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THE COMMONWEALTH OF MASSACHUSETTS

MASSACHUSETTS GAMING COMMISSION

OPEN MEETING

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

SEPTEMBER 25, 2012, 1:00 p.m.

BOSTON CONVENTION AND EXHIBITION CENTER

415 Summer Street, Room 150

Boston, Massachusetts

1 SEPTEMBER 25, 2012

2 PROCEEDINGS:

3

4 COMMISSIONER MCHUGH: We are ready to get
5 started in our new venue. This is a temporary change of
6 venue. We will be going back to 1000 Washington Street.
7 I am pleased to call to order Public Meeting Number 29
8 of Massachusetts Gaming Commission, September 25, 2012.

9 We will start off with the approval of
10 minutes. There are two sets. First, September 11,
11 Commissioner McHugh?

12 COMMISSIONER MCHUGH: I distributed these
13 this morning. So, I don't know whether everybody has had
14 an opportunity to read them. If they have, I would move
15 their approval. If not, we can approve them at our next
16 meeting, which won't be for two weeks, but we can post
17 them as drafts in the interim on the website to give you
18 a chance to read them if you prefer to do that.

19 CHAIRMAN CROSBY: I read them. Has
20 everybody read?

21 COMMISSIONER STEBBINS: I read them. I
22 have a quick change under research agenda on page four
23 and five. The gentleman's last name is Robinson not
24 Robertson.

1 COMMISSIONER MCHUGH: Okay. Thank you.

2 CHAIRMAN CROSBY: I had one on page two.
3 On the bottom of the third paragraph, the firm states
4 however, it did not represent any gaming company with
5 Massachusetts interests and would not do so. I don't
6 think that's really what we meant to say, because they
7 do represent companies with Massachusetts interests.
8 But I assume what it meant is they are not being
9 represented in the Massachusetts situation.

10 COMMISSIONER MCHUGH: All right.

11 CHAIRMAN CROSBY: I think it's just --

12 COMMISSIONER MCHUGH: I see the point.

13 CHAIRMAN CROSBY: Any other? Do we have
14 a second for the motion?

15 COMMISSIONER CAMERON: I second the
16 motion.

17 CHAIRMAN CROSBY: All in favor? I.

18 COMMISSIONER MCHUGH: I.

19 COMMISSIONER CAMERON: I.

20 COMMISSIONER STEBBINS: I.

21 COMMISSIONER ZUNIGA: I.

22 CHAIRMAN CROSBY: With that one adoption,
23 the I's have it. September 18, I just have a couple of
24 typos. Anything on September 18? Is there a motion

1 Commissioner McHugh?

2 COMMISSIONER CAMERON: Yes, I move the
3 acceptance of the September 18 draft minutes that were
4 distributed.

5 CHAIRMAN CROSBY: Second?

6 COMMISSIONER STEBBINS: Second.

7 CHAIRMAN CROSBY: All in favor? I.

8 COMMISSIONER MCHUGH: I.

9 COMMISSIONER CAMERON: I.

10 COMMISSIONER STEBBINS: I.

11 COMMISSIONER ZUNIGA: I.

12 CHAIRMAN CROSBY: All opposed? The I's
13 have it.

14 Then we get to the business, the big
15 business of the day, the project work plan. Although
16 under consultant's status report, ii says draft master
17 schedule, I thought we would start with the schedule.

18 So, if you would introduce yourself? Does
19 everybody have a copy of the chart? Does the audience
20 have a copy of the chart? Eric, why don't you introduce
21 yourself and then explain to us what we are looking at
22 here.

23 MR. LOWTHER: Good afternoon. My name is
24 Eric Lowther. I am with PMA Consultants and helping the

1 Commission with schedule and work plan.

2 The last time I presented at the public
3 meeting it was in July, July 10 meeting. I discussed the
4 proposed approach to how we would integrate the various
5 consultants and the Commission's work plans into one
6 integrated master schedule. And I am happy to report
7 that we have made great progress on that since our July
8 meeting. We now have an integrated schedule that
9 reflects the scope of the gaming consultants' and the
10 Commission's work.

11 And the handout today represents that
12 workflow. I can just briefly discuss that. On top of
13 the schedule is a gray band and that is a summary
14 representation of the plan. And each of those individual
15 tasks is a rollup of several activities, 10 to 15
16 activities that represent that specific workflow and the
17 sequence of events that have to happen to achieve that
18 particular item.

19 As you can see these series of paths, some
20 of them already ongoing translate to our milestone for
21 the Commission's award of the first license. That date
22 as everyone can read is the end of February 2014.

23 Probably interesting to understand which
24 series of tasks actually control that forecasted date.

1 So, below the gray area in more detail is the
2 representation of the specific tasks that represent our
3 schedule. The ones that are in color not grayed out are
4 the controlling tasks that represent the longest path to
5 the first issuance of license.

6 It really begins with the work that has
7 already been achieved with Phase I regulations which
8 flows into the RFA Phase I applications. That process
9 as well as ongoing and it leads into a major task to scope
10 of licensing for investigations and then the preparation
11 and submission of applications.

12 That then steps into the background
13 investigations and suitability of applications processes
14 for Phase I. It's a six-month task. It leads into the
15 MGC review and hearing period, which then flows through
16 to local negotiations and vote for surrounding community
17 agreements and host community agreement approved by
18 referendum.

19 That leads into the last activity, which
20 is the Commission's review of responses for RFA-2 and
21 ultimately the license issuance.

22 CHAIRMAN CROSBY: This is great. And I
23 think all through this say that we want to have -- we
24 wanted to have a really comprehensive project management

1 chart that had critical path items on it so we could track
2 our own work so we could communicate better with the
3 public about what is going on, and so that we could isolate
4 where the time syncs are and do everything in our power
5 to shorten those.

6 This particular plan has the first license
7 award in February to March of 2014. That is what our
8 consultants will call, I think, a prudent, based on prior
9 experiences, schedule. You have heard us say we have
10 boasted that we could possibly, I think if it went really
11 well, get it done two or three months before that.
12 Possibly in October or November if things really went like
13 clockwork, possibly the slots casino which is a little
14 bit less -- the slots parlor, a little bit less
15 complicated, but that is the range.

16 When we published these charts, we will
17 frequently target next fall because we all believe that
18 we have a target, we will try like hell to make the target.
19 The plausibility is that it will be somewhere between
20 October/November to February/March. That's the
21 realistic timeframe.

22 If you go through these, the dark green
23 down below is the longest line on here. That is the one
24 for the background checks. We are now going to jump into

1 conversations about his because we have a project
2 management group who knows how to build these things, but
3 our consultants have done the strategic plan. And they
4 have come up with all of the data that populates this
5 chart. PMA just gives us a tool that we can use and gives
6 us these tools to see where the interplay of the critical
7 path items are.

8 I know the Commissioners have a lot of
9 questions about timelines that have come out of the draft
10 strategic plan. But I just thought it was interesting
11 for people to see that long period of time. In the
12 prudent schedule, we are allowing about six months for
13 background checks. Some probably will be sooner, some
14 probably will be longer. But our consultants tell us
15 that we can prudently plan to have the background checks
16 pretty well done in a six-month period. We will try to
17 compress that, which is one of the major ways we might
18 be able to get back into the end of 2013 for our licenses.

19 So Commissioners, do you want to either to
20 Eric about the tool itself or wait for our consultants
21 to come up? I think we are ready to maybe just skip into
22 the strategic plan conversation, but go ahead.

23 COMMISSIONER ZUNIGA: I would just
24 mention one small thing that I know there is additional

1 activities in this master schedule that are not
2 represented for convenience.

3 CHAIRMAN CROSBY: There are many other
4 lines underneath this that we are not showing. When we
5 get it down, everybody will see all of it.

6 COMMISSIONER ZUNIGA: Right. There is
7 importantly another what has been shaded or faded out a
8 little bit is very critical activities that will be
9 ongoing at the same time that those investigations will
10 take place for the Commission. Those are represented at
11 the bottom, which has to do essentially with all of the
12 drafting of the Phase II regulations.

13 So, these major tasks will be running in
14 parallel as Eric and the Chairman were describing. The
15 longest one of the critical path has to do with the
16 investigations. But there are others that are important
17 that have to do with regulations.

18 CHAIRMAN CROSBY: You can also see here
19 the conversation we had with Springfield, which on this
20 chart represents the way the process should work and now
21 will work, I think, which is that the host community
22 agreements will not be submitted until -- and surrounding
23 community agreements, but host community agreements will
24 not be submitted for referendum until after the

1 background check where the green line is completed
2 whether that's Springfield or anywhere else.

3 COMMISSIONER MCHUGH: Until after all
4 background checks are completed or until the background
5 checks involving the applicant is completed?

6 CHAIRMAN CROSBY: The background checks
7 involving the applicant. So, it could happen sooner.

8 COMMISSIONER MCHUGH: So, it could happen
9 sooner. Just so that those interpreting this, the
10 surrounding community agreements under this schedule are
11 not put to a vote until the end of September 2013, but
12 if a particular applicant's background investigation is
13 done earlier then that can be opened up and that can happen
14 a lot earlier.

15 CHAIRMAN CROSBY: Which is very much what
16 Springfield is hoping, for example, to do. That is
17 exactly right. All of this is built again in average
18 grammars. If you see the beginning of the dark green line
19 is January and the background checks begin. If we get
20 the RFA-1 forms in sooner and we probably will get some
21 in sooner, maybe as early as the end of October or
22 mid-November, we can start then. So, that will
23 automatically move the lines around.

24 This is sort of a macro assumption for

1 everybody. That's a very good point, Commissioner. Any
2 community and developer that are working together that
3 want to expedite the process, starting sooner, giving us
4 the tools to start sooner, making sure -- The first step
5 in the RFA-1 process after you get the forms themselves
6 will be a conversation with the Commission about what
7 needs to be prequalified. Who are the qualifiers that
8 you will need to submit for the background checks,
9 corporate, institutional or personal.

10 There frequently is some debate about
11 which parties need to be background checked. We will
12 ultimately decide when we talk about it with the bidders.
13 If that argument doesn't go on for a very long time that
14 can save time. If the forms are filled out quickly that
15 can save time. If the forms are filled out accurately
16 that can save time, etc.

17 And we will move heaven and earth once we
18 get everything to get our part of the job done as quickly
19 as we can. Our consultants have sort of resisted us
20 trying to squeeze the schedule down because they are
21 trying to get us to be realistic and set expectations
22 appropriately. And we are walking that line on the one
23 hand trying to be as ambitious and aggressive as we
24 possibly can but realistic on the other hand.

1 COMMISSIONER ZUNIGA: On that note, Mr.
2 Chair, I would highlight that also as an interactive
3 planning tool that this is, as we learn additional
4 intelligence relative to what you just mentioned, whether
5 those investigations are taking less than anticipated,
6 this tool will allow us to reflect that. And the schedule
7 as was demonstrated when Eric first was with us would
8 adjust very well.

9 CHAIRMAN CROSBY: Some of the things that
10 aren't on here, for example, are the hire of our key
11 employees. They will be plotted out. The detail on
12 research projects, there's a lot of other steps that we
13 actually have in draft form but we just didn't show today.

14 COMMISSIONER MCHUGH: I had just one
15 question, because we can only do this in this kind of a
16 public meeting. I have just one technical question about
17 the chart itself, and that is there are a number of
18 activities shown at the top and we don't have all of the
19 details below.

20 Do we have some mechanism for accessing
21 resources that we need in order to maintain those
22 timelines, the interconnection between resources
23 available to do one task and another? How are we handling
24 that? Maybe we're not at the moment.

1 MR. LOWTHER: Currently, the activities
2 aren't resource loaded, but they could be absolutely.
3 That might be just an exercise of sitting with each task
4 person who is responsible for a given activity and
5 understanding the resources that would be required to
6 complete the task in the time allowed and then
7 incorporating that into the schedule.

8 COMMISSIONER MCHUGH: I recognize that
9 that gets us into the kind of planning that goes into
10 building a building, for example. And it's an imprecise
11 art, but the experience of the last couple of months leads
12 me to believe that some effort in doing that would be
13 worthwhile, even if it isn't done with all of the
14 precision that we would do to fully resource load a
15 schedule of this type.

16 As I look at this, this is very ambitious.
17 I know we are going to be hiring additional people. We
18 are well on the way. But I would prefer to do that earlier
19 rather than bump into something later and say that we just
20 can't do it. Or we are going to do it in a half-baked
21 fashion because we don't have the resources to do it.

22 CHAIRMAN CROSBY: Maybe Director Glovsky,
23 you could make a note about that and Commissioner Zuniga
24 and Eric and see whether we -- what that would require,

1 what that would look like. Thank you very much. It's
2 a great and we are getting very close. It's exciting.

3 Do any of our 6000 consultants want to come
4 forward?

5 Any of the issues that you all raised, if
6 there are issues about the timeline that we wanted to talk
7 about that's a good place to start. But I just want to
8 sort to try to make sure we are all on the same page and
9 if anybody disagrees on this.

10 The primary work product beyond the
11 regulations for RFA-1 from our team of consultants has
12 been strategic plan. That was the main thing we were
13 originally procured. The strategic plan is now a work
14 in progress, at least in draft form.

15 The primary purpose of today's
16 conversation is to feed back to the consultants items that
17 they will need to do a final draft or at least another
18 draft of the plan, not necessarily to answer all of the
19 questions that are raised in the plan.

20 The plan's purpose, one of the plan's
21 purpose is to raise the issues, the policy decisions that
22 we will have to make and show us where on the critical
23 path those take place.

24 So, there's a tendency now to get into a conversation.

1 For example, the strategic plan talks about different
2 ways you can organize the legal department under the
3 General Counsel. Well, that's not what we are here to
4 talk about. There will be a time and a place for that.

5 If we felt that there shouldn't be a
6 General Counsel or there is some whole piece missing then
7 that is what we are here to talk about.

8 If there are issues which are really
9 imminent and we need the consultants' advice on it then
10 that is certainly fair again. I found myself wanting to
11 start talking about issues that you're not trying to raise
12 for discussion right now. You are just trying to tell
13 us that in due course they will need to be addressed. So,
14 I think that is an important distinction and may help us
15 save some time.

16 Having said that, who would like to start
17 off on questions or comments about timeline for starters
18 and then whatever else you've got?

19 COMMISSIONER ZUNIGA: I can do that.
20 There's two critical pieces that I see happening in the
21 very near future and that has to do with timeline, but
22 it really starts to beg the question for us for the
23 Commission with the input of our consultants as to how
24 we organize ourselves and set ourselves up to do that.

1 And the next one is the closest, which I
2 know we may discuss this later or we may discuss that now,
3 but has to do with the start of drafting regulations for
4 Phase II, which has been identified here starting
5 essentially in November, to review the scope and start
6 drafting those regulations.

7 I am just setting that as a general
8 comment. That is one of the next steps that we need to
9 consider. And any feedback and comments to that effect
10 I think would be worthy of discussion.

11 COMMISSIONER MCHUGH: I have two that jump
12 immediately to mind. They sort of pull in different
13 directions. I wondered, first of all, looking at the
14 timeline, the chart that was prepared and that we have
15 been looking for, the first page of that whether or not
16 it would not be possible if one looks at item eight on
17 that chart, I don't know whether everybody has it.

18 CHAIRMAN CROSBY: You are not talking
19 about this chart?

20 COMMISSIONER MCHUGH: No. I'm talking
21 about the timeline chart. Basically, it is this, the
22 Commission conducts hearings and determine suitability.
23 That has to come at the end -- It has to come after there
24 is something to conduct the hearing about. So, there has

1 to be an investigation before you can conduct the hearing.

2 That's logical.

3 But I wonder if we were to get good
4 cooperation from the applicants and get material that we
5 need to satisfy ourselves that the investigation -- that
6 we have the material that we need to make a judgment, if
7 we couldn't start those hearings actually almost a
8 quarter earlier. That would be five months after the
9 RFA-1 was issued.

10 And if we could start those and move that
11 whole segment back a quarter, we would change sort of the
12 realistic deadline back to the sometime in late 2013, i.e.
13 a deadline, the target date for issuing the first license.

14 I just wonder how realistic it is to think
15 we could get at least some of the information that we
16 needed in order to have a hearing and make the suitability
17 determination a quarter earlier?

18 MR. MICHAEL: I guess I'd have two
19 responses to that. One, if you are saying that a
20 suitability determination can be made on the basis of some
21 of the information, I don't think you are saying that.

22 COMMISSIONER MCHUGH: No.

23 MR. MICHAEL: So, you need obviously, as
24 you say to complete the investigation to the satisfaction

1 of the Commission that enough information is there to make
2 an informed judgment.

3 The time it will take to get to that point
4 is extremely variable. And as has been pointed out
5 earlier today, it is the cooperation of the applicant;
6 it's the number of issues that might be raised. It's the
7 previous history of the applicant in terms of its
8 regulatory experience and so on. So, it's entirely
9 feasible that an investigation could be completed in a
10 shorter period of time. It would all be a fact based and
11 case-by-case analysis.

12 The times that we have suggested here are
13 reasonable estimates balancing, as the Chairman said
14 earlier, the public policy to get these things going as
15 quickly as possible against the need to make sure that
16 everything is done right. If there is a possibility to
17 do it faster, there certainly is no objection on our part
18 to doing that.

19 MR. GUSHIN: Let me just clarify. There
20 are a number of other areas where the timeline might be
21 accelerated. As you alluded to, the issues on scope of
22 licensing are booked for a certain amount of time here,
23 but they be less than the time specified in the chart.
24 Filings could be made quicker and the investigations.

1 So, while there has certain benchmarks
2 here, it is reasonable that they may be able to be
3 compacted and the process could be accelerated. Our
4 recommendations are based on just what we have seen in
5 other jurisdictions. But we learn from other
6 jurisdictions and the work we have all done collectively
7 in other jurisdictions how to try and accelerate the
8 process.

9 It is a process that is controlled by the
10 Commission in a large measure, but it is also dependent
11 upon quite variable factors as Guy has mentioned.

12 COMMISSIONER MCHUGH: It seems to me that
13 that is an important point for us to stress publicly as
14 we move down the road that we can move faster if we get
15 cooperation from the applicants, both with respect to the
16 initial filings and with respect to the information that
17 we look for as a supplement. And we can only take this
18 speed-up process, which everybody is interested in,
19 consistent with due diligence so far without that kind
20 of cooperation.

21 The second point is unrelated and it
22 actually pulls it maybe in a different direction. I
23 actually just noticed it when I looked at this chart that
24 we looked at today. We have set aside basically on the

1 planning chart about until June of 2014 -- 2013 for the
2 Phase II regulations. I know that's been talking about
3 that collectively and that seems to all of us to be a
4 realistic date.

5 In order to get them out by June 2015 --
6 I pushed it back two years. It's not a Freudian slip.
7 -- June 2013, we have got to be prepared to give notice
8 to the local government advisory committee, which means
9 presenting them with a full set of regulations by
10 mid-March of 2013. And I think that's something worth
11 noting. That is not very far away.

12 MR. MICHAEL: There is also, and we have
13 discussed this in the past, the possibility to prioritize
14 those regulations into certain categories, so that those
15 that are necessary in the beginning can be accomplished
16 timely. Those that aren't necessary can be delayed until
17 they become something that is needed.

18 COMMISSIONER MCHUGH: That emphasizes the
19 need to think about that.

20 CHAIRMAN CROSBY: I agree with that. And
21 I hadn't noticed that on the timeline. But I think that
22 is something you could do in the next draft is to begin
23 to make that distinction, because I think we all agree,
24 and we talked about this a couple of times, that for the

1 time-sensitive issues it's just a matter of which
2 regulations do we need to make the licensing decisions.

3 All of the ongoing operations and
4 regulations of the facilities themselves, we've got
5 plenty of time for that. So, I think that is a really
6 important point to frontload -- and I think that is
7 something your strategic plan coupled with you can help
8 us really understand exactly what does that mean, exactly
9 which ones got to be worked on during this initial period
10 of time.

11 COMMISSIONER ZUNIGA: May I actually pick
12 up on a point that you made at the previous meeting,
13 Commissioner McHugh, which is that as early as we can
14 draft those regulations and signal, communicate to our
15 potential applicants what and how this Commission is
16 going to be evaluating those proposals.

17 Not represented here in this sheet is all
18 of the time that those applicants need to develop and
19 fine-tune those such proposals, which is critical in this
20 timeframe because they want to be as thoughtful as they
21 can.

22 CHAIRMAN CROSBY: As you say,
23 Commissioner McHugh brought this up before and that is
24 on my list of things. But I think you could help us think

1 about what are the policy decisions that we need to
2 forecast to the municipalities and the developers so they
3 know, even before we set regs and everything else, we can
4 issue policy advisories. I think we can do some of that
5 ourselves, but I think you could help us a lot. So, those
6 are two sets of revisions that would be really helpful.
7 What else?

