks' worth of training before we actually opened the doors to the public. So we're very thankful that the company gave us the resources to be able to pull that off. And I think that was then reflected in how smooth that the opening did go.

I also want to point out that the process of having the casino preview days was

extremely helpful to the process. I know that it's done here in the Commonwealth and in some other jurisdictions do it. But the way that it's done here, I think, is actually very, very well thought out. We were using live money. The games were real. At the same time, you know, we were able to raise some good money that Jacqui will talk about and was given to some very worthy nonprofits. But it really gave the team a chance to get their feet wet, work with customers, see how it went, and then constantly fine-tuning the operation. So all in all, we think it went extremely well

The big news, there were no traffic issues. And I know how much time that we spent talking about that, preparing for that. It really was well executed. The time that we spent with law enforcement and other interested parties, I think, really paid off. And that story on traffic continues today. You know, as we start to approach our 90 days of being open, there have literally been no issues. What we've come to find out is that in the morning, we do not collide at all with commuter hour. We know that from being on Broadway. I can tell you with 100% certainty our customers are not coming at 7:00 a.m. They typically come around 11:00 a.m. We start to see the build. And then the real positive surprise of all of this is that the night business is actually coming in later than what we thought. You know, it's really -- it's really 9:00, 10:00 in the evening when we're starting to see the night business build. And quite honestly, that's well after commuter hour. And so while all the planning was terrific, the good news is there does not appear to be really much overlap at all between our traffic. And I know that was one of your concerns. So great news there.

You know, how are we doing from a business perspective? I will tell you that we are in the ramp-up mode. As most, you know, new operations would be at this point in time. We have really -- when we think about it, there's really three major segments that we deal with. First and foremost, we are working very hard to be Greater Boston's hometown casino. And by that I mean we are introducing ourselves to literally thousands of people every week who, as I'm sure you've heard, you know, the idea of the Commonwealth repatriating money that had previously gone out to other jurisdictions. That process of repatriation is working. We have folks that are living right around our area that used to travel out of state, and they're now starting to enjoy their hometown casino, which is exactly what we hoped would happen.

On a larger scale, we're starting to get visitors from around the country. And to a limited extent now, we're actually starting to see some visitors from overseas. I know you've heard us talk about that. We did not want to rush into the larger international travel program that our company is known for until we could get really our service levels, our dealers, and all the folks that work the property up to the level that is required when you're dealing with significant amount of players that come in from overseas. But they're already starting to arrive. And so we're starting to see that segment. But clearly, we're working hard.

If I had to sum up, really -- I'll call it really the four business drivers, the hotel is in the process of ramping up. We've introduced the hotel product. It's been very well received. But we're trying to get our name out there. And we're doing so -- we're offering some very good introductory deals through our own website and also through the online travel agencies. So you can get a very reasonable room price for what we believe is the top room product. And as people are discovering it, we're going to see the hotel occupancy start to ramp up. The restaurants, same story there. Great

restaurants at all price points. We've made some adjustments in the food and beverage product, recognizing what, in particular, the hometown customers are looking for, which is some items at lower price point and things that -- for folks that are not staying in the building very long, that they're used to and comfortable with. So we're constantly refining the food and -- refining the food and beverage offerings to make sure that it matches in particular what the local market looks for.

The table games business, as you've heard about and you've seen, when you saw the public numbers announced in July, has been extremely strong and continues to grow. As of right now, we're actually adding a few more tables on the casino floor as we speak. But I will tell you the slot business has been soft. And so we are continuing to look at that. We're looking at everything from the product. You know, people are used to a certain type of equipment that they might have seen in other locations. We have a brand-new slot floor. And for those folks that come in, and as the manufacturers change the product, sometimes they look around and it looks different from what they're used to. So there's definitely going to be an adjustment cycle for that. We're even looking at -- we're actually going to change mix on the floor and look at some of the games that we have now seen are more popular and do some potential conversions and swap-outs.

That's really from -- and as you know, our company will announce and talk about numbers on a quarterly basis. So as the third quarter starts to wrap up, typically in early November, you will see the Wynn Resorts go out with its investor call. And we like to limit our specific discussion about numbers to the periods when we have, as a public company, our typical investment calls. So that's where we are from a business.

We had some photos we wanted to share with you. Great shots from the opening. As you know, we had a wonderful day. It was a Sunday. This is a group of team members that joined us as part of the ribbon cutting right out in front. That's a shot of the lines that were built up all the way around the Harborwalk. This was really quite unique when we did the opening daytime fireworks, which most people had never heard of or thought possible, including myself. And Grucci really pulled it off. It was really a wonderful event, and folks, I think, really enjoyed it. And then the next shot is here's everyone rushing to get into the front doors right after we opened.

Next is on the construction schedule, no reason to really go through this in detail because we're now open. I did want to report -- I spoke to Peter Campot this morning. We now have 91 items left on the punch list. And if you recall from Peter's previous visits with you, that list started out in the thousands. And so literally we are clicking them off one at a time and working our way down to what is really a minimal punch list as far as construction goes. We're closing out Suffolk. There is one outstanding item that we've talked about in previous meetings. And I'll address it before you even ask. And that is the work on the day-care center. That is actually under way in full swing.

I think the last meeting we had told you that we'd be done around the end of the year. And I will tell you that schedule is still holding. We are looking to get done in November and then turn it over to ABCD who is our operator, and then they're looking to get done by the end of the year. So so far, so good. Construction is moving along. And then also a question that I know you ask is in the interim.

>> COMMISSIONER O'BRIEN: Right.

>> MR. DeSALVIO: And ABCD did agree to help us. So they can assist for any

current employee who might have needs between now and then. They agreed to help them try to place, and then they ultimately can move over to the new Station Landing location. So so far, so good on the day-care front.

>> CHAIR JUDD-STEIN: Is there a demand?

>> MR. DeSALVIO: I'm sorry?

>> CHAIR JUDD-STEIN: Is there demand for it?

>> MR. DeSALVIO: Yeah, I think there will be more demand when we're at Station Landing because it would tie into the fact of where they could park. And you think of the normal sequence, how difficult this is for families in the morning.

>> CHAIR JUDD-STEIN: Right.

>> MR. DeSALVIO: To execute that transition. And if you could literally drop your son or daughter and then drop your car and then get on a shuttle bus and go, all logical. So I think now people are probably using their existing or local until such time as they can reorganize their morning routine or evening routine.

>> MS. KRUM: We're also working with our employees so if they do have child-care needs, we can rearrange their schedules. We're very open to that so they can work and make sure their children are taken care of.

>> MR. DeSALVIO: I want to now skip over to our -- kind of an update as we get to the end of our construction. On the design phase, this particular work is virtually done. So I'll skip right to the summary. In this particular work, we had a goal of 18.9% of the work and wound up at 22.7% with almost \$15 million worth of work going to minorities, women and veteran businesses. So we felt good about exceeding that overall goal.

As far as the construction contracts, there's still some closeout work on here, so these numbers will change but not by a lot. Another great story here on the minority business front, we had a goal of 5% and came in at about 5.8%. For the WBEs, 5.4% was the goal, came in it at 12.5%. And the VBEs, a goal of 1% and came in at 2.8%. Overall, we had a goal of 11.4%, and it looks like we're going to come in about 18.9%. The percentages are not the story. The story is the number. The number is large. It's \$263 million worth of work. That's a lot -- that's a lot of money. And so we feel really good about exceeding that overall goal as the construction phase.

And I saw, I guess yesterday, I know you guys are working on some sort of a forum that you're doing as it relates to this particular topic. And it's good to see because I think there's been momentum built up in a number of different fronts, and we like to think that our project, in some way, shape or form, has helped folks have wonderful careers that will last long past our project. And so I was happy to see that you've got a session upcoming on women and diversity in the construction trades and look forward to that.

And that really leads me to our next slide which talks about the actual workforce in construction. You know, we had a goal for minority workers of 15.3%, and we came in at 25.7%. On the female side, 6.9%, and came in at 7.2%. And on the veteran workforce, 3%, came in at 5.3%. And so significant number of folks were able to participate in the process.

As far as our permanent employment, right now we're at 4,982. In terms of the active roster, we have about 220 in the process. That is mainly gaming because I think, as you know, we were actually short at opening in terms of dealers and other casino staff. So we've been hiring them as fast as we can. I also like to acknowledge

both Karen and the licensing team. We put in a call for help in terms of trying to get people through the funnel as fast as possible. And I got a big thank-you from our casino folks because I think it was all hands on deck in the licensing bureau to continue to try to crank out the number of folks that we need. So thank you for the efforts and for the entire licensing team. We're getting caught up now so that as we introduce some new table games, we'll hopefully have the appropriate staff. Because it's important for the customers. We're trying to provide games at the betting limits that they're looking for. And so by us having enough dealers and getting the games open, we can have a wider variety of lower-limit games so that we can accommodate all levels of customers. It's important for us to be able to do that.

And then on the -- my last slide before I turn this over to Jacqui is on transportation. And I want to repeat, we've had no traffic issues since opening. It's been great. As you know, we have multiple modes working at a point not too long ago, we added our fourth boat into the water shuttle service. That has been extremely well received. And so we're seeing that working. We've got the neighborhood shuttle. We have the, of course, folks coming in off the "T," and then we have the premium park and rides all of which are driving volumes in and out of the building. So the entire traffic plan has worked. The garage is smooth. Customers have been able to get in and out. And so really on all fronts, testament to proper planning and good execution.

>> COMMISSIONER STEBBINS: Bob, a quick question on the boats. Is there a timeframe or a schedule as to how long you hope to keep using them kind of the winter months?

>> MR. DeSALVIO: We are attempting to go year round. Of course, that will be weather dependent. And, you know, sometimes if you get those -- if you get a really bad ice buildup where it just shuts it down, then it shuts it down. It does happen from time to time in the harbor. And we'll have to see how our harbor area works right in front of us. But we'll wait and see. But we're going to keep running them. Even on days now if it's raining, we put the sides down, and the operator continues to run. So we're going to see what we can do about trying to keep it going as much as possible all year.

>> CHAIR JUDD-STEIN: So for those who are taking it on a cold fall day, there's -- it's warm.

>> MR. DeSALVIO: Correct.

>> CHAIR JUDD-STEIN: There's heat.

>> MR. DeSALVIO: There's heat and air conditioning. And on nice days we leave the sides up. And then there's the portable pieces we put in to close it up.

>> CHAIR JUDD-STEIN: And they can see the Mystic River and the changing and changing weather. Okay, good.

>> MR. DeSALVIO: Yeah. And for anyone who hasn't taken the ride, I really suggest it. It's just great to see Greater Boston from the harbor and from the water side.

>> COMMISSIONER ZUNIGA: What time do they run till, Bob, in the evening?

>> MR. DeSALVIO: Just about 11:00 P.M., 11:00 to midnight depending on where you're dropping off but that's about it and then we shut it down. And part of that's out of respect for the dock areas where you don't want late-night service. You know, we're into long wharf and out in the sea port. So at some point whether the operators -- you

know, they want you to shut down for the evening, obviously.

>> COMMISSIONER ZUNIGA: Yep. Can I go back to the prior slide? Will you, in the upcoming quarterly reports, be reporting some of the demographics?

>> MR. DeSALVIO: Yes, yes.

>> COMMISSIONER ZUNIGA: Of those permanent employment?

>> MR. DeSALVIO: After the first quarter of true operations.

>> COMMISSIONER ZUNIGA: Okay. Great.

>> MR. DeSALVIO: That would be in my next update.

>> MS. KRUM: The format of this report will obviously change from a construction report to an operations report, much like Penn and MGM were doing.

>> COMMISSIONER STEBBINS: Yeah, I think we've seen some early breakdown of folks and where they lie on different positions, and I think you guys have actually come up with a table that we'd like to use with our other licensees so everybody is kind of speaking the same language and sharing the same data and information as it relates to information, so that's great. Thank you.

>> MR. DeSALVIO: All right. I'll turn it over to Jacqui.

>> MS. KRUM: Just quickly before I begin, an additional thank you to all of your staff for the opening. I know there were a lot -- and you, too. I know there were a lot of late nights involved, and it was a ton of feedback that we received. We've implemented it. It's an ongoing process, and they've just been exceptional to work with, so thank you.

On the license conditions. As you know, we had eight different license conditions in our operations certificate. And I'm pleased to report that most of the things have been complete. We're still working, as we discussed before, on the closeout of the commitment tracker. But actually, that will become -- that will transition into a new tracker on the operations side as well. The other thing is the angling of the frontline cage facial shots. That's in progress and I believe should be done by the end of this week. We have one remaining sign to be installed. And then on the casino credit department, sealing off from the cashier's cage. That started today and we do believe that that should be done by the 21st, which would be the 90-day mark following the opening.

>> COMMISSIONER ZUNIGA: Remind me, these were conditions from the operations certificate after the test nights?

>> MS. KRUM: Yes. Just wanted to report we had -- we did this last year. And then this year we did the great place to work survey only in Las Vegas. We did not do it at Encore Boston Harbor since the majority of our staff were not on board yet. But we were really pleased. Las Vegas was certified as a great workplace. And what really came back through the scores were that our employees were proud to tell others where they work, that they were made to feel welcome, appreciated the camaraderie that the company leadership encouraged. And where our scores were really exceptional was the opportunity to contribute to the local communities through the company's charitable efforts.

So we've got a whole bunch of new company initiatives that I know has been presented to you previously. But we're going to the extent that these haven't already been implemented at Encore Boston Harbor, these will all be in place by the end of the year.

Moving on, just a little bit of the work that we've done with nonprofits over the last

few months. We did try to slow down some of our volunteer hours at our opening, so we'll definitely see that go back up now that we're stabilizing and in particular the last quarter of the year, we've got some great volunteer opportunities available. This was a unique partnership that we did with Camp Harborview. And it's the first time -- this camp has only been open to kids within the city of Boston until we partnered with them. And so this was the first year that kids from Everett, almost 30 kids from Everett were able to participate in this amazing opportunity for underserved children.

We also did a partnership with Boston Landmarks Orchestra and was also sort of multidimensional. We brought them into Everett in the after-school summer program and they brought their instruments and musicians played with the kids taught them how to use various instruments. So that was fun for them. We also sponsored a concert at the hat shell. We did the National Children's Day Festival. Continued our work with veterans at the New England Center and Home For Veterans. And we did our annual water chestnut removal where we lost two team members. They fell into the Mystic River. Fortunately we were able to retrieve them, and they have come out unscathed because the Mystic River now is suitable for swimming.

We did a back-to-school shopping spree where essentially we invited kids in Everett to come in. They got to pick out a backpack, pick up their supplies. We worked with a lot of our different vendors to get people to donate various supplies and our employees to fill their backpacks, getting them ready for school.

>> CHAIR JUDD-STEIN: I love the size of the backpacks.

>> MS. KRUM: They're all huge, yes. On these tiny little kids.

>> COMMISSIONER ZUNIGA: Jacqui, the New England Center and Home For Veterans, is that in Chelsea?

>> MS. KRUM: That's in Chelsea, yes. And then we also -- we've been working with search and beacon academy students so we also did -- we did a volunteer drive for them as well to send -- to prepare care packages for them.

And finally, this has been sort of a department-by-department initiative. The departments are -- have, you know, sort of an hour or two hours where the entire department will get together and they'll decorate our patient care. They'll write letters to soldiers who are serving abroad. It's just been a really great way for the department to get to know each other and do some volunteer activities as part of the whole thing.

And finally, we are a finalist in the Massachusetts Economic Impact Awards which I believe comes up in the next week or two.

>> MR. DeSALVIO: Couple weeks, yeah.

>> MS. KRUM: So we'll report back following that, hopefully.

We have donated \$2.3 million to local charitable organizations this year. We have -- even though we only had the majority of our employees start in June, we were able to log 2,400 employee volunteer hours year to date. I think one of the coolest things we've done this year is, as you know, our money from the play dates was all going to be donated -- on the gaming side was all going to be donated to charity. And so we held an event. We didn't tell the six charities that we had selected how much money we made. And we unveiled it at that event. Also the Mayor of Malden and Medford were there as well. And they were floored. They had no idea that they were going to get this kind of money. So that was a great way to move past the play dates.

>> MR. DeSALVIO: Yeah, \$111,000, and it was funny because we asked the

organizations what they thought they were going to get. And they said something like, well, we thought it was going to be, like, 10 grand.

>> MS. KRUM: Right.

>> MR. DeSALVIO: And so they were -- I mean, rent for life was unreal.

>> MS. KRUM: Oh, yes, one other thing just to clarify. The Board of Directors of Wynn Resorts has selected with Matt Maddox's approval an executive coach for him. The person has been -- they have entered into a contract, and Matt has started meeting with the executive coach and really seems to like the person. So I wanted to give you that feedback as well.

>> CHAIR JUDD-STEIN: Thank you for the update.

>> MR. DeSALVIO: Great. Well, any other questions?

>> COMMISSIONER ZIEMBA: Thank you, Commissioners. That concludes my report.

>> COMMISSIONER ZUNIGA: Thank you.

>> CHAIR JUDD-STEIN: Thank you very much.

>> MR. BEDROSIAN: So, Commissioners, I think the question is now, do you have the fortitude to do the junket reps? Because it may be that we want some of the folks from Encore to stay during that. And then take a break and go to lunch?

>> COMMISSIONER ZUNIGA: Yeah.

>> COMMISSIONER O'BRIEN: Are you good?

>> COMMISSIONER ZUNIGA: Yeah. I do probably have a couple of questions for Bob and Jacqui.

>> MR. DeSALVIO: We'll be right here.

>> CHAIR JUDD-STEIN: Thank you, Bob. And thank you for your report. Thank you very much.

So we are jumping now -- we're going backwards now to 4b.

>> COMMISSIONER O'BRIEN: 4b.

>> CHAIR JUDD-STEIN: Counsellor Torrisi, thank you, and Director Wells. Bands. Thank you.

