

1 THE COMMONWEALTH OF MASSACHUSETTS  
2 MASSACHUSETTS GAMING COMMISSION  
3  
4 PUBLIC MEETING #52

5  
6 CHAIRMAN  
7 Stephen P. Crosby

8  
9 COMMISSIONERS  
10 Gayle Cameron  
11 James F. McHugh  
12 Bruce W. Stebbins  
13 Enrique Zuniga

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16  
17 February 14, 2013, 1:00 p.m.  
18 OFFICE OF THE DIVISION OF INSURANCE  
19 First Floor, Hearing Room E  
20 1000 Washington Street  
21 Boston, Massachusetts

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23  
24

1 P R O C E E D I N G S :  
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3 CHAIRMAN CROSBY: We are ready to call  
4 to order the 52nd meeting, public meeting of the  
5 Massachusetts Gaming Commission on February 14,  
6 2013. Happy Valentine's Day to everybody.

7 We'll start out with the approval of  
8 the minutes, Commissioner MCHugh.

9 COMMISSIONER MCHUGH: Yes. I  
10 distributed the minutes yesterday and prepared to  
11 accept any corrections. There's one  
12 typographical error, but we picked that up. But  
13 if there is anything else that needs corrections  
14 or changes --

15 CHAIRMAN CROSBY: On page five, the  
16 first full paragraph, I didn't quite understand  
17 it. The original idea was to post the redacted  
18 version of the application. I assume you mean of  
19 everybody's applications, on the web for public  
20 review. And you recommended that we do that. I  
21 just didn't quite remember that --

22 COMMISSIONER MCHUGH: The first full  
23 paragraph. Let me just get to where you are, Mr.  
24 Chairman.

1 CHAIRMAN CROSBY: It starts off  
2 Commissioner MCHugh.

3 COMMISSIONER MCHUGH: Yes, yes. That  
4 should be rephrased. The idea was to post the  
5 redacted version of everybody's supplication on  
6 the website for all to see. And then the idea was

7 to put that proposal out for public comment.

8 There will be an update on that later  
9 in this meeting. That's what that meant. And if  
10 it's unclear, I'll revise it. But that was the  
11 essence of what the discussion was.

12 CHAIRMAN CROSBY: So, the bottom line  
13 was the Commission agreed to discuss this further  
14 or something?

15 COMMISSIONER MCHUGH: That's right.  
16 That's right.

17 CHAIRMAN CROSBY: I didn't quite --  
18 You might reword it slightly.

19 COMMISSIONER MCHUGH: All right.

20 CHAIRMAN CROSBY: Anything else?

21 COMMISSIONER STEBBINS: On page three  
22 under the interview with the Executive Director  
23 candidate I was thinking in the second paragraph  
24 where you allude to a second potential finalist.

4

1 we did identify that person in public. So, I see  
2 no reason why we can't include her name.

3 COMMISSIONER MCHUGH: Okay.

4 COMMISSIONER STEBBINS: It says two  
5 potential finalists, one of whom, insert the  
6 second name of the second finalist candidate.

7 COMMISSIONER MCHUGH: Okay.

8 CHAIRMAN CROSBY: Anything else?

9 COMMISSIONER MCHUGH: Hearing no  
10 other corrections, then I move that the minutes of

11 this February 7 meeting as amended be approved.

12 COMMISSIONER STEBBINS: Second.

13 CHAIRMAN CROSBY: All in favor, aye.

14 COMMISSIONER STEBBINS: Aye.

15 COMMISSIONER ZUNIGA: Aye.

16 COMMISSIONER MCHUGH: Aye.

17 COMMISSIONER CAMERON: Aye.

18 CHAIRMAN CROSBY: Opposed? The ayes  
19 have it unanimously.

20 Administration, first issue as always  
21 is the master schedule. And I don't think we  
22 really have anything to talk about here.  
23 Everybody knows that we're working very hard  
24 particularly on the speed of the slots license.

5

1 There are a number of issues that are  
2 going to come up today. We set September 1 as an  
3 aspirational deadline, but there are a number of  
4 issues that we're going to talk about. We are  
5 definitely going to move that up a little bit. So,  
6 it may not be September 1, but it probably will be  
7 within a month or so thereafter. We are working  
8 on that.

9 And I think everything else is pretty  
10 much as planned. That would have some ripple  
11 effect into the deadline for the casino, the  
12 category one licenses as well. But for the time  
13 being, we are sticking with February to March of  
14 next year being the date that we will get the casino

15 licenses. And I don't think there is anything  
16 else.

17 We may have a detailed conversation  
18 about the process, particularly of the regs. and  
19 the category two license maybe next week after  
20 Commissioner McHugh and Commissioner Zuniga and  
21 others have had a chance to work on these details.  
22 Also being mindful of what Ombudsman Ziemba had  
23 said about the amount of work that's required for  
24 surrounding communities and everything else.

6

1 Beyond that, if you could just scroll  
2 down for the heck of it and make sure. Yes.

3 MS. GLOVSKY: There were some changes  
4 that you had given to us that have not yet been put  
5 on there.

6 CHAIRMAN CROSBY: Right. I know.  
7 But we'll redo that next week. We are on track  
8 with racing.

9 The only other thing is employees,  
10 which is also next on the agenda, if you want to  
11 go to those. We do have the Director of Workforce  
12 Development -- Workforce Supplier and Diversity  
13 Development is well underway. We are  
14 interviewing now.

15 We have an ad up for the Director of  
16 Licensing. That job has been posted. And we are  
17 still taking in candidates for Director of  
18 Research and Problem Gaming.

19 I have got Marlene Warner from the  
20 Mass. Council to be a part of our interview team  
21 as well as Joel Weismann who used to be a senior  
22 researcher for the Health and Human Services and  
23 now is at Brigham and Women's. So, we've got great  
24 people to help us review all of those resumes.

7

1 Beyond that I think we are in pretty good shape.

2 License fee discussion -- Anything  
3 else on schedule or any other issues? License fee  
4 discussion, Commissioner McHugh?

5 COMMISSIONER MCHUGH: Sure. I'll tee  
6 it up. The issue here is this. The statute  
7 provides that the category one licensee is to pay  
8 \$85 million as a licensing fee. And the category  
9 two licensee is to pay \$25 million as a license fee.

10 And it is likely, as we've discussed I  
11 think at other meetings, that the licenses that  
12 we'll issue will carry with them conditions. In  
13 fact, section 21 of the statute requires certain  
14 conditions. We're likely to put other conditions  
15 on top of those.

16 The Governor in this year's budget  
17 proposal, the FY'14 budget proposal has indicated  
18 that some of that initial licensing money, which  
19 I should say goes into a fund that then is  
20 distributed to other statutory funds out of which  
21 appropriations are made to various entities like  
22 the community college and the like.