8 COMMISSIONER ZUNIGA: I just wanted to
9 pick up a little bit on the notion or that critical path
10 of the background investigations, which Guy and Fred you
11 alluded to. They highly depend on the sort of
12 cooperation and questions that may come from potential
13 applicants. So, to that end and to a previous question
14 relative to resource loading this schedule, and perhaps
15 you have already answered this question, how would you
16 characterize our ability to either shrink those six
17 months or whether those six months are realistic or
18 aggressive in order to meet that schedule? Whether we
19 doubled up or tripled up on investigation resources let's
20 say.

21 MR. GUSHIN: I think the first thing I want
22 to say in most states, Nevada, New Jersey the major gaming
23 states and we can look at Massachusetts as a major gaming
24 state attracting major applicants, the timeline for

1 investigation is anywhere from a minimum of nine months
2 to 18 months.

3 In some of the states there's
4 opportunities for temporary licensure while the
5 investigations proceed, interim casino authorization or
6 whatever. Unfortunately, that is not part of this law.
7 So, we have to deal with the situation we have here.

8 Personally and speaking for Spectrum, and
9 I think Guy will speak for his company, where we think
10 it is not a matter of investigative resources because the
11 number of applicants are somewhat predictable. It is
12 just compacting the process. And six months is what we
13 think is a reasonable time period. Again, to the extent
14 that we can reduce that period of time, it is in
15 everybody's interest.

16 Everybody wants to get the first casino's
17 licensed balanced with the critical integrity functions
18 that are in the Act and that permeate the Act got to do
19 it in a way. I think it is worth repeating, we are not
20 just talking about Caesar's. We are talking about their
21 partners who are the applicant, some of whom may never
22 have been licensed before.

23 If it was just Caesar's who have been
24 licensed in multiple jurisdictions, I could sit before

1 you and say we could compact it. But that is not
2 necessarily the case. So, we have to be cautious, but
3 we want to be aggressive and get through the investigative
4 process so that ultimately the investigative process
5 provides the Commission with information so you can make
6 an informed decision on suitability.

7 MR. MICHAEL: I agree with all of that.
8 In terms of resources, I just add a subtle point that
9 presently obviously the Commission does not have its own
10 internal resources, understandably, to be able to conduct
11 these investigations. So that the time schedule that we
12 have contemplated would similarly contemplate that there
13 would be a third party contracted to and conduct these
14 investigations at the same time that the Commission
15 staffs so that it can conduct them internally later on.

16 The staffing too would have to take into
17 consideration that you will ultimately not have these
18 kinds of casino investigations in the future. They all
19 will be licensed and they will be licensed for years. So,
20 that the other forms of investigation will be necessary
21 and the staffing will take on a different coloration at
22 that point.

23 Our view of this, which has led to the
24 timelines that we have suggested, is presently a

1 third-party contractor ultimately to blend in with
2 internal resources.

3 MR. EPPS: Just quickly. It also seems
4 key to constricting a timeframe is when you begin. You
5 made that point also. The sooner you can get started,
6 the more likely you are to get a process going to might
7 be able to be condensed. The issue of condensing the
8 timeframe doesn't even begin to come into the discussion
9 until you can start something.

10 So, the sooner you can start something, the
11 more you may be able to visualize whether or not you can
12 condense it. You have to know what you are dealing with.

13 CHAIRMAN CROSBY: Right. That is a
14 question in my mind. You frequently cautioned us that
15 the negotiations over what is a qualifier who is a
16 qualifier is often where the hang-up comes.

17 If an organization applies and we have a
18 meeting on the scope of licensing, and there is a debate,
19 a disagreement about a couple of players, can you get
20 started on everybody else?

21 MR. GUSHIN: Yes.

22 CHAIRMAN CROSBY: So, debating the
23 qualifiers doesn't necessarily slow down the whole thing.

24 MR. GUSHIN: Right. At the start of the

1 investigation, there should be substantial agreement.
2 In other words, if major companies or entities that
3 comprise the entity have to be resolved, that is one
4 thing. But if it just a couple of qualifiers and the
5 application is materially complete, then the
6 investigation should and can proceed.

7 MR. MICHAEL: Typically, those disputes
8 involve financial sources. The structure of the
9 company, their officers, directors are fairly clear.

10 What's unclear are the relationships they
11 have with different investors, different financial
12 institutions. Those are the ones where the issues arise.
13 There is nothing preventing the Commission from focusing
14 on those that are undisputed and then delaying the others.

15 COMMISSIONER MCHUGH: And the risk of
16 asking a really naive question, why does it take long to
17 resolve those disputes? Why can't one simply say,
18 looking at it from the Commission's standpoint, we
19 understand your concerns and they are valid. So, this
20 person doesn't have to qualify. Or we understand your
21 concerns and notwithstanding your concerns, they are a
22 qualifier. If you want to pursue it, you have to give
23 us the information.

24 MR. GUSHIN: In theory, I think we agree

1 with that. It is just the applicants or sometimes
2 parties who may not be the applicant but control the
3 applicant want to be heard. They want to file briefs.
4 They want to address the Commission. They want to make
5 their argument before the Commission.

6 We have been through this process in other
7 jurisdictions. And sometimes it goes smoothly and other
8 times it does not. It's a component of the specifics of
9 your law, not the law of other states, which sometimes
10 some companies want to apply, and the reasonableness of
11 the approach and the willingness of the Commission to make
12 an accelerated decision.

13 COMMISSIONER MCHUGH: The last part is
14 what interests me. Is the Commission's approach to
15 decision-making process part of the formula for
16 determining how fast this is going to go?

17 MR. MICHAEL: It can be, but again not to
18 sugarcoat this. It's not a comfortable process to go
19 through, these background investigations. They are very
20 thorough. And they can be considered by some invasive.
21 And if there are investors who are invested in 600 other
22 companies and this happens to just one of them, they
23 resist and understandably so.

24 Having to undergo that uncomfortable

1 process if they can avoid it, so they try to avoid it.

2 MR. GUSHIN: It goes to the
3 confidentiality issue as well. Some of these companies
4 are to the extreme sensitive to that issue.

5 MR. CARROLL: And some companies may
6 choose to withdraw. Some qualifiers may decide they
7 don't want to get involved or the company may not want
8 them involved in order to delay application moving
9 forward. To make that decision whether to stay or to
10 leave sometimes takes time in terms of company
11 restructurings and so forth.

12 MR. MICHAEL: To some financial sources
13 this is one percent of their portfolio. It's a major
14 portion of the financing but if the institution decides
15 it's not important enough to me to go through this that
16 can really prejudice the project.

17 MR. GUSHIN: That has happened on a number
18 of occasions where institutional investors or companies
19 who have exceeded the thresholds of institutional
20 investors have switched to companies who would be more
21 willing to file.

22 COMMISSIONER MCHUGH: That ultimately,
23 again to sort of pursue my naïveté that consideration is
24 ultimately one for the Commission to take into account

1 in deciding how much it wants the information at what
2 cost.

3 MR. MICHAEL: That's correct.

4 MR. EPPS: Some of it is not optional to
5 a certain degree. If your statute says they have to give
6 you whatever, at certain points you do not have
7 discretion.

8 You are saying to them the statute says you
9 have to provide X. And the company goes they don't want
10 to have to do that. It's not like you say okay, don't
11 give it to us. Sometimes you have statutory requirements
12 that you have to get it. And the amount of discretion
13 you have then comes into question.

14 COMMISSIONER MCHUGH: Right.

15 COMMISSIONER CAMERON: Along those same
16 lines, I think I have a good understanding of background
17 investigation and what can slow the process. But
18 specific to gaming, can you give just a couple of other
19 examples of something that may slow down the process?

20 CHAIRMAN CROSBY: The investigation
21 process?

22 COMMISSIONER CAMERON: The
23 investigation, background investigation.

24 MR. GUSHIN: A - the issues that may

1 surface in a particular company. And we are dealing with
2 some of your applicants or the ones that have been
3 surfaced to date are publicly traded companies that are
4 large bureaucracies. I don't characterize this as a
5 failure to cooperate, it just takes time to produce
6 information. Their bureaucracy can match any state
7 bureaucracy any time from what we have seen over the
8 years, let there be no mistake about it.

9 Then there are substantive issues that may
10 surface that need more in-depth investigation. There's
11 contact with other state law enforcement and regulatory
12 agencies. This may be your priority, but if we're waiting
13 for information, for example, from the Nevada Gaming
14 Control Board or New Jersey Gaming Enforcement --

15 CHAIRMAN CROSBY: SEC.

16 MR. GUSHIN: -- SEC, Federal law
17 enforcement, it just doesn't turn around as quick as you
18 might think.

19 MR. MICHAEL: Not just domestic, but these
20 are companies, not just the companies themselves but the
21 financial sources and investors and associated companies
22 that are international in scope. If there is some
23 information about business practices in a foreign country
24 that you can't just pick up the phone and find that out

1 overnight. It takes a while to go through the channels
2 and the processes to try to obtain that information

3 MR. EPPS: Not only do you have publicly
4 traded companies, but you would also consider the
5 possibility of private equity companies. Their
6 structures are quite different and unique and sometimes
7 difficult just to look at from a spreadsheet type of
8 situation. Then you have to determine who within that
9 framework has to come in and whether or not they want to
10 expose those sub-companies and groups.

11 MR. CARROLL: Mostly local partners and so
12 forth that have not, for example, been involved in
13 traditional gaming background process before are now hit
14 with relatively sophisticated forms that they have to
15 fill out for the first time, which engenders questions,
16 delays and research. That in itself can engender some
17 delay.

18 MR. MICHAEL: All of that said, we are not
19 suggesting that you have to reinvent the wheel here.
20 There's information that has been gathered in that past
21 about any of the applicants or any of the people who will
22 need to be investigated in connection with the applicant,
23 all of that will be utilized. We are not going to create
24 -- start from A to go to Z if already some people have

1 gone to D.

2 COMMISSIONER STEBBINS: To pick up on Mr.
3 Carroll's point. We are seeing the evidence of large
4 operators who do have this tremendous background and
5 experience working with background investigations, but
6 we are finding more local partners. Is there something
7 the Commission can be doing to help these local partners
8 make that end of their investigatory process easier to
9 help shorten up some of these timelines?

10 MR. GUSHIN: We have found in other
11 jurisdictions that if there was a meeting to brief the
12 applicants on the process and the application form at the
13 earliest possible stage, not their joint venture partners
14 haven't done it, but to hear it from the regulators and
15 investigators perhaps is a way to accelerate the process.

16 In other words, don't submit an incomplete
17 application form. Don't submit information that is not
18 supported by appropriate paperwork or other documents.
19 That process can be helpful to a company who has not been
20 in this process before.

21 There is no doubt that Caesar's or these
22 major publicly traded, MGM, can produce computer
23 generated application and supplements and everything in
24 days.

1 MR. MICHAEL: One other possibility and I
2 don't mean this as a plug for our profession, but if you
3 do retain experienced gaming counsel, it does assist in
4 the ability to go get through the process, their advice
5 and their counsel in aiding you by telling you what to
6 expect would be worthwhile.

7 COMMISSIONER STEBBINS: But to Fred's
8 point, should we build in that kind of educational period
9 or week as part of the timeline?

10 MR. GUSHIN: And springboard into the
11 scope of licensing. Use that as the springboard into the
12 scope of licensing

13 MR. CARROLL: This Commission has already
14 taken certain steps. You've made the extra effort in
15 putting together the applications that have specimen
16 forms and detailed instructions and so forth that is
17 going to be helpful to the novice for the first time
18 filing.

19 Even in addition to that, you can have
20 educational sessions. Frankly, the availability of
21 Commission staff to answer the questions is important.
22 We have always had ongoing discussions about policies and
23 so forth. The clarity of the policies and the scope of
24 the policies are important so that everyone understands.

1 The gaming applicants know. They know
2 what the industry standards are and so forth. Then the
3 Massachusetts nuances and so forth are being made known
4 if haven't been already. But the newcomers, there is
5 everything to be gained by education at the earlier stage
6 so that when they file, like Fred says, it's complete,
7 questions are minimal and you can move ahead with the
8 background investigation and follow format.

9 MR. GUSHIN: The starting and stopping of
10 an investigation, waiting for information that should
11 have been provided at the frontend is from our perspective
12 an unnecessary hold. The more that that can be
13 eliminated or minimized, then that will speed up the
14 process.

15 CHAIRMAN CROSBY: I think that's a really
16 good point, Commissioner Stebbins. We will have an
17 ombudsman on shortly. And that person could take the job
18 of reaching out to what we understand to be local,
19 particularly the local bidders and make sure they are
20 looking at the forms. I think that is a really good idea.
21 Presumably, the gaming partner folks are getting their
22 local partners to do this. But we can take a role in that.
23 I think that's a good idea.

24 COMMISSIONER ZUNIGA: I want to ask one

1 more question that relates to timeline but is certainly
2 is part of the strategic plan and has the two options
3 relative to the timeline. That has to do with the slots
4 parlor license, which we have currently represented here
5 is the assumption that we would eventually bid all and
6 investigate all concurrently. And perhaps to comply
7 with the statute, let out the RFA for the slots parlor
8 license first, thus complying.

9 My question is whether, and I know we
10 talked about -- I have talked to a couple of you
11 individually about this, but for the benefit of
12 everybody, as to whether letting out the slots parlor
13 license first by virtue of drafting regulations to that
14 effect that will enable us to do that in order to really
15 advance the schedule, whether that is realistic or not.

16 MR. MICHAEL: Very much so and it ties to
17 what we had spoken about before about prioritizing the
18 regulations. That would be sort of a sub-priority when
19 we get to the point where we are drafting rules of the
20 games and so on, it would be worthwhile to focus first
21 on the slot machine rules as opposed to the table games so
22 that the slot parlor could, slot licensee could open
23 earlier.

24 That doesn't mean that we would ignore the

1 table rules. We would do those as simultaneously as we
2 could. But there would be a priority in terms of the
3 ability to do that.

4 That's when the timesaving would come in.
5 In terms of the investigation itself, that would take
6 whatever it takes. It would be no different for the slot
7 license or the category one. But the actual
8 implementation -- is less to review for the
9 implementation and opening of the license than it would
10 be for a category one.

11 MR. EPPS: There are however regulations
12 that concern every type of gaming operation that would
13 kind of do at the outset. So, you'd do the ones that cover
14 everything. Then as you go down, you start to priority
15 and you could probably tee up the slot regulation and get
16 that moving. Then you do the ones lastly that are the
17 more full-scale gaming that come along later. So, do the
18 broad ones that cover everything and then prioritize as
19 you go down.

20 COMMISSIONER STEBBINS: I agree with that
21 point. I was actually going to see if there was a way
22 to somehow to break it out in a timetable. Obviously,
23 there are regulations that are going to be germane both
24 to the resort casino as well as the slots parlor license

1 holder.

2 CHAIRMAN CROSBY: That's another thing --
3 and if you do not --

4 MR. GUSHIN: I think we will.

5 MR. MICHAEL: -- within the
6 prioritization.

7 MR. CARROLL: We are going to follow up for
8 identification, bundling of specific regulations for
9 different portions.

10 COMMISSIONER STEBBINS: Quick question
11 relative to MOUs, MOUs that we are required to have with
12 other agencies. Kind of factoring that into the timeline
13 as well because obviously keeping that in connection with
14 investigations. Something to think about further down
15 the line as we have talked to a number of a varied
16 communities, what I categorize as local MOUs, MOUs
17 between a gaming operator and the local convention
18 visitor bureau or any other number of entities. And just
19 kind of flag that as to as the Phase II regs start to get
20 pulled together, kind of how those get pieced together.
21 So, this Commission has the opportunity to give them teeth
22 or how we can give them teeth, to get the full license
23 application process.

24 So, I guess it's two categories of MOUs.

1 One, obviously, is more particular to us.

2 MR. MICHAEL: They might be in the nature
3 of MOUs. They might be in the nature of regulations that
4 address the elements of a community agreement, host
5 community agreement or surrounding community agreement
6 as well or both.

7 CHAIRMAN CROSBY: We're ready to switch
8 into anything. I think we are going to talk about the
9 investigation step mostly I think later after the
10 consultants have left. Certainly, it goes without
11 saying that this raises, re-raises the criticality of
12 getting the Bureau up and running because all of these
13 things have to be done by the Bureau under the statute.
14 And we understand that and we take that seriously.

15 Anybody else jump in if you've got
16 questions that either came up -- questions that you raised
17 or any other kind of feedback. I've got a series here,
18 but I'll let other people go first.

19 COMMISSIONER ZUNIGA: I know from
20 something that you may have articulated earlier had to
21 do with Tribal gaming impact on the plan. There was a
22 general question that surfaced and one that I would like
23 to pose. The current draft of the strategic plan is
24 somewhat silent, shall we say, on some of the implications

1 of that region.

2 CHAIRMAN CROSBY: Right. And I'm don't
3 think anybody really knows what the answer to this is,
4 but it has got to be acknowledged in here somewhere and
5 raised in our sensitivity that A - there may not be a third
6 casino for a period of time while the land in trust issue
7 is resolved. B - once it is resolved there is going to
8 be an Indian Gaming Commission and how much we are
9 planning to do will not be necessary, etc. I agree,
10 attending to that is important.

11 MR. CARROLL: The Compact, Chairman, also
12 sets forth numerous responsibilities of your Commission
13 in terms of relationships with the tribe, the tribe's
14 regulatory agency, the interaction between the tribal and
15 local law enforcement.

16 The tribe has a set of challenges ahead of
17 it. It has to organize a lot of these critical
18 infrastructure elements that will be part of their
19 regulatory, their law enforcement and their overall
20 administrative structure. I am sure those are being
21 flushed out in the process they are doing now in their
22 development.

23 Once those processes are up, there is
24 bridges between the Compact and the State that are going

1 to have to be addressed by the Commission as well as other
2 state agencies that are going to be critically important.
3 The amount of resource and assets that you are going to
4 have to devote to that is unknown at this point. A lot
5 might develop on what the tribal structures will be.

6 But the Compact does have a framework for
7 interaction. The regulatory authority, the primary is
8 certainly the tribe's but what that structure will be,
9 how it will work out is going to take discussion, and I
10 would say somewhat aggressive discussions between the
11 state and the tribe so that all of the Commonwealth's
12 issues are protected.

13 The tribes are, in our experience, work
14 very hard to make sure they are compliant. I think it
15 will be a cooperative effort, but there is going to have
16 to be asset and resources. That will be flushed out over
17 the next few months as the process goes. Of course the
18 land in trust is looming over everything in this point.

19 COMMISSIONER MCHUGH: The Compact process
20 is moving forward. The land in trust may well take
21 longer. How has this worked in other jurisdictions,
22 because it seems to me that we -- There is an interface
23 between our regulations and the tribal regulations.
24 There are certain responsibilities and veto powers and

1 approval powers that we have. And certain standards that
2 we will apply to ourselves that we will want to see,
3 perhaps -- And I'm talking theoretically now, because we
4 haven't started the process. -- applied as yardsticks for
5 approving or not approving some things that the tribe
6 does. How and when should we begin the process of dealing
7 with all of that?

8 MR. GUSHIN: This Compact is a little
9 different. Each Compact in each state is different.
10 The role of the state regulators here is different than
11 other states. For example in New York, there is
12 concurrent jurisdiction with state regulators. There
13 are state police in the casinos. The state does the
14 licensing, background investigations. The tribe does
15 the day-to-day compliance. Each state is different.

16 This Compact sets different standards for
17 this Commission in terms of its review and its approval
18 process. I am not sure what the appropriate time to begin
19 those discussions are. But until the land is in trust
20 that is a good starting point.

21 MR. MICHAEL: Again, there are no clear
22 answers to this that you need to wait that long. There's
23 certainly nothing can actually be implemented and done
24 until all of the steps are taken. But the cooperative

1 relationship as is between the State Commission and the
2 Tribal Commission could begin as early as possible if
3 there is a Tribal Commission, if there isn't the Tribal
4 government just so that there are bridges built and
5 communication opened. So, that if in fact ultimately it
6 becomes a reality, you don't have to start from scratch
7 at that point

8 MR. CARROLL: I can add, and this is
9 assuming and I would say with a high degree of probability
10 that the tribal retains qualified experienced people in
11 their regulatory system. When that's done, the
12 discussions that we have will be like, for example, if
13 the tribe actually performed the initial background to
14 issue a tribal license to an employee or to a gaming
15 manager, then your Commission will have input into that
16 whether that would be acceptable and can make an objection
17 to that.

18 What is the degree of investigation the
19 tribe will do? Is that satisfactory to this Commission?
20 Are they applying the standards that you would otherwise
21 apply? Once that decision is made, how is the approval
22 process or say disapproval, what is the process between
23 the Tribe and the Commonwealth? All of the things I think
24 would be premature now.