>> MS. TORRISI: Good afternoon, Chair and Commissioners. So Director Wells, Director Band and I and Director Vander Linden should be here momentarily. We're here to talk to you about the junket regs which you discussed a bit at your last meeting. So in your packet, you have two draft regulations. You have 205 CMR 134.06, which is the actual junket regulation. There's also an accompanying memo that just sort of outlines the purpose of each section. But just some of the key components. Excuse me. The regulations require all junket enterprises and representatives to be licensed. They require our licensees to maintain a monthly junket activity report that would be made available to the IEB upon request. And they prohibit junket enterprises and representatives from marketing to individuals on the licensees' no marketing list for the voluntary self-exclusion list. So there's also a second regulation in your packet which is the licensing regulation. That's 134.01. So that regulation just adds the solo junket representative that you discussed at your last meeting to the list of persons who would be required to be licensed as a key gaming employee standard. That was the one type of license that wasn't already accounted for in the regulations.

So I just want to point out before we get to any questions that we do have one change that we plan to make to the regulations that you have in your packet, just based

on some discussions this morning. So Section 5b talks about the process for how the junket enterprises and regs would receive the names of people to which they're not allowed to market.

>> COMMISSIONER ZUNIGA: Where is that again?

>> MS. TORRISI: It's on page 2 right at the bottom.

>> COMMISSIONER STEBBINS: This.

>> MS. TORRISI: Of the two-page reg. So -- oh.

>> CHAIR JUDD-STEIN: With the red line.

>> COMMISSIONER ZUNIGA: Thank you.

>> MS. TORRISI: So the way it's written right now, the process would be that the junket enterprises and reps would have to provide their potential marketing list to the licensees. The licensees would go through the list and sort of eliminate anyone who fits into these categories that we've defined as not being appropriate for marketing and return the list to the enterprises or reps. But we intend to change that and have the process be that the licensees will simply provide their complete no marketing list to the junket enterprises and reps, and it would include anyone on the VSE list, but you wouldn't be able to identify from which list people had come. So it would just make the process a bit more efficient.

>> COMMISSIONER O'BRIEN: And I think there were some privacy concerns about doing it that way we talked about last time. Have those all been resolved?

>> MR. VANDER LINDEN: Yeah. I think the privacy concerns revolve in large part around the voluntary self-exclusion list. The statute clearly spells out that privacy and confidentiality is of utmost importance for individuals who sign up for the voluntary self-exclusion list. I think the solution that was drafted by Carrie and the team really does an excellent job of protecting the privacy of those on the VSE list because it combines individuals that would be on that list with all other persons that would not be marketed to.

>> COMMISSIONER O'BRIEN: It's not a bar that prohibits disclosure. It's just disclosure can be made as long as privacy is maintained?

>> MR. VANDER LINDEN: Wait.

>> COMMISSIONER ZUNIGA: Well, especially in effectuating the purpose of signing up for both lists.

>> COMMISSIONER O'BRIEN: Right. Because of the privacy concerns the last time, I just want to make sure that what you are proposing is the new approach? We had talked about that the last time. And there were concerns raised about the privacy protections that are inherent in the voluntary exclusion list, so I'm just looking for affirmation that doing it this way is not violating any sort of nondisclosure provisions on that list.

>> CHAIR JUDD-STEIN: So the point is that -- you've raised a good point. The disclosure of the name, even though the privacy would be protected, is okay under the statute?

>> COMMISSIONER O'BRIEN: Is that correct?

>> MR. VANDER LINDEN: Yeah. Well, I would make the legal to answer that definitively. I believe that, you know, just in terms of protecting the identity, because it's more than one list that's coming together, that you wouldn't be able to determine whether or not this individual is on a no-marketing list. Whether they're on some other

list or whether they're on the voluntary self-exclusion list.

>> COMMISSIONER O'BRIEN: I'm just looking to make sure that we're not technically violating that says you cannot disclose this name. If we can work a solution, I think it's a better way to do it.

>> COMMISSIONER ZUNIGA: I actually like this modification. I had the concern on the other way in which the whole purpose of signing up for these lists is not to be marketed to or invited to. And if that acts as a barrier, because realistically the operator cannot know for sure who is on the list and has to go back and forth as to can they talk to this person or not may end up being a real barrier. I believe -- and maybe this is something that we should certainly put -- make a disclosure, let's say, on anybody who's signing prospectively, that the names are going to be shared only to the extent to effectuate the problem, which is essentially what this is happening. I think there was a concern that there's already some people on the lists that maybe did not get a notification like that, and that could have been, you know, an issue.

>> COMMISSIONER O'BRIEN: We had talked about maybe needing regs. I'm looking back to the last time we talked about it. What I'm saying is I like this approach better. I just want to make sure and get affirmation that we're not running afoul of any statutory prohibition on disclosure.

>> MS. TORRISI: I'll have to confirm that, but I think we could, you know -- if there are more questions, we could still move forward and confirm that while we're in the process.

>> COMMISSIONER O'BRIEN: Right.

>> COMMISSIONER ZUNIGA: I like this approach as well. And I think notwithstanding the notion the need for confidentiality, I think there's, by necessity, to execute the program to make sure that people are not marketed to, you need to share those names.

>> COMMISSIONER O'BRIEN: Right.

>> CHAIR JUDD-STEIN: And I understand that this is the beginning of the rule-making process. So we would get input on this particular issue.

>> MS. TORRISI: Correct.

>> CHAIR JUDD-STEIN: Which it will be really helpful if there are concerns and it gives us an opportunity to just cross T, dot the I on the precise legal question that you raise. I presume, Carrie, that's addressed here. But it's important to just check that and then we'll get the -- we'll get input, just the beginning process. Correct, Director Wells? Did you want to add -- you had a question?

>> MS. WELLS: You've got competing interests of privacy and in the interest of not marketing to people who have a gambling problem. So this solution seems to be the best way to address both of those concerns with giving the most privacy to the individuals on the list.

>> COMMISSIONER STEBBINS: Just a quick question on section number 5 just so I'm clear. On 5a, number 4, we talk about individuals have been placed on the exclusion list. Those are people we want on the exclusion list for certain reasons. But when you get down to b, I just want to make sure that those are the people who are reflected in item number 1, the gaming licensee as identified as being not appropriate to receive marketing?

>> MS. TORRISI: Yeah. So I didn't include it in the reg because that information is

publicly available, but I certainly can put it in if you prefer that it be in the reg as well.

>> COMMISSIONER ZUNIGA: Yeah, it's a public list.

>> MS. TORRISI: Right.

>> COMMISSIONER ZUNIGA: You can check it on our website.

>> MS. TORRISI: We could -- so setting this section aside, the way that it would be written now would be that the licensee provides a list including, you know, everyone who's outlined here in 1 through 3 all in one list to the junket enterprises and Republicans. And we could include, even though the information is otherwise available, we could also include people on the exclusion list if we prefer it all to be in one place.

>> COMMISSIONER STEBBINS: I think it's to be specific.

>> MS. TORRISI: Yep.

>> COMMISSIONER STEBBINS: The information is public but I still would want it to be that specific and it doesn't really become a requirement of our licensee. It becomes a requirement of the junket operator to look to that list.

>> COMMISSIONER ZUNIGA: Belts and suspenders. I was wondering if the exclusion list incorporates junkets so it only applies to the requirements of the reg on the exclusion list is -- places an onus only on the casino operators, not on the junkets.

>> MS. TORRISI: I believe it's only on the casino operators.

>> COMMISSIONER ZUNIGA: Well, that would then point to Commissioner Stebbins's point of bringing the exclusion list into this --

>> MS. TORRISI: Right. Well, so the marketing restrictions for the junket enterprises and reps already -- they do include that they can't market to anyone on the exclusion list. This would just be talking about the list -- the actual list that they'd be receiving from the licensees. So the restriction is already there. It's just how do we want the physical list to look.

>> COMMISSIONER ZUNIGA: Okay.

>> MS. TORRISI: To Commissioner Stebbins's point, we might as well include all of them in one place.

>> COMMISSIONER ZUNIGA: Okay.

>> MR. VANDER LINDEN: The VSE list, obviously the MGC manages the voluntary self-exclusion list. That list is sent out to gaming licensees twice per week. Gaming licensees, it's explicit that they can't share that list beyond their other casino properties that they own. So they could share it with, you know, Encore with share it with their property in Las Vegas or Plainridge Park Casino can share it with other Penn properties. But it's very explicit that it ends right there. And so it would not allow them to share -- actively share that list with junkets, but I think that the solution that is presented, it's not sharing the list, but the junkets are sharing lists and removing the name.

>> COMMISSIONER ZUNIGA: That's all good. The last point was talking about the exclusion list, not the voluntary self-exclusion.

>> MR. VANDER LINDEN: Okay, I'm sorry.

>> COMMISSIONER ZUNIGA: Just for the record, says which is a public list.

>> MR. VANDER LINDEN: Right.

>> COMMISSIONER ZUNIGA: It only has ten people or so, however many. And I see no harm in just including those ten people as well. As you point out,

Commissioner.

>> COMMISSIONER STEBBINS: How does any of that information get shared? People who are, you know, have a trespassing order, I mean, those aren't people you want back on the property. How does that information potentially get shared with the operator or licensee?

>> MS. KRUM: That we would have to have (Inaudible).

>> COMMISSIONER STEBBINS: Okay.

>> COMMISSIONER ZUNIGA: It could also be a bigger list that then, you know, further alleviates the need for, you know, the privacy issues.

>> MR. DeSALVIO: Plus we would have confidentiality agreements (Inaudible).

>> COMMISSIONER ZUNIGA: With the junkets, yeah. That sounds good.

>> CHAIR JUDD-STEIN: So you're looking for a vote today to begin the regulatory process.

>> MS. TORRISI: Correct. Yes.

>> CHAIR JUDD-STEIN: Are there further questions for Carrie or Karen or Bruce or Mark?

>> COMMISSIONER STEBBINS: Anything you want to add, Bruce? You were kind of quiet.

>> MR. BAND: I'm holding back for the next (Inaudible).

>> COMMISSIONER ZUNIGA: I actually just have a couple of questions just from the industry perhaps I can just direct to Bob and Jacqui. Yes, please. Bob or Jacqui.

>> CHAIR JUDD-STEIN: I think Mark's going to switch.

>> COMMISSIONER ZUNIGA: I'd just like to understand a little bit more of the industry. These representatives typically will want to market to people outside of Boston or Massachusetts? It's typically for the outside player. Does it even matter?

>> MR. DeSALVIO: Sure. Typically in the industry for a place like ours, it would be folks that are outside of the bounds of the local region. It would be a little unusual to have a rep right in your backyard. So it could be -- and they're all over in major cities around the United States. You know, it could be someone from Chicago or Miami or wherever. And those are folks that typically traditionally don't want -- or are not interested in working inside at a casino operation, but just know customers. And so this is very common in the industry. As a matter of fact, there are, you know, reps that rep Wynn and Encore in Las Vegas, and I'm sure -- actually, many of them have already said we'd love to do business in Massachusetts. And so we said we would, you know, try to advance the -- both the licensing and the promulgate the regs portion so they could get in business. But, yes, it's very common in the industry, and usually it's outward coming into us.

>> COMMISSIONER ZUNIGA: Is it typical for a junket representative to work with more than one operator?

>> MR. DeSALVIO: Yes. Usually not in the same market.

>> COMMISSIONER ZUNIGA: Right.

>> MR. DeSALVIO: So usually they would have a preferred place in a particular jurisdiction is the norm. But sometimes multiple. It depends. Vegas is a little bit different. A place like ours, you know, it would be pretty much exclusive to us, I would believe.

>> COMMISSIONER ZUNIGA: Great. Thank you.

>> MR. DeSALVIO: Great. Thanks.

>> CHAIR JUDD-STEIN: Excuse me. Any further questions? Comments? Do we have a motion for counsellor Torrisi?

>> COMMISSIONER O'BRIEN: Madam Chair, I move that the Commission approve the small business impact statement for the amendment to 205 CMR 134.01 and the new regulations Section 134.06, licensing and registration of employees, vendors, junket enterprises and representatives and labor organizations as included in the packet.

>> COMMISSIONER STEBBINS: Second.

>> CHAIR JUDD-STEIN: All those in favor?

[Vote taken]

Opposed? 4-0, Catherine. Thank you.

>> COMMISSIONER O'BRIEN: Madam Chair, I further move that the Commission approve the version of the amendment to 205 CMR 134.01 and the new regulations Section 134.06, licensing and registration of employees, vendors, junket enterprises and representatives and labor organizations as included in the packet and authorize staff to take all steps necessary to begin the regulation promulgation process.

>> MS. TORRISI: Sorry to interrupt. We may want to just modify the motion with the --

>> COMMISSIONER O'BRIEN: As amended. As amended.

>> MS. TORRISI: Yeah.

>> COMMISSIONER O'BRIEN: And as amended at this hearing.

>> COMMISSIONER ZUNIGA: Second that.

>> CHAIR JUDD-STEIN: Everyone all set with that amendment? All right. All those in favor.

[Vote taken]

Opposed? 5-0. 4-0.

[Laughter]

True spirit.

>> COMMISSIONER ZUNIGA: I suspect it would have been a 5-0.

>> CHAIR JUDD-STEIN: Thank you. I think that it makes sense now -- I'm looking at my timekeeper, Janice, does it make sense for us now to do a break?

>> MR. BEDROSIAN: Could we just -- in terms of the afternoon session, I'm going to suggest that when we come back both for viewers' purposes and the Commission's readiness purposes, that we go to item number 9, which is the responsible research gaming MAGIC report. We have a guest who's traveled. That would give her the ability to present, leave, and then staff would, I think, fill up the rest of the agenda.

>> COMMISSIONER ZUNIGA: Sounds good.

>> CHAIR JUDD-STEIN: I want to extend, though, an invitation for Rachel to stay for the rest of the meeting if she would like. Thank you. Thank you. I think that makes great sense. I saw that you were here, so thank you very much. We will convene -- it's 1:17. Quarter of 2:00? Is that okay? 1:45? 1:50?

>> COMMISSIONER O'BRIEN: 1:50.

>> CHAIR JUDD-STEIN: 1:50. Thank you, everyone.

[A lunch break was taken at 1:17 P.M.]

>> CHAIR JUDD-STEIN: Thank you, Austin. We are reconvening meeting number

276 of the Massachusetts Gaming Commission today, September 12th, and we have skipped ahead on our agenda to item number 9, research and responsible gaming, Director Vander Linden, please.

>> MR. VANDER LINDEN: Great. Good afternoon, Commissioners.

>> COMMISSIONER ZUNIGA: Good afternoon.

>> MR. VANDER LINDEN: Before we dive into the agenda item, looking at the Massachusetts gaming impact cohort wave 3, I just wanted to mention responsible gaming education week. Responsible gaming education week is September 16th to 20th. The theme this year is watch your time and have a game plan. Educational activities are being led by our GameSense advisers at each of the GameSense info centers at all three casinos. The MGC is partnered with the Mass Council on Compulsive Gambling and each of our licensees to promote the week via their social media platforms, in-house signage, and have purchased items to be used in the GameSense info center educational activities and prizes. One of them is a very nifty little watch to commemorate Watch Your Time. And the licensees have purchased these and GameSense advisers are distributing them at each of the casinos.

At the end of the week, typically what we do is we come back and share some stories about events that happened during the week, and I hope we can do that at a future meeting. So the presentation today, I'm joined by Dr. Rachel Volberg. She's the Principal Investigator of this project, and she's a Professor at UMass Amherst School of Public Health and Health Sciences. I'm not going to give too much of an intro because her PowerPoint is excellent. But I will say this is a unique project. And the information that it provides is incredibly impactful. Prevalent studies take a look at a given point of time and can tell you the condition as it exists. I'm not -- and are very valuable in their own right. This particular study, a cohort study, tracks individuals over the course of time. Why is this important? Because we can kind of see how problem gambling, how at-risk gambling, how gambling, in general, progresses in an individual over the course of time. We can see how problem gambling progresses. We can see how it starts. We can see how people recover from at-risk or problem gambling. We can see what are the risks and protective factors that are associated in individuals to help begin to craft very specific, very targeted prevention and intervention initiatives. If we know what are contributing factors to problem gambling, we can address that. That puts us head and shoulders above. So the gaming Commission now has been investing in the study for several years. And it's especially now, and with each wave of this study, we get more and more valuable information, more and more specific that can be used by the gaming Commission, by the Department of Public Health, by other state agencies and by other stakeholders, generally, to help them better understand this issue. So I hope that tees it up, and I'm going to just now turn it over to Dr. Volberg.

>> MS. VOLBERG: Good afternoon. Thank you very much, Mark. Good afternoon, Commissioners, Madam Chair.

>> COMMISSIONER STEBBINS: Good afternoon.

>> MS. VOLBERG: It's been quite a while since I have presented to the Commission. I was trying to think when the last time was. I think it was the summer integrative report that we presented in December last year, so it's a pleasure to be back in Boston and to be appearing before you.

So as Mark indicated, I'm going to be presenting today on the results of the

cohort study. This is going to be looking at results from the first three waves of data from the cohort. We actually have additional data that we'll be hoping to present in early 2020, which will incorporate the next wave, wave 4, of the study, and we just came out of the field with wave 5 of the study a little bit earlier this summer. So the data is piling up, and we are finally being able to sort of push out what some of the really intriguing results are.

Since it's been a while and since we have at least two members of the Commission who haven't seen any of this material before, I thought I would go back to basics. I want to start by giving you some definitions and talking through a few key terms. It's a very scientific-y sort of report. So I think it's probably helpful to understand what some of the basic things are that we're trying to understand. I want to give you some background on how the study came to be, give you a sense of our current status, and then move into the findings and implications and future directions.