23                                   Massachusetts Gaming Commission-2  
24                                   The Governor in this year's budget  
proposal, the FY'14 budget proposal has already

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1       indicated that some of that license fee money  
2       should be spent in accordance with the way it is  
3       lined up in the statute. It should go into those  
4       funds and then should become, as I understand it,  
5       part of the budget of various agencies and entities  
6       that get funds from the Commonwealth.

7                                   So, the question becomes that although  
8       it is highly likely that we will award the licenses  
9       during FY'14, both the class one and the class two  
10      licenses, do we collect the license fee at the time  
11      the license is awarded or do we wait for the  
12      conditions to be fulfilled before we collect them.

13                                  The statute says that in both cases,  
14      both the category one and the category two  
15      licenses, that the license fee is to be paid 30 days  
16      after the license is awarded. And in the case of  
17      the category one license, the statute also  
18      provides that when the license is awarded, the  
19      licensee is to place in escrow, 10 percent of the  
20      total amount that the licensee says in its plan and  
21      application it will spend on the project.

22                                  So, for a category one licensee that's  
23      a very big number. For a category two licensee  
24      that's a big number. And the question is as I say

1 becomes do we collect that fee when the license is  
2 awarded or do we wait until conditions have been  
3 fulfilled?

4           There's a practical issue with waiting  
5 until the conditions have been fulfilled. And  
6 that is that the money in all likelihood will have  
7 been spent and where is it -- will have been  
8 allocated.

9           And the second problem is that the  
10 entire fund into which these monies are put expires  
11 on December 31, 2015. And it's unlikely that all  
12 of the conditions will have been met by that time.  
13 Indeed some of the conditions will no doubt be  
14 ongoing conditions maintaining an affirmative  
15 action plan, maintaining certain qualities and  
16 characteristics of the buildings and the like that  
17 we'll talk about when we get to evaluation  
18 criteria. So, there are a number of practical  
19 problems with delaying it.

20           But it seems to me that we ought to  
21 decide now as a matter of policy and as a matter  
22 of what the Commission intends to do, whether we  
23 want to wait for the conditions or some of them to  
24 be fulfilled; or whether we are going to take the

1 statute literally and say that we collect the  
2 license fee within 30 days of the award of the  
3 license. That it is nonrefundable and make that



4 at least a matter that we solicit public comment  
5 on and move forward, because everybody should know  
6 that.

7           There shouldn't be any doubts about  
8 that. It's, as I said, a big number, but it  
9 incentivizes people to make certain that they  
10 believe that the things that they say in the  
11 application are things they can achieve. And it  
12 seems to me it would be helpful for everybody to  
13 know what the ground rules in that regard are.

14           COMMISSIONER CAMERON: I did have a  
15 chance to discuss this matter with our gaming  
16 consultants who are all in town this week on other  
17 issues. And they were adamant in saying that it's  
18 always collected up front. All licenses have some  
19 conditions. It's always nonrefundable. And  
20 it's up to the applicant to meet those conditions.

21           And they're not aware of any  
22 circumstances in which jurisdictions wait to  
23 collect those fees.

24           COMMISSIONER ZUNIGA: I always

1 assumed that it would be up front as well. I was  
2 perhaps taking a literal view of the language of  
3 the statute. But fundamentally one of the  
4 conditions is to pay the licensing fee, and I would  
5 say a very important condition. So, it's one less  
6 if they submit it. My interpretation has always  
7 been that we would do it upfront and we would go

8 from there.

9 COMMISSIONER STEBBINS: My sentiments  
10 are exactly the same that the money would be due  
11 up front. Commissioner McHugh referenced section  
12 21. Just again, gazing at these, a lot of these  
13 are ongoing and will be taking place over the  
14 15-year course of the license.

15 So, to somehow try to change or reflect  
16 a license schedule to meet a 15-year period, I just  
17 don't think makes any sense and certainly it  
18 doesn't appear to be what the statute had in mind.

19 CHAIRMAN CROSBY: My job was to check  
20 with the Legislature a little bit on it. Because  
21 on issues where there are among other things  
22 there's a question of legislative intent, we do  
23 think that it is part of our job to reach out to  
24 the Legislature and/or the Governor's office to

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1 get their feedback on it.

2 I talked with representatives who were  
3 involved in the drafting both on the House and  
4 Senate side. The Senate really said this was not  
5 contemplated at all. They originally were  
6 thinking just like we did that you award the  
7 license. You take the money and that's the end of  
8 it. Nobody really thought about conditional  
9 issues. They wanted to think about it a little bit  
10 more now that we've raised the issue.

11 On the House side, they also said that  
Page 10

12 this really hadn't been contemplated. But now  
13 that they're thinking about it -- And we sort of  
14 brainstormed on it a little bit. And this was just  
15 in the nature of brainstorming, so it should only  
16 be taken as such from the House side.

17           But there are two different kinds of  
18 conditions. One is conditions that are within the  
19 operator's control like an affirmative action  
20 plan, like meeting your deadlines, like whatever.  
21 I don't think there's any question in anybody's  
22 mind that the license fee is not negotiable with  
23 respect to those kinds of conditions.

24           But the harder case is conditions that

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1 are out of control of the bidder. If you don't get  
2 federal highway approval for something that is  
3 absolutely essential to make the project go  
4 forward, if you don't get some kind of an  
5 environmental approval or something dramatic like  
6 that where a condition cannot be met and the  
7 project cannot go forward, what should happen in  
8 that situation?

9           And the thought process that we kicked  
10 around and the House suggested it would be  
11 something they would be open to considering would  
12 be the money is paid up front, no ifs, ands or buts  
13 about that. But if something happens that the  
14 project cannot go forward through no fault of the  
15 developer, that the presumption is we will then go

16 to another developer.

17           It's not that there won't be a license.  
18 There will be a different licensee. We're going  
19 to award a license. We just don't want to award  
20 it to the person who can't actually fulfill their  
21 deal.

22           So, the Commonwealth is going to get  
23 another 85 million and that was not really the  
24 idea. So, in the situation like that the notion

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1 was that the House would be open to thinking about  
2 maybe we could do this within the parameters of our  
3 own law. Maybe it would take an amendment of the  
4 law. But to some kind of a situation that said in  
5 the event that that happened, the Commonwealth or  
6 the Commission has 18 months to return the money.  
7 And it will be returned upon receipt of the deposit  
8 of the license fee from the successor licensor --  
9 licensee.

10           COMMISSIONER CAMERON: Isn't it  
11 incumbent upon the applicant to have an assurance  
12 that these, whether it be a highway issue or an  
13 environmental issue, to have those assurances  
14 before they accept a license?

15           CHAIRMAN CROSBY: From what we  
16 understand, John you might be able to add to this,  
17 from what I heard from the secretaries, is that it  
18 will not be possible for there to be definitive  
19 statements about certain kinds of approvals,

20 particularly environmental and traffic. Those  
21 are really the big ones. And there is always  
22 things that you never anticipated to come up like  
23 the spotted owl or something.