1 When the tribal infrastructure starts
2 taking shape, I think I would keep a careful eye on
3 continuing those discussions and having some liaison with
4 the Tribe, so that if the thing moves more quickly than
5 expected, you would not be in a position of having to play
6 catch up.

7 Right now, there isn't a lot you can do.
8 But there certainly absolutely Compact responsibilities
9 that the State has that the Commonwealth has that will
10 have to be addressed and addressed in a pretty thorough
11 fashion, I might add.

12 MR. MICHAEL: Just about a finer point on
13 the question of developing relationships, it is no
14 surprise and need not be repeated that the tribal entities
15 in this country have some time experience a natural kind
16 of difficulty in a trust relationship with outside
17 persons. And the sooner you can develop that trust, the
18 better off you will be in your future discussions in terms
19 of being able to implement and work cooperatively with
20 those procedures.

21 CHAIRMAN CROSBY: We are reaching out to
22 the tribe to begin the relationship building right now.
23 I certainly agree and it's been a while since I've read
24 the Compact, but it looks to me like if our Commission

1 and their Commission don't have really a hand in glove
2 working relationship and similar standards then we are
3 going to have to do everything twice --

4 MR. GUSHIN: Right, correct.

5 CHAIRMAN CROSBY: -- which is incredibly
6 inefficient and expensive. So, developing that
7 relationship and hopefully encourages really well is
8 huge, I think. Who else? Other questions?

9 COMMISSIONER STEBBINS: I have just a
10 quick question when we contemplate -- again, this is kind
11 of a little item but obvious on our org. chart. One of
12 the things that we've had recent discussion at our meeting
13 is about taking the initial steps to appoint necessary
14 members of the gaming policy advisory committee and
15 subcommittees they are designated in the statute.

16 We all know that some of the seats are set
17 aside for host communities. Figuring out their
18 relationship either directly to the Commission or to the
19 Executive Director. They are an advisory body, but if
20 we are going utilize their time and valuing their opinion,
21 structuring where they fit into our organizational
22 structure is key.

23 CHAIRMAN CROSBY: That's a good point.
24 It's not even mentioned in the draft, I don't think.

1 COMMISSIONER MCHUGH: Do we have on a
2 slightly different vein, but still on a do we have it,
3 do we have a number of entities with whom we need to have
4 MOUs in order for us to carry out our activities
5 effectively? Do we have a comprehensive list now of the
6 entities and the kinds of MOUs we need in order to forward?

7 MR. CARROLL: Commissioner, we have
8 worked on that. In fact, as recently as today, we met
9 with the state police in order to discuss some of those
10 things. The statute requires an MOU between the state
11 police and the local governing body law enforcement.
12 That would probably be tight also to the local host
13 agreement for funding and some other issues.

14 Beyond that in terms of the MOU structure,
15 we have discussed it with the Attorney General. There
16 may not be some need for MOUs between the state agencies.
17 That can be worked out from agreements and policies and
18 so forth, some which maybe in existence already.

19 In terms of external MOUs, there will be
20 some that will be required of law enforcement, of
21 regulatory agencies. And they can range from being very
22 informal if we want to exchange information and so forth,
23 giving assurances as to confidentiality of information
24 supplied.

1 In terms of list of each and every agency,
2 I would say no, we haven't yet prepared that. But we
3 certainly know the categories where we will need them.
4 Many of the particular agencies that we can identify very
5 quickly. Within Massachusetts itself, the particular
6 MOUs that come to mind right now would be related
7 primarily to law enforcement. Within Massachusetts I
8 think, primarily law enforcement at this point. There
9 is some other provisions in there that relate to MOUs,
10 but we would have to go back and check each one.

11 COMMISSIONER MCHUGH: In terms of the
12 bridge building in advance of the need discussion that
13 made me think of this. It seems to me we probably can
14 do some of that independently, but would welcome your help
15 in identifying them so that we could at least reach out
16 to entities, even if we are not actually ready to enter
17 into the agreement and say we have got this thing coming
18 down the road. We are going to meet to work with you to
19 get it done. The earlier we start that I think the better
20 it will be when we get to the need to actually put pen
21 to paper and do an agreement

22 MR. CARROLL: Some others also is
23 introduction of your system. Not only you as
24 Commissioners, but introduction of your system. There

1 are events I know that some of that will be taking place
2 very shortly.

3 COMMISSIONER STEBBINS: To pick up on
4 that, and some clarification from the Commissioner
5 McHugh, are we talking about potential outside
6 governmental bodies who can help us with the Phase II
7 application assessment, scoring, evaluation. Does it
8 behoove us to -- We had a conversation about this at our
9 Springfield forum whereby regional planning authorities
10 have a role in reviewing environmental policy permits
11 from large-scale projects.

12 Those types of groups obviously not on a
13 long-standing basis but certainly for that evaluative
14 base.

15 MR. MICHAEL: We are not just talking
16 about pure gaming type and law enforcement type agencies.
17 But as you get into the evaluative process of the
18 facilities themselves like environmental organizations
19 and planning boards, zoning and so on that would be
20 necessary for you to make a judgment about the facility
21 itself.

22 MR. CARROLL: Fire marshals, for example,
23 a variety of different agencies, transportation.

24 COMMISSIONER STEBBINS: Environmental

1 protection offices.

2 CHAIRMAN CROSBY: On the same vein is a
3 reference in the draft to MGC needs to make introductions
4 to "key gaming regulatory agencies". Are you talking
5 about other states?

6 MR. GUSHIN: We are talking other states.

7 CHAIRMAN CROSBY: So, we will be meeting
8 some of those folks in Las Vegas. Then Commissioner
9 Cameron and I are going to Singapore. You are going to
10 help give some introductions there, which will be really
11 helpful. Anybody else?

12 I mentioned just briefly, but I just wanted
13 to make sure it is put on the record managing -- we talked
14 about managing credit as a means of protecting the casino.
15 But there is not really the mirror image, which is
16 managing the way a casino operator manipulates or doesn't
17 problem gamblers -- protects problem gamblers. We had
18 talked about bounced checks being a way to protect a
19 casino, but it is also a way to protect problem gamblers.
20 I think we would like to see both sides of that.

21 MR. GUSHIN: We wanted to expand that in
22 the table of organization. Proposed you saw there is a
23 professional position for socially responsible gaming,
24 which dovetails exactly to what you are saying. That

1 definitely needs to be broadened.

2 CHAIRMAN CROSBY: On the org. chart was
3 another issue -- I'm not sure we really need to spend a
4 lot of time talking about this with you. We clearly have
5 an ombudsman already, which is apparently a role that
6 doesn't necessarily always exist. And our thinking
7 seriously about getting somebody who will be in the
8 workforce development, small business promotion,
9 diversity, supplier diversity, etc. area. I don't know
10 if you might want to put those on the chart somewhere as
11 well.

12 MR. GUSHIN: Absolutely.

13 COMMISSIONER ZUNIGA: Since we are
14 talking about table of organization, we had also earlier
15 discussed the notion of CIO or an administrative type
16 information technology.

17 CHAIRMAN CROSBY: This one is one I think
18 is not urgent, but I think is getting close. Maybe this
19 is worth sort of talking a little bit about our different
20 ideas.

21 If I remember it right, you separated the
22 sort of the technology that has to do with the management
23 of the casinos and the managing of their cash flow and
24 their gaming approvals from the internal operations of

1 the Commission.

2 I think Commissioner McHugh, you thought
3 a lot about what kind of the structure. I think it might
4 be sort of interesting to exchange with the consultants
5 a little of how they see that, how you see it.

6 COMMISSIONER MCHUGH: I would welcome
7 that. I noted that when I reviewed that. It seems to
8 me -- I started with the proposition that the Chief
9 Information Officer is a technically adept visionary
10 policymakers. That he or she is a hands-on person in
11 terms of organizing and having control of things. But
12 also is somebody who sits at the director level who is
13 familiar with and able to deal with emerging trends,
14 emerging kinds of technologies. And also think about the
15 business processes that those emerging technologies will
16 serve and how to change the business processes to take
17 advantage of them.

18 And that that person is the kind of person
19 we want to be the CIO. And that beneath him or her you
20 have the gaming technicians and the internal document
21 control technicians and everybody else flows from that
22 position.

23 But that the CIO is not a technical person
24 in the sense that you think of a backroom computer

1 operator or somebody who knows how to hook up the various
2 workstations and make the networks sing, but knows how
3 to get others to do that. I just welcome your thoughts
4 on it, because you did split up the two functions.

5 MR. GUSHIN: We agree that this is
6 potentially really a critical position because both the
7 industry and the governmental agency that is overseeing
8 the industry is moving to be more technologically
9 dependent on these types of systems and whatever is coming
10 down the pike.

11 Mr. Bowman who worked on that with us is
12 going to sit down and expand that and give you some
13 additional thoughts

14 MR. MICHAEL: On a broad conceptual level,
15 there would probably be no organizational difficulty. I
16 think the bigger hurdle in organizing the Commission in
17 that way without the split would be finding a person who
18 was knowledgeable enough in both the standard business
19 areas and the very types of needs that a casino operations
20 has. To be in a position to be able to supervise those
21 who are evaluating the casino's technological
22 operations.

23 We are not just talking about mass
24 information and data processing, but we are talking about

1 electronic games and slot machines and all of that that
2 are a real specialty. And if there were a person who was
3 capable, knowledgeable in all of those areas, you want
4 to draw on that expertise. That's for sure.

5 COMMISSIONER MCHUGH: Is that not a
6 familiar model in other commissions?

7 MR. GUSHIN: I don't think so.

8 COMMISSIONER MCHUGH: I think of most
9 banks and most major corporations now have, most
10 universities have a CIO who is at the director level,
11 doesn't know all of the details of the highly specialized
12 kind of computer operations that he or she oversees. I
13 think of a university with the kinds of things in the
14 research areas, the technical areas. But the CIO has
15 enough vision and organizational sense to keep all of that
16 under wraps. Why is the gaming industry different?

17 MR. GUSHIN: I think historically some of
18 the agencies have been set up years ago and they evolved
19 in a different direction. Some of them, for example,
20 used to have testing laboratories within the framework
21 of the regulatory agency with one or two major exceptions.
22 That has now changed with the use of the outside
23 laboratories. The counting systems and all of those
24 things used in the casinos are usually oriented and

1 subject to governmental approval and review by
2 regulators.

3 The two disciplines haven't married yet or
4 come together. That doesn't mean they can't or
5 shouldn't. But just by process of evolution or
6 devolution hasn't happened.

7 MR. EPPS: I can say you have a unique
8 opportunity with your Commission in as much you are
9 ramping up right now, if you want to set up that structure,
10 and you can figure out the person and how it sets up that
11 way, it would possibly be beneficial to you.

12 But take a state like New Jersey started
13 in 1978 and had its own structure. When New Jersey began
14 there wasn't a lot of technology. So, technology came
15 and was inserted on top of an existing system. As
16 technology advanced, the pipes came in in different areas
17 because the financial reporting started to become a
18 little bit more electronic. And compliance became a
19 little bit more electronic. And employee licensing and
20 vendor licensing became electronic. But you had a bunch
21 of different trunks that the information was coming in.
22 It wasn't funneled to one source in matters. It was kind
23 of each person knew their own technology in their area
24 that but it was never really synthesized.

1 You have a situation where you can
2 synthesize all of the information and have one person who
3 knows it all and has assigned as duties where the
4 responsibilities differ, then that would be great. But
5 setting up that structure and finding that individual may
6 or may not be a challenge.

7 But it is something I think we could
8 incorporate into a plan and give you an IT plan that
9 considers that situation, if that is your desire.

10 MR. GUSHIN: And some states are moving
11 towards online gaming either through the lotteries or
12 through the gaming commissions. That is to a degree
13 unprecedented in gaming much more reliant on technology.

14 Whether it is going to go kicking and
15 screaming or whatever, it is going to happen.

16 COMMISSIONER MCHUGH: I think we all
17 recognize that in 10 years the technological piece of this
18 business as well as everything else that we do is going
19 to be a dominant piece. We need to be planning for that
20 now. Because we are, as you say Mr. Epps, a new entity,
21 and we are not trying to pile things, we have the freedom
22 of not having to pile on top of an existing structures.

23 CHAIRMAN CROSBY: I think you are
24 absolutely right. It's not the presumed way you want to

1 go. If you can't find the person then I think it makes
2 all of the sense in the world to try that. So, addressing
3 that a little bit would be helpful.

4 You have over the months mentioned areas
5 where you recommended legislative fixes. So, if you
6 could pull those out and there's a list somewhere that
7 would be helpful.

8 We talked quite a bit now about pulling out
9 issues that are necessary for licensing. We talked about
10 category two license earlier. As you know the law says
11 we have to put out the RFP first for the category two
12 license, but it doesn't license first. It just says get
13 out the RFP.

14 Is there any reasons -- There's pressure
15 to get started. People want to start the jobs and have
16 the gaming accessible and get the revenue and so forth.
17 Other than those pressures, are there any structural
18 reasons to consider either doing this, the slots first
19 or not? Is there any marketing impacts?

20 MR. GUSHIN: A - it gets revenue into the
21 State quicker. And the construction period for building
22 a slot licensee in an existing facility will be much
23 shorter than constructing a new facility from scratch,
24 considerably shorter. There are policy reasons and

1 practical reasons and legal reasons as set forth in the
2 Act to do so.

3 MR. MICHAEL: The only thing and this
4 would be a minor factor I would think, but may be a factor
5 is that depending on the location of the slot licensee,
6 if it was going to be in some areas that might be
7 competitive with the category one licensee, allowing it
8 to open months before the category one licensee might be
9 some competitive advantage that would warrant some
10 consideration of whether it should be done or not.
11 That's just an initial reaction, but we would think
12 overall that the sooner it could be done the public policy
13 would be better served.

14 CHAIRMAN CROSBY: So, the corollary to
15 that is we presumably will want to be thinking about the
16 locations within the regions. There are implications
17 for a slot parlor being near or far to the casino. So,
18 for us to make a decision on the location of a slots parlor
19 not having yet made the decision on the location of the
20 casinos that could be nearby.

21 MR. MICHAEL: That's right.

22 MR. GUSHIN: In Ohio we are seeing
23 racetracks moved.

24 CHAIRMAN CROSBY: Revenue collection

1 manager, you had recommended that the revenue collection
2 manager be a near-term hire in the same list that we are
3 doing with the GC and the Director of the IEB. What is
4 that about?

5 MR. GUSHIN: With the application process
6 beginning there will be money coming in. Monies coming
7 in for the investigations for the qualifiers, for changes
8 in company structure. And we felt those accounting
9 systems and that position would be overseeing that in a
10 way that that would long-term, but since that is going
11 to be happening relatively soon that function should get
12 up and running as soon as possible for the Commission.

13 CHAIRMAN CROSBY: You were just basically
14 talking about the licensee, the application fees and its
15 allocation.

16 MR. GUSHIN: Following that you have the
17 construction licensing coming up.

18 CHAIRMAN CROSBY: That's a little while
19 though, right? That's a ways from now.

20 MR. GUSHIN: A year or so.

21 CHAIRMAN CROSBY: Okay. This is
22 something that we talked a little bit about. We talked
23 going way back at the first education forum that
24 Commissioner Cameron that you all put together, I am

1 struck reading the materials about the direction that you
2 recommend that we take steps to insure that the casinos
3 don't get robbed by anybody, card cheats, robbers coming
4 over walls, whatever. Explain to me a little bit why it's
5 our job to make sure that they don't get defrauded by MIT
6 students. Why would that be something they wouldn't be
7 taking care of themselves? They have a higher incentive
8 than we have to do that.

9 MR. MICHAEL: Of course it's clear,
10 obviously you're right, they do. The casinos and the
11 State have joint interest in making sure that the casinos
12 are well run and efficient and honest.

13 The institutional justification for
14 gaming regulatory agencies and their role in the process
15 has traditionally been and continues to be that from a
16 purely business standpoint. A casino, and justifiably
17 there is nothing illicit about this, a casino can afford
18 to absorb a core cost benefit analysis some loss as a
19 result of maybe looser controls than you might otherwise
20 think is optimal.

21 The State on the other hand can't. Not
22 because the financial concern and tax revenue as much,
23 because of the image and the impression and the public
24 perception of the fact that the casino is well run. If

1 a player comes to a blackjack table and he sees some
2 cheating going on, it may cost the casino a couple of
3 hundred dollars.

4 But that player will go tell all of their
5 neighbors and everyone else they talk to about how illegal
6 the games are in that casino and in Massachusetts
7 generally. They will probably take that impression away
8 with them.

9 So, it is because -- You certainly have a
10 joint interest. We always say when we give these talks,
11 nobody bets on professional wrestling. The games have
12 to be perceived as honest and perceived as well-run to
13 a greater degree than they actually are. Although they
14 certainly will be honest and will be well-run, but the
15 degree to which the casino can afford some slippage is
16 different than the degree to which the State can afford
17 to have that slippage.

18 CHAIRMAN CROSBY: Is there really data on
19 that point, Guy, that you know that the casino weighs
20 costs of verification and integrity versus a loss, a
21 percentage loss?

22 MR. MICHAEL: The prime example is
23 staffing, for example. The casino will -- operational
24 costs will be reduced by lower staff. Maybe it's

1 security, maybe in surveillance, maybe even in levels of
2 supervision. It's a business decision. And when you
3 have that kind of lesser observation -- the essential
4 control of the casino is people watching people watching
5 people. And if you have fewer people watching, more
6 things happen.

7 As a result, a casino will legitimately say
8 we can't afford to have this many security offices. We
9 can't afford to have this level of supervision in a pit.
10 But the State at times will have to say that's unfortunate
11 -- It's a balance. The State can't be overly regulatory,
12 but the State at times will have to say you are just going
13 to have to absorb that cost.

14 MR. EPPS: When I first met you guys as a
15 group, one of the things I said to you is you have two
16 responsibilities. That is A - to protect the revenue,
17 to make certain that the State gets the revenue that it
18 is supposed to get. That's when you protect the citizens
19 of the Commonwealth.

20 The other is to protect the guests of the
21 industry who are coming in to make certain that they are
22 going to play a fair game and have a fair shot. Those
23 are basically your two overarching duties. Make sure you
24 collect the proper revenue for the Commonwealth and to

1 make sure that Massachusetts gives a fair game.

2 Sometimes you have to be more vigilant than
3 you might think you want to make certain that those things
4 are done. Because left to someone's own devices, less
5 is more. So, you have to make sure that you have got the
6 right level of oversight to make sure that your mission
7 is accomplished.

8 MR. MICHAEL: I don't want to leave the
9 impression at all that the casino doesn't care. The
10 casino cares greatly. Their image is just as important
11 to them as being honest and being well run.

12 CHAIRMAN CROSBY: Anyone wouldn't want
13 the guy going out saying don't go to that place.

14 MR. MICHAEL: Exactly, don't go to that
15 place. They don't have an honest game. That is
16 absolutely true. There is no intent on the part of the
17 casino to be anything but honest and well run. Sometimes
18 business dictates that some controls are lessened to the
19 point where more risks are taken than the state may
20 otherwise want them to be.

21 MR. GUSHIN: And the equal application of
22 those rules to all players, the person who is playing the
23 slot machine, the person who is playing the table game
24 and the person that has a high level of credit at the

1 casino. And to make sure that it's done fairly and
2 equitably.

3 MR. CARROLL: If you would like a concrete
4 example of that it would be for example the surveillance
5 cameras. How many cameras will be fixed? How many will
6 be movable? What is required by the Commission to make
7 sure that the slot machines have proper surveillance
8 coverage? What the staffing of the surveillance room?
9 How many people would be available for live review and
10 support?

11 These are the kinds of things that come in
12 may become a financial or budget issue but the Commission
13 is going to enforce minimum standards to make sure that
14 the considerations and the protections afforded to both
15 the patrons and the regulatory system as a whole are
16 maximized. The casino may feel it is cost-efficient to
17 cut down, but you won't allow that in many areas. And
18 that is where the balance is struck.

19 CHAIRMAN CROSBY: Okay, interesting.

20 COMMISSIONER ZUNIGA: I have another
21 example, the financial industry, but that's besides the
22 point.

23 CHAIRMAN CROSBY: I have one last thing
24 but just sort of technicality, does anybody remember well

1 enough in the law, do we have to have our Bureau, the IEB
2 up and running at the time we release the RFAs, RFA-1?.

3 MR. GUSHIN: I don't think --

4 CHAIRMAN CROSBY: As a practical matter
5 pretty close to it. But I was just wondering if there
6 was some technicality.

7 MR. GUSHIN: At the other end, the
8 investigations are prepared for the Bureau and they issue
9 their report to you.

10 CHAIRMAN CROSBY: Does the Bureau conduct
11 the qualifier scope of licensing conversations?

12 MR. MICHAEL: We would intend that they
13 participate. Again, there is no statutory requirement
14 that they do so, but the sooner that they do get involved
15 in the process the better.