So if I'm talking too fast, please slow me down. I've given the front part of this talk a couple of times, both to the Commission and then to the public health trust fund so, you know, just slow me down if I'm talking a little too fast. So Mark indicated in his introduction that there's a difference between what's called a prevalence study and what is -- what we are looking at today, which is a cohort study. The surveys that we're doing under the social and economic impacts of gambling in Massachusetts study are what are called repeat cross-sectional studies. So they take snapshots at given points in time, but they are not the same people in the sample. So it's not the same people in each snapshot.

The value of a cohort study is when you're following the same people over a period of time, they're all exposed to the same issue of importance that you want to understand what is affecting their behavior. So in this case, we are collecting information from the same people as they all experience the introduction of casino gambling in Massachusetts. And the reason that's important is it gives you much greater power to make causal attributions so you can actually, because you can see how their behavior changes over time, you can look at something that precedes a change in their behavior and be much more confident that that change in their behavior is attributable to something that is behind them in time.

Mark asked me when we were getting ready, are you going to have your bathtubs? And I was, like, oh, yes, absolutely, I have to have my bathtubs. Prevalence of problem gambling is something that generally everyone's concerned about when you are talking about expansion of gambling. And from the point of view of public health and from epidemiology specifically, that prevalence rate tells you, like, what the level of the water is in your bathtub. What it doesn't tell you is anything about what is affecting that level of water. So if you think about sort of who's in the water at any one time. You want to, when you're developing services for those people, it's important to know if it's the same people that are in that bathtub at all times or if there's some kind of exchange such that, you know, there's people who have had gambling problems but for not very long. Or if it's all the same people in the bathtub, those are people who have chronic, unremitting gambling problems and usually are considered by treatment professionals to be much more complicated cases and much more expensive to treat.

The water level is your prevalence rate, but then your incidence rate is the

number of new cases or the new people that are flowing into your bathtub. And then there's ways -- there's a couple of different ways that water will leave the bathtub. So there's different plugs that you can pull. One is if people leave the population because they've died or if they've moved out of the jurisdiction, they're no longer part of your prevalence rate.

Another is if -- and this is the second bathtub because I couldn't find a bathtub that did both of these in one picture. But another way for people to leave the group that are creating your prevalence rate is if they recover from a gambling problem. So that's sort of, like, evaporation out of your bathtub. And then there's also the issue of particularly people who have had a gambling problem in the past are more vulnerable to developing a problem again. And so we're very interested in the rate of recurrence. You know, people who had a gambling problem at time one didn't have a gambling problem at time two but then had a gambling problem at time three. Again, these are very important pieces of information to know in terms of crafting effective and efficient interventions.

Another term that I like to make sure people understand or at least try to help them understand is the term etiology. And etiology is a specific area of public health research. It's concerned with the causation of a particular condition. And in this case, how problem gambling develops and fluctuates over time. What etiology lets us do is identify the risk factors and the protective factors. And in some cases these factors can be modified, so you can modify people's behavior. You can change things in their environment such that you prevent their progression from being engaged in gambling to experiencing gambling harm to then having a gambling problem.

So moving on into a little bit of background, there were quite a number of small-scale cohort studies of gambling and problem gambling that were conducted in the 1990s, for the most part. They all had some serious limitations. Because of their size, they tended to have very small numbers of problem gamblers enrolled in them which limits us in the findings because there were just a few people that were sort of in the study for a while. And they were all quite circumscribed in terms of time. In other words, they went anywhere from two to five years. And what that means is that you might have good information for those people, but there's not very many of them. And you have good information for those people, but it's for a very short period of time. So you don't know what sort of the longer stretch of their experience might be.

The limitations of those early studies led to the launch of a number of much larger-scale cohort studies in four countries. And this slide shows you some details about those four studies. I'm not going to spend very much time on this. I just wanted to give you an indication that two of the studies, the two in Canada, in Alberta and in Ontario, were all headed up by Rob Williams who's our co-principal investigator on the cohort here. And the Swedish, Australian and New Zealand study were all studies that I was involved in. So when Rob and I were putting our proposal together to do the cohort study here in Massachusetts, we pretty much had a bird's-eye view of all the mistakes and all the challenges that these other studies had run into, and we were able to build, I think, a much better mousetrap as a result of that experience with those large-scale studies earlier on.

So moving on to Massachusetts specifically, it may surprise all of you to know that there actually have been no major cohort studies of gambling in the United States.

Massachusetts is the very first one. Another unique feature of the cohort study in Massachusetts is that the change in gambling availability, while this study is under way, is going to be much greater than for any of the other cohort studies that were conducted internationally because of the introduction of casinos during the time that we are interviewing people, that's a very significant change in the gambling landscape, and it's occurring right in the middle of when we are involved with these people.

As I indicated just a minute ago, because we sort of knew all the challenges that these other studies had been -- had encountered, we were able to address those limitations, but we were also able to be much more efficient because we were building on what had been found in these previous studies. So we didn't have to ask every single question. We really were able to target in. And then because the cohort was actually built from people who had participated in our baseline general population survey for SEIGMA, we actually are very synergistic across the two studies, and we've been able to use data from SEIGMA to triangulate on what we see happening with the cohort study, and we've been able to take data from MAGIC to understand what we're seeing in the impact study.

So the Massachusetts Gambling Impact Cohort study, or MAGIC. Some people hate that name. We liked it ourselves, and then it turned out that all of our participants in the study really like it as well. They feel -- they've really taken great pleasure in being a member of the cohort. Every time we go out for data collection, I get many, many phone calls and phone messages from people in the cohort, like "where's my questionnaire? Aren't you supposed to be out in the field again?" So they're very -- they're very invested in the study, but the study actually has three specific goals. So the first one is to examine incidence. And, again, that's the water flowing into the bathtub. The population that -- or the proportion of the population that newly develops a condition over a specified period of time. And the reason this is important to understand is because new cases and relapsing cases require a different mix of services to be effective.

The second goal of the cohort study is to examine stability and transitions associated with problem gambling. And I'm going to be able to talk a little bit about that today. And then the third and largest goal is to develop a full etiological model of problem gambling in Massachusetts to identify the risk and protective factors and to enable the development of strategies to, you know, to promote those protective factors and to minimize the risks.

So this very busy little slide tells you something about our current status. As I indicated, wave 1 was actually our baseline general population survey. The full sample was 9,578, we selected about half of those people for -- to be invited to join the cohort. We selected 100% of five high-risk strata and then a third of our remaining respondents were from our low-risk -- one low-risk **stratum**. Wave 2 is where we actually established the cohort. We went out in the field in 2015 and completed data collection later that year. And the established cohort was 3,139 people.

>> CHAIR JUDD-STEIN: Dr. Volberg, you mentioned that was the first major --

>> MS. VOLBERG: Cohort study.

>> CHAIR JUDD-STEIN: -- cohort study. How do you define "major"?

>> MS. VOLBERG: In terms of size.

>> CHAIR JUDD-STEIN: Yeah, in terms of size. So it is a percentage -- I saw, for

instance, Australia had 15,000, and now we have -- can you just -- because that's a great statistic. So we just want to be clear.

>> MS. VOLBERG: Sure. So a major cohort study would be a sample that included several thousand people or more. In the case of Australia, they interviewed 15,000 people for their baseline survey, similar to the --

>> CHAIR JUDD-STEIN: Right.

>> MS. VOLBERG: Almost 10,000 that we had in our baseline survey, and then they followed up with about 7,000 of those people who actually stayed in the cohort for a number of years.

>> CHAIR JUDD-STEIN: So we have about a third, right, of ours?

>> MS. VOLBERG: Yeah. So we had about two-thirds of the people in our -- we had about two-thirds of the size of the Australian baseline survey in our baseline survey. We had about a half of the size of the Australian cohort in our cohort.

>> COMMISSIONER ZUNIGA: I would just note that there was -- in your remarks, there were five major studies which you were all involved in, which is this is also a major one, not just because of the size, but also the other elements that you described, which is the major introduction of casinos.

>> MS. VOLBERG: Right.

>> COMMISSIONER ZUNIGA: Is one that is really unique.

>> MS. VOLBERG: It is, yeah.

>> COMMISSIONER ZUNIGA: That we straddle, because we started with a baseline before, which is the first wave, before the introduction of casinos, and we're now going to see the effects of those introductions.

Another piece that's unique is that it's the first cohort all together, small or major, in the United States when it comes to gambling, and that's also very --

>> CHAIR JUDD-STEIN: So small as well. Okay. Thank you.

>> MS. VOLBERG: Well --

>> COMMISSIONER ZUNIGA: Because there has not been any other cohort studies on gambling in the United States.

>> MS. VOLBERG: Yeah. And one of the things that I wasn't planning to go into a lot of detail, but one of the reasons that we're able to have a cohort of this size and still be able to get all of the value out of the exercise that we hope for is that we -- we purposely oversampled for people who would be at risk for developing a problem. One of the challenges of those earlier cohort studies was that they all tried in different ways to overrecruit problem -- people who would develop a gambling problem. But in Australia, for example, the difficulty -- or one of the challenges that they ran into was they had to have a very large baseline general population survey. The strategy that they took to overrecruit for people who might develop a gambling problem was they overrecruited in geographic areas where there were a lot of gaming machines. And it turned out that that was not a great strategy for getting people into the cohort who would transition. So they ended up having far fewer transitions, to be able to look at people changing is one of the things that gives a study like this power. And so we overrecruited for people that we thought would change. And, in fact, we have been successful in doing that.

So wave -- Mark, did you have something?

>> MR. VANDER LINDEN: No.

>> MS. VOLBERG: No? Okay. So wave 3 was fielded a year after wave 2. We were able to get about two-thirds of the folks who joined us in wave 2 to complete the questionnaire in wave 3. We then had a hiatus. So wave 4 actually went out in 2018. But we have been able to maintain the size of the cohort pretty well at about 2,400. We just were talking with the data collection folks about wave 5. They're getting ready to deliver wave 5 to us. And they told us that they're pretty sure that we're going to be just over 2,400 for the sample size for wave 5. And we have, in our deliverables for fiscal year '20, going out with wave 6 next spring.

So I would have to say that the Massachusetts cohort study, at this point, with all of the work that we have planned through fiscal year 2020 is already the longest-lasting cohort study that has been carried out internationally. I also would like to just mention that I never, in a million years, expected that we would start a cohort study in Massachusetts prior to the opening of all of the casinos. And it was the Commission's vision, I think, to have this cohort start very, very early in the process of introducing casino gambling to Massachusetts that I think in the end is going to serve all of us in the Commonwealth because it really is going to be a unique in the world opportunity to understand the impacts of an introduction of this scale of gambling into a population.

>> MR. VANDER LINDEN: Actually, I just wanted to add to that, it wasn't really the wisdom of the Commission, although you're all very wise, it was outlined in statute, Section 71 specifically. Specifically called for --

>> MS. VOLBERG: Come on, Mark.

>> MR. BEDROSIAN: (Inaudible).

>> MR. VANDER LINDEN: Right. There absolutely was. It was decided that it was a requirement in Section 71 that called for the research agenda. But the Commission made a very wise decision to say if we really want to understand what is the impact of the casinos on the progression of gambling and problem gambling so we can really understand etiology, let's launch it now. And so that's -- we launched it very early compared to perhaps when we would have necessarily needed to.

>> MS. VOLBERG: So kudos to everybody. Okay. I'm not going to spend very much time on this slide because everybody hates weighting except a very small number of people in the biostatistics department of my school.

>> MR. VANDER LINDEN: I think I was going to tell you to cut this slide.

>> MS. VOLBERG: To cut this slide? Yeah. We only use weighting to adjust the data in calculating the incidence rate so that we can be more confident about generalizing to the adult population of Massachusetts. We don't use weighting for anything else in this study, but we do use weighting for all of our other population studies. So unfortunately we do have to acknowledge how we weight so that other researchers can delve into the data eventually and understand what we did and see if they agree with it.

So this slide lays out on the left-hand side, this tells you the strata that we sampled from, from the baseline general population survey. So we took 100% of the people in the baseline survey who were problem gamblers, 100% of the at-risk gamblers, 100% of the people who spent \$100 a month -- \$100 a month or more on gambling, and those who gambled weekly. And then we had a small group of people, military veterans, who had served since 9/11 who had very high rates of problem gambling in the baseline general population survey, and we felt that it was important to

include them as a specific **stratum**. And then all of the other participants in the baseline survey.

The column over gives you the sample size, and then the achieved cohort, those are the people that we actually were able to complete interviews with in wave 2. And you can see that there's somewhat different response rates by group. But overall, we recruited 65% of the people that we selected from our baseline survey.

>> COMMISSIONER ZUNIGA: Rachel, is this strata mutually exclusive, or can somebody who gambles weekly and spends let's say \$1200 annually?

>> MS. VOLBERG: Yeah. So basically, we took all the problem gamblers first. And then we took all the at-risk gamblers, because they were mutually exclusive groups.

>> COMMISSIONER ZUNIGA: Ah.

>> MS. VOLBERG: And then anybody who gambled \$100 a month or more but wasn't an at-risk or problem gambler --

>> COMMISSIONER ZUNIGA: It's a cumulative add-up.

>> MS. VOLBERG: Yeah, yeah. So by the time you get down to military service, 9/11, 2001 and after, those are the veterans that were in the sample but who had not been caught in any of the other **stratum**.

>> COMMISSIONER ZUNIGA: In any one of the top.

>> MS. VOLBERG: Yep. Is that what you were --

>> COMMISSIONER ZUNIGA: That's exactly, yep, what I was asking.

We use a multimodal strategy in data collection. With wave 2 when we recruited the cohort itself, we used the same approach that we had used with the baseline general population survey, initially inviting people to participate online, a self-administered online questionnaire, and then if they ignored us, we sent them a self-administered hard copy questionnaire a couple of times. And then if they still ignored us, if we had a telephone number for them, which we did for about 80% of the people, we actually called them and tried to complete an interview by phone.

We've changed a little bit for wave 3 and more recent waves. We initially invite them to complete online. Then if they don't complete online within a period of time, we invite them to -- we send them a self-administered questionnaire, and then if they still haven't responded, we don't try to complete an interview by phone anymore, but we do some telephone prompting to try and get people to complete one or the other of the two waves. And part of the reason for that is it's less expensive because you don't have to train telephone interviewers and do telephone interviews. But also, it means that all of the data for wave 3 and 4 is self-administered. So there's much less likelihood of social desirability biasing the data.

>> CHAIR JUDD-STEIN: So I presume it's effective, the prompt?

>> MS. VOLBERG: Yes. Yeah. We usually get -- we get a lot of people who want to complete the self-administered questionnaire. And so when we send out the -- you know, the initial letter, you know, it's the next wave of MAGIC, you know, here's your online -- your code to, you know, to get in and complete online. And that's when I get all of these phone calls from the participants saying, I don't want to complete online. I'm waiting for my questionnaire. Like, when is the questionnaire coming out? And so I have to have -- we have quite a few conversations with folks who are, like, I don't have a computer and I can't do this online. Yes, we know. We'll be sending out -- the

questionnaire comes about four weeks after the initial letter.

So another very important piece of stuff that we have to do is we have to make sure that the same people are participating in the study. And we do a lot of work with each wave to match participants across waves. And so what this slide shows you is that across the various waves, we've got -- we actually had a small number of people, about 44, who joined the cohort in wave 2 when we started it but had actually not been the same person at that address who had completed our interview for the baseline survey. But they completed our interview for the cohort study. So we're, like, okay. Now you're in the cohort. Now we're going to keep you. They just, for whatever reason, I mean, you know, maybe somebody had moved out of the household, and somebody said, oh, I'll finish this and didn't pay attention to the instructions that this had to be the person who had completed the last time. So we take a lot of time to basically match people across gender, age, race, ethnicity, and level of education. Those are the four variables that we used to match participants across waves.

So you can see what that does is it affects the size of the group that we have available for analysis. But in wave 3, we're at about 2,450 people who have participated with us in all three of the waves. And then this is a nice little map that I like to sort of use to demonstrate that this is where the addresses that we -- that we know the cohort participants live at. There's a star on the map for each of the addresses that we mail advance letters to. And I like the fact that it looks pretty representative of the distribution of the population of Massachusetts, including just a couple of people out there on the islands.

So now, actually getting into some data for you. I'll grab my glasses because I want to make sure I read this properly. So this first slide here on the results shows changes in gambling participation across the three waves of the study to date. And I just want to clarify for you that this is what's called a pair-wise comparison. So this means you're looking at the same -- the same people answering the same questions at three different points in time, okay? And, again, it's much more powerful in understanding change if it's the same people answering the same question and you're comparing their behavior in wave 1 to their -- to that same person's behavior in wave 2 to that same person's behavior in wave 3.

So this is unweighted data. We're not attempting to represent the general population. We're looking at the 2,428 people who completed all three waves and completed all of -- enough of the questions in all three waves for us to include them in this graphic. The analysis of the results shows that from wave 1 to wave 2, there was a significant increase in the proportion of people in the cohort who participated in daily lottery games and a significant increase in people who bet on sports and those who wagered privately amongst themselves. However, the magnitude of these changes was quite small. In looking at wave 2 to wave 3, there were significant increases in daily lottery participation and in online gambling participation. However, both of these changes were the result not of actual changes in behavior but changes -- they were due to what we thought were very minor changes in how we asked the questions and, in fact, people are quite sensitive to exactly how you answer the questions. So it gave us real insight into how careful we have to be in every wave of the survey -- or every wave of the study to not change the questions if we want to be able to compare to previous waves. So it's not that we're not going to

change any questions. It's just we have to be very careful when we change questions and not try to attribute any change to, you know, to their behavior when we know that we change the wording of that question.

In the case of daily lottery, we felt it was important to be as up to date as possible. So we actually added just the names of two new monitor games that had come online since the beginning of the study. And that led to that increase in daily lottery play. It was that small of a change. So we just -- it made us very vigilant about looking at changes that we see across waves and making sure that we can confidently attribute any changes that we see to, you know, their actual behavior or reporting of their behavior rather than, you know, something that we've done to try to be, you know, more reflective of what the current situation looks like.