24 COMMISSIONER ZUNIGA: Can I say, in a

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1 scenario like that I think the other requirement  
2 elsewhere in the statute about one-year delay  
3 would probably kick in before something like this  
4 were to happen.

5 In other words, if a developer fails to  
6 meet their construction schedule and delays enough  
7 an interim schedule by a year, then the license can  
8 be revoked at that time.

9 COMMISSIONER CAMERON: But you  
10 wouldn't be considering returning the fee at that  
11 time. They fail to meet their --

12 CHAIRMAN CROSBY: Those are the ones  
13 that are within their control. There is no  
14 discussion of returning a license fee for somebody  
15 who fails to meet conditions within their control.

16 COMMISSIONER ZUNIGA: But the  
17 scenario that you outlined is not going to be  
18 evident overnight. It'll take a lot of time to  
19 come to fruition. And my point is that in that  
20 scenario, it is conceivable that we could be within  
21 the one-year delay that the statute elsewhere  
22 points out.

23 If somebody is banking on the idea that

24 there will be some kind of federal approval that

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1 doesn't materialize, again, it doesn't  
2 necessarily happen overnight, it would be perhaps  
3 after some period of time in which it becomes  
4 apparent they cannot meet their schedule.

5 COMMISSIONER MCHUGH: why can't the  
6 developer get insurance against that?

7 CHAIRMAN CROSBY: Against what he's  
8 talking about?

9 COMMISSIONER MCHUGH: No. Against a  
10 condition that is beyond their control that they  
11 -- that torpedoes the project.

12 COMMISSIONER ZUNIGA: Like a  
13 performance bond, I guess?

14 COMMISSIONER MCHUGH: There's  
15 business interruption insurance. I'm not sure  
16 that they can but before we make a decision on that  
17 it seems to me that's a factor that we ought to know  
18 the answer to.

19 You can get business interruption  
20 insurance. You can get insurance against almost  
21 any kind of a hazard so long as it isn't something  
22 that's within your control. Insurance is  
23 designed conceptually to deal with, particularly  
24 with the things over which you have no control.

17

1           And it seems to me we ought to know  
2 whether or not this is an insurable problem before  
3 make a decision. Because if it is, then we are  
4 talking about a business expense that's far less  
5 I would think than \$85 million or 25 million even.  
6 If they can't, then we need to think about other  
7 proposals for things that are beyond their  
8 control.

9           COMMISSIONER CAMERON: The other  
10 conversation I had with our gaming consultants was  
11 that there are always issues. Every project  
12 changes. For example, they think they can get a  
13 ramp, an exit of a highway. It turns out they  
14 cannot. So, they have to change the entire  
15 project, which means a separate entrance, which  
16 means a roadway inside the complex.

17           So, it really is incumbent upon the  
18 applicant to have contingencies if they run into  
19 a problem. Environmental concerns have come up in  
20 many projects where they've had to move a building,  
21 because there is some kind of a protected species.  
22 And they can't have the golf course; they have to  
23 move it to another part.

24           I think we have to be cautious about

1 giving someone an opportunity to have money back  
2 because of something they anticipated doing and  
3 then they can't do that, whether it be traffic,

4 whether it be -- Again, they emphasized this is  
5 really incumbent upon the applicant to do their  
6 homework to plan for these things and have a  
7 contingency plan if they do run into a road block.

8 CHAIRMAN CROSBY: I think that's all  
9 right. I agree. And I think most developers,  
10 they are going to be into this for a lot of money.  
11 If a problem comes up, they are going to want to  
12 do a work around. There's always a million ways  
13 to skin a cat.

14 The situation that we're talking about  
15 here is highly unlikely, I think, because there  
16 will be fall backs. There's always a way around  
17 the problem.

18 But in the unlikely event that through  
19 no fault of the developer, a project cannot go  
20 forward, is it what the Legislature would want?  
21 Is it in the public -- Clearly, it makes all the  
22 sense it's in the public interest, but is it the  
23 appropriate thing to take their 85 million?

24 Again, as long as we are going to get

19

1 another 85 million, if the developer can't go  
2 forward for reasons beyond their control - Again,  
3 unlikely but generally can happen. We can have  
4 standards to assure that -- it becomes an \$85  
5 million windfall to the Commonwealth, which is  
6 nice but I am not sure that's right. We're going  
7 to get the 85 million. And the developer was going



8 forward in good faith. We could assume that.

9 That's part of the conditions.

10 COMMISSIONER ZUNIGA: But I would  
11 argue that in the event of something, however  
12 unlikely like that happening, the benefits of the  
13 license would be delayed as well. So, the  
14 Commonwealth would stand to lose, through no fault  
15 of its own, by having gone with assumptions that  
16 were perhaps in hindsight predicated on something  
17 faulty.

18 So, I think we may be just trying to  
19 determine something that is very hard to determine  
20 at this point however unlikely. We could always  
21 come back and revisit this whatever circumstances  
22 at the time.

23 CHAIRMAN CROSBY: At the time, yes.

24 COMMISSIONER MCHUGH: Well, I don't

20

1 think we can come back and revisit it at the time,  
2 because we either need a legislative change to take  
3 money from one person and give it to another.  
4 Normally, it goes into the general revenues or  
5 someplace. We just can't just take money and be  
6 giving it from one person given to another.

7 Or refund it and we won't have it to  
8 refund in all likelihood. It's going to be gone  
9 someplace once it gets into those funds. So, it  
10 seems to me we don't have to decide it today. And  
11 in fact it seems to me that there are enough

12 questions that we can't decide it today. But it's  
13 something it seems to me that we need to keep on  
14 the agenda and answer these questions. And get,  
15 I think, some public comment and see what others  
16 think.

17           There's another piece, and that is Mr.  
18 Chairman, I am not sure I share your visceral  
19 belief I think it is at the moment at least that  
20 we can create standards that are clear as to when  
21 this would kick in and when it wouldn't.

22           You can always redo almost anything,  
23 either by redesigning the way the ramps work or  
24 moving the building slightly to get away from the

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1 burial ground or whatever it is. And maybe that  
2 requires a reopener for the host community  
3 agreement and even the surrounding community  
4 agreement.

5           But to give somebody an out by saying  
6 it's now impossible, it seems to me we face the  
7 prospect of some real contests over that that in  
8 and of themselves would not necessarily be in the  
9 public interest because of the delay.

10           CHAIRMAN CROSBY: That's a totally  
11 fair point. My mind is not made up on this. And  
12 I think your point is a good one. If this caused  
13 say a two-year delay that's two years of revenues  
14 that would have come to the Commonwealth, which  
15 could easily be \$100 million, which is more than

16 the 85. So, I think that's a legitimate point.

17 And I think yes, it would end up being  
18 debatable. We could keep the control ourselves.  
19 It's up to us to determine if it really is  
20 impossible to proceed. But that's subject for  
21 litigation and so forth. So, I am open-minded on  
22 the point.