16 CHAIRMAN CROSBY: Okay.

17 COMMISSIONER ZUNIGA: One of the large
18 questions or big picture questions that I wanted to throw
19 out was just the next steps from the draft that we have
20 received, we have read. It's lengthy and there is a lot
21 of great information, but I wanted to just start a
22 conversation as to the immediate next steps, if you
23 will.

24 MR. GUSHIN: In our view the next step is

1 getting the scope of -- from the licensing side, getting
2 the scope of licensing process started, figuring out who
3 has to apply and moving forward into the investigative
4 process while simultaneously the Phase II regulations are
5 being discussed and ironed out and published. So that
6 by the time whenever the investigations are completed,
7 those regulations need to be in place so the Commission
8 can then move forward on the evaluation of the competing
9 projects and ultimately make a decision.

10 MR. EPPS: And a finalized version of this
11 plan.

12 MR. GUSHIN: Yes.

13 MR. MICHAEL: And the final promulgation
14 of the Phase I regulations.

15 CHAIRMAN CROSBY: Which I think we are on
16 track for. You had talked about having scope of
17 licensing meetings, kind of introductory meetings with
18 all of the applicants, basically immediately upon release
19 of the forms, right?

20 MR. MICHAEL: Correct.

21 CHAIRMAN CROSBY: So, it looks like
22 October 12 was our target date I think.

23 COMMISSIONER ZUNIGA: For?

24 CHAIRMAN CROSBY: For release of the

1 RFA-1.

2 COMMISSIONER ZUNIGA: Yes.

3 CHAIRMAN CROSBY: So, if we are going to
4 make that deadline, you might want to start setting up
5 those meetings fairly soon.

6 MR. MICHAEL: Those entities that have
7 already applied, we certainly will reach out. For those
8 that have not applied, can reach out to the Commission
9 and express their interest.

10 MR. CARROLL: Chairman, to answer your
11 question, I don't see anything in here in the statute
12 requiring that.

13 CHAIRMAN CROSBY: The IEB?

14 MR. CARROLL: Yes.

15 CHAIRMAN CROSBY: Anybody else, feedback
16 for the next draft or questions that we really need to
17 get into right now?

18 COMMISSIONER STEBBINS: I'm still shocked
19 by Guy's comment that professional wrestling is fixed.
20 I've lost a lot of money on Hulk Hogan.

21 MR. MICHAEL: I have a family member who
22 actually writes and produces for them. So, I can tell
23 you some stories.

24 COMMISSIONER STEBBINS: Just thinking

1 about kind of next phases and a question that keeps
2 popping up is how we as a Commission might be prepared
3 to address it is the notion of phasing, phasing the
4 construction, phasing the option of temporary
5 facilities. The billion-dollar investment, at the end
6 day we find out the billion-dollar investment is
7 stretched over a certain number of years.

8 Obviously, we are mindful of temporary
9 jobs created in a construction project and the full-time
10 jobs. So, giving some thought to those scenarios,
11 balancing them, if it's realistically because of where
12 the investment market is, it's understandable. Kind of
13 looking at those scenarios.

14 MR. MICHAEL: Okay.

15 CHAIRMAN CROSBY: You'll look at them,
16 address that in the --

17 MR. GUSHIN: In the Phase II regulations
18 they will clearly be issues that will come up for a variety
19 of discussions.

20 CHAIRMAN CROSBY: Anyone else,
21 Commissioner?

22 COMMISSIONER MCHUGH: I just wanted to
23 come back to the Bureau thing. I do think the Bureau has
24 a role. Section 12 says upon receipt of an application

1 for a gaming license the Commission shall instruct the
2 Bureau to commence an investigation. So, I'm not sure
3 what the point was.

4 CHAIRMAN CROSBY: I meant at the time we
5 release the RFA, does the Bureau have to release the RFAs.
6 And apparently the answer to that is no. As soon as they
7 start to come, which could be as soon as a month --

8 COMMISSIONER MCHUGH: I thought there was
9 ambiguity as to whether the Bureau was the investigator.

10 CHAIRMAN CROSBY: I made that point.
11 That's an important point. I know you know that but the
12 language needs to -- whether the Bureau outsources
13 assistance or not, it is the Bureau. Okay, I think we
14 are all done.

15 I've said this before but it is one of the
16 nice things about the product that you are working on is
17 very readable and very good use and that is often not the
18 case. It is a very nice job. And it is going to be a
19 great tool for us. Combined with this, we will really
20 have a way to manage what we are doing and communicate
21 with the public about what we're doing. We really
22 appreciate it.

23 COMMISSIONER MCHUGH: It ought to be clear
24 to everybody that remains a work in progress. It's not

1 a final document. It's a document being developed for
2 use of the Commission and is subject to revision and a
3 lot of steps before it is finished. So, it is something
4 we are working on. Notwithstanding that what we've seen
5 thus far, I agree with you.

6 CHAIRMAN CROSBY: When we finish,
7 essentially finished, this will become a public document.
8 Not while we are still chewing on it.

9 COMMISSIONER MCHUGH: Right.

10 MR. MICHAEL: Thank you for all of the
11 feedback and all of the very worthwhile questions and
12 assistance you have provided to us.

13 CHAIRMAN CROSBY: Thank you.

14 CHAIRMAN CROSBY: We talked about item 3B
15 is "Out of sequence" policy decisions. I think we have
16 talked about that. Commissioner McHugh, you had brought
17 that up. I think that is what we were asking them to do,
18 pay attention to.

19 COMMISSIONER MCHUGH: Right.

20 CHAIRMAN CROSBY: I think it is something
21 we can be thinking about as well, but I don't know we
22 really need to spend any time talking about it at the
23 moment.

24 COMMISSIONER MCHUGH: At a meeting, I

1 think we talked about trying to get a list. I think
2 Director Glovsky and Kristin Gooch is going to be working
3 on that as part of the protocol. I thought that next week
4 while you're in Las Vegas that I could spend some time
5 going through the statute again in trying to isolate the
6 policy decisions where we have to make.

7 CHAIRMAN CROSBY: Okay, great. Phase I
8 regs, Commissioner McHugh.

9 COMMISSIONER MCHUGH: You have a large
10 group of documents there before you, some of which you
11 got today and I regret that. What I know I would do is
12 simply explain what they are and then go through and hit
13 some highlights and be prepared to answer some questions.

14 We have three basic documents in front of
15 you now. We have first of all a matrix that incorporates
16 all of this substantive comments that we have received
17 up through September 10, which was whatever the deadline
18 was for receiving public comments.

19 MS. GLOVSKY: Commissioner, could I
20 interrupt you for one second? Do you want the
21 consultants to be here for this conversation or is this
22 conversation just among the Commissioners?

23 COMMISSIONER MCHUGH: The consultants are
24 welcome to be here, but --

1 MS. GLOVSKY: There is no need for them?

2 COMMISSIONER MCHUGH: I don't think we
3 need them unless any Commissioner feels we do. They all
4 were helpful service with respect to the preparation.

5 So, the first document is this matrix. On
6 the matrix every comment we received has been recorded.
7 The comments have been broken down so that they relate
8 to a specific section and in some cases a line number on
9 the draft regulations. Then there is a recommendation
10 that is made to the Commission as to whether we should
11 accept the suggested change or not. That recommendation
12 represents a consensus in almost every circumstance of
13 the legal and the gaming consultants. That is the first
14 document that you have.

15 The second document that you have is
16 another matrix that is direct to what one commentator
17 called typos and matters of form. It takes the same form.
18 It breaks down those comment, attaches them to the
19 provision of the regulation to which they apply and comes
20 up with a recommendation as to whether they should be
21 accepted or not.

22 That document I distributed this morning
23 or yesterday. It is a shorter document. That, I think,
24 Commissioner Zuniga is the big document. And the one in

1 your hand now is the smaller document that refers
2 basically to typos. There are some substantive comments
3 in there notwithstanding the fact that it was aimed at
4 typos.

5 The third document that you have is a
6 redline version of the regulations in which virtually all
7 of the comments in both matrices have been changed. That
8 is wherever there is a recommended change that
9 recommended change has been incorporated in the redline
10 version of the regulations. So that everybody can see
11 the context in which the changes are made and exactly what
12 they say.

13 So, the idea now will be that if the
14 Commission approves not that redline version because
15 there still will be some more typos that have to be
16 corrected. There will be a couple of other things that
17 have to be changed but they're minor changes. If the
18 Commission approves the changes recommended in the two
19 matrices, then the technical work of making sure that
20 those changes are carried over into the draft regulations
21 will proceed over the next couple of days.

22 We will then have a draft that we will
23 submit to the Secretary of State for publication on
24 Friday. It will be published two weeks on Friday, the

1 final regulations will be published two weeks from
2 Friday. Then we can issue the RFA-1 in two weeks, in the
3 middle of the following week on schedule of October 12.

4 Before I go into -- a few highlights of the
5 first matrix that I wanted to invite your attention to.
6 I should tell you that there's a parallel process that
7 is going on with respect to comments on the forms that
8 we are going to use for the RFA-1 process.

9 Those forms were published. They do not
10 have to go through the process that these matrices reflect
11 because that process is driven by statute and is required
12 for promulgation of all permanent regulations. The
13 process for approving the forms is not regulated by
14 statute. That is our own process. But we put those out
15 for comment and we have received a few comments. And I
16 will be prepared to present to you those comments in
17 similar form two weeks from today. That will be plenty
18 of time because we can simply make the changes without
19 having them published. That is yet to come.

20 With those thoughts in mind, let me go
21 through, if I might, very briefly a couple of issues that
22 I think are worth considering in the first matrix, the
23 large document that you have and invite your attention
24 to a couple of aspects of that and what the changes

1 represent.

2 The first is on page six of that document.
3 It refers to section 102.02, although the recommendation
4 deals with a different section. Basically, the thrust
5 of the comments there is that the ban on political
6 contributions that exists in the draft regulations is
7 overbroad, because it prohibits contributions to
8 committees set up to support or oppose referenda and
9 Federal office holders as opposed to people running for
10 state office.

11 It is really only people running for state
12 office and municipal office that the statute says are
13 prohibited from accepting contributions -- that the
14 applicants can't give contributions to. And there are
15 constitutional problems, First Amendment problems with
16 prohibiting contributions to referenda committees.

17 So, that the change recommended although
18 in technical language is designed to narrow the
19 prohibition so that it meets both statutory and
20 constitutional considerations, insofar as contributions
21 are concerned. At the same time the statute -- I mean
22 the regulations require as does the statute a disclosure
23 of all the contributions that are made, whether they are
24 made to individuals or committees. That comports both

1 with the statute and with the Constitution.

2 So, we have narrowed down the ban on
3 contributions but kept a broad requirement for disclosure
4 of the contributions that are made.

5 The regulations that we have issued on this
6 subject will complement the regulations that the Office
7 of Political and Campaign Financing has issued dealing
8 with the same subject. Ours are a little broader. Ours
9 require disclosure in the forms, the RFA-1 forms. For
10 example, all contributions that have been made since the
11 statute went into effect.

12 The Office of Political and Campaign
13 Financing does not have any look back provision like that.
14 In some ways, we are broader than they are. Once these
15 regulations are adopted and effected, we, I think, should
16 reach out to them to see and make sure that we can share
17 information so that everybody has the information that
18 everybody else has and can use it to their best effect.

19 Commissioner Stebbins and I talked briefly
20 before this meeting about that. I think we can arrange
21 to do that. That is the first thing I wanted to point
22 out to you. I'll be happy to stop there and take any
23 questions on that subject, if there are any. If not, I'll
24 proceed to the next one.

1 All right. The next one is on page 13.
2 That correction is designed to remove an ambiguity in the
3 regulations insofar as they deal with confidential
4 information. The regulations' approach to confidential
5 information requires careful reading by all who are
6 affected by its provisions, because it is designed to deal
7 with two kinds of confidential information.

8 It is designed to deal with information
9 that is explicitly made confidential by statute. There
10 are a number of provisions and they are in the regulations
11 where you move directly to a statute. And the statute
12 says this kind of information is confidential and it's
13 easily identifiable. CORI information, Criminal
14 Offender Record Information is one kind of easily
15 identifiable. It is defined in the statute if you know
16 what it is.

17 The regulations also deal with another
18 kind of confidential, and that is the information that
19 we have considerable discretion to define. That is
20 business trade secret, competitively sensitive
21 information, trade secret information and similar
22 information. The statute gives us the power to deal with
23 that as confidential and the regulations do so. And they
24 do so by defining what is meant and combining the

1 definitions for all of those subparts into a single
2 definition of confidential information.

3 The way the regulations were written
4 initially, there was some ambiguities with respect to the
5 steps one had to take to assert a privilege and an
6 objection to disclosing the statutorily confidential
7 information and the stuff we defined as confidential
8 information.

9 These changes are designed to remove that
10 ambiguity to say that the information is confidential
11 either because the statute says it is or because our
12 regulations say it is. People have a right to say we
13 don't want that released. And it shows the mechanism for
14 doing so. That is what those changes are designed to
15 effect. That is the second category that I think is worth
16 considering.

17 The third deals with community
18 reimbursement.

19 CHAIRMAN CROSBY: Where are you,
20 Commissioner?

21 COMMISSIONER MCHUGH: I'm sorry, page 19.
22 The third set of changes deals with community
23 reimbursement. They raise two issues there that are
24 worth considering. The first is this and we have

1 received some commentary about that. And it dovetails
2 with memorandum that Commissioner Zuniga has prepared and
3 I think we will discuss here in a minute.

4 The regulations right now say that if a
5 community wishes to obtain a portion of the \$400,000
6 application fee that the applicant is required to deposit
7 at the time the application is submitted, if a community
8 wishes to obtain a portion of that fee, the community and
9 the developer will submit to the Commission an agreed upon
10 -- a document agreeing upon the disbursement. Upon
11 receipt of that, the Commission will disburse the amount
12 described in the agreement.

13 There have been some suggestions that if
14 there is -- that that is unduly harsh and burdensome on
15 communities because if there is no agreement there won't
16 be any disbursement. So, things are really in the hands
17 of the developer. And for the moment that is true.

18 The Phase II regulations will go beyond
19 that and will deal with the situation in which there is
20 disagreement. At the moment there is no standards really
21 for the Commission to use in making a judgment about how
22 to resolve the disagreement because there is no plan in
23 front of it, with no proposal by the developer in front
24 of it, with no idea of what the dimensions of the proposal

1 are, at the moment the Commission has no standard for
2 evaluating the reasonableness of the expenses,
3 non-agreed-upon expenses that the community wishes to
4 obtain.

5 So, for the moment but in order to
6 facilitate even at this early stage getting some money
7 to the hands of either host or surrounding communities,
8 this agreed upon measure is the one we have promulgated
9 in our draft regulations. And in our final regulations,
10 this carries through.

11 There is no prohibition of course on a
12 developer and a potential host or surrounding community
13 agreeing on a payment by the developer directly to the
14 city or town to facilitate the mitigation effects or the
15 negotiation effects that the city or town needs to have
16 funds for.

17 That disbursement has to be disclosed.
18 There is a provision in the regulation for that. But
19 there is no ban on the direct exchange of those kinds of
20 payments. These regulations only apply to a city or
21 town's effort to obtain some of the money from the
22 \$400,000 application fee that an applicant pays the
23 committee, \$50,000 of which is by statute set aside for
24 mitigation and negotiation by host and surrounding

1 communities. That's the first change.

2 CHAIRMAN CROSBY: Can I just comment on
3 that? I had a different feeling when I first read this,
4 but hearing you talk, I think that makes a lot of sense.
5 And it should be pointed out that in the long run, the
6 host and surrounding communities have a lot of leverage
7 in these negotiations because if they don't get paid, they
8 don't like the agreement there is no proposal. So, it
9 is not a one-sided negotiation.

10 COMMISSIONER MCHUGH: Right.

11 CHAIRMAN CROSBY: I don't remember the
12 actual language. I haven't looked at this big document.
13 But would it be at all constructive to put in a not be
14 unreasonably withheld or not be unreasonably negotiated
15 or something? Would it give any kind of useful tool to
16 put some kind of language like that in there?

17 COMMISSIONER MCHUGH: It's a useful tool,
18 Mr. Chairman, only to the extent we are prepared to
19 enforce that. And with an unreasonably upheld criteria,
20 that is often a very difficult thing to determine whether
21 the withholding is reasonable or unreasonable,
22 particularly when we don't have a plan to look at and
23 really don't know what be measuring yardstick is.

24 As you say, ultimately the city or town has

1 a lot of leverage. Ultimately and in the not too distant
2 future, we are going to have regulations that will set
3 out criteria for judging those expenses. Those Phase II
4 regulations, it seems to me that is a piece of the Phase
5 II regulations that we really need to frontload and think
6 about doing early on. And we can. It's a severable
7 piece and we can and should in the near term deal with
8 that in a systematic way.

9 CHAIRMAN CROSBY: Okay.

10 COMMISSIONER MCHUGH: The second piece
11 concerns a change in -- the second piece of the subject
12 is on page 21. And it concerns an issue that we will also
13 have to deal with. The recommendation here is not to make
14 any change at the moment in the draft regulation.

15 The comment raises an interesting question
16 that we are going to have to deal with and think through.
17 The comment essentially is this, the comment is that the
18 statute sets the application fee at \$400,000 not less than
19 \$50,000 of which is to go to cities and towns for the
20 mitigation and negotiation expenses.

21 But the payment of money doesn't come off
22 the \$400,000 application three. In other words, if you
23 pay \$50,000, so you are only left with \$350,000 in your
24 pocket, the applicant is still credited with the \$400,000

1 when it comes time to assessing the costs against it. And
2 therefore you cannot ask for more money if the cost of
3 investigation are less than \$400,000.

4 I just say that to give you a heads-up as
5 to an issue that we are going to have to deal with down
6 the road. I am not prepared to make a recommendation as
7 to how we resolve that issue now, but it's there. Is the
8 issue clear? Have I explained that clearly?

9 COMMISSIONER ZUNIGA: I think so. But
10 isn't it effectively the investigation one category of
11 cost versus the mitigation another category?

12 COMMISSIONER MCHUGH: That maybe the way
13 we resolve it. And that maybe very well the way we
14 resolve it. The issue being raised and if one looks at
15 the text of the statute, it is not a frivolous issue.
16 It's an issue that we need to think about. The issue is
17 that the application fee is \$400,000. If you take some
18 of that money and give it to a city or town as part of
19 the mitigation and negotiation fee, the applicant has
20 still got a \$400,000 credit against the expenses of
21 investigating his, her or its suitability. Therefore,
22 you can't ask for more money from the applicant until
23 those costs, the investigation costs exceeds \$400,000.

24 It is an interesting issue. We are not

1 going to change the regulations to deal with it now. We
2 will have to deal with it at some point down the road.

3 There are other corrections and changes
4 that are recommended here, but those are the ones that
5 I thought were worth bringing to your attention. I would
6 be happy to try to answer any question as to any others
7 that you have.

8 CHAIRMAN CROSBY: How about 2417? I'm
9 looking at the document, the page numbers, but item 2417.

10 COMMISSIONER MCHUGH: Is it line 2417.

11 COMMISSIONER CAMERON: Page 23.

12 COMMISSIONER MCHUGH: All right.

13 CHAIRMAN CROSBY: What was the thought
14 process in not having a change? It sounded to me like
15 it kind of made sense to not have a hearing if there is
16 nothing to talk about.

17 COMMISSIONER MCHUGH: The recommendation
18 -- There is no change. I'm sorry. There is going to be
19 a change. The distinction is between adjudicatory
20 hearing and a non-adjudicatory hearing. An adjudicatory
21 hearing has a technical impact. That is one to which
22 there are certain designated parties who have a right to
23 testify and offer evidence and a right to examination and
24 cross-examination and the like. If there is nothing

1 unfavorable about the applicant's suitability, that is
2 not necessary. So, the idea kind of underlying the
3 recommendation is that in those cases there would be no
4 adjudicatory hearing.

5 On the other hand, the desirability of a
6 hearing, a public process in which the Commission comes
7 forward and says the results of the investigation are X,
8 asks the applicant if the applicant wants to say anything
9 else about its application. Have some ceremonial public
10 confirmation of the applicant's suitability and gives a
11 reason why is one would think a useful process to aid the
12 transparency with which we conduct an investigation.

13 CHAIRMAN CROSBY: So, you are accepting
14 the recommendation?

15 COMMISSIONER MCHUGH: I am accepting the
16 recommendation.

17 CHAIRMAN CROSBY: I misread it.

18 COMMISSIONER MCHUGH: Well, it is
19 ambiguous. So, I'm not surprised you did.

20 COMMISSIONER ZUNIGA: But you are
21 characterizing that in that event where there is no --

22 COMMISSIONER MCHUGH: That would not be an
23 adjudicatory. No parties, no examination, no
24 cross-examination, it would be a hearing a process like

1 this where somebody -- Essentially, like what we just went
2 through. Some people would come, representatives of the
3 applicant would sit at a table. We would talk with them.
4 Then announce at the end that we were satisfied or
5 announce that at the beginning and say we just had a few
6 questions or however we did it. But it would not have
7 the formality of an adjudicatory hearing.