Oh, the casino. Oh, yes. That's right. That was the most important finding. So you'll see on the sort of third set of bars that there was a significant decrease -- and it's a statistically significant increase in the proportion of participants in the study who had gambled at an out-of-state casino in the past year. So it went from about 33%, 32% in wave 1 -- it was 33% in wave 1, 32% in wave 2, and then it went down to 22% in wave 3. Wave 3, the data were collected after the opening of the slot parlor. And so this finding triangulates very well with information that we have from the Plainridge Park Casino cohort -- patron survey, excuse me, where we were able to ascertain that a very significant number of the people who were patronizing Plainridge Park Casino in that first year actually would have spent their money gambling at an out-of-state casino if Plainridge Park had not opened. So this was very nice corroborating evidence of the success in recapturing Massachusetts gambling dollars that were leaving Massachusetts and going elsewhere. Thank you, Mark.

This is the stuff that I like. So this is unweighted data, but it is basically looking at the numbers of people in the cohort who had a status at wave 1 and then their status at wave 2 and then the table below is their status at wave 2 followed by their status at wave 3. This is basically an accounting table to tell you where every one of the 3,139 people fell from wave 1 to wave 2 and then wave 2 to wave 3. More significant is the incidence and remission table here. And we've presented these data both in terms of unweighted data, which is the actual cohort and then the weighted data to give you an idea of how many people in the state of Massachusetts are represented by the number of people in each of the rows.

So -- my slides are very small. Oh, that's very helpful. Thank you. So you can see that the incidence rate is calculated by the number of people who go from no -- not being a problem gambler in wave 1 to being a problem gambler in wave 2 divided by the -- all the people that are -- that were not problem gamblers in wave 1. So you add the 2493 and the 60 together, that's your denominator. Similarly with the weighted, you add the no/no and the no/yes together and that's your denominator for the people who are incident or going from not being a problem gambler in wave 1 to being a problem gambler in wave 2.

Below that is what's called the way you calculate the remission rate. These are the people who were problem gamblers in wave 1 and looking at their status in wave 2. So you've got -- and this is interesting and important to know. You've got about half of the people who were problem gamblers in wave 1 transitioning to not being a problem gambler in wave 2.

>> MR. VANDER LINDEN: At risk.

>> MS. VOLBERG: But maybe at risk and probably are at a little bit of heightened risk because they were problem gamblers at wave 1. So we know they had been problem gamblers in the past, but then they weren't at that level when we interviewed them in 2015. And down below that is the same table but for the cohort from wave 2 to wave 3. So you've got an incidence rate that's quite a bit lower, and we know that there were some -- there were some recruitment differences between -- the recruitment for the baseline survey, we basically told people it was a health and recreation survey because we didn't want to overrecruit people who were enthusiastic gamblers. If you tell people it's a gambling survey, you get a lot of gamblers. So by the time we recruited them into the cohort, we were being much more honest, much more straightforward, and we knew from the baseline that it was a gambling survey, and then they agreed to let us contact them again. And when we did, we told them it was a gambling study. And so we think we actually overrecruited gamblers, and that probably contributed to the somewhat higher incidence rate that we have from wave 1 to wave 2.

From wave 2 to wave 3, the incidence is about -- is quite a bit lower, but it's now reflective of what's actually going on with this cohort. And it's also very similar in terms of the other cohort studies that we've been involved with and are aware of. This is about -- it's certainly within the ballpark of what we've seen in other jurisdictions. But, again, the remission rate is still quite high. That is about -- almost half of the people who were problem gamblers in wave 2 then transitioned to not being a problem gambler in wave 2.

So moving on to the issue of stability and change, this is very similar to what we've seen in other jurisdictions. Recreational gamblers tend to stay recreational gamblers. They're not very likely to change. They're the least likely group to change. Nongamblers, about half of them remained in that category across all three waves. But a little over half of them actually moved into a higher category. So most of them moved into being recreational gamblers. But a few actually moved into being at risk or problem gamblers. Problem and pathological gamblers, about a third of them remained in that category across the three waves, so there was quite a bit of movement. And then at-risk gamblers were the most likely to change status across the three waves of the study to this point.

Then there was another very interesting group of people who moved in and out of risk categories across waves. So for some people, they experienced a decrease in risk category. You know, certainly the proportion of problem gamblers, the two-thirds of problem gamblers who moved out of problem gambling, many of them moved to an at-risk category, but quite a few of them also moved even further down to recreational gambling. There were also individuals who experienced an increase in risk category. So they moved up the continuum. And then there was this very interesting group of people who, like, went back and forth. So they either went up and then came down or they, you know, went down and then came back up. And each of these groups, you know, is interesting for a variety of reasons. But in the current instance, what's most interesting is the amount of movement because typically or conventionally problem gambling has been viewed as a chronic and unremitting disorder. And to see this amount of movement is really pretty surprising and has implications for, you know, the kinds of messaging that you might want to do to people but also has implications for the

kinds of services that you might want to roll out.

>> MR. VANDER LINDEN: Yeah, I think that's really where the rubber hits the road is trying to take this data and interpret it in a way that we can use it. We can begin to think about resource allocation. We can think about messaging, if we think about GameSense, understanding that at risk and problem gamblers are actually moving around to me gives me a lot of hope that there are things that we can do within that environment that will hopefully assist people to move down that continuum to be recreational gamblers. And if recreational gamblers are the most stable group there, it reinforces the idea that we need to provide a different type of information that hopefully maintains this group as recreational gamblers.

>> COMMISSIONER ZUNIGA: Was there -- maybe you'll get to this later or in the details of the report, but is there something to discern between the differences between those that decreased in this category versus those that increased in the risk category? I know you talk about protective factors or risk factors.

>> MS. VOLBERG: Our next report.

>> COMMISSIONER ZUNIGA: That's the next report?

>> MS. VOLBERG: That's the next report coming. So we're currently analyzing all of these data plus wave 4.

>> COMMISSIONER ZUNIGA: Yeah.

>> MS. VOLBERG: And what we're going to do with that next report is we're going to look specifically at the risk and protective factors. That is what are the variables that you see in wave 1 -- or see in wave 1 that predict status in wave 2. What are the variables that you see in wave 2 that predict status in wave 3? And basically, you know, what are the variables that predict an increase in severity versus what are the variables that predict a decrease in severity. So we'll have one, two, three -- one to two, two to three, we'll have three transitions for each of the members of the cohort, which will give us a lot more statistical power. And then with each new wave of the study, we'll be able to add to that power of the analysis. And then the other piece that's going to come in with wave 5 but then even more with wave 6 is we will be post-casino introduction. And then we'll be able to go back and take a look at are there differences in what predicts transitions from before the casinos opened to after the casinos opened. And that, again, will be a very unique and one-of-its-kind areas to explore.

So I'm not going to spend --

>> CHAIR JUDD-STEIN: Can you just remind us how long --

>> MS. VOLBERG: Sorry?

>> CHAIR JUDD-STEIN: -- the timing is for these waves so when we call somebody a recreational gambler or nongambler, what's the timeframe in terms of amount of time for the stability?

>> MS. VOLBERG: So for one year. So --

>> CHAIR JUDD-STEIN: Each one is really a year?

>> MS. VOLBERG: Yes.

>> CHAIR JUDD-STEIN: Okay. Thank you.

>> MS. VOLBERG: All right. So let me try and get through this discussion fairly expeditiously. So we did see small increases in gambling participation, but the changes that we saw in wave 2 -- from wave 2 to 3, I think I went through this, were actually due to changes in how the questions were phrased. It is notable that

out-of-state gambling decreased significantly -- I'm sorry, out of state casino gambling. I need to be specific about that -- decreased significantly, and we do think it triangulates well with other data that we have from SEIGMA to suggest that the slot parlor does seem to have been successful in recapturing Massachusetts residents who had been gambling at out-of-state casinos.

The problem gambling incidence rate from wave 1 to wave 2 was quite high, as I indicated, but is due to -- is subject to some methodological limitations. And the incidence rate from wave 2 to 3 declined, and remission was quite substantial. So the equal size of those groups is very interesting in terms of the implications for services. And so the second set of bullets here I wanted to just draw your attention to. One of the differences between the amount of transitioning that we've seen in the Massachusetts cohort is much higher than transitions that were observed in some of the other studies. For example, in Victoria, only 4% of the participants in that cohort study actually transitioned down over the course of their entire study. And almost 6% transitioned up. Whereas in the Massachusetts study, just even in the first three waves. So the Victoria study was five waves. In Massachusetts, we already have 13% of our participants who have transitioned down. We have 15% who have transitioned up and 13% who have moved from both wave 2 and wave 3. So that's just a significantly higher rate of movement, and we think what it reflects is our success in recruiting people who are at high risk for movement. We think the sampling strategy that we used has actually been successful.

>> COMMISSIONER ZUNIGA: What about the possibility that the one in Victoria, at least, or some of the others were mature gaming markets. That it's precisely the introduction of casinos that may be created -- creating this volatility, if you will.

>> MS. VOLBERG: But all of these transitions are before anything except the slot parlor.

>> COMMISSIONER ZUNIGA: Uh-huh.

>> MS. VOLBERG: In Massachusetts.

>> COMMISSIONER ZUNIGA: That's right.

>> MS. VOLBERG: But you're right. The results in Victoria are very much reflective of a very mature gaming market with very widely distributed gaming machines in particular in many, many different venues. We saw a very different mix of incident and remitting cases in Sweden, for example. Most of the new cases in Sweden -- in the Swedish cohort study were new cases. They hadn't had a previous history of gambling problems. So it wasn't -- there were far fewer people who remitted in Sweden. So there's different things that are going on in different jurisdictions and different gaming markets.

So, again, it's not just a question of, you know, sort of identifying transitions, but there's a number of possible reasons for the differences. Again, the maturity of the gaming market. There's also a good possibility that some of the differences may be due to how problem gambling was measured in the different studies. We used the PPGM in Massachusetts in most of the other studies, they used the Canadian problem gambling index. It may also be due to the somewhat longer interassessment period from wave 1 to wave 2. Some of you may recall that we had to wait until the referendum to --

>> COMMISSIONER ZUNIGA: Until the next wave.

>> MS. VOLBERG: We had to wait until the referendum was decided in 2014 before we could go ahead with data collection on the cohort.

>> COMMISSIONER ZUNIGA: That was the first wave or the second wave? Well --

>> MS. VOLBERG: So that was wave 2 when we established the cohort. We had to wait until after we knew there were going to be casinos in Massachusetts to proceed with the study.

>> COMMISSIONER ZUNIGA: We did.

>> MS. VOLBERG: And then I think I'm leaning more and more towards this last one, which is the cohort in Massachusetts just has a much higher proportion of individuals who were selected to be at high risk for transitioning, and that's exactly what we're seeing.

>> CHAIR JUDD-STEIN: I'm struck by that issue because I'm not an academic or scientist. I would have thought that you would skew to make sure you're neutral in those things, but you're saying that you actually recruited for that. And I thought I understood it at the beginning, but maybe I didn't. So now are you suggesting that that -- does that impact you negatively on your conclusions, or does it just support your theory?

>> MS. VOLBERG: No. It actually provides us with much more information ultimately about what is -- what is causing those transitions to happen. And that in the end gives you much greater power --

>> CHAIR JUDD-STEIN: Yeah, you had mentioned that at the beginning. So that's what --

>> MS. VOLBERG: So that's why we knew we wanted to overrecruit people who would transition, and we anticipated that they would transition towards problem gambling, but we now are also seeing that there's a lot more movement back and forth than we had actually anticipated.

>> CHAIR JUDD-STEIN: And you get information that will benefit you in a different way even though you can't do direct comparisons to other studies that have been done around the world.

>> MS. VOLBERG: Yeah. I mean, we always want to look at what else -- you know, at what other research studies of a similar kind have found.

>> CHAIR JUDD-STEIN: Right.

>> MS. VOLBERG: Because you want to sort of benchmark.

>> CHAIR JUDD-STEIN: Exactly.

>> MS. VOLBERG: But the Massachusetts study is really unique in a lot of ways. And I really have to pay tribute to all of the people that conducted those earlier cohort studies because, you know, I participated in several of them, and Rob Williams contributed, obviously, to the other two. But we were really able to strengthen the design of what we proposed in Massachusetts based on what had been learned in those other jurisdictions.

>> CHAIR JUDD-STEIN: Richer data.

>> MS. VOLBERG: Richer and more powerful.

>> COMMISSIONER ZUNIGA: Yeah. My recollection of the oversampling of at risk and problem gambling on wave 2 was really driven -- and this is what I recall, but you're being more nuanced -- is driven by the fact that the incidence is really small compared to the rest of the population. So if we simply sample according to the population and

we lose people which we anticipated that the cohort does, because eventually time works against you in the cohort, we risk losing the key people that we want to study to the point of not being able to ascertain much from them. I think yours is a lot more nuanced in terms of talking about the volatility of this risk group. But at least from my perspective, it was also practical in terms of the longevity of the cohort itself, that we needed to keep it richer initially because we are prone to lose people, gamblers at risk and nongamblers along the way.

>> CHAIR JUDD-STEIN: Sure. Thank you.

>> MS. VOLBERG: Okay. Let's see. What have I got here? So this is something that many people find surprising, I think. But there's good research across all of the addictive disorders, alcohol, illicit drugs and gambling now, which suggests that these disorders actually are much less stable than had historically been thought. There are many, many alcoholics and drug users in the general population who, you know, remit for a while or who stop using for a while. And similarly, there are people who, you know, become concerned about their gambling and decide to stop gambling for a while or decide to cut back on their gambling for a while. So the chronic -- yeah.

I either need my glasses or bigger slides. Right. So the interesting thing about -- one of the interesting things about this instability is that there are people in the population who are chronic. Not in the sense that they have long-standing, unremitting problems, although there are some that are like that, but in the sense that they are higher risk at any given point in time for a relapse, okay? So once you've had a gambling problem, you know, you are more vulnerable for having a gambling problem in the future. Similarly, too, if you've overcome an alcohol problem, you know, and circumstances in your life change, you're more vulnerable to going back to that pattern of behavior than someone who had never been there in the first place.

And then it's also important to understand that people who are experiencing addiction tend not to have unremitting manifestations. That is, they go back and forth, sometimes quite often. And to the extent that you can keep them from, you know, moving towards the more severe end of the spectrum and keep them sort of on the safe side of the spectrum, you know, that is a long-term contribution to their personal health but also to their community's health.

>> COMMISSIONER ZUNIGA: Can you -- are you, for example, thinking about the progression down from not -- from casual gamblers to at-risk gamblers?

>> MS. VOLBERG: Right. Increasing severity.

>> COMMISSIONER ZUNIGA: Yeah.

>> MS. VOLBERG: The whole notion of effective prevention is to keep people moving along the continuum, from sliding down to that severe end. You know, the more you can keep people on this side, the better off ultimately you are.

I'm not going to spend too much time on the rest of this slide. It more speaks to sort of the psychiatric or the clinical issues related to disordered gambling in the DSM-5. I do want to talk briefly about the limitations. Any good scholar has to acknowledge that every study has its limitations. We don't think that we were successful in accounting for all of the sampling biases when we developed the weighting scheme. But that becomes less and less of an issue because now there's only one thing that we're using the weighting for which is the incidence rate.

Individuals who were recruited into the cohort were aware by the time they were

recruited into the cohort that it was a gambling study. And so their decision to participate may have been shaped by the fact that they like to gamble or were interested in gambling. There is research to show that people who are asked to reflect on a regular basis about their behavior may actually improve their behavior just because they're reflecting on it. And also some social desirability to show improvement to the researchers. Although we've tried to address that by making sure that all of our -- all of our participants now are self-administering the questionnaires, so there's no interviewer bias that's interfering there.

And then observed changes over time are sensitive to the reliability of the measurement instrument, meaning, you know, any sort of device that you use to measure something, you know, comes with some sort of confidence interval around it. And some instruments are more precise than others. We use the most precise instrument we can. But it is still an instrument, and it still has measurement error.

So my last few slides here are in terms of implications for prevention and treatment. I indicated with my bathtub slides, I think, that a stable prevalence rate over time can be due to at least -- to two -- or one of two possibilities. Either you've got ongoing, unremitting problem gamblers in the same individuals, or you've got a rate of new cases that's roughly equal to the rate of cases that are remitting. And that seems to be the situation that we have in Massachusetts.

>> COMMISSIONER ZUNIGA: The second one or both?

>> MS. VOLBERG: Well, we don't know yet about the -- whether the prevalence rate is stable or not, but we do know that we've got a rate of new cases that's roughly equal to the rate of remitting cases. Both in wave 1 to 2 and wave 2 to 3. Those two scenarios have very different implications. If problem gambling is chronic and new cases are uncommon, then you really want to devote resources to treatment to get those people to -- to get them some help and to get them to -- and particularly to get them to help in terms of remitting.

However, if incidence and recovery or remission are both high, you want a greater emphasis on prevention as well as treatment and recovery support because you've got, you know, these new cases who may not have -- who may have just developed a new vulnerability, or you've got these remitting cases that clearly have some vulnerability. But if you can put some measures in place, you can prevent them from relapsing in the future.

>> COMMISSIONER ZUNIGA: Can I ask a question here to the following? There has been other studies and researchers, you know, notably the Division of Addiction who talks about this arc of adaptability.

>> MS. VOLBERG: Adaptation.

>> COMMISSIONER ZUNIGA: Or adaptation. In general, what could we say would be a reasonable timeframe to either be passed or account for adaptation, if any, relative to these scenarios that you point out here?

>> MS. VOLBERG: Yeah. So the adaptation hypothesis basically says that once you've exposed the population to a new creator of disease, that the vulnerable sectors of the population will, you know, experience the disorder and then will either recover and be immune or immunized, or they'll leave the population because they die or they move out. And then you'll be left with an immunized population which, you know, which means the prevalence rate will come down.