23 Did you ask the question very clearly  
24 and explicitly that in the event they could not go

22

1 forward for reasons not of their own making?

2 CHAIRMAN CROSBY: I don't think I used  
3 those exact words. But they are not aware of  
4 another jurisdiction that has some kind of a  
5 failsafe like that.

6 It is incumbent upon the applicant to  
7 do their homework, to have assurances. And if  
8 there is a roadblock, and many times there are --  
9 They gave me many, many examples of jurisdictions  
10 where buildings had to be moved. The original  
11 draft called for an exit. They were not able to  
12 obtain that from the traffic folks -- rather the  
13 federal highway folks. So, they changed their  
14 plans and changed the entrance to the building.

15 And they did give me an example of a  
16 licensee that was awarded that could not move  
17 forward with their project and they lost the \$50  
18 million. And they awarded that license to another  
19 licensee. So, they had the 50 and then they had

20 another 50.

21 So, again they were pretty adamant  
22 about the fact that this is the applicant's  
23 responsibility.

24 CHAIRMAN CROSBY: Okay.

23

1 COMMISSIONER STEBBINS: I would also  
2 expect as we've heard discussed by the folks of the  
3 MEPA process, the ENF certificate -- John will  
4 correct me if I'm wrong. The ENF certificate will  
5 certainly outline, hopefully far in advance of us  
6 awarding the license, where those major  
7 environmental hurdles, traffic hurdles, anything  
8 else may come up that would at least flag us as we  
9 consider the license application whether to grant  
10 that award.

11 CHAIRMAN CROSBY: Yes. Okay. I'm  
12 pretty sure I know what the opinion will be of the  
13 developers on this topic, but I think getting  
14 anybody's views out there on this. You sort of see  
15 the way we are thinking about this and if anybody's  
16 got constructive ideas about this issue or case  
17 studies or anything else that would be helpful to  
18 us, I hope you'll please submit it. And if we  
19 address this, give it a week is that enough, a week  
20 or so?

21 COMMISSIONER MCHUGH: I'd give it two  
22 weeks, Mr. Chairman. That's the usual divide,  
23 right? It really would be helpful to get a wide

24 range of comment and also to do some more research

24

1 on our own as to what else has gone on in other  
2 places.

3 CHAIRMAN CROSBY: Okay. We'll  
4 revisit this in two weeks and look for comment from  
5 anybody who's got comments to make.

6 Anything else administration,  
7 licensee? Thank you.

8 Public education information,  
9 Ombudsman Ziemba.

10 MR. ZIEMBA: Thank you, Mr. Chairman.  
11 We received about 20 to 25 comments on the  
12 surrounding community's definition by the  
13 deadline that just passed on Tuesday -- excuse me,  
14 on Monday. We're taking a look at those comments  
15 and trying to see if there is any need for amendment  
16 on our current draft.

17 One thing that we're taking a look at  
18 is how the protocols and procedures for resolving  
19 disputes between surrounding communities and  
20 applicants after our application would have  
21 implications on this definition and the timetables  
22 that might be associated with resolving those  
23 disputes. And we're working on that right now.

24 We're starting to get requests for

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1 community disbursements. I think I'm going to  
2 receive our first official request in a matter of  
3 a day or so. We'll begin to process those requests  
4 as they come in.

5           And one thing, as always I continue to  
6 have conversations with applicants and  
7 communities on a number of different issues. One  
8 thing that I wanted to bring to your attention is  
9 as we get into some of the questions on the  
10 evaluation criteria, one of the comments that I  
11 received was that when we are taking a look at all  
12 of our policies and procedures that we should be  
13 mindful that there are differences between  
14 category one and category two licenses. And to  
15 the extent that we need to take that into account  
16 when we evaluate our policies that was a  
17 recommendation that we do so.

18           Sometimes it's difficult to figure out  
19 exactly how that would have an impact on a  
20 particular policy.

21           CHAIRMAN CROSBY: Yes. When you  
22 raised this, if you think about it, these are the  
23 categories that Commissioner McHugh came up with,  
24 the major categories. And the application of the

1 criteria will be different. The amount of jobs  
2 will be fewer. The money will be fewer. The  
3 related amenities will be fewer. It's different.

4           But I'm not sure the criteria change.

5 And in the context of another slots application,  
6 I'm not sure.

7 MR. ZIEMBA: Yes. They could have an  
8 impact on weighting of different factors. One of  
9 the examples that I used in my conversation was  
10 going along the lines of what you just said, when  
11 we're taking a look, for example, surrounding  
12 community impacts, what we value or what we look  
13 are the actual impacts that are received.

14 So, in many regards our criteria  
15 already take into account the differences between  
16 the different types of facilities where by  
17 necessity it is likely that the category two  
18 facilities will have less of an impact on the  
19 traffic and some of these other criteria.

20 But I think it's still is a good point  
21 that as we go forward, as we're evaluating  
22 different criteria, different policies that at  
23 least in the back of our mind when we're taking a  
24 look at putting out these policies that we consider

1 whether or not they need to be further tweaked  
2 pursuant to the two different categories.

3 CHAIRMAN CROSBY: Yes. That's good  
4 point. I agree.

5 MR. ZIEMBA: Thank you. That's all I  
6 have.

7 CHAIRMAN CROSBY: We have a pile of  
8 stuff on surrounding communities.

9 MR. ZIEMBA: Yes.

10 CHAIRMAN CROSBY: And where are we on  
11 that?

12 MR. ZIEMBA: So, we're taking a look at  
13 those comments. I've done a preliminary look at  
14 them. I originally thought that we would be able  
15 to put the definition before you for consideration  
16 next Thursday, but I think it probably needs a  
17 little bit more work. And we probably need to go  
18 back to our legal team to further evaluate that  
19 especially in the context of how the protocols and  
20 procedures for resolving the disputes and the  
21 timing might impact the definition.

22 So, I don't think that we'll meet next  
23 week's timetable that I had anticipated to bring  
24 it to your attention.

28

1 CHAIRMAN CROSBY: Okay, that's fine.

2 COMMISSIONER ZUNIGA: I'm curious  
3 about community disbursements. Does it happen to  
4 be a host or a surrounding community that are  
5 starting to request?

6 MR. ZIEMBA: A host community and we  
7 have also received an invoice but the form still  
8 needs to be filled out properly. But having  
9 conversations across the board about people,  
10 communities that will be submitting soon.

11 This is a good reminder that under our  
12 procedures if indeed the \$50,000 that is allocated



13 for both host and surrounding communities out of  
14 the 400,000, if a host community makes an  
15 application for the 50,000 and all of those funds  
16 are then made available to that host community, it  
17 is our anticipation and the way the regulations are  
18 written that if another application comes forward  
19 from a surrounding community or from a nearby  
20 impacted community that the applicant would then  
21 provide those funds to us in advance of then  
22 dispersing them to the community.