8 CHAIRMAN CROSBY: Section 1405 is that
9 included in the one you just discussed?

10 COMMISSIONER MCHUGH: Line 1405?

11 CHAIRMAN CROSBY: Yes.

12 COMMISSIONER MCHUGH: No, I didn't talk
13 about that.

14 CHAIRMAN CROSBY: The recommendation is
15 no change.

16 COMMISSIONER MCHUGH: Right.

17 CHAIRMAN CROSBY: It kind of looked to me
18 it was a reasonable suggestion.

19 COMMISSIONER MCHUGH: The language of
20 that section, which is 108.01 tracks exactly the language
21 of the statute that is now no broader than the statute.

22 CHAIRMAN CROSBY: Our reading at this
23 point is it's wrong?

24 COMMISSIONER MCHUGH: Right. Let me say

1 this that has to be read in the context of the discussion
2 I had earlier with political contributions back on page
3 six. That is really another part of that. It's been all
4 integrated so that now 108.01 tracks exactly to the
5 language of the statute.

6 CHAIRMAN CROSBY: Line 868, I haven't gone
7 through all of your conclusions here.

8 COMMISSIONER MCHUGH: That's page 12.

9 CHAIRMAN CROSBY: It is your page 12. So,
10 you are accepting that?

11 COMMISSIONER MCHUGH: Right.

12 CHAIRMAN CROSBY: 851, the one right
13 before that, I think.

14 COMMISSIONER MCHUGH: Yes.

15 CHAIRMAN CROSBY: That was the one about
16 the vast number of agencies.

17 COMMISSIONER MCHUGH: The recommendation
18 is to make that changes as well.

19 CHAIRMAN CROSBY: Is that the one -- Does
20 that simplify it enough by saying to the best of the
21 providers knowledge? Does that keep them from --

22 COMMISSIONER MCHUGH: Yes. The issue
23 there was that the regulation as drafted says that if
24 somebody wants to make an application to keep information

1 confidential, they have to list in their application
2 every other governmental entity to which they have
3 provided the same information.

4 The response to that was that some of these
5 entities have provided the same information to five or
6 600 different governing bodies across the world. And it
7 is a hugely onerous burden to require them to say each
8 of the entities to which they have provided the
9 information and the information may have been provided
10 in slightly different form.

11 So, the suggestion was and everybody, the
12 gaming consultants and the legal consultants recommend
13 that we turn it around and say if they are asking us to
14 keep some information confidential, they have to tell us
15 whether any entity any place has refused a similar request
16 with respect to information instead of listing all the
17 places they have given it.

18 In fact, that is probably more valuable
19 information than a list of all of the places where they
20 have filed. So, this is a better way of policing the
21 validity of their request.

22 CHAIRMAN CROSBY: I'm not clear enough on
23 what the words mean by a reasonable to the best of their
24 -- I forget the words.

1 COMMISSIONER MCHUGH: To the best of the
2 providers knowledge.

3 CHAIRMAN CROSBY: How much of a burden
4 does that imply?

5 COMMISSIONER MCHUGH: It implies that
6 they are telling us the truth. The affidavits that are
7 accepted in the courts of the Commonwealth have had that
8 kind of a qualifier, so that's pretty good.

9 CHAIRMAN CROSBY: 668, did you talk about
10 them?

11 COMMISSIONER MCHUGH: Yes -- No, I didn't.
12 I talked about it generically, Mr. Chairman. This is
13 part of the same issue with respect to the ambiguity of
14 the confidentiality regulations. And we have tightened
15 that entire regulation to make it clear that an applicant
16 -- that an individual who is a data subject, let's call
17 him or her, has the right to ask that any information
18 whether it's simply information that we have defined as
19 confidential or information that the statute has defined
20 as confidential remain confidential. That was ambiguous
21 in the initial draft and we fixed that.

22 CHAIRMAN CROSBY: 281, what did you do
23 there?

24 COMMISSIONER MCHUGH: We accepted the

1 suggestion. That deals with the definition of a publicly
2 traded corporation and then we changed -- we added that
3 definition in a couple of other places.

4 CHAIRMAN CROSBY: Just out of curiosity on
5 ones like 189 and 211 there were just suggestions to
6 clarify the language. And it seemed like we didn't think
7 it needed it?

8 COMMISSIONER MCHUGH: With respect to
9 those two, Mr. Chairman, the "clarification" of the
10 language was really more than just a clarification
11 because it would prohibit the Commission. The issue in
12 there was can the Commission appoint as a hearing examiner
13 someone who is not employed by the Commission? That is
14 not just a language clarification. Limited in that
15 fashion would prohibit us, for example, sending contested
16 matters to the Division of the Administrative Law
17 Appeals, which we might want to do and we have the right
18 to do. So, for substantive reasons we didn't want to do
19 that.

20 There's also problem at least an ambiguity
21 in our ability to allow some member of a contracting body
22 that was involved in the investigations that we just
23 talked about to do a hearing if such were necessary. We
24 may never want to do that but it seems to me we want to

1 reserve the right to think about doing that if the
2 occasion arises.

3 CHAIRMAN CROSBY: I am sure that makes
4 sense. I can't read it carefully enough right now. I'm
5 sure that makes sense. So, I won't pursue it.

6 Anything else on Phase I regs? Do we want
7 a motion?

8 COMMISSIONER MCHUGH: We do, Mr.
9 Chairman. And the motion I would make is this. That the
10 Commission accept the recommended changes contained in
11 the document entitled Summary of Public Comments on Draft
12 Phase I Regulations 9/13/12 draft is the document that
13 is part of the meeting packet. And the changes and the
14 recommendations in the column labeled Commission
15 resolution in the document entitled proposed 205 CMR
16 101.00-117.000, Suffolk Downs' Notes Regarding Form
17 Consistency Errata and Typographical Errors. And
18 authorize me to incorporate those changes in the current
19 draft Phase I regulations. And file the draft
20 incorporating those changes with the Secretary of State
21 on the Commission's behalf.

22 COMMISSIONER STEBBINS: So moved.

23 CHAIRMAN CROSBY: Do I have a second?

24 COMMISSIONER ZUNIGA: Second.

1 CHAIRMAN CROSBY: Can you repeat it? We
2 will have it in the transcript.

3 Is there any discussion on that motion?

4 COMMISSIONER ZUNIGA: No, except to note
5 that this is a lot of great work and a lot of very detailed
6 and necessary work that you have clearly undertaken
7 mostly by yourself. So, thank you.

8 COMMISSIONER MCHUGH: With the aid of our
9 very able consultants and with the consultation of the
10 Commission along the way.

11 COMMISSIONER STEBBINS: Just another
12 note, I was impressed by the thoughtfulness and the
13 comments that we received from the general public.

14 COMMISSIONER MCHUGH: Yes. The
15 regulations were read very carefully. They were very
16 helpful comments from everybody who commented.

17 CHAIRMAN CROSBY: This made me think about
18 what the process is going to be like when we get to the
19 next.

20 COMMISSIONER MCHUGH: Did we have the
21 vote?

22 COMMISSIONER ZUNIGA: No, not yet.

23 CHAIRMAN CROSBY: All in favor of that
24 long motion indicate by saying I. I.

1 COMMISSIONER MCHUGH: I.

2 COMMISSIONER CAMERON: I.

3 COMMISSIONER STEBBINS: I.

4 COMMISSIONER ZUNIGA: I.

5 CHAIRMAN CROSBY: All opposed? The I's
6 have it.

7 Let's take a break.

8

9 (A recess was taken)

10

11 CHAIRMAN CROSBY: We are reconvened at
12 3:20. There were three other issues under this whole
13 project work plan. One was a very small one. I didn't
14 think we needed to discuss this with the consultants.
15 Are we clear about titles? We talked about Eileen, for
16 example, being Director of Administration. We talked
17 about Elaine as being Director of Communication and
18 Outreach. And they are going to report or of most of
19 these people are going to report to the Executive
20 Director. And we are supposed to be hiring a Deputy
21 Director for the IEB.

22 COMMISSIONER CAMERON: That is the
23 language. I think we are allowed to call that person
24 whatever we like.

1 CHAIRMAN CROSBY: I am sure we can call
2 them whatever we want, but should it all be deputy
3 directors? Or should they all be directors?

4 COMMISSIONER CAMERON: I think they
5 should all be directors and there may be larger bureaus
6 where a deputy might be needed underneath, larger pieces
7 of the organization. For example, the Director of the
8 IEB may have two deputy directors. In fact, that's
9 really the way the table of organization is laid out. So,
10 it would be my recommendation that we have an Executive
11 Director with director levels for each of the units
12 underneath, bureaus, units whatever we want to call them.
13 If needed, the deputy director would go underneath the
14 director.

15 CHAIRMAN CROSBY: Okay.

16 COMMISSIONER STEBBINS: The statute
17 clearly lays out the IEB as a Deputy Director. And that
18 always caused me a little confusion. Deputy Director of
19 the Commission? And then the idea the Deputy Director
20 of the IEB and somebody could come in over them. I think
21 the point of making them directors of the division heads.
22 I think at some point leaving us some flexibility to
23 consider somebody maybe serving in a joint role as
24 director of a division and deputy director of the overall

1 Commission under the Executive Director.

2 COMMISSIONER CAMERON: Deputy Executive
3 Director that would be fine --

4 COMMISSIONER STEBBINS: Just keeping that
5 flexibility open.

6 COMMISSIONER CAMERON: -- if we saw the
7 need to do that, which would make more sense I think you're
8 saying as Director of IEB, correct?

9 COMMISSIONER STEBBINS: Yes.

10 CHAIRMAN CROSBY: That makes sense. For
11 a while, I was having a hard time with directors reporting
12 to Executive Director. It's kind of a funny
13 relationship. I'm fine with that just so long as --

14 COMMISSIONER CAMERON: The chain of
15 command.

16 CHAIRMAN CROSBY: Okay, boss. I know you
17 know chain of command, Babe. Quick update on the status.
18 We have decided to amend our contract with the team of
19 consultants. Remember everybody when we put out the RFP
20 for gaming consultants to help us set up the organization,
21 we had two RFPs. One was the law firm. One was for
22 gaming consultants.

23 There really were only two credible
24 bidders. We picked them both and combined them because

1 we felt between the two of them that we had a really good
2 team. I think we decided that was a very good decision.

3 We have decided to amend their contract
4 with an extension to deal with essentially RFA-2. The
5 first stage was supposed to be a strategic plan. Then
6 we morphed that into a strategic plan and RFA-1 and came
7 up with the bifurcation process. And now what now is left
8 really is all of the work to do all of the regs. and the
9 specifications and so forth for the RFA-2.

10 So, we have made that decision to go ahead.
11 That's been in negotiations. Do you want to just give
12 us a status report on where that is at? If there is any
13 issues, anything anybody else needs to know about?

14 COMMISSIONER ZUNIGA: Yes, I certainly
15 can give a little update. We have taken a stab in
16 articulating the form of scope of work we called it that
17 we had. In drafting just the tasks and deliverables that
18 will by necessity have to be undertaken for Phase II,
19 which is our intent in extending this contract.

20 There are some portions that are really
21 ongoing and some that maybe undetermined. In terms of
22 whether a task can be budgeted for many hours or a few
23 hours really had to be ad hoc. What our consultants are
24 currently proposing and we have been drafting with the

1 great help of Director Glovsky, is a monthly fee much like
2 what we have been operating under.

3 And some of the nuances around that have
4 to do with the amount of times we would want them here
5 and some of the travel costs. That is still being
6 addressed.

7 What I have asked them to do and they don't
8 feel needs to be incorporated as part of the scope of work
9 but can easily be incorporated as part of the work plan,
10 is to delineate those activities and put them in some kind
11 of a chart, much like we have done with our outside
12 counsel, and reflect or identify really the number and
13 individuals from our set of consultants that would be
14 involved in those tasks as well the Commissioner or
15 Commission staff who would also be involved in those tasks
16 and identify whether there is a timing element or that
17 is an ongoing activity.

18 So, we are in the process of doing that.
19 I believe that is very important, if nothing else to allow
20 all of us to understand what is taking place perhaps
21 without our heavy involvement. I think that is critical
22 and that is ongoing. If that is fair summary? It's not
23 finalized yet.

24 Let me just say one more. We have run out

1 of or we will be running out as of September 30 of our
2 current timeframe, if you will. It is incumbent upon us
3 and timely to try to extend for a seamless transition,
4 if you will, to try to extend it.

5 CHAIRMAN CROSBY: I'll just say I have
6 been a consultant and I've hired a lot of consultants.
7 And I think having these folks on this kind of a flat-fee
8 deal, most consultant are checking every 15 minutes, bill
9 for a quarter of an hour, phone calls seven minutes. And
10 will nickel, dime you to death. And the numbers grow like
11 crazy.

12 And I think these guys -- mostly guys
13 except for Kathy O'Toole, have been very, very
14 responsive.

15 We have come up with stuff that was not even
16 contemplated in our original deal. And they have never
17 squawked even once. So, I think it's a structure --
18 Sometimes it is good. Sometimes it's bad. But I think
19 in this situation, it has been a really good deal for us
20 and we really got our money's worth.

21 COMMISSIONER MCHUGH: The whole
22 regulation write-up was not part of the deal. That whole
23 Phase I regulation was not part of the deal.

24 CHAIRMAN CROSBY: That didn't cost us one

1 red cent.

2 COMMISSIONER MCHUGH: It didn't cost us a
3 nickel.

4 COMMISSIONER ZUNIGA: And that's a major
5 component I believe in the rationale for us to extend the
6 contract because a lot of the work that has to be done
7 very soon is very much under the auspices of standing up
8 the Commission. In addition to the fact that we have not
9 yet incorporated as many staff as I for one would have
10 liked for a whole host of other reasons posting and by
11 projects and etc., etc.

12 The thought process is that because we may
13 not come back to a meeting next week or the week after,
14 whether to ask for authority for one of us to conduct and
15 finalize those negotiations for the extension of those
16 contracts.

17 CHAIRMAN CROSBY: I think we should do
18 that.

19 COMMISSIONER MCHUGH: I would move that
20 Commissioner Zuniga be authorized to do that.

21 COMMISSIONER STEBBINS: Second.

22 CHAIRMAN CROSBY: Does that mean
23 complete, so you can go ahead and complete the final
24 negotiations and agree with them and then we would adopt

1 it at our next meeting?

2 COMMISSIONER MCHUGH: Yes, ratify.

3 CHAIRMAN CROSBY: Ratify that. Any other
4 discussion on that? All in favor? I.

5 COMMISSIONER MCHUGH: I.

6 COMMISSIONER CAMERON: I.

7 COMMISSIONER STEBBINS: I.

8 COMMISSIONER ZUNIGA: I.

9 CHAIRMAN CROSBY: Great. The last piece
10 that flows out of the strategic planning document is the
11 incredible pressure to get lined up to do the
12 investigations. And we know we are trying to move like
13 lightning to get the Deputy and now Director of the
14 Investigations and Enforcement Bureau in.

15 We have always agreed that we will
16 outsource the very large portion, virtually all of the
17 background investigations for Phase I because there is
18 no way we can possibly staff up to do it. Then we'd have
19 to lay everybody off because we wouldn't need them
20 anymore. So, it makes no sense.

21 The issue that we are wrestling with is how
22 to procure the services of a body to do this work. A
23 couple of background points, first of all, like all of
24 our money, there is no tax money involved in this thing.

1 In this case, the background checks are paid for by each
2 of the bidders. The bidders give us a check for \$400,000.
3 And that \$400,000 goes to doing the background checks.
4 And if we need more money, then we go back to the bidder
5 to get more money.

6 We are in a tremendous time push. We
7 really want to move this as quickly as possible, but we
8 have also resisted moving too fast for the sake of perhaps
9 absolutely protecting the integrity and rigor of the
10 process. And we have been working now with the people,
11 the two companies, not just one company but two companies
12 who are almost unique, very closely unique and maybe
13 unique in the business in terms of people who know the
14 gaming business really well and who do this background
15 check business and have done it repeatedly for all of
16 these companies across the country and across the world.

17 The question that we need to resolve is
18 whether we will do a competitive procurement, running the
19 risk of losing significant time and probably doing the
20 vendor procurement merely to pick the people that we have
21 already got. Or do either a sole-source agreement or a
22 contract amendment with these people.

23 It is something of which I have gone back
24 and forth on. We have gone back and forth to the extent

1 to which to discuss it. But we do need to resolve. We
2 have to resolve it today, because we are under such
3 pressure to get going. And I just throw it out there.
4 And I think we all need to talk about it and make a decision
5 to do one or the other.

6 COMMISSIONER ZUNIGA: I want to bring up
7 a couple of points to complement what you are saying, Mr.
8 Chairman. That is that in addition to the schedule, the
9 timeframe there is a complicating factor relative to the
10 scope, that I see in my opinion, the scope of licensing
11 process that comes to fruition soon. There is an
12 overlap, and maybe that's the wrong word, but there is
13 a close nexus to the investigation between the scope of
14 licensing and the investigation.

15 CHAIRMAN CROSBY: Very much, absolutely.
16 The scope of licensing will be starting October 13
17 probably.

18 COMMISSIONER ZUNIGA: Correct. And I see
19 that as a key feature that you are alluding to in terms
20 of timeline that at least from my perspective I came to
21 appreciate until recently when I dovetailed -- when I
22 really dove into the strategic plan that was recently
23 delivered.

24 Because of that iterative nature and the

1 questions that will surface that we cannot reasonably
2 anticipate at this point, because we anticipate however
3 that our consultants will have -- will be online to help
4 us during the scope of licensing, there is an element of
5 a rationale to consider just what we are or the question
6 that you posed for all of us, which is whether to conduct
7 a procurement that might end up leaving us in the same
8 place that we maybe now.

9 CHAIRMAN CROSBY: Yes.

10 COMMISSIONER ZUNIGA: I also wanted to
11 talk a little bit about the procurement regulations that
12 we adopted perhaps by way of background and as a
13 refresher, 801 CMR regulations for state agencies that
14 we adopted back in April. I see them as having or
15 fulfilling three important goals that I would like to
16 speak a little bit about that are not exclusive to those
17 regulations if we were to exempt ourselves from those
18 regulations for this particular procurement.

19 Those goals that I would like to highlight
20 are that in general those regulations like that are
21 usually set forth so that there is a clear confidence that
22 tax dollars are being spent wisely and generating
23 competition.

24 A second piece of that often is that tax

1 dollars are usually or public dollars are usually
2 providing opportunities for small or disadvantaged
3 businesses.

4 And a third one really is to utilize best
5 practices when procuring a process like this that also
6 generates public confidence.

7 I believe that a lot of what we have done
8 here in parallel to the procurement regulations would
9 help us -- actually would suffice with those goals
10 depending on how we think about them. I can speak to that
11 unless you think I'm going in the wrong direction here.

12 CHAIRMAN CROSBY: It is an important
13 issue. And we wouldn't be wrestling with this for the
14 fact -- From one sense, it is totally obvious that the
15 team that we've got are the best people in the industry.
16 They were competitively procured. They are great at
17 this. They are working seamlessly. We all want to go
18 as quickly as possible. It seems like a no-brainer.

19 On the other hand, this could be some
20 number of millions of dollars. It is a lot of money. And
21 that says we need to be attentive. So, I think your idea
22 of figuring out -- The other point that is important is
23 we were exempt from the State's procurement laws. We
24 voluntarily chose for the most part to use the State's

1 procurement laws. And I think that was a good idea. And
2 in a situation like this where time is so much of the
3 essence, maybe we should not voluntarily go through the
4 process, which is probably a pointless process anyway.

5 But I think your idea of laying out what
6 the public policy issues are and how we can address this
7 certainly is reasonable.

8 COMMISSIONER ZUNIGA: That was going to be
9 one of them that we were exempted from public procurements
10 for many good reasons, not the least of which is that we
11 can only make decisions like this or deliberate about
12 decisions like this in the open public meeting, which
13 effectively complies with a major policy and that is to
14 be open about it.

15 I also believe that there are ways of
16 generating competition that we could contemplate that are
17 outside of the procurement regulations.

18 One thing I wanted to mention which stems
19 from how we went about when we engaged with these
20 consultants is the fact that we may be well served to have
21 more than one company conducting investigations for
22 several reasons. One of which would be there are
23 perceived conflicts given that the history that many
24 companies have elsewhere prior to us. Having more than

1 one company would be a way to address.