I think -- you know, that's -- it's an interesting sort of thing to try and interlace with what we're finding from the cohort study because you're talking about a population level set of changes. The adaptation theory really speaks about the population, whereas the cohort study is really looking at individual trajectories. And so those individual trajectories have to, like, be built up, you know, to be a population, you really have to build up a lot of those trajectories, which is what we're trying to do. I think once we have an idea, you know, in 2020, the plan is to do a very large follow-up general population survey. And what we'll know, once we have those data, is whether the prevalence rate has changed. And then what we'll be able to do is we'll be able to put the pre/post-snapshots together with what we've learned about what's going on at the individual level to understand what's contributing to any -- what contributed to the change in prevalence in the follow-up population survey. And that will give us an idea of whether we've had adaptation or whether we can expect adaptation in Massachusetts after the introduction of the casinos.

>> COMMISSIONER ZUNIGA: What -- is there anything -- do you care to speculate any one of these -- I mean, I have my own armchair analysis as to whether we might be seeing a lot of variability and then, of course, the recommendation is to both, not just treatment, but prevention and treatment. If we are having -- if we are seeing high rates of ins and outs --

>> MS. VOLBERG: Mm-hmm. Yeah, we're -- with three waves of data, it's a little too early to tell if we're seeing, you know, long-term remission, and that would be adaptation, or if these people are going to continue to move in and out. Again, that's going to be an important piece of information for us to have in terms of the services that we might want to --

>> COMMISSIONER ZUNIGA: Yeah. I wasn't talking about adaptation anymore.

>> MS. VOLBERG: Okay.

>> COMMISSIONER ZUNIGA: I was just thinking about the high rates of in and out, leading us to then take away that we would need a greater emphasis on both prevention as well as treatment.

>> MS. VOLBERG: Yeah. The piece of analysis that we're just starting now with wave 4 is to try to understand the similarities and differences between people who move a lot versus people who don't. Because that's going to tell us if there's, like, sort of a **stratum** of people who just are problem gamblers all the way along. That's your chronic unremitting cases. And we know that there's probably some of them in the cohort, but we don't know how big the fraction is. And then there's going to be, like, you know, a bunch of movers, and then there's going to be the people who don't change. And each of those strata is going to be interesting and informative in terms of the kinds of services that people in that **stratum** might best --

>> COMMISSIONER ZUNIGA: Respond to?

>> MS. VOLBERG: -- benefit from. But you need to know the size of the strata.

>> COMMISSIONER ZUNIGA: Okay.

>> CHAIR JUDD-STEIN: In the interest of time, Mark, if you can help us it -- these are very critical slides, but I almost feel as though we're staying tuned a little bit going forward, so I'd like for you to be able to complete your thinking, Dr. Volberg, but also be aware of we've got a few more items for today's --

>> MS. VOLBERG: Yeah. I think we've only got a couple more slides here,

actually.

>> MR. VANDER LINDEN: To me, it's really interesting. We have to recognize that recreational gamblers are an incredibly stable group, and it's supported by the data in this study. And I think that does support -- support the prevention efforts, both inside the casino and outside of the casino. The instability of specifically at-risk and problem gamblers is also really interesting. And as Rachel is pointing out, the next wave we'll put a little bit more -- we'll put a lot more detail to it. What it does to me -- for me and what I'm hoping it will do for the broader community of treatment providers is to say -- is to help kind of orient them to the nature of problem gambling in the population in specifically Massachusetts, that people do move around a lot, and that's the more common thing than uncommon thing.

And the other thing that I found really interesting in this is that individuals who are problem gamblers or at-risk gamblers tend not to stop gambling altogether. They tend to continue to gamble, hopefully at a lower -- at a lower risk or recreational. That, to me, has a lot of treatment implications, and understanding that while your treatment goals are a personal choice, that it's common for people to want to try, if you're a problem gambler, that abstinence is not always the true path towards recovery, that you can be in recovery, you can be in remission without saying that you need to abstain altogether. Again, it's a personal choice whether or not you abstain.

This was an interesting finding in our voluntary self-exclusion evaluation as well where individuals at enrollment of voluntary self-exclusion were asked about what their goal was in terms of gambling, individuals that approached it saying that they wished to gamble more moderately but continue to gamble generally had better outcomes than individuals who expressed a desire to abstain altogether.

>> MS. VOLBERG: Yeah. And that was the last slide that I sort of wanted to draw your attention to is this issue of not -- people are not likely to stop gambling even though they're experiencing harm or having problems controlling their gambling. They really want to be able to continue with something that they, at one point, really enjoyed, but it's gotten -- it's gotten very difficult and challenging for them. And so the whole notion that in order to get treatment or to get help for a gambling problem, many, many treatment professionals will, as they do with alcohol disorders, will basically say, you know, abstinence should be your goal. Abstinence is the best goal. And if you're not going to be abstinent, then I can't provide treatment.

And this whole notion that people can continue to gamble but at a lower level and sort of putting the other parts of their lives back together really is consistent with the data that we have here, that people are very unlikely to transition to being nongamblers from any other part of the continuum. And so we have to figure out how to basically get to people where they're at in terms of what they want to do with their gambling. And this is very consistent with this idea that controlled gambling or moderate gambling is not incompatible with recovery from a problem.

>> MR. VANDER LINDEN: And so I would love to conclude, but I would also just say this study is contributing to a much larger study and group of studies of cohorts where our research team's in the process of developing low-risk gambling guidelines, which really -- it's at the heart of what we're trying to do through GameSense as well, of providing guidance, nudging people in the direction that if they're going to gamble, to do so in a way that is no harm to the individual, to their family, to the community.

>> COMMISSIONER ZUNIGA: Or it's a harm reduction. I mean, we will settle for harm reduction if that's what works incrementally, right?

>> MR. VANDER LINDEN: Right.

>> MS. VOLBERG: So if you want any more information, feel free to visit our website or send me a question or send me an email. You know where to find me. On the road to Boston.

>> COMMISSIONER ZUNIGA: Thank you.

>> CHAIR JUDD-STEIN: Excellent. Do we have any questions for Dr. Volberg at this time? Commissioner O'Brien? Commissioner Stebbins? All set?

>> COMMISSIONER STEBBINS: No. Thank you.

>> CHAIR JUDD-STEIN: Thank you so much, Rachel.

>> MS. VOLBERG: All right. Thank you.

>> CHAIR JUDD-STEIN: Thank you, Mark.

There's been a request for a short, short break. And we should take it so that we can finish up our business. Ten minutes.

So that puts us at 3:25. And we will reconvene in order, unless there's somebody with a competing schedule. That would put --

>> (Inaudible).

>> CHAIR JUDD-STEIN: Item 7? Item 7. That will be next up. Excellent. Thank you.

[A break was taken at 3:16 P.M.]

>> CHAIR JUDD-STEIN: Thank you again. We are reconvening meet be number 276. Again, we are going slightly out of order. We are now turning to item 7 on the agenda, licensee policies on switching jackpots. And Commissioner Stebbins, I know that you've been looking at this with Bruce and Burk, so thank you.

>> COMMISSIONER STEBBINS: Thank you, Madam Chair, and I'll hand it over to the experts. But this is an interesting issue that has popped up. I certainly appreciate the value team that has confronted this and worked with our gaming agents and to work with our licensees to raise their awareness of it. But overall, again, this is a report. There's no vote expected. But I think this is just a reminder of how we're trying to help protect some vulnerable patrons as well as meet some of our statutory obligations to collect outstanding obligations as we may come across them as the statute was pretty clear about. I'll hand it over to the experts.

>> MR. BAND: Madam Chair, Commissioners, this topic is really kind of unique to Massachusetts because nobody else really collects money for department of revenue, at least that I'm aware. We didn't have this in New Jersey when we were there. It's a unique topic for here. I brought in Field Manager Burke Cain and Supervisor Valeriya Trendafilova because they were kind of pioneers for us in the state to find some of these inconsistencies with the jackpots. So I'll let them explain. I won't steal their thunder. But just to give you a little heads-up. Last month alone, we accounted for the Department of Revenue \$223,000 in the state, so it's not a small amount.

>> COMMISSIONER ZUNIGA: But that's including everybody who is checked, right?

>> MR. BAND: Yeah. It's everybody -- not necessarily switching jackpots, but that's the dollar amount that we're dealing with on a monthly basis.

>> COMMISSIONER ZUNIGA: For the three casinos or for --

>> MR. BAND: Three casinos, yes.

>> COMMISSIONER O'BRIEN: And is that taxes or child support? Do we know what the breakdown is?

>> MR. CAIN: Intercept.

>> COMMISSIONER O'BRIEN: Do we know what the breakdown is?

>> MR. BAND: We could probably get that for you but I don't have those figures opinion.

>> COMMISSIONER O'BRIEN: I was just curious if you have those.

>> MR. CAIN: They introduced it as intercepting. Good afternoon. As Bruce said, we're joined today by Val Trendafilova, Supervising Gaming Agent at the Encore property and the PPC property that we call Boston Harbor, Metro Zone. A little background about this is I think Val took it upon herself, so little kudos to Val, last February/March to start reviewing the accounting paperwork. I track reports. And she would reference when, where, what time a jackpot was hit, a taxable one, and then she would go to the CCTV review room and just watch the process. And on rare occasions, she was noticing that patrons who won the jackpot would get up and allow another person to sit down in their place.

So today we have a PowerPoint program for you to show some of the highlights of this. We have a memorandum we want to talk about. So I think in the package is the memo. A lot of the memo information is shown in the PowerPoint, so I'm just going to breeze through some of the highlights of the memo for us. The gaming agent division has been focusing its attention on the surveillance of switching. The practice involving a slot machine player switching seats after a jackpot of \$1200 or more with a friend, accomplice or other player. This act is illegal and hinders the enforcement of Chapter 23K and our regulation 205 CMR 133 because it would allow a player who may be on the self-exclusion list or a Mayor who may owe monies to the Department of Revenue to improperly collect winnings. Recently, as I said, MGC gaming agents have reviewed surveillance footage at Plainridge, MGM and Encore, and we can go over that in the PowerPoint.

The impact on VSEs. Individuals place themselves on the Massachusetts Gaming Commission voluntary self-exclusion list to do so in an effort to mitigate the negative impact gaming may have on that individual. Pursuant to 23K, during any period of voluntary exclusion, the person shall not collect any winnings, recover any losses resulting from gaming activity at a gaming establishment. Additionally, our regulation to voluntary self-exclusion reg of 133, a gaming licensee shall not pay any winnings derived from gaming to an individual who's prohibited from gaming -- in a gaming establishment by placing their name on that list. A VSE agreement could be circumvented if a VSE patron simply switched seats with another person to accept the winnings. The impact on the Massachusetts Department of Revenue. The expanded gaming act of 2011 specifically spelled out in MGL 23K the need for jackpot winnings in excess of \$1200 to be reviewed and ascertain whether the winner owes any past child support money or ascertain whether the winner may owe past-due tax liability to the Commonwealth. So now we'll get into some of the slides.

All right. Slot machine jackpot process. What we ask the casinos to do with all the internal controls is based on what the internal controls say for that section is to give us what -- how they want to do it. We call it out in the field the submission. For

instance, what level do you want to have a shift manager involved with the slot machine jackpot, perhaps a \$50,000 one. What surveillance's responsibility? When does the security office help witness the payment, for example? But last but not least is the 1238.56 absolutely states that you must pay the winning patron the money. Additionally, slot machines are programmed as we know to lock out at \$1200. So a person trying to circumvent the system by switching, if anything was hit for \$1400, a voucher TITO would not be printed out. The machine locks out which means there's going to be interaction with casino staff, meaning that you're going to probably have to be checked through the department of revenue system and surveillance would probably be looking at that jackpot also.

And lastly, as I discussed a little bit, the 23K section 51 is the Department of Revenue requirement that a person who may owe past child support or may have past tax liabilities is checked in the system before they pay out the jackpot.

Gaming agent review. Led by Val and all the other gaming agents, we've been reviewing jackpot switches from March of 2019 through August of 2019. During this time, we have looked at over 2200 individual videos of jackpot payments at all three casinos. The gaming agents have found 14 incidents of successfully switching seats. And after we began to alert the casinos and talk about this process, the casino surveillance departments have halted another 29 attempted switches.

>> CHAIR JUDD-STEIN: With respect to the 14, were we able to do anything?

>> MR. CAIN: Pardon?

>> CHAIR JUDD-STEIN: With respect to the 14 -- I'm so sorry -- with respect to the 14 incidents, were we able to correct them or mitigate them?

>> MR. CAIN: Yes. Once we notified the compliance office about this, they worked towards finding those patrons. If the other patron we can track the surveillance, perhaps they have a player's card, they were playing somewhere else, we could put something in the player's file that next time they come in, they would be talked about, asked to, you know, make good with the arrangement. But a person who receives it unjustly, they would be interviewed the next time they came in if a note is in their file.

>> COMMISSIONER ZUNIGA: We also want to get to this, but might as well get to this now. Is it ever customary? Do people who are friends or married come together, and they know that they're going to be switching seats because that's what they like to do? They pool their money and they take turns? Is there ever a situation, if you will, where a switch could be justified, let's say?

>> MR. CAIN: Well, we look at that. Sometimes you're wondering where the money is coming from, if there's a husband and wife situation, perhaps the husband's pushing the button and then the wife pushes the button. I mean, good sense could mean that they're a family. So --

>> COMMISSIONER ZUNIGA: They're trying their luck together, if you will.

>> MR. CAIN: Right, right.

>> MR. BAND: You're trying to stay clear of that one, aren't you?

>> MR. CAIN: A little bit, yeah.

>> MR. BAND: Yeah, I think we'll use common sense when it comes to something like that, and we review their play for a little bit and use our head if it's something that looks like one of the individuals is definitely avoiding the jackpot altogether, we would look into that a little deeper.

>> COMMISSIONER ZUNIGA: Okay.

>> MR. CAIN: A comical example could be if I'm sitting here playing a machine and you're going by whoever spun the reels, won the jackpot, what if someone just came down the aisle and reached over his shoulder and pushed that button? It's my money. He didn't win it. He pushed the button. So we have to work with what makes logical sense there.

Statistics. We have some statistics from each of the casinos. As you can see at Plainridge Park, we had 1200 -- up to almost 1200 reviews by IEB. As you can see in the center column, seven of the eight jackpot switches were noticed at the beginning. After we alerted the surveillance department, most of them have been prevented by the surveillance department. So they've done a very nice job out there.

The next slide, MGM. A lesser sample size of 800-plus. We have five situations where we noticed a switch. And there's two situations where MGM surveillance department has prevented a switch. And Encore, obviously, just being opened, almost 200 reviews. And right now we have one situation where we've noticed --

>> MR. BAND: Was that last week you found that, Val?

>> MS. TRENDAFILOVA: Two.

>> MR. CAIN: I think maybe right after the end of August we've had a second.

Okay. So with that --

>> CHAIR JUDD-STEIN: That we've observed?

>> MR. CAIN: Pardon?

>> CHAIR JUDD-STEIN: That the IEB's observed. Two rather than one?

>> MR. CAIN: Yeah. Right at the beginning of September would make it two now.

And with that --

>> COMMISSIONER ZUNIGA: So in these charts, you start with the higher number is the review is conducted by the IEB. Is that the universe of jackpots, over \$1200 for that period?

>> MR. CAIN: Yeah, these are taxables.

>> MR. BAND: They don't take long to review.

>> COMMISSIONER ZUNIGA: No, my question is, is there any other jackpots that happened but were not reviewed by the IEB, for whatever reason?

>> MR. CAIN: Well, oftentimes I think when we talk about jackpots, I think I often think of it as a taxable jackpot of \$1200 or more.

>> COMMISSIONER ZUNIGA: That's exactly what I'm talking about. So anything above \$1200 -- this is a universe of what can happen at any given time?

>> MR. BAND: Especially with PPC, they were telling us the length of time it took to review these. So we kind of kept track of how long it took us. And it didn't take us that long. They are totally on board now with the review. And you see how many they've caught since then as well.

>> MR. CAIN: Yeah, speaking about the submission process, some casinos have, like, an iPhone on the slot attendant's wrist, and they'll see where the jackpot is. So once they get over there on their way, they can notify surveillance, hey, Section D, machine number 50, I have a \$2,000 jackpot. They could start their process there. I haven't -- the slot attendant perhaps hasn't even gotten there yet. So by the time you go there, introduce yourself, verify it, get information, go over to the jackpot kiosk and

run the information through the DOR system and start to get the cash, that should be more than enough time for surveillance to call down and say, hey, it's not the lady in the red dress. It's the gentleman in the blue sweater.

>> COMMISSIONER ZUNIGA: Mm-hmm.

>> COMMISSIONER O'BRIEN: Did -- so I know that the lottery has this sometimes with people doing ticket switching for the same reason, to get around DOR or child support. They'll sometimes grab vulnerable people and say, I'll give you 10%. Those people don't realize they're going to take a DOR hit. Now they have DOR issues, that sort of thing. There's an obligation in lottery, my understanding, when you go in for winnings, the ticket, you're claiming it only for yourself, that sort of thing. Do we have any regs in our rules that are the same on bigger jackpots and hits?

>> MR. CAIN: Well, the only rule in our submissions are the winning person has to be paid that jackpot.

>> COMMISSIONER O'BRIEN: Do they sign anything? I know in lottery you actually sign the ticket to say it's yours.

>> COMMISSIONER ZUNIGA: It's in our regs that apply to the casinos. I think you're talking about perhaps alerting the public that you have to be the person --

>> COMMISSIONER O'BRIEN: But also the consequences. But you're not supposed to --

>> MR. BAND: (Inaudible) \$1200 jackpot?