23 So, say that we've already funded  
24 50,000 to a host community, an applicant and a

29

1 nearby impacted community makes a request for  
2 another 50,000, it is our standards would indicate  
3 that the applicant would put forward, would pay us  
4 \$50,000 to enable us to pay that impacted community  
5 that 50,000 that has been signed off by the  
6 applicant.

7 COMMISSIONER ZUNIGA: This is where  
8 the last definition of surrounding community, the  
9 one for the purposes of study comes in very handy  
10 because that determination does not have to be made  
11 by the applicant in terms of being a surrounding  
12 community, but could be made for the purposes of  
13 studying which is exactly what we're trying to get  
14 at.

15 MR. ZIEMBA: Right, exactly.

16 CHAIRMAN CROSBY: I'm not sure where  
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17 this should be in the agenda. I just want to  
18 mention that about a month from now, we have to  
19 reopen the Region C discussion. And I think we'll  
20 have on the agenda next week what information we  
21 need to have before us to think about -- to reopen  
22 that issue.

23           So, we all can just be thinking about  
24 that. Do we want to have a hearing? Do we want

30

1 to invite people in? Do we want to make comments?  
2 But that's just something to have in the back of  
3 your mind that will open a whole new can of worms  
4 for you among other things.

5           MR. ZIEMBA: Right.

6           COMMISSIONER ZUNIGA: There's a good  
7 comment about surrounding communities in  
8 Region C --

9           CHAIRMAN CROSBY: In the comments?

10           COMMISSIONER ZUNIGA: Yes. -- that  
11 we should look at.

12           CHAIRMAN CROSBY: Great.

13           MR. ZIEMBA: Thank you.

14           COMMISSIONER CAMERON: Thank you.

15           CHAIRMAN CROSBY: Okay. Preliminary  
16 evaluation criteria matrix, Commissioner MCHugh.

17           COMMISSIONER MCHUGH: Okay. In your  
18 meeting packets is the preliminary evaluation  
19 criteria matrix. And let me just take very  
20 briefly a minute to describe where this came from

21 and what it's intended to do. And then we can get  
22 into a discussion of the criteria, the  
23 organization, everything, because this is really  
24 meant as a discussion starter not as an end point.

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1 And I'm sure we'll want to get some public comment  
2 on this and really think this through before we get  
3 there.

4 The question here is what criteria are  
5 we going to use to evaluate the applications for  
6 the category one and category two licenses when we  
7 finally get the applications. This matrix is  
8 designed to lay those out, what the criteria will  
9 be. It is designed to, once we figure out what  
10 those criteria will be, allow us then to indicate  
11 the kinds of things that we'll need as evidence of  
12 each of the criteria.

13 If we have a traffic component to the  
14 evaluation criteria and we want a statement in the  
15 application of how they propose to handle traffic,  
16 what evidence do we want? What studies do we want?  
17 What things do we want the applicant to present to  
18 us so we can test the way they're going to handle  
19 traffic.

20 And then ultimately there is in this  
21 matrix a column for evaluation. And that's the  
22 last stage or a subsequent stage anyway of the  
23 process because we'll have to figure out how we  
24 evaluate it. Do we evaluate it on some kind of a

1 point system? Do we evaluate it on some kind of  
2 a relativity system and the like? So, that's what  
3 the form and structure is designed to help us do.

4 The criteria that are listed, I've  
5 preliminarily with the help of Commissioner Zuniga  
6 grouped into five categories, believing that a  
7 small number of overall categories, a manageable  
8 number I should say, is appropriate to help us  
9 focus on what this statute is designed to do.

10 And then there are topics beneath each  
11 of the five categories. The topics in yellow on  
12 this matrix are those that come from section 15 of  
13 the statute, which are prerequisites to issuing a  
14 license. Those are sort of go/no-go criteria.  
15 You either have them in your application or you  
16 don't. If you don't have them in your  
17 application, the application process ends.

18 The orange or red or whatever that  
19 color is criteria come from --

20 CHAIRMAN CROSBY: I think it's pink.

21 COMMISSIONER ZUNIGA: I think it's  
22 magenta.

23 COMMISSIONER MCHUGH: Magenta, the  
24 magenta is from section 18 of the statute. And

1 those are in the main evaluative criteria.  
2 They're not go/no-go criteria. They're not  
3 minima. They are criteria for us to look at  
4 approaches to and make a decision as to who's got  
5 the best.

6 And then the green are criteria that  
7 are the Commission's criteria and those that are  
8 not specifically mentioned in the statute, but in  
9 some way or another either relate to the statute  
10 or are criteria that we can impose based on our  
11 ability to create regulations that design the  
12 application and say what criteria we are going to  
13 use.

14 That power comes from section 4 of the  
15 statute and it also comes from section 18, which  
16 says that the criteria listed in 18 must include  
17 the 19-- 18 or 19 that are listed there, but those  
18 are not the exclusive ones.

19 The source for these criteria was  
20 varied. There is, as I've just mentioned, the  
21 statute. I looked at the applications for casino  
22 licenses that are used in Pennsylvania, Missouri,  
23 Louisiana, the ones that are now being used in  
24 Philadelphia and the ones that are used in

1 Springfield, where they have run through not only  
2 the criteria but the evidence for the various  
3 criteria in a comprehensive fashion.

4 I've looked at the evaluations that

5 were used in Pittsburgh. The evaluations that are  
6 used in Pennsylvania. The evaluations that are  
7 used in Maryland, to some extent those that are  
8 used in Kansas. And I've looked at some of the  
9 criteria that was used in Singapore, which really  
10 used a very different process from ours, but there  
11 are some things that I took from there.

12 I've looked at the strategic plan and  
13 the recommendations of our consultants and the  
14 references our consultants made to other studies.  
15 And the objectives the consultants in their  
16 strategic plan said we ought to try to achieve in  
17 creating our evaluation criteria.

18 And finally, I looked at a draft of an  
19 AIA white paper that is insofar as the text is  
20 concerned, essentially finished but will be  
21 published with some graphics later on and  
22 available for public dissemination.

23 So, those are the sources. These are  
24 the results. And I think that that is really all

1 I need to do to provide a background of where we  
2 are and how this got here.

3 CHAIRMAN CROSBY: As I said, I think  
4 it's a great job. I mean it's really hard to get  
5 this thing going. And maybe we'll move it around  
6 which you've invited us to do. But to get it all  
7 on a piece of paper as a starting point is just  
8 great. So, thank you very much.

9  
10 very minor points to that. Because obviously, you  
11 will recognize this is merely bullet points.  
12 There's a lot of meat, shall we say, behind all of  
13 those references that the Commission McHugh has  
14 stated. So, I think he's done an excellent job in  
15 trying to put this as an outline. But there is a  
16 number of language, if nothing else, that goes  
17 behind any one of these criteria.