2 CHAIRMAN CROSBY: This one is two
3 companies, our present consultants are two companies.

4 COMMISSIONER ZUNIGA: Right. Also in the
5 venue of complying with a tight timeframe, we could take
6 -- I'm just throwing this out as an idea. -- undertake
7 the steps that are normally reserved for a small
8 procurement, essentially soliciting quotes from
9 qualified firms or soliciting directly from a number of
10 firms and prequalifying them to conduct some of these
11 investigations.

12 This would become a matter of decisions for
13 us as a way to balance the objectives of sound procurement
14 regulations and matching the timeline that we have in
15 front of us.

16 CHAIRMAN CROSBY: Right.

17 COMMISSIONER MCHUGH: Mr. Chairman and
18 colleagues, I approach this from a little bit different
19 standpoint, but come to the same conclusion. It seems
20 to me from a cost standpoint that bringing in somebody
21 who is entirely new to the process is going to have its
22 own costs.

23 It's going to have a cost in terms of time.
24 It's going to cost in terms of knowledge transfer from

1 the kind of background and environmental intangibles,
2 let's put it, that these consultants have achieved. And
3 in terms of simply the cost of any bid we are likely to
4 get because of the ramp-up time and knowledge transfer
5 that is going to go into a new contractor being effected.
6 While that may not be the major part of the cost of a new
7 contract, it will not be an insignificant part of the cost
8 of a new contract.

9 Secondly, there is the pure time factor.
10 It is going to take time for somebody to get up to speed
11 and move forward the transition. And this kind of a thing
12 is never seamless.

13 Thirdly, we have all had a chance to
14 observe these consultants, to get to know them and to get
15 to know their operating characteristics and their
16 operating ethics. They have not told us what we want to
17 hear. They have given us good sound advice. They are
18 people who have a vast experience in this space. And they
19 are people who I think are of the highest integrity based
20 on observations and contact with them. And I think that
21 is the kind of person we need on our team to take this
22 next step.

23 Finally, they have at least the Spectrum
24 side of the duo has just recently conducted

1 investigations in Ohio, and therefore is in a position,
2 perhaps uniquely, to take advantage of fresh information
3 that may overlap and affect some of the people who are
4 applicants here either as on the face of it or as
5 financiers behind the scenes.

6 So, it seems to me that the public interest
7 is well served by continuing with these consultants, both
8 in terms of the cost and in terms of the timeliness and
9 in terms of the services. And in terms of the quality
10 of services we are likely to obtain as a result of their
11 continued participation in this undertaken.

12 COMMISSIONER CAMERON: If I could speak to
13 this matter. With regard to the investigations
14 themselves, background investigations are something that
15 most law enforcement agencies are capable of conducting
16 as we will be capable. But gaming background
17 investigations are unique.

18 They are much more intricate. It takes an
19 awful lot of experience and contacts to conduct them
20 thoroughly, financial folks. There is no one here in
21 this State that is capable of conducting these background
22 investigations from a law enforcement perspective.

23 I know that the consultants we are using,
24 their team of background investigators are contract

1 employees who are former law enforcement professionals
2 and former gaming professionals who have conducted these
3 particular investigations in many jurisdictions over a
4 number of years. So, I am very confident in the staff
5 that they could provide to us and the quality and the
6 ethics of those individuals.

7 I agree that timing is an issue. And
8 possibly how I look at this is that we have hired our
9 consultants to help us enact the law and help us stand
10 up the Commission. And frankly, this Phase I
11 investigation is part of that process. I think another
12 thing we could do is put a procurement out for the Phase
13 II evaluation. That is a very different process, which
14 is evaluating environmental concerns, construction
15 concerns. A number of concerns that we could at the same
16 time that we are investigating these investigations be
17 looking for help which may be a very different group for
18 that evaluation process.

19 I am agreeing that using our current
20 consultants would be a way to be efficient, effective.
21 We already have the working relationship. We are trying
22 to carry this momentum forward, stay on track with the
23 process. This is a way to do that. And we are talking
24 about it publicly. This is something that is important

1 to all of us.

2 COMMISSIONER ZUNIGA: To that point, one
3 of the important points to make or actually reiterate is
4 that whether we extend the contract or conduct a
5 procurement that is slightly different from what the
6 regulations provide for, if you will, a big important
7 thing to do is to articulate the reasons why, which
8 frankly you have eloquently done, you both have done, as
9 to why the business case, if you will, for continuing or
10 exempting ourselves from the regulations in this case.

11 CHAIRMAN CROSBY: Commissioner, anything
12 to add?

13 COMMISSIONER STEBBINS: No. I follow the
14 recommendations. I think one of the reasons that we
15 married two gaming consultants was I think we found one
16 arm of the body, I guess. We did see a significant amount
17 of work in these background investigations. Bernie is
18 a member of the team, I think, is a former FBI guy.

19 So, we certainly valued their level of
20 expertise in this area when we decided to marry the two
21 together. So, it would make sense. Again, knowing that
22 this is probably a pretty limited field. I'm not
23 completely familiar with the other players who might be
24 out there or who our consultants may decide to bring in

1 the picture as kind of contract help as part of this
2 process.

3 We lay the recommendation for us to kind
4 of keep those questions in mind, who these other players
5 are. As Commissioner Cameron said, it's not a big field
6 of people that we are talking about.

7 CHAIRMAN CROSBY: Yes. I think the other
8 types of people who could conceivably say they could do
9 this would be the Deloitte Touche type people. There is
10 some big security firms like Kroll that do different kinds
11 of security things. There may be other people who may
12 be possibly as good. It's inconceivable to me that there
13 is anybody who would be better. That's the issue.

14 I think we're in a situation where there
15 is a little bit of competing public interests. It does
16 seem to me that what we have heard from people is we do
17 hear what you are saying about integrity. And we don't
18 want you to compromise on integrity but we do want you
19 to hurry. And all of our constituents want us to move
20 as quickly as we possibly can.

21 The conventional procurement process is
22 long and subject to complaints and challenges. Given all
23 of the circumstances together here, the combination of
24 the funding source with the time pressure with the known

1 quantity of these people. By the way, they have a project
2 manager who is the former, highly-regarded police
3 commissioner of Boston. That is our project manager.
4 When you put all of that together, even though it is a
5 significant amount of money probably, I think I come down
6 on the side too that it would make the most sense to do
7 whatever the proper -- exempt ourselves as we were
8 exempted by the law from the procurement regs and do
9 either a sole-source procurement or an amendment,
10 whichever is the more appropriate way to go.

11 Just because it's a significant amount of
12 money, it is something that I really feel it is important
13 for us to talk about and have on the table and weigh
14 heavily. But I think when we weigh the public interest,
15 I think I come down where Commissioner McHugh started and
16 others have agreed that it is probably the right way to
17 go.

18 COMMISSIONER ZUNIGA: Does there seem to
19 be a consensus that for the purposes of procuring
20 investigation services, the services of investigative
21 companies that we exempt ourselves from the regulations
22 that we adopted back in April for the purposes of this
23 one procurement?

24 CHAIRMAN CROSBY: Right.

1 COMMISSIONER MCHUGH: When we get to it,
2 I would move formally that we do that.

3 CHAIRMAN CROSBY: Then I think, and this
4 is really a question as much as anything else. There are
5 under any set of rules, traditional or otherwise,
6 circumstances where sole-source procurements are
7 justified because of a series of circumstances.

8 COMMISSIONER ZUNIGA: Yes.

9 CHAIRMAN CROSBY: We do have a series of
10 circumstances here, which as you say probably would
11 qualify for a sole-source procurement even if we weren't
12 exempt from all of the rules anyway. Maybe to write up
13 the case that we have just been talking about is the best
14 way to do it rather than to amend the existing contract.
15 That is just my instinct.

16 COMMISSIONER CAMERON: The other piece of
17 this that I think is worth mentioning is the fact that
18 our team of consultants has proposed to assist us in
19 training our own people. It is our intention to have
20 trained staff, state police and other investigative staff
21 who will be very cable of conducting these
22 investigations.

23 So, it will be an issue of phasing out.
24 But the training piece, I think, is critical to us moving

1 forward with the ability to have our own folks out there
2 learning this industry and the ability to conduct these
3 investigations. That piece -- I was very impressed with
4 that piece of the proposal also.

5 COMMISSIONER ZUNIGA: Just to your prior
6 point, Mr. Chairman, there are provisions for sole-source
7 procurement. The biggest or the main requirement is the
8 reasons or the business case where that sole-source is
9 clearly documented.

10 CHAIRMAN CROSBY: Right.

11 COMMISSIONER ZUNIGA: And to a large
12 degree we have done some of that today.

13 CHAIRMAN CROSBY: It's a compelling case
14 as there is. It's just that notwithstanding that I still
15 think it is something we need to think about carefully.

16 So, I think that if there is a consensus
17 here great. Does somebody want to put it in the form of
18 a motion? How about Commissioner McHugh, you did a great
19 job on that first one.

20 COMMISSIONER MCHUGH: So, shall I make a
21 shorter motion?

22 CHAIRMAN CROSBY: I know that's asking a
23 lot.

24 COMMISSIONER CAMERON: I think that's a

1 compliment.

2 COMMISSIONER MCHUGH: I don't know. So,
3 I would move that the Commission exempt itself from the
4 procurement regulations found in 801 CMR that we adopted
5 earlier this year for the sole purpose of engaging the
6 firm of Spectrum and the firm of Michael & Carroll to
7 assist us with the investigation of Phase I applicants,
8 provided that suitable terms, arrangements and
9 conditions of the contract can be arranged.

10 COMMISSIONER CAMERON: I second that
11 motion.

12 COMMISSIONER ZUNIGA: Thank you.

13 CHAIRMAN CROSBY: Anymore discussion?
14 All in favor? I.

15 COMMISSIONER MCHUGH: I.

16 COMMISSIONER CAMERON: Ice before I.

17 COMMISSIONER STEBBINS: I.

18 COMMISSIONER ZUNIGA: I.

19 CHAIRMAN CROSBY: All opposed? Okay.

20 Item 4A, on the personnel searches, I think they are all
21 -- we are moving ahead. There are a couple that may be
22 well concluded within the next few days.

23 We are not going to have a formal meeting
24 next week because some of us will be away. Can we set

1 up a structure so that the hires can get made? We don't
2 want to wait two weeks. We probably will get the
3 background checks completed on one or two people this week
4 probably. We don't want to wait another week or two
5 before we hire them. Can we just delegate to the hiring
6 manager to go ahead and make the hires?

7 COMMISSIONER MCHUGH: We can.

8 CHAIRMAN CROSBY: Subject to application?

9 COMMISSIONER MCHUGH: I think it would be
10 helpful to specify which hiring manager we are going to
11 delegate which hiring to.

12 COMMISSIONER ZUNIGA: Yes.

13 CHAIRMAN CROSBY: I've been hiring the
14 manager on the ombudsman. That's one we hope to be done
15 quickly. Commissioner Cameron has been the hiring
16 manager for the Racing Commission Division Director.

17 COMMISSIONER MCHUGH: And for a
18 paralegal.

19 COMMISSIONER CAMERON: The paralegal is
20 another position.

21 CHAIRMAN CROSBY: And the staff attorney
22 we may have done too and you are the hiring manager for
23 that, right?

24 COMMISSIONER MCHUGH: Yes.

1 COMMISSIONER ZUNIGA: Commissioner
2 McHugh is also the hiring manager for General Counsel.

3 COMMISSIONER MCHUGH: But that won't be
4 ready.

5 CHAIRMAN CROSBY: And the staff attorney
6 may or may not be, but certainly two.

7 COMMISSIONER MCHUGH: Staff attorney
8 could be.

9 CHAIRMAN CROSBY: Background checks too?

10 COMMISSIONER MCHUGH: Oh, background
11 checks.

12 CHAIRMAN CROSBY: But anyway, can we just
13 do it? Can we just say that it's all right that if the
14 hiring managers come to the conclusion that we go ahead
15 and come to the conclusion that we can go ahead and start
16 the process going with the person we have selected, to
17 trust in the hiring managers that we've made the right
18 choice?

19 COMMISSIONER MCHUGH: In the wisdom of the
20 hiring managers.

21 CHAIRMAN CROSBY: And then ratify that
22 whenever the next meeting is.

23 COMMISSIONER MCHUGH: Right.

24 CHAIRMAN CROSBY: Do we need to do

1 anything formal for that or can we just go ahead?

2 COMMISSIONER MCHUGH: I think the plan is
3 to ratify it and I think we go ahead and do it.

4 CHAIRMAN CROSBY: Okay, great. Well then
5 all hiring managers will just jump to it as soon -- from
6 wherever we are as soon as we get back background checks
7 successfully concluded, we hope.

8 From the Director of Administration, Ms.
9 Glovsky.

10 That whole last section was really yours.
11 I don't know how much more you've got.

12 MS. GLOVSKY: And I guess that highlights
13 a lot of what I've been doing over the last few weeks is
14 coordinating meetings among the Commissioners with the
15 consultants, scheduling meetings. Making sure that
16 different parts of the strategic plan have been
17 addressed, questions have been addressed. That has
18 taken up a significant amount of information.

19 COMMISSIONER MCHUGH: Can I just say
20 before you start that the way the meetings with individual
21 or small groups of Commissioners and the consultants took
22 place over the last couple of days I felt was really very
23 hopeful. As Commissioner Zuniga said, I think, just the
24 notice that so-and-so is going to be meeting with the

1 consultants. Or so-and-so is going to meeting with, sort
2 of a plan of the day that is published and everybody can
3 see it is really a very helpful thing. This has all been
4 coordinated very well. And it is helping us really to
5 move forward in the right direction and the right pace.

6 MS. GLOVSKY: Thank you very much. As
7 part of that, as you know, with Kristin Gooch sort of
8 representing sort of the project management on the other
9 side with the consultants, we have been working on a
10 protocol for communication with the Commission over the
11 next Phase II work that is going to be done.

12 I think we've come up with a template that
13 works for the regulations, but also potentially works for
14 other situations that come up. The goal would be
15 certainly to keep the Commission involved in
16 understanding all of the meetings that are going on with
17 consultants, whether they be in person or by phone without
18 the cumbersome nature of being copied on every single
19 email.

20 There is a lot of communication that can
21 go on back and forth. It is not necessary for you to look
22 at every single item. I'll be working hard with Kristin
23 Gooch to make sure that the important information that
24 you all need to see is placed in front of you as soon as

1 possible.

2 We also, as noted earlier, are going to be
3 working on figuring out how we sort of chunk up the
4 regulations so that the policies that need to be addressed
5 first are the ones that come to you first.

6 I've been working very hard with
7 Commissioner Zuniga as noted on the statement of work that
8 I hope we will be able to wrap up by the end of this week
9 for the extension of the contract with the consultants.

10 Commissioner Stebbins and I have started
11 to work on the ISA, which is an agreement between two
12 agencies with the Donahue Institute to do some research
13 regarding host communities and surrounding communities.

14 COMMISSIONER STEBBINS: Collins
15 Institute.

16 MS. GLOVSKY: Collins Institute, I'm
17 sorry. Thank you. It's in my brain, I apologize. With
18 the Collins Institute about doing research for the host
19 communities and the surrounding communities. We are
20 going to be taking a hard look at that over the next week
21 or so and get that solidified with them.

22 Working on a couple of procurements. We
23 have an RFI for research that has questions that are due
24 this Friday and will be posted within a week or so

1 afterwards. We also have a procurement for financial
2 advisory services that has questions due shortly as well.
3 We will be responding to that. So, working through
4 those.

5 Preparing for new hires with the
6 facilities trying to get the phones, computers in place
7 so that when we are able to hire people, we are ready to
8 get them to work, because we all know that there is plenty
9 of work for them to do.

10 The last item is I believe I sent out to
11 all of you probably a week or so ago, a job description
12 for a generalist. And I would like to put a posting up
13 for that, really a senior generalist and junior.

14 CHAIRMAN CROSBY: Senior generalist?

15 MS. GLOVSKY: Right. I will come up with
16 better titles for it, but really I don't need a staff
17 accountant or an IT person right now. There isn't
18 enough.

19 CHAIRMAN CROSBY: Senator Jajuga,
20 wouldn't you be a senior generalist?

21 MS. GLOVSKY: I don't have enough work for
22 a particular job description. I think as we all know,
23 since we have all been rolling up our sleeves and doing
24 everything. What I really need is a couple of people who

1 can jump in and do all the things that need to be done,
2 in particular, somebody with experience in using
3 Commonwealth accounting and HR systems as well.

4 CHAIRMAN CROSBY: In 60 days, if we can
5 just get through the next 60 days, it is going to be a
6 very different place with a whole bunch of new people.
7 So, hang tight. Anything else, questions? Thank you.

8 MS. GLOVSKY: Thank you.

9 COMMISSIONER MCHUGH: Thank you very
10 much.

11 CHAIRMAN CROSBY: Also on this item, we
12 have been talking about adopting a set of core values for
13 the organization. A draft has been distributed. I
14 think it is in the packets. If you have had a chance to
15 review them, we can talk about them or amend them or just
16 going to adopt them.

17 I would just say I think the participatory
18 transparent process is something that we have talked
19 about from the very get-go. I think that is almost a
20 brand that every one of us needs to live and breathe. So,
21 that is pretty clear. We are talking about an
22 environment where it's non-bureaucratic, where people
23 can talk at a relatively flat level of hierarchy. People
24 are encouraged to speak their minds but on the other hand

1 when decisions are made we are all in it together and we
2 are all implementing them.

3 The overall commitment to the integrity of
4 the regulatory process and to our use of code of ethics
5 I think is straightforward. But I think it's a useful
6 addition to say to be mindful of the balance between
7 rigorous regulation and the burden of compliance.

8 Our operators will be our constituents
9 too. And it is important that we be mindful of finding
10 that balance. The diverse workforce and the diverse
11 supplier base, that has been talked about. We heard at
12 our education forum diversity alone isn't enough.
13 People need to understand what an inclusive culture is
14 about. That is clearly something that is a core value
15 for us.

16 Finally, I think highlighting customer
17 service. We want our communities, we want our citizens,
18 we want the developers, we want people to have great
19 experiences with us. If you walk in our door, if you call
20 up, if you write a question you get an answer, all that
21 kind of stuff.

22 To me, those are really central values that
23 I think it is incumbent upon us to try to adhere to convey
24 to this burgeoning staff that is going to start lifting

1 off in the next couple of months. Anybody else?

2 COMMISSIONER STEBBINS: I appreciate the
3 thought that went into this. As I mentioned, in a
4 previous workplace we took these types of culture and core
5 values and we made sure that every employee got a copy.
6 Even to the extent of making it nice enough that somebody
7 would frame it and have it within their cubicle or their
8 desk or their office, because they are sort of guiding
9 principles that we need to reflect on everyday and
10 continue to conduct ourselves.

11 COMMISSIONER ZUNIGA: I would just like to
12 echo what is being said. I have a great place for these
13 core values to copy them to, which is the employee manual
14 at the very beginning, even though I will also give a brief
15 update on that in a minute. -- At the very beginning.

16 CHAIRMAN CROSBY: Should we adopt them?
17 I think it's worth a formal adoption.

18 COMMISSIONER CAMERON: I think so too.
19 Very well done.

20 COMMISSIONER STEBBINS: I move to adopt
21 our proposed set of core values for both the Commission
22 and all future employees and current employees of the
23 Massachusetts Gaming Commission.

24 CHAIRMAN CROSBY: Second?

1 COMMISSIONER MCHUGH: Second.

2 CHAIRMAN CROSBY: All in favor? I.

3 COMMISSIONER MCHUGH: I.

4 COMMISSIONER CAMERON: I.

5 COMMISSIONER STEBBINS: I.

6 COMMISSIONER ZUNIGA: I.

7 CHAIRMAN CROSBY: A unanimous vote, thank
8 you.

9 COMMISSIONER MCHUGH: The point of
10 Commissioner Stebbins and Commissioner Zuniga is we find
11 a way to publicize them. So, we have adopted them. Now
12 they need to be part of the wallpaper as well as our
13 day-to-day thoughts.

14 CHAIRMAN CROSBY: Right. We will do
15 that. We will talk about different ways to promote them.
16 And the last thing in this item is just next week there
17 will be a meeting at the same time. I think we are back
18 at Washington Street. It will not be a formal meeting.
19 It turns out, the peculiarity of the law does not let us
20 have a quorum that doesn't have a majority present,
21 physically present, which is just kind of silly. We
22 might recommend that that get changed. But we can't have
23 our meeting though we could be a part of it.

24 But we are going to have two Commissioners

1 here, Commissioner Stebbins and Commissioner McHugh. I
2 think we are talking about having representatives of the
3 labor movement, labor organizations and some folks who
4 have some ideas about community mitigation that they
5 wanted to speak to us come in. I don't know if there are
6 other things that you all want to have on the agenda.