>> COMMISSIONER O'BRIEN: Right. I guess the question is have we looked at all in terms of this in terms of the lottery and how they deal with making sure people don't do the switching? Because they've been looking at this for years in terms of maybe statutory 2 to make it a criminal act to knowingly switch or anything like that?

>> MR. BAND: I don't know. I assume you have to sign your (Inaudible).

>> MR. CAIN: And submissions are a fluid document. After this review, if we get together with the casinos, and if it was a prevalent problem, seeing the statistics, we're well under 1%, I think. But we don't want -- you know, you don't want any of this to happen. If we started to review this with compliance, we could ask them to update their submission to be more in compliant with our concern.

>> COMMISSIONER STEBBINS: I think the difference with the lottery is you don't know -- I buy the ticket, I take the ticket out of view of anybody to scratch it and bring it back. Whereas, you know, a locked-up machine, we're actually catching somebody, I think.

>> COMMISSIONER O'BRIEN: Right. In lottery a lot there's a tacit agreement between the claiming person and the person who's going to have it, so they're going up to the lottery saying this is my money, my ticket when in reality there's a side agreement. They're giving 9 to someone else for the specific purpose of defrauding.

>> MR. CAIN: And we have the tiebreaker of having a surveillance system.

>> CHAIR JUDD-STEIN: Right. Can you bring us through these slides?

>> MR. CAIN: Yes, Val's going to walk us through some examples of actual switches.

>> MS. TRENDAFILOVA: Thank you. Good afternoon, Commissioners. It's on, right? Okay.

>> CHAIR JUDD-STEIN: Just nice and close.

>> MS. TRENDAFILOVA: Okay. Sorry. So in this slide over here, we can see a

man and a female are playing -- are sitting next to each other. It's clear that the female is the one playing on that slot machine. And over here after the female wins the jackpot, it's clear that they switch spots. So now the male is sitting on that machine. And right here you can see the slot attendant is there to retrieve all the information from the patron. And so they take their ID and issue the W-2 form.

Yeah. Over here, the slot attendant is giving the W-2 form to the male patron who signs the form and then gives them the cash money.

>> COMMISSIONER ZUNIGA: So the male was observing the female before the jackpot hit, right?

>> MS. TRENDAFILOVA: Yes.

>> COMMISSIONER ZUNIGA: Is it fair to say at least they are perhaps together in that situation?

>> MS. TRENDAFILOVA: Yes, yes.

>> MR. BAND: They switched and he provided his information.

>> CHAIR JUDD-STEIN: Could -- did we find out -- were we able to correct this, because we are supposed --

>> MS. TRENDAFILOVA: We called surveillance, and since this is happening, like, weeks after it happened, they didn't -- we didn't have any information on the woman. So we don't know if she had a players card, who she is at all. We just had the information of the male patron. So I'm not sure if Encore is able to do anything about it.

>> CHAIR JUDD-STEIN: So, for instance, if she had had an obligation to pay child support, we don't -- we weren't able to recover that for DOR?

>> MS. TRENDAFILOVA: Correct.

>> CHAIR JUDD-STEIN: So that would be an example, they may be together, Commissioners, but they could have separate interests.

>> MR. BAND: That's why it's really important that we have the casino check these before they pay the jackpot, and you would catch it every time. It's a ten-minute process to do that. It probably takes 15 to pay the jackpot by the time you check everything.

>> CHAIR JUDD-STEIN: And you mean check --

>> MR. BAND: Yeah.

>> CHAIR JUDD-STEIN: -- the surveillance?

>> MR. BAND: The same person that was sitting at the machine when the jackpot hit.

>> COMMISSIONER ZUNIGA: But it's also possible -- and I'm just speaking theoretically here -- that they were related, that they were married.

>> MR. BAND: Or boyfriend/girlfriend or, you know --

>> COMMISSIONER ZUNIGA: Meaning that it would be of no consequence, perhaps.

>> MR. BAND: It they owed child support from a previous marriage or back taxes in his name. You know, there could be a lot of scenarios with that.

>> CHAIR JUDD-STEIN: Yeah. Because even though you're married, you could have separate interests, for instance, with respect to a former marriage to have child support obligations that run through one of you.

>> MR. CAIN: If you notice this first slide up in the left-hand corner, you'll see 10:19 as the time. And if you'll go to the fourth slide when they're paying the patron, you'll

see that it says 10:39. I think that's more than ample time that a casino could be --

>> MR. BAND: Checking.

>> MR. CAIN: Checking.

>> CHAIR JUDD-STEIN: 10:29. Right. So eight minutes, enough time to check it.

>> MR. CAIN: 20 minutes.

>> MR. BAND: 20 minutes.

>> MR. CAIN: 10:19 to 10:29?

>> CHAIR JUDD-STEIN: 29, right?

>> COMMISSIONER STEBBINS: And then 10:39 is when he comes back with his W-2.

>> MR. BAND: Yeah, 10:19 there.

>> CHAIR JUDD-STEIN: Oh, there it says 10:39. Plenty of time. And I was thinking eight minutes was plenty. Okay. Thank you, Val. Number 2.

>> MS. TRENDAFILOVA: Okay. This example is from PPC where it's clear that this female is playing on the slot machine when the jackpot hits. She gets up, goes to the nearest TRU machine. And right here we see that when the slot attendant comes in, another female who was sitting next to the first one is presenting the information needed for the slot attendant to complete the transaction. And right here we can see that the slot attendant is paying the female with the dyed hair, the jackpot.

And I think in this situation we -- I think both females had players cards. And I'm not sure if PPC was able to retrieve the money.

>> CHAIR JUDD-STEIN: So if I understand correctly, to Commissioner Zuniga's point that while they could be married, the rule, though, is that by statute, by regulation, that we must pay the winning patron.

>> MR. BAND: It's the regulations.

>> MS. TRENDAFILOVA: Yes.

>> CHAIR JUDD-STEIN: The regulation, right. So the regulation requires, even if it's a married couple or a couple, shared interest, sisters, brothers, whatever, they must pay the winning patron.

>> MR. BAND: That's what the regulation says.

>> COMMISSIONER ZUNIGA: And I think the regulation is very much on point. It makes total sense. I'm really -- you know, and this is not just a hypothetical. I am actually related to somebody who likes to play with his brother in Las Vegas. And they actually play together. And they change seats, you know, try your luck now, and they pool their money. They say, you know, your turn now. And they all cheer for each other. And then they change, and they also do this. In that situation, not here, because they've never done that in Massachusetts. Otherwise I would really have to tell him.

>> COMMISSIONER O'BRIEN: Brothers?

>> MR. BAND: The problem is other jurisdictions don't have to check against the DOR thing.

>> COMMISSIONER ZUNIGA: Right. But in that situation, what should somebody like that say?

>> COMMISSIONER O'BRIEN: Then they should both present their information.

>> COMMISSIONER ZUNIGA: They should both present their information?

>> MR. BAND: Well, you know, I would -- the first thing I would ask is why didn't you

want it in your name? And, you know, I would run it in the DOR system just to make sure that that individual did no back stuff. And I don't care if it gets paid in his name, but, you know, I would make sure that he didn't owe taxes or, you know, child support.

>> COMMISSIONER ZUNIGA: Yeah, there's another principle here. Anybody doing that, knowing that everybody's under surveillance in a casino should really think twice.

>> MR. BAND: How many has this happened on?

>> COMMISSIONER ZUNIGA: Never happened. No, but they do pool their money. That is part of the fun.

>> MR. BAND: Yes.

>> COMMISSIONER ZUNIGA: And they take turns.

>> MR. BAND: Okay. I don't think in Las Vegas that would ever happen to you because they're not double-checking you against the system, you know, anything like that. So I think you're clear.

>> COMMISSIONER ZUNIGA: I'm concerned about what do we do with somebody like that here.

>> MR. BAND: I think we would check the DOR system to make sure that that individual doesn't owe anything, you know, in back taxes or child support.

>> COMMISSIONER ZUNIGA: The one who won?

>> MR. BAND: Who actually won.

>> COMMISSIONER ZUNIGA: Okay. Not the other one?

>> MR. BAND: Yeah. I think that would be pretty simple.

>> COMMISSIONER ZUNIGA: Okay.

>> COMMISSIONER O'BRIEN: I mean, they're both technically violating the reg, so what's the consequence to violating the reg?

>> MR. BAND: Yeah. Well --

>> COMMISSIONER O'BRIEN: I mean, do they get excluded for some period of time or --

>> MR. BAND: Yeah. I think that would be left up to the casino. It depends, you know, how big of a deal you want to make out of that or whatever.

>> COMMISSIONER ZUNIGA: Well, the reg is on the casino. We regulate the casino. We are asking that they check, go back to the tape, to pay the winning --

>> COMMISSIONER O'BRIEN: No, I'm aware. I'm just saying that once you've determined someone's violated the reg, you're saying it's a reg but the winner has to collect. And the purpose of it is to make sure that DOR gets child support and the appropriate taxes.

>> MR. BAND: Yes.

>> COMMISSIONER O'BRIEN: So once it's been determined they violate the reg, do we have any other reg that talks about the consequences or mandates?

>> MR. BAND: That's something we could even look at the regs and see if we want to strengthen that a little bit and make sure we require them to, you know, check the jackpots and do this correctly. I could see some advantages to doing that.

>> COMMISSIONER O'BRIEN: Right, especially if you have a recidivist who keeps doing it.

>> MR. BAND: Yep.

>> MR. CAIN: Absolutely. Right. We have an example 3. Female playing at the machine triggers a jackpot. The patron locates other players on the casino floor to

claim the jackpot.

>> COMMISSIONER STEBBINS: It's a little more egregious than somebody sitting next to her.

>> MR. CAIN: Slot attendant receives the information from the male patron who is attempting to collect the jackpot. Male patron then gives the cash collected from the jackpot to the original female who activated the jackpot.

>> CHAIR JUDD-STEIN: You just -- yeah. Do we know --

>> COMMISSIONER O'BRIEN: Did he take his bet?

>> MR. CAIN: Remember, some of these are in our review. These are days and weeks later. We're finding this from our initial review.

>> COMMISSIONER O'BRIEN: But did you see him skim any money off for his cut? Yeah?

>> MR. CAIN: Yeah. I don't know yet.

>> COMMISSIONER O'BRIEN: I'm just wondering if it's in the footage. Palming, you know.

>> MR. CAIN: Once again, the video is much more clearer than still shots.

>> COMMISSIONER STEBBINS: Right.

>> CHAIR JUDD-STEIN: But this is -- from your summary, this person was on the VSE list.

>> MR. CAIN: On this list example?

>> CHAIR JUDD-STEIN: Yeah, it looks like it from your summary.

>> MR. CAIN: Oh, okay. Right. Right here.

>> CHAIR JUDD-STEIN: So this is an important exercise.

>> MR. CAIN: Right.

>> CHAIR JUDD-STEIN: Not only for the DOR coffers.

>> MR. CAIN: For our responsible gaming.

>> CHAIR JUDD-STEIN: For our responsible gaming, yeah.

>> MR. CAIN: So we're trying to prevent this. We have alerted the casinos. They are working well with us. You've got to remember the MGM Encore casino has table games revving all day long, big properties. So it is a task. And a very good-faith effort is being produced right now. So we will continue to work with them with those findings.

>> COMMISSIONER STEBBINS: I strongly think the more important message is we're trying -- you know, we're working with our licensees not to allow people to kind of, one, skirt the regulation, skirt, you know, when a VSE signs up, hey, don't let me on the property, and following those regs as well as, you know, you know, making every effort to catch somebody who owes our friends at DOR some money.

>> MR. BAND: Right. And I think it's a positive thing the Commonwealth does versus other jurisdictions. You just see the dollar amount that's retrieved.

>> COMMISSIONER STEBBINS: And as we've seen, the amount of time for the slot attendant to walk over when they get the alert to check the W-2 information and come back with a payment is more than enough time for surveillance --

>> MR. BAND: More than enough time, yes.

>> COMMISSIONER STEBBINS: -- to double-check.

>> COMMISSIONER ZUNIGA: I suppose they could also -- they could also be trained, the slot attendants, to say, when they arrive, something to the effect, we're going to roll back the tape just to make sure that you were the one.

>> MR. BAND: They --

>> COMMISSIONER ZUNIGA: At which point they could -- at which point there may be no need to roll the tape back is part of my point.

>> MR. BAND: They could. I don't know if that would happen all the time. It would be nice if it did, but I just don't know.

>> COMMISSIONER ZUNIGA: My -- the reason for my questions is that I can imagine the argument from the operator saying this takes away resources for us. We need a higher threshold because we're otherwise observing the high-stakes games, for example, because we have all these other surveillance. Is that a fair argument from their side?

>> MR. BAND: You know, I've been in this industry a long time, and my specialty has always been surveillance. I would find that a real hard argument to swallow, you know.

>> COMMISSIONER ZUNIGA: Fair enough.

>> CHAIR JUDD-STEIN: I think it's great work on Val's part to identify --

>> MR. BAND: I -- you know, it just doesn't take that long to do that.

>> CHAIR JUDD-STEIN: Right.

>> MR. BAND: They have people in the room that are reviewing things all the time.

And it just would --

>> CHAIR JUDD-STEIN: But I like that she was vigilant and she saw something that was unusual, and we appreciate that.

>> COMMISSIONER O'BRIEN: It would be worthwhile, I think, just checking on the lottery because there was some chatter a while back even proposing misdemeanor consequences for people that did this.

>> MR. BAND: Okay.

>> COMMISSIONER O'BRIEN: I don't know if they ever did anything about it. I think it's a bigger issue for the lottery because to your point it's far easier to switch.

>> MR. BAND: And harder to track.

>> COMMISSIONER O'BRIEN: It is harder to track. But for consistent's purposes. And then just a conversation about whether there should be consequences particularly if people continue to violate, I'd be interested to know what their status is.

>> MR. BAND: Great. Thank you very much.

>> MS. TRENDAFILOVA: Thank you.

>> CHAIR JUDD-STEIN: Thank you.

>> COMMISSIONER ZUNIGA: Thank you.

>> CHAIR JUDD-STEIN: Okay. We are now moving on to item number 8, Investigations and Enforcement Bureau, Director Wells, please. Thank you.

>> MS. WELLS: Good afternoon, Madam Chair, members of the Commission.

>> COMMISSIONER STEBBINS: Good afternoon.

>> CHAIR JUDD-STEIN: Good afternoon.

>> MS. WELLS: I know you've had a long day. I will try to expedite matters here. So I have two matters on for your consideration. The first matter is entitled modification of Massachusetts supplemental form. So as you know, throughout the history of the Gaming Commission, we've used the multijurisdictional personal history disclosure form to get information on not only qualifiers but also for key executive employees. And when the Commission started, even before I was a member of the team here, they

created the Massachusetts supplemental form to add some questions to that multijurisdictional form that Massachusetts regulators would be interested in. So what we've done is taken a look at the form particularly in light of the events of last year and the issue with Wynn Resorts. And we are proposing that we add some questions to the form relative to settlement agreements and sexual harassment and also we have sort of a catch-all question.

These are questions we have investigators generally currently ask in the course of interviews. But these kinds of questions can be a little awkward in interviews, and it makes sense to have a regulative format where the questions are asked the same way and they're put forth in that kind of format. So we are suggesting that we put them in the form. You can see the first two questions, 17 and 18, have to do with settlements. We took this language -- tweaked it a little bit, but generally this language is what the Nevada Gaming Control Board has modified their supplement to add those, you know, after the Wynn matter came to light. So that's where we got those. And then there's the other questions that have been presented before you.

So in briefing the Commissioners individually, you know, in particular, we did speak with Commissioner Zuniga. He had asked that we could potentially specifically discuss whether we need question 19, which asks have you ever participated in any type of sexual harassment, sexual misconduct, or unlawful discrimination and whether we need that question in light of the fact that we have also included question 20, which says have any allegations of sexual harassment, sexual misconduct or unlawful discrimination been made concerning your behavior either by employees or subordinates? We could do it either way.

The thinking behind putting question 19 there is it's a broader capture of information from the actual applicant, him or herself, that more information is generally better and more leads if there's any information which might be relevant to suitability. But I'll leave it to the Commission's discussion and deliberation on whether or not you would like that included on the form and if there's any other questions on the form that you think should not be included or would like modified, I'll leave that to your comments and discretion.

>> COMMISSIONER ZUNIGA: Yeah, let me just expound to that. I'm thinking specifically of question 19 that appears to me quite broad, especially as it relates to, you know, situations that are sometimes blurry and that people come in and leave with a different understanding. I think it's better to use this example since it's public. Let's just assume that somebody like Aziz Ansari or Al Franken was responding to this form. Prior to those allegations that were public or after those allegations were public, I suspect that they would have a hard time answering this question.

Now, my more fundamental question is what are we trying to get to in this question, in question 19?

>> MS. WELLS: The objective of the question, I would suggest, is to try to be able to capture instances of sexual harassment, misconduct, or unlawful discrimination which have not been reported and therefore the company's unaware of.

>> COMMISSIONER ZUNIGA: Yeah, but it's the person filling this out.

>> MS. WELLS: Right. So they'd have to self-disclose.

>> COMMISSIONER ZUNIGA: So if somebody went on a date that turned out to be not a great date and they don't know how that person -- the other person is going to look

at that situation now looking back, is there reason to put this here to get them on the record so that should something later surface to be able to come back and take away their license, for example?

>> COMMISSIONER O'BRIEN: It would seem to be -- so the language is somewhat of a term of art, those phrases, sexual harassment, sexual misconduct, discrimination. It seems like the distinction is 20 is specifically related to allegations and by context in the workplace. 19 would seem to capture allegations of the same ilk but not necessarily in the workplace.

And I get why you want it. I like the idea of it. What I'm struggling with is how to capture the information in a way that addresses his concern about ambiguity. So are there other ways to ask the question broader than 20 or maybe a caveat within 20 that addresses Commissioner Zuniga's concerns about sort of, you know, vagaries of life.