18 And also, I will make the point that at  
19 least when I saw this thought that something that  
20 was of great value was to try to think of these five  
21 criteria as rational subgroups, if you will. What  
22 goes perhaps together for a number of reasons  
23 because perhaps the evidence will be conducive to  
24 that or the method of evaluating that maybe

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1 different between one and another. And I think  
2 there's a lot of thought that went into  
3 segregating, if you will, in placing them in these  
4 buckets with that in mind.

5 CHAIRMAN CROSBY: Yes. Well, as I  
6 said, I think this is great. But I had a few  
7 thoughts when I got this. The first question is  
8 do we have the right major five categories, five  
9 or six or four or however many, I think will help  
10 us a lot, I think, to come up with a structure that  
11 we can organize everything under.

12 And Commissioner McHugh has revenue

13 generation, employment, goods and services,  
14 building and sight design, and mitigation. I had  
15 two issues with this as I just started to think  
16 about this and I can flesh this out more.

17 First of all, it sort of seemed to me  
18 that employment, goods and services -- what the  
19 legislation talks about most of all is economic  
20 development, jobs and revenue. Those are the two  
21 big values that the legislation sees to the  
22 Commonwealth.

23 COMMISSIONER MCHUGH: Right.

24 CHAIRMAN CROSBY: This is one. This

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1 sort of seemed to me to be one together thing,  
2 economic development. Maybe we could figure out  
3 a way to look at economic development.

4 But the second thing that seemed to me  
5 maybe is that we've talked a lot from the beginning  
6 and with a more focus in the last couple of weeks  
7 about amenities, enhancements. So, everybody's  
8 going to have a great building. Everybody's going  
9 to produce a lot of jobs. Everybody is going to  
10 have a nice casino floor. Everybody's going to be  
11 sustainable to some degree or other.

12 Now how do you blow it out? How do you  
13 really bring the greatest value to the  
14 Commonwealth?

15 we can find those variables in here,  
16 but I was wondering whether it would be



17 constructive to do it this way. Finance, which is  
18 the investment, the revenue generation, maybe  
19 marketing strategies, their track records, all of  
20 the things that you've got in there, their  
21 financial projections, maybe third-party impacts,  
22 third-party financial impacts like on tourism,  
23 local business, etc.

24 (2) Economic development, which we

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1 have both your employment and supplier, purchase  
2 of goods and services. And workforce  
3 development, their track record, supplier  
4 development, domestic slots, coordination of  
5 regional economic plans, etc.

6 Design, which is clear, pretty much the  
7 same one that you had there. Abstracts, just sort  
8 of abstract design value, sustainability,  
9 materials, compatibility with the environment and  
10 so forth.

11 Mitigation, exactly what you had. And  
12 then a fifth that is misnumbered, amenities and  
13 enhancements. And the nature of community  
14 support would maybe be there. Out-of-state  
15 marketing might be there, above and beyond kind of  
16 the normal stuff. Collaboration with related  
17 industries. Do they do something with our higher  
18 education or something? Other attractions, water  
19 slides or museums or whatever. Community  
20 enhancements, how are they investing in the

Massachusetts Gaming Commission-2  
21 community in other ways.

22 So, I don't know whether that is better  
23 or not, because we have all of our own ideas. But  
24 that was a suggestion.

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1 COMMISSIONER MCHUGH: Let me respond  
2 by saying that's an intriguing idea. The thing  
3 that concerned me about this current draft fell  
4 into two categories. One, I thought category  
5 three was weak. I didn't think that I really had  
6 covered --

7 CHAIRMAN CROSBY: Building and site  
8 design?

9 COMMISSIONER MCHUGH: No, purchase of  
10 goods and services, and combining that with an  
11 economic development and putting that into that  
12 mode is not only a shift in categorization, but may  
13 help to flesh that out and give it some more  
14 substance.

15 But overall, the thing that I felt  
16 about this matrix, it was as far as I could get by  
17 myself and with Commissioner Zuniga's help, as far  
18 as two of us could get, was that it didn't have this  
19 kind of thing that I think really fits into  
20 category six. It didn't have, for want of a better  
21 word, it didn't have the prop or the umphff.

22 COMMISSIONER CAMERON: Five.

23 CHAIRMAN CROSBY: Right.

24 COMMISSIONER MCHUGH: Five. And it

1 seems to me that's a real opportunity for us to  
2 think through some things that would give it that  
3 umphff and really help us realize the intangible  
4 components of what the statute is designed to do.  
5 Many of those will fall into other categories.  
6 They're best thought of --

7 CHAIRMAN CROSBY: Right, the lines are  
8 imperfect.

9 COMMISSIONER MCHUGH: Right, right.

10 CHAIRMAN CROSBY: But in doing  
11 something like this and we've been talking about  
12 this and people that have been listening and they  
13 are hearing what we are saying, set it up like this  
14 really emphasizes that we want you to think outside  
15 the box.

16 Here's the box. And all of the things  
17 that are in the box are the first four. And we want  
18 those to be absolutely first class. You don't get  
19 your -- But then there's outside the box and that's  
20 number five.

21 COMMISSIONER MCHUGH: Right, right.

22 COMMISSIONER ZUNIGA: I had also  
23 thought of outside of the five criteria that we had  
24 and that could also fit into that last one a notion

1 of balance. whether we may find ourselves with

2 the largest generates the most revenues and the  
3 most jobs, but there could be a holistic place or  
4 a place for the Commission to look at things  
5 holistically.

6 And perhaps that's what we mean when we  
7 say umphff or unique or balance or meeting the  
8 spirit of the legislation, meeting the spirit of  
9 the Commission. All the intangibles, if you will,  
10 could be this other category.

11 CHAIRMAN CROSBY: Right. Right.  
12 Yes. In trying to put those -- somewhere in there  
13 those are precisely the kinds of things that we  
14 would try to delineate in there.

15 COMMISSIONER ZUNIGA: Right. Again,  
16 I'm coming from it's going to be a lot more  
17 straightforward to evaluate all things finance,  
18 because we could model. We could use discount  
19 rates. We could have are experts question and  
20 evaluate assumptions, best case/worst case  
21 scenarios, etc. Whereas there will be a place for  
22 intangibles, I guess, and as I said in one  
23 category.

24 COMMISSIONER MCHUGH: How do we

1 collectively -- One through four, rejiggering and  
2 maybe tweaking and the like is fairly easy to do.  
3 What's the best way to go about working on five and  
4 enhancing the others that we've already got?

5 COMMISSIONER STEBBINS: Well, we've  
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6 laid out those four what we hope were thought  
7 provoking questions. And putting those out for  
8 broader public dissemination may give us some  
9 feedback, lend itself some answers to amenities  
10 and enhancements under number five.

11 But I want to go back, if I can just for  
12 a second, I mean you look at amenities and  
13 enhancement as you just alluded to, it kind of has  
14 some blurred connections to finance, economic  
15 development and design.