7 COMMISSIONER STEBBINS: We are actually
8 meeting tomorrow with our Chief of Staff to set up some
9 topics and to make it an informative session as well a
10 plot to take over the Commission while the three of you
11 are out-of-town.

12 COMMISSIONER MCHUGH: I didn't realize
13 that was on the agenda. That is good.

14 CHAIRMAN CROSBY: Item five, finance/
15 budget, Commissioner Zuniga, an update?

16 COMMISSIONER ZUNIGA: Thank you. Just a
17 brief update. I have distributed a draft, I would
18 characterize as a draft memorandum for a procedure for
19 reimbursing host communities.

20 This dovetails as Commissioner McHugh
21 mentioned there is clear language in our regulations as
22 currently drafted relative to the monies that will be
23 reimbursed and the statute sets forth for those host
24 communities.

1 My intention here was to establish a simple
2 and clear procedure for how and when those communities
3 will be reimbursed. This procedure is really assume what
4 is clearly in the regulations which is a developer or
5 operator and a host community or surrounding community
6 would come to an agreement and draft and send us a letter
7 of agreement, I believe, is the exact words to this
8 Commission for us to jumpstart that process, the process
9 for reimbursing.

10 The previous comment that you have made,
11 Commissioner McHugh, if there is no agreement then we
12 don't deal with that eventuality here. Because that will
13 be dealt by regulation or that we want to deal with that.

14 I submitted it as part of the packet. I
15 can take any questions.

16 CHAIRMAN CROSBY: I had questions until I
17 heard Commissioner McHugh explain why in the regs.
18 Because I wasn't sure I agreed with this, but I think I
19 do now. So, that makes sense to me.

20 COMMISSIONER MCHUGH: I no doubt am
21 misreading this document. But it seemed to me you have
22 two alternatives, the front-end payment, the before the
23 expenses were incurred payment and the reimbursement
24 section. And before they were, it looked to me that no

1 matter how far the community went, it can only get 50
2 percent of its costs reimbursed.

3 COMMISSIONER ZUNIGA: Until they
4 submitted a request for reimbursement. We should talk
5 about this. Alternative one that I am suggesting
6 effectively fronts 50 percent of whatever they agreed to.
7 It allows them to start spending, submit a request for
8 reimbursement if you will. At that time, we would deduct
9 50 percent because they have been reimbursed up front.
10 And reimburse the remainder monies. It's a mechanism
11 that attempts to have some kind of progress payment
12 nature. Does that clarify, Commissioner?

13 COMMISSIONER MCHUGH: I will read it again
14 with that thought in mind. I didn't realize the second
15 piece was designed to coexist with the first piece. That
16 is designed to make sure that the money is spent wisely
17 or in the agreed-upon fashion? Those two will probably
18 will be the same in most cases.

19 COMMISSIONER ZUNIGA: It's designed as a
20 control mechanism to some kind of fiduciary duty that we
21 exercise by fronting money, if you will, or send money
22 with the evidence that it is going to the right place.
23 That the idea of fronting 50 percent recognizes that
24 communities will not want to necessarily be out of pocket

1 and wait for us to get our reimbursement process in place.

2 COMMISSIONER MCHUGH: Would the same
3 purposes -- I am just thinking about a small community
4 that doesn't have a lot of loose change or any loose change
5 lying around to pay suppliers of the kinds of things.
6 Would it be sufficient for the costs to be incurred, i.e.,
7 they receive a bill from a supplier? And they send us
8 the bill and we send them the money to pay the bill?

9 COMMISSIONER ZUNIGA: That could be
10 sufficient. I will just stress by the way that the way
11 I drafted the procedure, it would be also sufficient to
12 send us as proof of payment, a warrant or a check number.
13 At that time technically, the funds are committed but not
14 necessarily spent. I maybe splitting hairs here a little
15 bit, but by the time let's say a board of selectmen
16 approves a warrant, funds are committed but not yet
17 disbursed. There could be that timeframe that
18 communities use to send us just that proof of payment.

19 But your point is well taken. I would go
20 a little bit further, if they enter into some kind of
21 contract with a consultant and they say we are committing
22 to this amount, not to exceed or fixed fee, even if it's
23 not disbursed, we could accept that as proof of payment
24 and send that money at that time.

1 COMMISSIONER MCHUGH: I think that if we
2 could make that slight change that would be helpful to
3 the communities. I can think of small communities that
4 just don't have that extra cash lying around -- available
5 to them. Nobody has it lying around -- available to them
6 to pay for some of these things. That would solve the
7 objective and save time. I think it is a good process
8 if we could make the change.

9 CHAIRMAN CROSBY: You've read more
10 closely than I did, but it's definitely worth thinking
11 it through. We want to make this as easy -- We should
12 exercise some fiduciary role clearly but modest and not
13 any kind of an onerous process on anybody.

14 COMMISSIONER ZUNIGA: There is no
15 pushback form. There is simply send us a letter with a
16 proof of payment. We can talk about just what that would
17 be.

18 CHAIRMAN CROSBY: Or the bill.

19 COMMISSIONER ZUNIGA: Or a commitment if
20 I am summarizing well. I can make those changes and
21 reflect that. Or by the way, if they do have a lot of
22 cash flow, just wait until they're done. That's a second
23 alternative.

24 COMMISSIONER STEBBINS: I have a couple of

1 general questions. One under the first scenario we get
2 down to letter E. At the end, the tail end, you talk about
3 the balance of the monies that the Commission has reserved
4 for the host or surrounding community have been expended
5 in full.

6 So, we take the \$400,000. We know that a
7 minimum of \$50,000 is going to be spent on again
8 reimbursing these host communities. How are you
9 suggesting that we are going to set an amount that will
10 be available out of that \$400,000? I guess it somewhat
11 goes back to the investigations piece. I am a little
12 nervous about the size and costs of these investigations.
13 I know we have tools to be able to go back and solicit
14 some additional funds. You are talking about reserving
15 some monies aside. I am just trying to get my hands
16 around your thought process to help decide what that is.

17 COMMISSIONER ZUNIGA: Let me clarify.
18 Assume that the \$50,000 that is reserved per statute has
19 already been spent, but that the negotiations are
20 ongoing. And the operators and host communities agree
21 by virtue of sending us a letter of authorization, I
22 believe is the right term that there will be additional
23 expenditures of just to pick a number, \$75,000 extra. If
24 they want to continue the Commission to be the conduit

1 for the reimbursement of those monies, they may not want
2 to, but if they do, they could notify us and request
3 reimbursement. As long as we have actually obtained
4 those funds, we will reimburse those funds. That was the
5 intention behind the notion of reserving funds and then
6 making them available.

7 COMMISSIONER STEBBINS: I am assuming at
8 this point in the game, a surrounding community will be
9 a community that an operator has approached, recognizing
10 an impact, knowing that there is a phase down the line
11 where we can identify surrounding communities and want
12 to make sure that funds are set aside for those
13 negotiations between that new surrounding community that
14 we designated and an operator.

15 COMMISSIONER ZUNIGA: Great. And what
16 you mentioned, it could work both ways. The operator may
17 have approached or the surrounding community may have
18 approached the operator to say we believe we are
19 surrounding community. And we want to sit at the table.
20 And we want to come to some letter of agreement as to those
21 negotiations.

22 In that instance, if the operator decides
23 that they are not, the Commission has the ability to say
24 eventually that they are. I don't know if I answered your

1 question.

2 COMMISSIONER STEBBINS: You did. My
3 concern is if somebody raises their hand and says we are
4 a surrounding community and I want to start getting
5 reimbursed. And they come to us for some reimbursement
6 but yet have not had the direct interaction with the
7 operator nor have they necessarily received the
8 surrounding community designation from us at the
9 appropriate point.

10 CHAIRMAN CROSBY: They wouldn't get any
11 relief because they have to have an agreement with the
12 operator.

13 COMMISSIONER ZUNIGA: That's right.
14 There would be no letter of authorization. The genesis
15 is the letter of authorization that sets these
16 procedures.

17 CHAIRMAN CROSBY: We want to reiterate,
18 people are forgetting and the ombudsman will fix this that
19 communities can go straight to the operators to get the
20 money now as some have done. They are not going to worry
21 about our \$50,000. They are going to go straight to the
22 bidders and finance directly.

23 COMMISSIONER STEBBINS: That leads me to
24 my last question. Is there information we should be

1 requesting from the host communities for our own
2 informational purposes to see what they have already
3 asked, not that I am expecting the community to
4 double-dip. But is there any interest on our part
5 knowing what they spent the money on?

6 CHAIRMAN CROSBY: Double bill, that's a
7 good one.

8 COMMISSIONER STEBBINS: I am not
9 encouraging anyone to do that, obviously. Is that
10 information that is important to us? I don't know the
11 answer to that question.

12 COMMISSIONER ZUNIGA: This dovetails into
13 the notion of the duty that we have, the fiduciary duty,
14 if you will, to make sure that those monies are spent as
15 they are intended. If we are part of that, we have a role.

16 If the operators agree and the communities
17 agree that the reimbursement process would be such that
18 they don't have involve the Commission or they don't want
19 to.

20 CHAIRMAN CROSBY: His point is
21 theoretically they could do both. If some community
22 wanted to play games, they could. They could get direct
23 monies and not tell us.

24 I think probably in our RFA-2 process, we

1 will ask to know all of the monies that have been paid
2 to any vendors on behalf of this or any monies they have
3 compensated --

4 COMMISSIONER ZUNIGA: But in that
5 scenario --

6 COMMISSIONER STEBBINS: I think that
7 whatever relationship, whatever monies they have asked
8 us for, again, I'm asking a question for us to consider
9 is that information that we should just request from the
10 municipality? It's not to necessarily drive their
11 reimbursement, just for our information generally about
12 this process.

13 COMMISSIONER MCHUGH: Under the
14 regulations that go into effect now, the developer, the
15 applicant has to disclose as part of the RFA Phase I
16 process or perhaps later. But they have to disclose all
17 of the payments that they have made to a community,
18 whether they're payments that come in this form through
19 an agreement that we act as the disbursing agent or that
20 they've done independent. That's an obligation of
21 theirs.

22 This it seems to me we can really work on
23 really a minimum scrutiny because the only way that money
24 can come out of the \$400,000 here is by agreement. Once

1 we get to the contested things, which we will in Phase
2 II, then we have a heightened duty of investigation and
3 tracing. But here, it seems to me we can rely on the
4 self-interest of the developer and of the town and the
5 disclosure rules to help us.

6 COMMISSIONER ZUNIGA: It's a very good way
7 to put it.

8 CHAIRMAN CROSBY: In the final analysis,
9 Commissioner, I think the answer to your question is yes.
10 We will know all of the disbursements that have been made.

11 COMMISSIONER CAMERON: Do we have any
12 standards for what kinds of services are reimbursable?

13 COMMISSIONER ZUNIGA: My read of the regs
14 and the statute in this particular sections are that it
15 is mostly advisory, consulting, lawyers. I may be wrong.
16 There may be others that could go under the mitigation
17 or negotiations.

18 I always thought of them as soft costs, if
19 you will, for this particular category. Nothing that
20 would be mitigation monies on the presence of a casino,
21 additional fire trucks or anything like that.

22 COMMISSIONER CAMERON: That's what I have
23 a question about.

24 COMMISSIONER ZUNIGA: Not at this

1 juncture.

2 CHAIRMAN CROSBY: I would agree with that
3 but also they are self-regulated because under this
4 structure the bidder has to sign off on it. So,
5 presumably they are not going to sign off on buying a new
6 fire truck as part of the negotiations.

7 COMMISSIONER CAMERON: Why do you think
8 that's so that they wouldn't sign off on something that
9 they think would help them move their project along?

10 CHAIRMAN CROSBY: Yes, they might, but I
11 guess if they did it's their money. It's okay.
12 Springfield, if somebody gave a big contribution to the
13 South End Community Center, I don't know. I'm game.

14 COMMISSIONER CAMERON: I guess what I am
15 saying is that if we have some control over the monies,
16 this particular piece of money, if something came into
17 be reimbursed that we questioned, do we have a mechanism
18 to question it?

19 CHAIRMAN CROSBY: Do you have the language
20 there, Commissioner?

21 COMMISSIONER CAMERON: I don't think it's
22 specific.

23 COMMISSIONER MCHUGH: The statutory
24 language?

1 CHAIRMAN CROSBY: What it says. It says
2 up to 50,000 for what --

3 COMMISSIONER MCHUGH: Negotiation and
4 mitigation in substance and effect. We can get the exact
5 language here. Again, I think the -- And I will get the
6 exact language. I think that the safety valve is the
7 required agreement. And if something comes in that looks
8 like it is off the wall, then we can talk about it here.

9 The publicity that that creates it seems
10 to me is a substantial break on mischief. The
11 requirement that this all be disclosed in RFA-1
12 application process is certainly going to factor into the
13 investigation that occurs as the RFA-1 is explored. I
14 don't know whether that satisfies you, Commissioner.
15 But that strikes me as, at this stage at least, a
16 sufficient break on this while allowing the cities and
17 towns to get the help that they need.

18 COMMISSIONER ZUNIGA: One way to think
19 about this letter of authorization prior to costs being
20 committed, hopefully, is as somewhat of a budget. If
21 they were to send an itemized cost in a detailed way that
22 would elicit questions that would be one way -- one time
23 to come think about and question if there may be any
24 questions.

1 COMMISSIONER MCHUGH: The statutory
2 language is not less than that \$50,000 of the application
3 fee shall be used to reimburse the host and surrounding
4 municipalities for the cost of determining the impact of
5 a proposed gaming establishment and for negotiating
6 community mitigation impact agreements. That is pretty
7 narrowly defined.

8 COMMISSIONER CAMERON: Negotiation not
9 necessarily --

10 CHAIRMAN CROSBY: Assessing cost of
11 mitigation, not mitigation.

12 COMMISSIONER CAMERON: Correct.

13 CHAIRMAN CROSBY: If we can have the
14 ombudsman -- We can put out an advisory that reinforces
15 that so to make sure people have reasonable standards in
16 mind. So that we in effect have given them notice if they
17 come in with a fire truck.

18 COMMISSIONER MCHUGH: Right.

19 COMMISSIONER STEBBINS: Just one final
20 note related to this. I appreciate the two types of
21 processes for the reimbursement. I think we would all
22 be in agreement that each project is going to drive
23 different costs. It is going to drive more surrounding
24 communities or fewer surrounding communities to be

1 impacted. So, I come back to a budget question of the
2 \$400,000 check that we get.

3 Again, I know we can go back to an operator
4 and ask for more if some of our costs start to increase.
5 But I think we should just be mindful that one project
6 may dictate more people coming to us for a slice of the
7 \$400,000. It is more raising a flag as the scenario kind
8 of rolls itself out.

9 COMMISSIONER ZUNIGA: I want to just make
10 a comment. Your point is well taken. The way I
11 understand the monies that would go towards determining
12 and negotiating the impact are as follows. \$50,000 would
13 be reserved -- of the \$400,000 would be reserved for that
14 purpose. Any monies required in addition to that do not
15 come out of the remaining \$350,000.

16 That \$350,000 allows us to conduct the
17 investigations piece that we will conduct. If one of the
18 host communities determines that they really need to do
19 some kind of environmental impact study that is going to
20 be very costly and the developer agrees, in other words
21 in excess of \$50,000, then that is an additional pool of
22 money. It does not come from the \$350,000 that remains
23 from the application.

24 COMMISSIONER MCHUGH: And you have

1 referred to that, Commissioner, in the very last
2 paragraph. That paragraph might be made just a little
3 clearer to refer to the specific subsection of the
4 regulation that says they have got to pay -- if they are
5 going to do it through us and the developer authorizes
6 more than \$50,000, then they have to provide the excess
7 money with the letter of authorization to us. If we
8 simply refer to the reg. which says that, that would
9 clarify that point. So, it doesn't come out of that 350.

10 CHAIRMAN CROSBY: Isn't that sort of tied
11 up in the issue that we kicked down the road about the
12 additional monies for the background checks that the
13 statute isn't very clear?

14 COMMISSIONER MCHUGH: No. The reg. says
15 this. That issue still remains, but it is not altered
16 by this because this leaves basically the \$50,000 that
17 is cut out of the \$400,000 as the only exemption. The
18 \$50,000 is going to go potentially to the city or town.
19 That will leave the residual \$350,000.

20 If the city or town wants more than the
21 \$50,000 and the developer agrees, then the developer puts
22 in more money. But it is dedicated to the city or town
23 not to the cost of the investigation.

24 CHAIRMAN CROSBY: I think if I were a

1 developer, I would say look, I am out \$400,000. And you
2 haven't spent it all yet. So, if the cities and towns
3 need more, take it out of the 400 the legislation says
4 no less than \$50,000. As long as we can get it all back,
5 as long as we write a reg. that clarifies this problem.
6 So, if I were a developer I would say spend the 400 first
7 and then come back to me.

8 COMMISSIONER MCHUGH: But our reg. that we
9 just approved doesn't permit them to do that. Our reg.
10 just approved says if you developer are going to authorize
11 more than the \$50,000 then you have got to put up the
12 additional.

13 CHAIRMAN CROSBY: That's a reg. we adopted
14 today?

15 COMMISSIONER MCHUGH: That's a reg. we
16 adopted today.

17 CHAIRMAN CROSBY: Oh, I missed that.

18 COMMISSIONER MCHUGH: You haven't.

19 CHAIRMAN CROSBY: Okay. So, what I said
20 might be a good idea but that's not -- we went the other
21 way.

22 COMMISSIONER MCHUGH: That's for the
23 moment. We have got to write another set of regulations
24 to deal with this problem, because frankly the \$50,000

1 isn't going to cover everything these people --

2 COMMISSIONER ZUNIGA: It's not.

3 COMMISSIONER MCHUGH: It's not going to do
4 it. So, this is to get the ball rolling until we have
5 standards by which we can judge the reasonableness of
6 expense requests when there is no agreement. We will do
7 that. We have to advance that upfront. This is to get
8 the ball rolling and allow cities and towns to get some
9 relief while we are working through that.

10 COMMISSIONER STEBBINS: Do we necessarily
11 need to prioritize who gets access to the money first?

12 COMMISSIONER MCHUGH: Pardon me?

13 COMMISSIONER STEBBINS: Do we necessarily
14 need to prioritize who has access to the \$50,000 that we
15 are making available first?

16 COMMISSIONER MCHUGH: We don't have to do
17 that now because again it's by agreement. We will in the
18 next set of regulations.

19 CHAIRMAN CROSBY: So, first-come
20 first-served now. Whoever goes to the developer and gets
21 an agreement.

22 COMMISSIONER ZUNIGA: First one with an
23 agreement with the developer is the first-served, yes.

24 CHAIRMAN CROSBY: Does that answer your --

1 COMMISSIONER STEBBINS: Yes.

2 COMMISSIONER ZUNIGA: You may be alluding
3 to surrounding communities. I kind of thought about
4 that. It occurs to me that anybody can get an agreement
5 with a developer first is likely to be the host
6 communities.

7 CHAIRMAN CROSBY: The developer is
8 presumably going to --

9 COMMISSIONER ZUNIGA: Presumably is going
10 to agree to that one a lot easier than anyone else. Much
11 of the mechanism that is written into the statute and our
12 regs, I believe, are with the host communities -- I'm
13 sorry, with the surrounding communities in mind because
14 they might be a little bit later to the table.

15 CHAIRMAN CROSBY: I think that's right.
16 Enough on that? You had something else Commissioner from
17 your finance/budget update.

18 COMMISSIONER ZUNIGA: Just one last thing
19 that is still remaining in the agenda, I distributed by
20 email to each one of you the third draft of our employee
21 manual. I have not included in the packets, because I
22 did not expect anybody to read them because we have had
23 a lot to read lately. I just want to give that brief
24 update that all of the comments from the minutes from our

1 August 14 meeting where we discussed the policy decisions
2 around employee manual have now been incorporated in that
3 last draft. They are in revision mode. If any one of
4 you has any questions in the future, please let me know.

5 CHAIRMAN CROSBY: Great. Racing
6 Division.

7 COMMISSIONER CAMERON: Two issues I'd
8 like to report to the full Commission today. One is an
9 ongoing discussion with the kennel dog owners lessees
10 three distinct groups, some of which are the same. They
11 brought us an issue this summer once we had responsibility
12 for Racing. That is an issue with regards to payments
13 in the law that when greyhound racing was discontinued
14 there were some provisions made for those folks who were
15 losing their livelihood.

16 There was an interpretation made by the
17 Department of Professional Licensure Consumer Affairs
18 about the law. And they did not agree with that. So,
19 I had a group of 11 kennel owners, dog owners in my office
20 talking about this issue.

21 They brought it to us informally. We have
22 talked to them about an informal way of looking at this.
23 There were legal issues. So, we did engage our outside
24 counsel to take a look informally at this matter. And

1 we have talked about the issue. We thought that one of
2 their claims have some merit. And we have informally
3 advised them of a manner of handling this. Of course,
4 they can come before the full Commission if they disagree
5 with our interpretation.