>> MS. WELLS: Right. I mean, you could -- I mean, I think what 19 is trying to capture is a situation -- you may have an individual, male or female, even in the workplace.

>> COMMISSIONER O'BRIEN: Right.

>> MS. WELLS: Engaged in activity which would fall under -- and I would suggest you're correct -- that term of art, legal term sexual harassment and misconduct and discrimination, sort of that legal term rather than a bad date.

>> COMMISSIONER O'BRIEN: But didn't rise to that level.

>> MS. WELLS: But nobody reported. That's the issue, this is an issue of self-disclosure where there may be a situation where someone absolutely knows they did something wrong, and this is their opportunity to disclose it. In addressing Enrique's -- pardon me, Commissioner Zuniga's concern you know, what if someone doesn't know? Our expectation is in these forms is to be truthful, and we have that language, you know, is in the application forms throughout. And I think that, you know, in a case-by-case analysis, if you subsequently didn't believe that what you did was sexual harassment, that when you put down no, then that's a truthful answer. So that would be how you'd address it.

>> COMMISSIONER O'BRIEN: I think consequentially, too -- it seems sequentially 20 should be 19 and 19 should be 20.

>> MS. WELLS: Okay.

>> COMMISSIONER O'BRIEN: I don't know. In my head, if I'm reading through it I would think --

>> MS. WELLS: Yep.

>> COMMISSIONER O'BRIEN: -- that might frame is a little bit better. And then the question is really does that and 21 give you what you need?

>> MS. WELLS: Yeah. I mean, I think Commissioner Zuniga's question, when we had the discussion, was if you have question 20 in there which covers allegations which have been made against an individual in the workplace, do you need question 19 as well? And I'll leave that sort -- that's -- I would suggest is the Commission's discretion. How deep do you want us to dive into these kinds of allegations? Because if you want it workplace reported, you know, internal controls analysis, that kind of thing, that's what you're looking at, then having question 20 should be sufficient. But if you really want the investigators doing a deeper dive into, you know, other acts of misconduct in generally broader analysis into integrity, honesty and good character, then this may be

something that you'd want to add so we have included that for your consideration, and we just need some direction how you would like us to proceed.

>> CHAIR JUDD-STEIN: Is number 20 just limited to employment?

>> MS. WELLS: Well -- yeah, you could put in there -- well, we've got including by employees and subordinates, so it definitely includes that.

>> CHAIR JUDD-STEIN: Yes.

>> MS. WELLS: I guess to your point it may not be limited to that.

>> COMMISSIONER ZUNIGA: Could it be a college? When I was in college?

>> MS. WELLS: Yes.

>> CHAIR JUDD-STEIN: Absolutely.

>> MS. WELLS: Yes.

>> COMMISSIONER ZUNIGA: Yes. Well, the one that seems broad to me is 19.

Only because there is perhaps a small but significant -- significantly important number of potential scenarios in which the person might legitimately not know. You know, there's not an I don't know option. If the idea is to put in no so that then when we later find out whether somebody was accused, we could come back. That's one thing. Which I don't feel good about.

>> COMMISSIONER O'BRIEN: How about phrasing it, are you aware of any other conduct in which you've participated in that would rise to the level -- you know, like is there I away to say it that sort of captures that -- and so if they say, like, I didn't know she said that. Five years later she comes and says what he did to me was inappropriate and I think was sexual harassment. And at the time he fills out the form, or she, if it's phrased are you aware of, it goes to the knowledge, the state of mind, would that be falsehood if there's proof they were aware, this person made the allegation contemporaneously?

>> COMMISSIONER ZUNIGA: Yeah. I mean, I -- perhaps also, what do we do with somebody who says yes and describes a situation that is just like the scenario here which is the one -- you know, the blurry one, a blurry one in which, well, I don't know. I mean, there was that bad date over there or whatever? What are we going to do with that?

>> MS. WELLS: So what was interesting, the attorney from Rubin & Rudman was very helpful to us in giving us sort of expertise on these types of investigations. And what she indicated to us is that generally, if we're doing some kind of investigation into sexual harassment and sexual misconduct is that when you do an investigation like that, you are looking for patterns because generally if someone's engaging in this type of behavior, it's not a one off. If it's -- you know, that sort of intentional -- those acts. So she was telling us, which we found very helpful, is that if you're doing a legitimate investigation into that, you're going to look into other -- whether there are other instances, or is it just the classic he said/she said, which you may not be able to do anything with if that's the only evidence you have. But delving a little deeper and seeing if there's a pattern, and as we all know now from a certain other investigation, can come to light. That once you start digging a little bit more and asking some more questions and checking into other areas, you might find more. So that would be the relevance of getting that information is because it may lead you to a pattern of behavior which may lead to a finding or a recommendation of unsuitability.

>> COMMISSIONER O'BRIEN: I mean, if you -- I feel like a wordsmithing, but if you

say are you aware of any incidents in which you participated in any kind of sexual harassment, misconduct or unlawful discrimination that did not result in a formal allegation? If it still goes to the knowledge. So if somebody comes five years after the fact and says back in, you know, 2015, so and so did X. The person's not falsely filling out the form. Not so sure that gets to the pattern of conduct that you're hoping to get.

>> MS. WELLS: Well, it's the red flag. I mean, what you're looking for -- an answer one way or the other on this form is not going to necessarily be determinative, but it is going to say to an investigator, oh, okay. Let me look into this and let me see if there's an area -- a further area of inquiry. Let's, you know, go to the HR department in your prior job and see, you know, were there any allegations in the prior job? Not just look at where you are. It depends -- you know, the nature of suitability investigations is that you can never know everything about an individual, ever. And if you think you can, you're kidding yourself. But if you can create a system which will identify flags or areas where you need to make further inquiry so you can do a reasonable risk analysis and figure out where the areas of risk are for that particular individual, that helps you direct the investigation in a timely manner. So that would be, okay, this might be an area we need to look into a little more further, check with, you know, prior coworkers, maybe do some other interviews with people they've worked with.

>> COMMISSIONER ZUNIGA: I agree with everything you're saying. And I think we get to that with the three other questions.

>> MS. WELLS: Yeah. So ultimately I'll need that --

>> COMMISSIONER ZUNIGA: Ultimately when there was an investigation, an allegation, a charge, I just think that the broadness -- even with your clarifications, Commissioner, about, you know, in the workplace or to your knowledge, I think the broad nature of it comes from did you participate in any. By definition, the way some of these allegations later turn out -- now, have there been allegations? That's a clear-cut. But -- or a charge? No question about that. Could you establish a track record by doing further inquiry after that? That's a clear charge in terms of, you know, what you could do to get to the nature of maybe one allegation or ten allegations, et cetera. But to me, 19 is just almost too broad for somebody to say, well, I really don't know. It is conceivable that a lot of people might think of a scenario in which, okay, there's not an allegation. I don't think I participated in what's the definition here, but there was never any charge or complaint or allegation. I cannot know for sure that there will never be. And that's the conundrum. To me, this is just unnecessarily broad. We can get to the other -- what we're after with the other three.

>> MS. WELLS: I'm just trying to think of a hypothetical that might sort of identify what then -- if you don't have this what you potentially are missing. So say you have a situation where, you know, John Smith, who is a qualifier or a key executive, had engaged, say, in college or later, you know, in the workplace with a bunch of other individuals sent, you know, harassing messages to another employee and knew he did it and later became, you know, more aware of what he should or shouldn't be doing. So he knows that he did the wrong thing, but there were never any charges. If we don't ask this question, then we may never get that information, and that may be something that that individual would have self-disclosed. So that -- I'm just trying to think of a hypothetical that would cover it.

>> COMMISSIONER ZUNIGA: So are we looking for confessions here or --

>> MS. WELLS: Well, the nature of, you know, regulatory suitability investigations is in self-disclosure. We do expect self-disclosure. So the question is are you asking the right questions that are going to elicit the information? And I guess the question for the Commission is, is that the kind of information you would like us to follow up on, or is that something, you know, you'd be okay if we just never knew that?

>> COMMISSIONER O'BRIEN: How about (Inaudible) added on (Inaudible) in the interest of full disclosure -- sorry. In the interest of full disclosure and your obligation to be forthcoming in your application, is there any other information which might reflect adversely in an evaluation of your honesty, integrity or good character or otherwise, in fact, a determination on your suitability for gaming license or such qualification including any other misconduct not already disclosed above? It goes a little bit more pointed than what you have in 21, but then would eliminate 19 in terms of --

>> MS. WELLS: Did you say any conduct or --

>> COMMISSIONER O'BRIEN: Including any other misconduct not already disclosed above.

>> COMMISSIONER STEBBINS: I mean, just to pick up on that and give Karen a moment to think about that. First of all, jumping to question 21, I kind of like the fact that we're now including this. I mean, I think a lot of us, if we've been in public service, get that question thrown at us, so I'm glad we've included that. Operationally, because we're really talking about key gaming executives and casino qualifiers. So this is a small cadre of people. How often, because, again, this is a Mass supplemental form, may have differences from other forms where they've already completed forms in other states. How much outreach typically does an executive call up you or your team and say, hey, I'm going through this. Help me understand what you mean by question 21 or 15, you know, how much -- help me understand this question in this Mass supplemental form.

>> MS. WELLS: That's rare because these people, they are working with their -- so for example, if it's (Inaudible) they work with their lawyers (Inaudible). You might get a question from the lawyer.

>> COMMISSIONER STEBBINS: Okay.

>> MS. WELLS: For example (away from mic) would potentially ask us a question. Directly from the applicant, I don't know if we've ever had that.

>> (Inaudible).

>> COMMISSIONER STEBBINS: Okay. So if it's the attorney, they may say, hey, I'm helping Ed fill out the form. You have this new question. Give me an idea what it means. You could get to kind of a whole broad array of, you know, well, we'd like you to consider these things. Sexual harassment. Sexual misconduct. Those are the kind of things that we're looking for under the question so it doesn't pigeonhole you even to some defined questions where there may be some vagueness, but it does, at the end of the day, give the applicant to say, all right, I'm going to point at self-disclosure, I will tell you about XYZ incident now that I know you're looking for those types of incidents. Where I think 19 is a little bit vague and then I would have a question for you of should we be segmenting out from 19, unlawful discrimination? Because that seems to be more of a question or less of a value judgment around my answer and more I discriminated. Was it lawful or unlawful? I don't know -- I'm trying to understand why you tied unlawful discrimination into sexual harassment and sexual

misconduct.

>> COMMISSIONER ZUNIGA: Well, because it's misconduct and it's usually --

>> MS. WELLS: Discrimination based on facts.

>> COMMISSIONER ZUNIGA: It's something -- you know, it's another area, by the way, where I think there's also some blurry line. Somebody could be joking about somebody's heritage, let's say, and someone else might think it's inappropriate and discriminatory. Discriminatory.

>> COMMISSIONER ZUNIGA: So just take me, in general, to the process. And I like your suggestion, Commissioner, about maybe really the catchall is really 21.

>> MS. WELLS: Yeah. And that may be a solve that everyone is comfortable with.

>> COMMISSIONER ZUNIGA: Is it possible that somebody, in the interest of full disclosure, puts in, whatever, a situation, and so now you're going to interview that person?

>> MS. WELLS: So we generally do an interview of all the qualifiers and the key executives, so that would be standard. And standard protocol would also be to go through the application with that person and ask them about those questions.

>> COMMISSIONER STEBBINS: Kind of gets to the operational question.

>> COMMISSIONER ZUNIGA: I'm assuming that it's a he said/she said, you know. Are you going to interview the other person, for example?

>> MS. WELLS: I mean, I -- you'd -- that would be very factually specific. It depends on what the allegation was potentially.

>> CHAIR JUDD-STEIN: Typically a good investigation would investigate both the accuser and the accused, correct?

>> MS. WELLS: Right.

>> COMMISSIONER ZUNIGA: But this is not an allegation. This is just a full disclosure, remember? If there's an allegation, sure. That's covered --

>> MS. WELLS: Oh, I see what you're saying. And that would be up to the party whether they would want to participate. So if this is someone from 20 years ago that doesn't want to speak to us --

>> CHAIR JUDD-STEIN: It would be up to them.

>> MS. WELLS: It would be up to that person, and we would not pressure that person into that, and then it is what it is.

>> COMMISSIONER ZUNIGA: Or draw any conclusions.

>> MS. WELLS: Correct. Correct. And generally, you know, dis -- you know, that's what we find in these investigations. And we'll get to the criminal -- if you disclose things, you're demonstrating forthrightness and truthfulness. So if you're explaining, hey, there was this situation here and here's what happened, that's an indicia of reliability in that you're coming forward and talking about it. You're not trying to hide anything. So that actually works in the favor of the applicant.

>> COMMISSIONER ZUNIGA: Well, I like your suggestion about 21 in terms of adding. Are we talking -- you know, if we eliminated 19, because it's in my opinion it's uncomfortably vague. Are we talking about workplace only, or are we talking about any kind of --

>> COMMISSIONER O'BRIEN: Well, no, it's connected to anything that would be relevant to your suitability. So it's already captioned to be relevant to suitability.

>> MS. WELLS: Right.

>> COMMISSIONER O'BRIEN: So it's giving a further example, being a little more explicit in the catchall.

>> CHAIR JUDD-STEIN: Number 20 is not confined to employment.

>> MS. WELLS: Correct.

>> COMMISSIONER O'BRIEN: Right.

>> MS. WELLS: Ultimately it sounds like where we are is we could either do the questions as is, or it seems like we could eliminate 19, or the third option is what Commissioner O'Brien said, eliminate 19 and add at the end of the question after the word "qualification," including any other misconduct not disclosed above. That seems to be sort of in between the two other options. So we'll just look to see whichever the Commission goes with. We can then move forward with the forms as you desire.

>> CHAIR JUDD-STEIN: Yeah. To be clear, I was fine with the form as it was, but I understand there's some concern about being vague. Disclosure for this level is high -- heightened. The self-awareness that's required would also be needed to be heightened. We can capture it in the way that you thought. So I'm fine with that recommended change.

>> MS. WELLS: Generally, my understanding in the past, the Commission has approved these forms. So it probably makes sense just to do a quick vote on that, make sure we're clear that that's what the Commission wants, and then we'll move forward and move on to the next one.

>> CHAIR JUDD-STEIN: Is there further questions or discussion for Director Wells?

>> COMMISSIONER ZUNIGA: It looks like on a consensus emerged on eliminating 19?

>> COMMISSIONER O'BRIEN: I didn't have quite the level of concerns on 19. I was more in line with the Chair. But I see where you're coming from. I feel like eliminating 19 and adding the phrase to what's currently 21, what would become 20, sufficiently gets --

>> COMMISSIONER ZUNIGA: To the purpose?

>> COMMISSIONER O'BRIEN: -- to the purpose of 19.

>> COMMISSIONER STEBBINS: And it might capture some other things.

>> CHAIR JUDD-STEIN: That's exactly right. So I do think you are seeking a vote on this form.

>> MS. WELLS: Correct.

>> COMMISSIONER O'BRIEN: Certainly. Madam Chair, I move that the Commission approve the modifications to the Massachusetts supplemental form as described by the Commission staff today and as included in the Commission packet. As further amended, however, to strike proposed question 19 and add to the end of question 21 the phrase including any other misconduct not disclosed above.

>> COMMISSIONER ZUNIGA: Second.

>> CHAIR JUDD-STEIN: And any further questions? All right. All those in favor.

[Vote taken]

Opposed? 4-0. Thank you, Director Wells.

>> MS. WELLS: Thank you very much. That's very helpful. And the next area for the Commission's consideration is in the forms that we submit particularly to the service level employees and the gaming employees. There was some concern by the Commission about the just sort of clarifying the -- sort of the instructions in the form so

people that are filling out the form know what they are required to submit so there's no ambiguity there. So we've added, for your packet, some modifications just to make it easier for people to understand that we really need truthful and full disclosure, and that's what we're working with, and that's what we expect. So, for example, you know, charge and the definition of charge. We want to including -- we want to include the language including juvenile charges. Because what happens with juvenile charges, the applicant's required to disclose them. However, no juvenile charges are mandatory disqualifiers. So even though you have to disclose it, it's not going to be a mandatory disqualifier even if it is a larceny charge that if you would have been an adult would have disqualified you. It does not disqualify you as a juvenile. And then we have, you know, that language under conviction to make that clear to the applicant, dispositions also include delinquent and not delinquent which are dispositions for juvenile offenders. The fact that you have to submit in the form the charges or offenses even if you weren't convicted or found delinquent or even if you weren't placed in handcuffs. You don't have to be arrested to be charged with a crime.

We wanted to emphasize the form also that applicants are not required to disclose records of criminal appearances, criminal dispositions and/or any acts of delinquency that have been sealed. So that information is not required on the form. And also to make applicants aware that the gaming Commission will make inquiries to establish whether you have had any involvement with law enforcement agencies and that failure to disclose such involvement will be taken into account in assessing your character, honesty and integrity, just to make sure people are aware that that is an issue.

And also, there was a suggestion just to make the space for the applicant to fill out any offenses, put more space in the form just in case there are several charges, or maybe several charges relating to the same incident that they would list all of those charges. So those are the types of changes made to the form. There was a suggestion. And when we were doing the briefings that we might want to add something not to this part of the form but also to the front of the form that Commissioner O'Brien and Commissioner Stebbins, we talked about, which is that we may want to put some language that applicants may want to check with the employee and casino HR department for advice on how to prepare to fill out the application form. So we can add that as well if the Commissioners think that's a good idea, just because the casinos themselves can help with this. You know, as the regulatory authority, it's not our role to work with the employee to fill out the form they're submitting to us. But the casinos can do that. And the casinos may have some advice getting all your paperwork together. Maybe you, you know, go to your CORI and run it before you fill out the form just to make sure you have everything correctly. So we've talked to the casinos about doing that with their HR departments to work with their employees on that because nobody's looking for anybody to make a mistake on the form. We'd like everybody to fill it out honestly and completely. It's easier for us because we can run through these much more efficiently. And it's better for the applicant. So communicating to these folks that are filling out the forms that honesty and completeness is extremely important in this process can't be emphasized enough. So putting that in sort of that front page on LMS I think would be a good idea if the Commission's in support of that.