16 And you may under one through three  
17 look for amenities and enhancements and maybe even  
18 broadening that to include, for lack of a better  
19 term analogy, unique business strategies. That's  
20 the tourism partnerships. That's how we are  
21 recapturing the international visitor.

22 Everything, again, those four  
23 questions, Mr. Chairman, you pulled together kind  
24 of is going to be more than bricks and mortar

1 uniqueness. It's going to be how they operate  
2 uniqueness that really is going to draw more people  
3 and generate more revenue and kind of fall into the  
4 top two categories.

5 CHAIRMAN CROSBY: Yes. That's good.  
6 I think that it's just sort of an iterative  
7 process. I could take a crack at this slight  
8 reordering and flesh it out with a slightly  
9 different sequence of stuff and add in a few

10 things. And I think we should post your version  
11 and let people look at it and give us comments and  
12 then over the next week or two -- two let's say --

13 COMMISSIONER MCHUGH: Anticipating,  
14 huh?

15 CHAIRMAN CROSBY: Right. -- come to a  
16 conclusion. I think we've got pretty much all of  
17 the variables on there. There's some expression  
18 issues and articulation issues and organizational  
19 issues. I think we finally have all of the pieces  
20 in front of us.

21 COMMISSIONER MCHUGH: Right, right.

22 CHAIRMAN CROSBY: I do want to just  
23 mention --

24 COMMISSIONER ZUNIGA: Can I pick up on

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1 something that perhaps Commissioner MCHugh  
2 alluded, one of his comments when he was referring  
3 to the prior three being weak or weaker than the  
4 others.

5 As we contemplate the notion of  
6 relative importance or relative weight, whether we  
7 assign that by some scoring mechanism or some  
8 comparative mechanism, whatever we may end up  
9 doing, I suppose part of the intent is to have them  
10 equally weighted. Is that the conversation that  
11 I hear? Because we could make an argument that  
12 some may be more important than others and  
13 eventually we need to get into the conversation.

14 CHAIRMAN CROSBY: Right. Let me just  
15 mention the memo that I sent around to everybody  
16 yesterday, because as I'm thinking of this there  
17 are four steps. And they are pretty much  
18 sequential although they overlap.

19 Number one is to identify the  
20 evaluation criteria, which is going to be based on  
21 Commissioner McHugh's memo. And from that, we are  
22 going to have to write an application form itself.

23 Two is develop a weighting mechanism  
24 for those criteria. Is it 20 percent, 20 percent,

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1 20 percent? Is it objective, subjective,  
2 whatever? And we've begun to sort of think about  
3 that. Once the criteria are pretty clear or  
4 approximately clear, then I think we can start  
5 talking about what is the weighting mechanism.

6 Three is to design and describe the  
7 process or the workflow. This is going to be a  
8 huge job. You are going to get these massive  
9 packages of stuff. And whose desk is it going to  
10 go to? Who is going to evaluate what? What's the  
11 process and timeline going to be?

12 And then fourth in parallel, develop a  
13 list of outside resources that we know we'll need  
14 to involve in the evaluation process and integrate  
15 their roles into the process and workflow that  
16 we've just design which is what you are now working  
17 on.

18           So, I think we go a little bit longer  
19 on fleshing out the criteria. And when we feel  
20 they're pretty close then we start talking about  
21 evaluation criteria. Maybe one or the other or  
22 both of you will take the lead as Jim did on this  
23 to sort of start the conversation on weighting and  
24 go to the next.

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1           COMMISSIONER MCHUGH: well, I've  
2 begun to reach out to various people to get their  
3 ideas on weighting. The AIA has got some ideas.  
4 I'd be happy to continue to work with Commissioner  
5 Zuniga on that.

6           It seems to me that the weighting need  
7 not necessarily be the same. The way we process  
8 them may not be the same for each criteria. Other  
9 states have done it different ways for different  
10 parts. So, I think that flow, it makes sense.  
11 And as soon as we get this done, I think we'll be  
12 in a position then to make some recommendations  
13 about that.

14           If I could just come back to section  
15 three and my reference to it as being weak, I didn't  
16 mean that in terms of weak in its importance in the  
17 overall scheme of things. I meant that it seemed  
18 to me there was a lot more in that category of  
19 purchasing goods and services than I had found a  
20 way to put in these criteria.

21           CHAIRMAN CROSBY: Oh, okay.



22           COMMISSIONER MCHUGH: So, that was an  
23 area where I thought that your idea about thinking  
24 of that as part of economic development would help

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1 give a focus to it that I frankly didn't have as  
2 I was looking at the present number three.

3           So, I think that'll take care of itself  
4 as we move forward.

5           CHAIRMAN CROSBY: I've got a couple of  
6 questions also about the form.

7           COMMISSIONER MCHUGH: Okay.

8           CHAIRMAN CROSBY: Criteria group by  
9 topic, subtopic, second subtopic, I don't quite  
10 understand what you mean.

11           COMMISSIONER MCHUGH: Well, all I was  
12 trying to do here was this. You start off in  
13 almost every case, almost every case, you start off  
14 with what the statute requires. Then I thought  
15 just in terms of logic to help think about things  
16 there is another a series of groupings that flow  
17 off of that. And the first page is a good example.

18           How do we maximize revenues to the  
19 Commonwealth? Well, one thing we look at is  
20 construction revenues. And then that leads to  
21 another grouping and we could look at other things  
22 as well. There could be more.

23           But you look at labor, what's the total  
24 payroll that this is going to generate? What are

1 the total suppliers? You could look at in-state  
2 suppliers, out-of-state suppliers. So, you could  
3 keep adding to that. And undoubtedly, in the  
4 evidence that we are going to require, we will do  
5 those kinds of things. That's why the topics, the  
6 subtopics.

7 CHAIRMAN CROSBY: Okay. How did  
8 Mass. tourist fit here, for example?

9 COMMISSIONER MCHUGH: Because it  
10 seemed to me if we talked about gaming revenues in  
11 the casinos, what is the gross gaming revenues that  
12 we are going to get, it is important to distinguish  
13 between the likely generation of those gaming  
14 revenues from Massachusetts residents as opposed  
15 to tourists.

16 CHAIRMAN CROSBY: Okay, I see. So,  
17 those are two categories. One is Mass. One is  
18 tourists?

19 COMMISSIONER MCHUGH: Right.

20 CHAIRMAN CROSBY: Got it. Okay.

21 COMMISSIONER MCHUGH: And that  
22 repeats itself in other places.

23 COMMISSIONER ZUNIGA: In nongaming.

24 CHAIRMAN CROSBY: I got it. Good. I

1 had one other. On the second page of employment,

2 where it starts out with 18 have contracts and  
3 support organized labor. It has show total  
4 investment in the facility and infrastructure and  
5 completed economic studies. why do those fit  
6 there as opposed to like one, the revenue side?

7 COMMISSIONER MCHUGH: That's  
8 interesting, because I underlined that in my own  
9 copy as something that needed a little further  
10 work.