6 When we had this meeting, it was not
7 adversarial. I think everyone agreed that Consumer
8 Affairs interpreted it in a way that they saw -- that they
9 thought the way the law read. As we are all finding out
10 in the reading of this, there are some things that are
11 not that easy to interpret and could be interpreted in
12 more than one way. Those meetings have been ongoing.

13 To be more specific, one of the issues at
14 hand was the payment of unclaimed wages, commonly
15 considered outs monies. Those are the unclaimed
16 tickets.

17 CHAIRMAN CROSBY: Winnings?

18 COMMISSIONER CAMERON: Correct. Those
19 monies generally went back to this group, traditionally
20 went back to this group. They made a claim that those
21 monies from '08 and '09 went into the Racing Stabilization
22 Fund rather than to this group.

23 In looking at this matter, it was the
24 recommendation to us and one that I certainly agree with

1 that '08, they had a legitimate claim for '08 monies and
2 not for '09 monies, because the law was already in effect.
3 It's a year. You wait a year to make sure somebody
4 doesn't claim that money.

5 So, we are waiting for response back, a
6 consensus from this group whether or not they are
7 satisfied with our interpretation. They've been told
8 that they can bring this to the full Commission if they
9 have an issue with that.

10 So, we are trying to listen to everyone
11 that has something to say about this matter.

12 CHAIRMAN CROSBY: Is the issue of the
13 unpicked up winnings or the outs? Is that the essential
14 issue?

15 COMMISSIONER CAMERON: That is one of the
16 issues. The other issue is the composition of the Racing
17 Stabilization Fund. They believe that all racetracks
18 should be contributing, not just those racetracks that
19 have greyhound racing.

20 The law does not speak to that. They would
21 have to take that matter up with the tracks themselves
22 that they have an issue with regard. We don't have any
23 authority, in other words. The law speaks to the monies
24 that comes out of the Racing Stabilization Fund. It does

1 not speak to the monies that are put into the fund.

2 So, they are very well aware. We listened
3 to their issues. We had our attorneys take a look for
4 us on behalf of the Commission. This is one of the issues
5 that I've been dealing with. And we are waiting for a
6 response from those folks back to us, which we should have
7 in the very near future.

8 CHAIRMAN CROSBY: Did we give them a
9 written -- is there a written summary of our --

10 COMMISSIONER CAMERON: We did not. They
11 came to us informally with their concerns. We told them
12 we'd take a look at it informally, but with the
13 understanding that they can always come in a more formal
14 manner before the full Commission with this matter. So,
15 that's an ongoing issue, which hopefully we will have
16 resolved soon.

17 The second issue that I'd like to brief the
18 Commission is we have the President and General Counsel,
19 a Ms. Dorchak has contacted me personally and I know she
20 has reached out to the Chair also. She represents GREY2K
21 USA. It is her concern, her opinion that the law in this
22 State which outlawed greyhound racing also outlawed
23 simulcast.

24 One of our responsibilities as a

1 Commission is to -- When I say simulcast, simulcast of
2 greyhound racing. One of our responsibilities as we have
3 talked about is to analyze the simulcast and the
4 pari-mutuel racing meetings and to determine the
5 efficiencies of the laws and the need to replace pursuant
6 to the continuation of Chapters 128A and 128C of the
7 General Laws.

8 So, we have to have recommendation to the
9 Legislature no later than January 1. We are aware of this
10 deadline. One of the things that we have done -- We are
11 contemplating contracting with an attorney who has great
12 subject matter knowledge. And I don't want to mention
13 a name, because it is our policy not to mention anyone's
14 name until a complete background investigation is done.
15 So, we will make a recommendation to the full Commission
16 when that is complete.

17 This individual would assist us along with
18 the paralegal who has a racing background. They are
19 going to take a look at this issue for us. Certainly,
20 take into consideration Ms. Dorchak's claim. I would
21 want the Counsel to speak to her personally and hear her
22 and make recommendation to us so that we are fully briefed
23 on this issue and will be prepared to make those
24 recommendations by January.

1 CHAIRMAN CROSBY: The pari-mutuel
2 assessment that we are mandated to do does include --

3 COMMISSIONER CAMERON: -- simulcasting.

4 CHAIRMAN CROSBY: And does address the
5 issue -- will necessarily address the issue that she's
6 raised about the interpretation of the law?

7 COMMISSIONER CAMERON: Correct. We will
8 be looking at the simulcasting as it is today, determine
9 if they need to be replaced. So, one of the issues we
10 would be looking at is if her concern is a valid one.

11 CHAIRMAN CROSBY: Okay.

12 COMMISSIONER CAMERON: We are aware and we
13 were aware before this conversation about our deadline.
14 And we have taken steps to make sure we meet that deadline
15 by bringing in a consultant to assist us with this matter.

16 Those are the two issues that I wanted to
17 brief in my Racing update today.

18 CHAIRMAN CROSBY: Great. It's really
19 interesting. Anything else on Racing? Item seven,
20 community and/or developer outreach. Should I mention
21 the word Chelsea or move right along?

22 COMMISSIONER MCHUGH: No. You could
23 mention it and then move right on. I actually took a
24 crack at it. I guarantee that will be a featured part

1 of our next meeting.

2 CHAIRMAN CROSBY: Good, I can't wait. We
3 got the opinion from the Ethics Commission sent to us from
4 a Springfield law firm. Director Driscoll has been
5 talking to us about ways whether we want to respond and
6 if so, how.

7 I think she will be distributing a draft
8 sometime pretty soon. Again, the issue -- we don't have
9 to respond. We are thinking about whether or not we want
10 to say anything further about this issue. I think we are
11 taking the position that we are fundamentally accepting
12 of the Ethics Commission decision, but do we want to have
13 any other comment. We don't know whether we do or not.

14 Because of our time problem, because it's
15 going to be two weeks before our next meeting, I am
16 wondering if you all had the opportunity to give your
17 comments to Director Driscoll. That I could then go
18 ahead and sign a letter that she drafts if it turns out
19 that we want to. Could we somehow delegate that so we
20 can get this out in the next two weeks if you all tell
21 her to do it?

22 COMMISSIONER MCHUGH: Yes. Technically
23 we can certainly do that, delegate to you power and
24 authority to respond on behalf of the Commission to the

1 Ethics Commission opinion if in your judgment a response
2 is appropriate.

3 CHAIRMAN CROSBY: Okay. If you're
4 comfortable with that.

5 COMMISSIONER ZUNIGA: I'm in agreement.

6 CHAIRMAN CROSBY: Then we will try to get
7 that done or not. Acting ombudsman report that would be
8 me. The list of key contacts for applicants, I think
9 given the late hour, we don't need to pursue this. But
10 I think it's a very good idea. I forget where it all came
11 from, but a number of suggestions have come up that we
12 recommend to applicants, once you become an applicant,
13 not only do you get the opportunity to start working with
14 the State, but also there may be other people who have
15 ideas about community mitigation, about tourism, about
16 whatever that we would want to suggest you talk to.

17 People who we know are beginning to reflect
18 ideas and concerns and substantive stuff that are going
19 to be things that we are going to be concerned with in
20 our licensing process. And I think that's a very useful
21 idea. They don't have to talk to people if they don't
22 want to, but if we know what resources are out there, we
23 then could be constructed in working with the applicants
24 once they become applicants, I think that would be a

1 worthwhile exercise. I think we could pick that up with
2 the ombudsman. I think it's a nice thought.

3 Community mitigation reimbursements we
4 talked about earlier. As far as I was notified by EOEA,
5 what is called Energy Environmental Affairs that from the
6 MEFA office, the Environmental Protection Office, that
7 Suffolk Downs is filing their environmental notice form.
8 So, they are moving down the road.

9 That reminded me of something that I've
10 been thinking about off and on. The MEPA role,
11 "environmental review" is a very important part of the
12 mitigation process. And it seemed to me it might be
13 useful for us to have the Director of MEPA come to one
14 of our meetings and just give us a briefing to really
15 understand exactly what all goes on there. So, if you
16 are in agreement, I will go ahead and set that up.

17 COMMISSIONER ZUNIGA: That's a great
18 idea.

19 COMMISSIONER MCHUGH: That ties into the
20 overall permitting process. There are provisions in the
21 statute that refer, Chapter 40D, I believe it is, D as
22 in dog. Is it worth at the same time exploring -- That
23 was something we took up with the secretaries early on.
24 Is it worth revisiting in some fashion that process?

1 CHAIRMAN CROSBY: The licensing process?

2 COMMISSIONER MCHUGH: Yes. Because now
3 we are at a point where we are going to be considering
4 the regulations for the Phase II process. One of the
5 things just speaking in general terms that we might want
6 to consider is where are you in the permitting process
7 and what are your plans and thoughts as to how long the
8 permitting process is going to take, particularly in a
9 competitive environment. One proposal may have greater
10 heft than another depending on -- There may be one factor
11 we want to know about. So, it seems to me it might be
12 worthwhile to revisit that.

13 CHAIRMAN CROSBY: Commissioner McHugh
14 brought this up when we had our meeting with the
15 Governor's Chief of Staff and all of the secretaries.
16 You will be interested in knowing talking about is there
17 anything we can do to expedite the permitting process for
18 folks. There are procedures on the books and there may
19 be others that we can design. And he is now bringing it
20 up a second time. I think it's a great idea. I think
21 the ombudsman is the perfect person to lead that. I will
22 just make a note of that and make sure that that gets
23 picked up right away. I think it's a great idea.

24 Also talked with the Governor's office

1 about we want to establish the gaming policy committee
2 ASAP. We originally thought of the gaming policy
3 committee because it had membership of host community and
4 licensees was something we wouldn't do until after
5 licensing. But when we realized that the law calls on
6 us to use them -- use that committee for advice now. So,
7 the Governor has to appoint the Chair and a number of the
8 other positions. So, that is underway. The ombudsman
9 will staff that committee and its subcommittees as well.

10 After this meeting, I think I circulated
11 a rewrite of the advisory to municipalities that had the
12 schedule on it. Commissioner McHugh suggested we not
13 post that at this meeting. But I think now that is ready
14 to be edited and reposted because it is out of date now.
15 The schedule has changed since we published that. If
16 that's okay, I will go ahead and fix that.

17 On the diversity inclusion topic, I think
18 we came away from the educational forum that we had with
19 a sense that there is a lot that can be done here, but
20 it doesn't happen all by itself. And it doesn't happen
21 just by putting up policy positions, on the one hand.

22 And on the other hand, Commissioner
23 Stebbins in particular has been leading the whole
24 workforce development project. Not so much the issue of

1 a diverse workforce, but just any workforce so we are
2 maximizing the utilization of Massachusetts residents
3 who are getting ready to take these jobs when they come.
4 That too is something that's going to happen unless
5 somebody is really focused on it.

6 As well as fine that Commissioner Stebbins
7 has also been talking a lot about supplier development
8 and teaching small businesses who will be encouraging
9 casino operators to utilize how to access their
10 purchasing processes and to get ready for that kind of
11 business and so forth. Again, not just a diverse
12 supplier base but a supplier base which is a Massachusetts
13 supplier base which is really teed up to make the most
14 of this.

15 All of that together is a big
16 responsibility. I am wondering if -- Commissioner
17 Stebbins and I have talked about this a little bit. And
18 he's got another idea that you may want to speak to that
19 gets into this. But I am thinking that it's about time
20 for us to write a job description that takes all of those
21 workforce development and supplier development with the
22 commitment to make each of those diverse into one job
23 description, at least for starters, and get that person
24 on board pretty soon.

1 I think Commissioner Stebbins has been
2 essentially staffing a number of those efforts. And that
3 is not going to work. I think if we got a really good
4 strong person, we could really make a difference in the
5 quality of the local workforce and supplier base that
6 benefit from these expanded gaming facilities. Do you
7 want to add?

8 COMMISSIONER STEBBINS: Yes. I had taken
9 a crack and Commissioner Zuniga and I very early on met
10 with Initiative for Competitive Inner City, Mass.
11 Development to -- ICI is a national organization. Mass.
12 Development is obviously one of the leading quasis here
13 in the Commonwealth that works with businesses of all
14 sizes and provides financing tools and a number of other
15 services.

16 My initial thought around the supplier
17 network, and some thoughts I had were crystallized from
18 our meeting last week on the 19th, is because we don't
19 know where these casinos are going to wind up, starting
20 with pulling some of these parties together and breaking
21 down with them supplier diversity elements. Mr. Marlow
22 from Access and Opportunity, Mass. Development, some of
23 these other what I would envision are key players and
24 start thinking about this at a statewide level. Thinking

1 about programs that could build capacity of small
2 businesses again to be qualified vendors for a local
3 gaming operator.

4 I tend to shy away from what I could see
5 down the road of some requirement that a gaming operator
6 purchase 50 percent of their outside spending items from
7 the local community. Well, if the local community
8 doesn't have the capacity and the businesses don't have
9 the capacity, it's kind of an unfair requirement to place
10 on the casino operators. If we kind of, as you Mr.
11 Chairman pointed out, kind of led them to resources or
12 showed them there are ways to accomplish their goals and
13 the priorities set out in the legislation, there may be
14 various programs that we can do in connection with the
15 local chambers of commerce, local business groups, etc.

16 My initial thought before thinking about
17 a staff person would be to put these people together in
18 a room and let's think about a good strategic approach.
19 We may find that there may be help or talent within one
20 of those agencies who we can support with Commission
21 dollars to kind of help us spearhead the program. And
22 it may be found in one of the service providers. That
23 would be my recommendation for the first step.

24 We know who some of these players are.

1 It's Mass. Development, Associated Industries of
2 Massachusetts has a buy Massachusetts program. Mass.
3 Small Business Development Center, free counseling to
4 help the small business to help them grow and expand their
5 business.

6 So, before settling on a staff person, I
7 would recommend let's have a conversation with that broad
8 group of people. And some of the names I thought of for
9 that group came out of the diversity forum last week. And
10 just say here is our goal and think strategically of how
11 to get there.

12 So, it may not necessarily be a person we
13 have to hire. But it might be a person who may be within
14 one of these other agencies and they through a partnership
15 take the lead with us on that, at least some of the
16 supplier vendor piece.

17 On the workforce development front, I know
18 the community colleges have been creating alliances
19 within our three gaming regions. As we talked about last
20 week again at the forum, we mentioned the initiative.
21 There was conversation about other wraparound services
22 that need to happen. How do we begin to build people to
23 work within those alliances. And then again look for
24 capacity of the staff person either on our behalf or that

1 we might be joint funding with somebody else to kind of
2 manage the program and manage the outreach.

3 I was thinking we've talked about the
4 ombudsman's job kind of morphing in a lot of different
5 directions. But as we talked today, it sounds like there
6 is going to be a lot on the ombudsman's plate when a
7 candidate comes on board.

8 I would suggest let's start at that
9 strategic level and then figure out what the staffing need
10 may be. Again, it maybe somebody we find within our
11 existing partners and we can support and not carry the
12 whole financial burden for it. That's just my thought.

13 CHAIRMAN CROSBY: I think that's a good
14 idea. So, let's do that. This is time sensitive, but
15 it's not urgent time sensitive. So, if it takes a little
16 while to pull this together -- It will have be after we
17 get back from Vegas probably. I agree with that. I
18 rescind my suggestion and let's start with that.

19 COMMISSIONER STEBBINS: We can start with
20 that. Obviously, we have a role in this because we are
21 going to be determining licensing credentials for
22 vendors, suppliers and employees. We also have a role
23 because we can be in direct, I think, direct communication
24 with applicants to garner some of this information about

1 workforce, about small business spending that we can
2 share with this kind of, as I see it, some type of
3 interagency task force to try address some of these.

4 COMMISSIONER ZUNIGA: I agree and like the
5 idea. I do think though that if it is a task force that
6 we are contemplating to make the most of those meetings
7 or sessions that there is a level of management or support
8 the has to go with it, which I know we have some capacity
9 but we should be conscious of that too.

10 CHAIRMAN CROSBY: That's my biggest
11 position too. But he's not just saying let's get a task
12 force instead of a person. He's saying maybe within the
13 task force the people are there. I think that if these
14 things aren't staffed they just are suboptimal. They
15 could be staffed by some other way than just us going out
16 and hiring a person. I think that's worth exploring.
17 So, if you will move on this.

18 COMMISSIONER STEBBINS: Sure.

19 CHAIRMAN CROSBY: That would be good.

20 COMMISSIONER MCHUGH: I do think and I
21 think it is implicit in what we are saying. We can't lose
22 the energy and the focus, and I know nobody wants to, of
23 that forum.

24 My prime carry away from that was that

1 unless you have somebody pretty high up in the
2 organization, it's not going to work. So, at some point
3 as we filter our way through that and build our
4 organization chart, we ought to have a placeholder, and
5 at least start thinking to figure out what we do to insure
6 that we can be effective in that space.

7 CHAIRMAN CROSBY: I think you are hearing
8 from three of us that we all have a previous position that
9 having high-level person that is going to be pushing the
10 agendas is really important. Having said that, I still
11 think your idea is a good one.

12 COMMISSIONER MCHUGH: I fully agree with
13 that. This person who we think about may have more than
14 one function. We just need to think about the space.

15 COMMISSIONER STEBBINS: To pick up on your
16 point, I don't think the statute necessarily limits us
17 in terms of we know we need a gaming policy advisory
18 committee and some related committees under that. But
19 we may just take it upon ourselves to build structures
20 for similar topics kind of underneath that. There is
21 nothing that says we can't.

22 COMMISSIONER MCHUGH: Right.

23 CHAIRMAN CROSBY: Absolutely. Just to
24 finish that thought. We are hiring an ombudsman to staff

1 the gaming advisory committee. That's really a
2 meaningful body. But I think we all agree here.

3 Research we talked about. Commissioner
4 Glovsky talked about the RFI is out. By the time we get
5 back from Las Vegas, we will be in pretty good shape.

6 Commissioners Cameron, Zuniga and Crosby
7 will be going to Las Vegas first for the National
8 Responsible Gambling Conference, a day and a half
9 starting on Sunday, and then three days for American
10 Gaming Association Conference. Commissioners Stebbins
11 and McHugh will be here holding down the fort.

12 COMMISSIONER MCHUGH: No, taking over.

13 CHAIRMAN CROSBY: Any other items or
14 anything that anyone wants to speak to?

15 COMMISSIONER CAMERON: We covered it all.

16 CHAIRMAN CROSBY: All in favor? I.

17 COMMISSIONER MCHUGH: I.

18 COMMISSIONER CAMERON: I.

19 COMMISSIONER STEBBINS: I.

20 COMMISSIONER ZUNIGA: I.

21 CHAIRMAN CROSBY: The meeting is
22 adjourned. Thank you all.

23

24 (Meeting adjourned at 5:01 p.m.)

1 ATTACHMENTS:
2
3 Attachment 1, Agenda
4 Attachment 2, September 11, 2012 Meeting Minutes of
5 Massachusetts Gaming Commission
6 Attachment 3, September 18, 2012 Meeting Minutes of
7 Massachusetts Gaming Commission
8 Attachment 4, Massachusetts Gaming Commission work plan
9 Attachment 5, Proposed CMR 101.00 - 117.00 Suffolk Downs'
10 Notes regarding form, consistency, errata and
11 typographical errors
12 Attachment 6, Summary of Public Comments on Draft
13 Phase I Regulations
14 Attachment 7, 205 CMR Massachusetts Gaming Commission
15 Redline draft - September 25, 2012
16 Attachment 8, Core Values
17 Attachment 9, September 25, 2012 Memorandum regarding
18 Procedure for Reimbursing Host Communities
19
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1 SPEAKERS:

2 Eric Lowther, PMA Consultants

3 Robert Carroll, Michael & Carroll

4 Guy Michael, Michael & Carroll

5 Michael Epps, Spectrum Gaming

6 Frederic Gushin, Spectrum Gaming

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8 Eileen Glovsky, Director of Administration

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C E R T I F I C A T E

I, Laurie J. Jordan, an Approved Court Reporter, do hereby certify that the foregoing is a true and accurate transcript from the record of the proceedings.

I, Laurie J. Jordan, further certify that the foregoing is in compliance with the Administrative Office of the Trial Court Directive on Transcript Format.

I, Laurie J. Jordan, further certify I neither am counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken and further that I am not financially nor otherwise interested in the outcome of this action.

Proceedings recorded by Verbatim means, and transcript produced from computer.

//Laurie J. Jordan// Date: September 26, 2012

Court Reporter for Office Solutions Plus, LLC

My commission expires: May 11, 2018

//Elizabeth Tice// Date: September 26, 2012

Elizabeth Tice, President, Office Solutions Plus, LLC

My commission expires: August 26, 2016