>> COMMISSIONER STEBBINS: I -- I'm sorry.

>> COMMISSIONER ZUNIGA: Go ahead.

>> COMMISSIONER STEBBINS: No, I like that idea and that suggestion. You know, something else I think we should do, if we approve, you know, the changes to the form, with respect to a lot of our workforce stakeholders that are out there, you know, beating the bushes, trying to get people interested in pursuing a casino career. You know, we had one of these meetings out in Springfield. Get them in the room and walk them through this process, help them understand. I think some of this language, you know, might be viewed as intimidating. I know that's not what we're trying to get through. But I think having a conversation with those CBOs to kind of help walk them through the process. Again, the same thing. You know, some of the instructions that a -- one of our licensees might use might be great information for that CBO to carry to an individual, like oh, do this.

>> MS. WELLS: Yeah.

>> COMMISSIONER STEBBINS: Again, if we find ourselves not able to make those suggestions ourselves. Again, it's more people out there aware of our process, aware of what we're looking for, and helping the individual. Because, again, some of the cases they give to us are just people, you know, you've raised this before. People just not completing the form. And some of the omissions are clearly, like, how could you have missed that?

>> MS. WELLS: Right.

>> COMMISSIONER STEBBINS: But, again, trying to get people to be truthful and honest on the form, you know, I think making extra room is fine even though if you're filling out that much room, you may not be a good candidate. But, again, I think taking it to the next step is bringing those groups in. And also our regional employment board, workforce people out there talking to them about the licensees jobs as well. I think everybody being on the same page or having the overall awareness of what the form is looking for, I think, would be a great next step.

>> COMMISSIONER ZUNIGA: Well, I would go a step further to offer not just the casinos but the licensing department.

>> MS. WELLS: Well, they've been very helpful. You know, I will point out Bill Curtis mentioned to me the other day, you know, Mary Pulgarin is a Spanish-speaking employee, and she has a great rapport with a lot of the folks that may call in with questions. You know, sometimes speaking in your first language is a lot more comfortable. So he had said, you know, let's get the word out if they have questions about fitting out the form, they could call and we could put them in touch with Mary just to make people feel a little less intimidated.

>> COMMISSIONER ZUNIGA: That's exactly my point. Could we also offer in the form to call -- to -- if necessary.

>> MS. WELLS: Yeah.

>> COMMISSIONER ZUNIGA: If you feel -- you know, not only that anecdote --

>> MS. WELLS: Yeah.

>> COMMISSIONER ZUNIGA: -- we've also heard from vendors who call licensing, and they are very appreciative of the ability to be able to talk to Bill or whomever else.

>> MS. WELLS: Right.

>> COMMISSIONER ZUNIGA: Why couldn't we offer, in the form, if you have any questions on this, you know, if you don't know how to answer these questions, you can

reach a number at the Commission.

>> MS. WELLS: I'm trying to think of something on the LMS home page. We may already have something like that. Because I'm thinking how do they already know how to call? Because people do call.

>> CHAIR JUDD-STEIN: When I went through the --

>> MS. WELLS: The briefing.

>> CHAIR JUDD-STEIN: I feel as though it's there but we can clarify. I did ask about whether there were interpreter services available.

>> MS. WELLS: Right.

>> CHAIR JUDD-STEIN: Not in every language.

>> MS. WELLS: Right. Right. But let me check because that might already be there but that's a good thing for LMS to have on there. If you have any questions about filling out the form, here is a resource for you, because they've been great -- we get great feedback on our licensing team.

>> COMMISSIONER ZUNIGA: We get feedback from those who do, but maybe we observe only the proactive people, the people who --

>> MS. WELLS: Right.

>> COMMISSIONER ZUNIGA: -- who think, I don't know how to answer this. I better call somebody.

>> MS. WELLS: Right.

>> COMMISSIONER ZUNIGA: I think just noting that you could seek help in the form, you could and should in many instances talk to the casinos just like you're saying, Commissioner, talk to others.

>> MS. WELLS: Right.

>> COMMISSIONER ZUNIGA: The obvious place in my mind is the licensing department.

>> MS. WELLS: Yeah. I'll add that. That's a good idea.

>> COMMISSIONER STEBBINS: And that same group, introducing them to Mary as a resource.

>> MS. WELLS: And also, I've got to tell you, with the wave of applicant -- it was crazy with the thousands coming in. But when things settled down a little bit, it's actually a lot more manageable to have a little more interaction.

>> COMMISSIONER ZUNIGA: And I would offer that it's probably even more efficient to have somebody fill out --

>> MS. WELLS: Oh, absolutely.

>> COMMISSIONER ZUNIGA: You know, fill it out right the first time around.

>> MS. WELLS: That's what we want. We want people to fill it out truthfully and completely on the front end, and that's part of what licensing does is make sure that -- and then -- then things move so much more efficiently on the back end. So we are 100% in favor of that.

>> COMMISSIONER STEBBINS: Right.

>> CHAIR JUDD-STEIN: I just want to thank Director Wells and IEB for being responsive. I think that this is derived from a decision that we made on an appeal. We noticed that the form could use some improvement just for clarity, and you were very responsive. An obvious change is that there's more room so that it prompts individuals to be able to clearly write in their responses. There's a lot more simplicity

and clarity. So I think that the form is very responsive. And I think that we can be nimble and continue to improve it as we learn more and more how challenges arise for any applicant. Other questions or comments or suggested edits for this?

>> MS. WELLS: So this -- what's in the packet is the actual form itself. So it asked, you know, for a vote on that. The language on the licensing team and the contact number and also the applicants checking with the casino HR department, I can just work with Bill on that. I don't necessarily need a vote for that but it probably would be helpful to have a vote on the form for the packet.

>> COMMISSIONER ZUNIGA: But -- but we'll include that language in the form eventually?

>> MS. WELLS: Well, the form --

>> COMMISSIONER O'BRIEN: The instructions.

>> MS. WELLS: It's sort of the instructions in LMS versus the form. I may be splitting hairs there.

>> COMMISSIONER ZUNIGA: As long as people --

>> MS. WELLS: Includes it.

>> COMMISSIONER ZUNIGA: -- reasonably see it up front.

>> MS. WELLS: Exactly. We can even run a test on LMS to make sure somebody can see it. If not all of these applicants are doing it on the licensing management system. That's where we want to make sure people identify it.

>> COMMISSIONER ZUNIGA: I understand.

>> MS. WELLS: Yeah.

>> CHAIR JUDD-STEIN: Any further questions for Director Wells? Do I have a motion?

>> COMMISSIONER O'BRIEN: Madam Chair, I move that the Commission approve the modifications to the criminal history section in the license and application forms as described by Commission staff today and as included in the Commission packet.

>> COMMISSIONER ZUNIGA: Second.

>> CHAIR JUDD-STEIN: Any further questions? Discussion? Commissioner Stebbins? All set? Do you have -- are you noticing something that you want to bring up?

>> COMMISSIONER STEBBINS: Just for -- thank you, Madam Chair -- just for clarification, Karen, sealing of records only pertains to those things somebody might have done as a youth, under 18?

>> MS. WELLS: And adults. (Inaudible).

>> COMMISSIONER O'BRIEN: You could both not require to disclose and seal?

>> MS. WELLS: This language is exactly from the regulation. So what it says, you're not required to disclose records of criminal appearances. That's adult. Criminal dispositions. Adult. And/or any information concerning acts of delinquency that have been sealed. So there's a broader scope for delinquency in the regs. So this is tracking the reg. And we've got an issue on the sealed records which we're going to bring before you again. But right now this is exactly how the language is in the regulation which you promulgated years ago.

>> COMMISSIONER STEBBINS: Right. Okay.

>> COMMISSIONER O'BRIEN: Would it make sense to make that a sequence? So that no one -- it has to be anything of delinquency that's sealed? I'm not really

following. The way I read it was not the way you just said it.

>> MS. WELLS: We put it in there because this is exactly what the reg said. I wouldn't want to deviate from the reg or sort of modify that because this is exactly what the regulation says. So what we are going to be bringing forward before the Commission is we're going to ask for some clarification on exactly what you want this to mean. But this is exactly what it says. So how we implement it, we want to make sure you're comfortable with. But this is exactly how it reads. So that's why we make sure we don't deviate.

>> COMMISSIONER ZUNIGA: All right.

>> COMMISSIONER STEBBINS: Yep. Thank you, Karen.

>> CHAIR JUDD-STEIN: And so we have a motion before us that's been seconded, I believe, but I'm hearing from Director Wells is stay tuned. There will be clarity sought for that particular clause, and we may end up keeping exactly to reflect the regulation.

>> MS. WELLS: Yeah.

>> CHAIR JUDD-STEIN: Do we have further questions or discussion? All those in favor?

[Vote taken]

Opposed? 4-0. Thank you.

>> MS. WELLS: Thank you very much.

>> COMMISSIONER ZUNIGA: Thank you.

>> CHAIR JUDD-STEIN: It is 4:40, and we have one more matter on our agenda other than our Commissioner updates and anything else that would be brought to our attention. Commissioners. And Mr. Grossman, in the back of the room, are we all set to proceed at this juncture?

>> COMMISSIONER O'BRIEN: I think we can do a very short overview, and then my recommendation would be I don't know what the agenda looks like for Springfield. Whether we then have the substantive when Commissioner Cameron is back in Springfield so that we can kick it off briefly. But given the time --

>> CHAIR JUDD-STEIN: Is that okay?

>> COMMISSIONER O'BRIEN: I think we'll do a very brief overview.

>> COMMISSIONER STEBBINS: On this item I didn't want to get too far in the discussion without her.

>> COMMISSIONER O'BRIEN: Right. Exactly.

>> COMMISSIONER ZUNIGA: I think that's a great idea. Do you want to -- can I start with that overview?

>> CHAIR JUDD-STEIN: We'll have Mr. Grossman come up front, too. Thank you.

>> COMMISSIONER ZUNIGA: Okay. Shall we let Mr. Grossman --

>> CHAIR JUDD-STEIN: We'll take everyone's lead on how you want to proceed.

>> MR. GROSSMAN: Do you want a brief overview?

>> COMMISSIONER O'BRIEN: Brief.

>> MR. GROSSMAN: That's not my forte, but I can try.

>> COMMISSIONER ZUNIGA: A brief brief.

>> COMMISSIONER STEBBINS: We will knock you off your cadence.

>> MR. GROSSMAN: We need to come up with a renewal scheme for casino license.

>> COMMISSIONER O'BRIEN: Is this your telephone voice?

>> MR. GROSSMAN: So, well, the synopsis is that the casino licenses run for 5 and 15 years respectively. PPC's license expires on June 24th of next year. We do need a mechanism by which to consider the renewal of that license. The law, in a number of areas, requires the Commission to come up with a renewal scheme. There is not a lot of meat on the bones in the statutes when it comes to prescribing exactly what the Commission needs to look at. Other than the fact that you have to have a renewal fee and one other minor detail about impacted live entertainment venues.

Otherwise the statutes don't get into a lot of detail about what the renewal process should look like. We did look at a number of other jurisdictions to get a sense as to how other jurisdictions handle renewal processes. There is no one model that is used in anyplace. But there are a few themes that tend to emerge. Most jurisdictions will look at things like the suitability of the entities and the individuals involved, as well as the financial stability of the operation including the parent.

They all seem, generally speaking, to be less thorough than the initial, what we call RFA1 licensing process. And, of course, we can get into it at a later time some of the particulars, which we lay out in the memo that you have before you as to how other jurisdictions handle that.

There were a few threshold questions that we thought would be helpful for the Commission to consider as we set out to come with a process which I would submit would be best done by way of regulation, just to clarify for all the players involved, what the process would be. Of course, the two Category 1 licenses won't come up for renewal for 14 or 15 years at this point. So it could be modified in the intervening years, which may or may not include any of us.

So the --

>> COMMISSIONER STEBBINS: (Inaudible).

>> MR. GROSSMAN: Well, it may include a different panel. Just by virtue of the statute.

>> COMMISSIONER STEBBINS: You're right.

>> MR. GROSSMAN: So one of the first questions to look at is licensing fee, whether you think -- there has to be a licensing fee for Category 2 it has to be at least \$100,000. And it will, of course, include the cost of any investigation that goes into the renewal process. The question, though -- not that it needs to be decided definitively here today or even at your next meeting -- is whether you want to assess any additional fee on top of that. Some states assess millions of dollars. Others assess very little. As we note in the memo, the Commission took the long view the first time it looked at the assessment of a licensing fee and assessed the statutory minimum with the philosophy that it would prefer that any additional available funds be put into the establishments themselves. So that's something to think about. Something to consider looking at the other jurisdictions there may or may not be helpful because there's no one way of doing it.

Let's see. The term of the licenses is another interesting question. And this might be a longer conversation. But just to put it on your radar, the statutes -- and there are essentially two sections -- talk about the -- clearly the initial terms of the licenses. In the case of category 1 is 15 years and category 2 is 5 years. The question is whether you have any inclination to adjust those for the renewal periods. And if so, we can certainly consider whether that would be allowable under the statute

or not. And, of course there are a variety of reasons you may or may not want to do that.

The third question is really the big-ticket item, which is what types of issues are you interested in exploring as part of the renewal process. We've talked a little bit about the suitability of the individuals and the entities, the financial stability of the entity and the parents is, of course, important. There are other things to consider like compliance with license conditions throughout the period of licensure, the compliance with host and surrounding community agreements, with the iLove agreements, all that kind of stuff. And all those things are fair game for review.

Certainly compliance with the capital expenditure plan, whether it's doing what we had hoped it would do, whether that needs any adjustment. These are all things to think about as part of a renewal process. Of course, all these things are also just things you can do on a daily basis as we oversee the casinos to ensure their compliance on a regular basis.

And finally -- and I don't necessarily think this is the case, but if there are any issues with the statute that require legislative updating, then the door is left open in the statute to send those over to the legislature for consideration. There was nothing that jumped out in need of adjustment, but the statute does open that door for us.

So those are the main issues that we wanted to bring up. And by "we," I mean Commissioner O'Brien, Commissioner Zuniga and I have discussed these issues on a number of occasions but wanted to, of course, bring this to the full attention of the Commission. Time is of somewhat of the essence in that, you know, we need to have a process in place for the relicensing -- the potential relicensing of Plainridge Park Casino coming up next year.

>> COMMISSIONER ZUNIGA: Thank you. That's a great synopsis. I would just add a couple of things that, since the packet, there is more information in a nice chart that you dug up, Todd, that you only alluded to but we could provide in terms of context for what other states do. I would perhaps put them in a couple of different buckets. There is a few states that have unlimited licenses that I would say it's good for us to know but really -- doesn't really apply in terms of, you know, the similarity to us, given the competitive nature and the limited number of licenses that our statute has. So there's other states that may provide more similarities into how we might go about doing this. It's probably fair to say that everybody has some kind of process just like you articulated that we would also mirror to some -- have or parallel to some degree. The bigger question is those threshold issues that you mentioned. The term, in my mind, is a big one, the licensing fee. I do believe -- and this is part of what we really should discuss at a later time with more discussion about this -- that there is a presumption of relicensing that the notion -- not only in other states that we looked at but certainly in our case here that it would be really quite disruptive or unnecessarily ambitious that we could simply rebid this license, we would really have to account for what would be the asset that we currently license under Penn that we do not own. There are cases in Canada, for example, where the government does own the asset, and they bid the operator, and it's fairly straightforward to just change operators because that's not the scheme that we have here and for many other reasons that I guess we could also get into. At least my read is this presumption of relicensing. Now, we don't have to give it away for free. And that's the point of the threshold questions that you well articulate.

And that's how we embark on the discussion. Do you want to add to that?

>> COMMISSIONER O'BRIEN: No, just that we had asked Attorney Grossman to add that to see if there's anything on point that would be particularly helpful in terms of guiding us. There's really nothing that speaks directly to what we need. I do think it's helpful to see so we can eliminate what we don't want and go forward with it. I think there was a comment made about Maryland maybe being close to similar to us but, of course, they're not in a posture to renew, even though in theory, it might be helpful that they would be looking at us later. And so the questions that are in the memo I think are sort of the primary questions that we think we need to decide on before we can set up the regs for exactly how this is going to work.

>> MR. BEDROSIAN: I'm imagining continuing this agenda item potentially on the 26th.

>> COMMISSIONER ZUNIGA: Absolutely.

>> COMMISSIONER O'BRIEN: Yes.

>> CHAIR JUDD-STEIN: Todd, thank you for the overview. That was excellent. And I do think we will put it on the agenda for continued discussion so that we can give more helpful guidance at this point and really spend some time chewing on the issues that you've outlined, but it gives us a chance -- we'll -- you'll update Commissioner Cameron. It gives Commissioner Stebbins and me a chance to really think about other questions we might have. So we'll push it over now to September 26th. If that's okay. Great.

>> COMMISSIONER ZUNIGA: Sounds good.

>> CHAIR JUDD-STEIN: All right. Now, do we have any Commissioner updates? Are you sure?

>> COMMISSIONER STEBBINS: Motion to adjourn.

>> CHAIR JUDD-STEIN: Well, I did want to go over item number 11. No. Those matters reserved for any that the Chair thinks have not reasonably anticipated at the time of posting. All set. A motion to adjourn? Second. And all those in favor.

[Vote taken]

Those opposed? 4-0. Thank you. Thanks, everyone, for your attendance and your vigilance. Thanks.

>> COMMISSIONER ZUNIGA: Thank you.

[Concluded at 4:54 P.M.]