11 CHAIRMAN CROSBY: Okay.

12 COMMISSIONER MCHUGH: So, I've  
13 flagged that as something as I was going through  
14 it today.

15 COMMISSIONER ZUNIGA: I remember the  
16 particular section in the statute about studies.  
17 It's a catchall but it's under a subsection  
18 relative to labor.

19 CHAIRMAN CROSBY: It may just have  
20 fallen there.

21 COMMISSIONER ZUNIGA: Yes, it may have  
22 just been fallen in there.

23 CHAIRMAN CROSBY: Right. Okay.  
24 I'll do a version, a next-generation and we'll send

1 it around. And we'll post this, Janice, as soon  
2 as we can and ask people to comment.

3 we'll talk about it again next week and  
4 probably the week after that and maybe we'll be  
5 pretty close. This is very exciting. Other

6 comments?

7                   COMMISSIONER ZUNIGA: Can I just  
8 remind our viewers and for the record that we've  
9 had already some discussion on some of the policy  
10 questions, for example, that dovetails right into  
11 several of these categories. Like the financing  
12 structure or what's only labeled here as other  
13 factors, not just equity participation in the  
14 financial strength that we will likely write  
15 regulations relative to a number of ratios that we  
16 will look at to ascertain financial strength, not  
17 just one of equity participation. That's what's  
18 only alluded to here but there's a lot of work that  
19 we've already done to benefit that.

20                   CHAIRMAN CROSBY: Right. Great.  
21 Anything else on this?

22                   COMMISSIONER CAMERON: I just wanted  
23 to say how well done I thought it was also. Things  
24 that I hadn't thought about yet and now starting

1 to think about.

2                   One of the things I was thinking was a  
3 couple of things. One was just how to evaluate the  
4 competitive ideas, one idea versus another idea.  
5 And just how difficult that may be. I know of  
6 being in Las Vegas, someone will come up with a new  
7 idea that's very, very -- For example, one of the  
8 casinos was really catering to the Asian market and  
9 had changed their whole floor plan to incorporate

10 games that are not typically played in this country  
11 and how successful they were with that piece with  
12 that change. And how we evaluate it and we're able  
13 to determine an idea like that, for example. And  
14 if someone that thinks of something that someone  
15 else doesn't have in their plan and where we  
16 incorporate it.

17 The other piece would be, and I see it  
18 fitting in a number of areas, but I'm just not sure  
19 how someone may be successful at saying hey, this  
20 will attract folks from out-of-state, maybe  
21 bringing people in that maybe are at some of the  
22 neighboring casinos now or a plan. Those kinds of  
23 little nuances that I see them fitting in, but I'm  
24 just not sure.

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1 CHAIRMAN CROSBY: Does it fall in that  
2 fifth category sort of? Is it that kind of thing?

3 COMMISSIONER CAMERON: Yes, maybe  
4 it's an enhancement.

5 CHAIRMAN CROSBY: Maybe it's outside  
6 the box?

7 COMMISSIONER CAMERON: Yes, it is.

8 CHAIRMAN CROSBY: Above and beyond?

9 COMMISSIONER CAMERON: Yes. An  
10 enhanced, some kind of idea that just doesn't fit  
11 anywhere else, but may really make the difference  
12 in one plan being -- And to get back to  
13 Commissioner Zuniga's point about bigger. I

14 think the experience in Atlantic City, anyway, is  
15 that bigger isn't always -- that didn't always  
16 necessarily generate more revenue the bigger the  
17 facility.

18 COMMISSIONER ZUNIGA: Right.

19 COMMISSIONER CAMERON: It just brings  
20 a lot of questions that we need to think about.

21 CHAIRMAN CROSBY: Commissioner  
22 Stebbins talked about some category in here, maybe  
23 number five would be added, this would be added or  
24 labeled unique business and marketing strategies.

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1 And that's kind of what you're kind of talking  
2 about too.

3 COMMISSIONER CAMERON: Yes, it is.  
4 Yes.

5 CHAIRMAN CROSBY: Maybe the word,  
6 maybe uniqueness, amenities and enhancements.

7 COMMISSIONER CAMERON: Yes.

8 COMMISSIONER ZUNIGA: On the other  
9 hand, and I agree with that point, but on the other  
10 hand at least some of what you are referring to is  
11 perhaps incorporated here as part one of page two  
12 in all things business plan.

13 If they are catering to a particular  
14 group or groups. Or if most of their revenues come  
15 from following certain tactics in marketing, that  
16 would reflect itself in the revenues that they  
17 project and can be ascertained.

18 COMMISSIONER CAMERON: I think you are  
19 correct about that. It's another category where  
20 you could kind of demonstrate something unique.

21 CHAIRMAN CROSBY: Right.

22 COMMISSIONER STEBBINS: You have the  
23 column required evidence. And I think it's at the  
24 end of number two where you talk about have

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1 contracts with -- support from organized labor.  
2 And under a subtopic you have history of labor  
3 relations over the last 10 years.

4 Are we comfortable in assuming that  
5 considering the applicants we know are in the mix,  
6 some of these entities have a track record. And  
7 putting in that required evidence category what's  
8 been your track record? Not only your forecast  
9 for this new site, but if you go back to employment  
10 opportunities, something I'd like to see is what's  
11 been your retention rate among employees? We  
12 don't want casinos to be revolving door of people  
13 coming in, getting burned out and quickly  
14 replaced.

15 Is that what you would considered  
16 information that you'd want to have in that kind  
17 of required evidence category? I don't think it  
18 necessarily subscribes to every category, but it  
19 seems to me it'd be helpful information.

20 COMMISSIONER MCHUGH: I fully agree.  
21 I think the historical data in many of these

22 categories would be very helpful as a test of  
23 projections.

24 CHAIRMAN CROSBY: I thought that was

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1 something you added. You added that --

2 COMMISSIONER MCHUGH: Yes, but I think  
3 Commissioner Stebbins point is there are other  
4 places where we can do it as well. There's labor  
5 relations as one. History of the accuracy of  
6 projections, retention rates, maybe that falls  
7 into -- But wherever we can pick up historical data  
8 I think we ought to.

9 CHAIRMAN CROSBY: Yes. That's great.  
10 Anything else?

11 Okay. Item number five, regulation  
12 update, key policy questions and posting.

13 COMMISSIONER MCHUGH: That's really  
14 just to announce that the key policy questions  
15 sessions that we had in January resulted in key  
16 policy decisions. Those are all in a matrix.  
17 That matrix is going to be posted today. So, that  
18 will be up for everybody to look at the summary of  
19 what we decided.

20 CHAIRMAN CROSBY: We still have a  
21 bunch of phase two Phase II policy questions, which  
22 is going to have to coordinate with phase two Phase  
23 II regs.

24 COMMISSIONER MCHUGH: Yes, although I



1 don't think we've listed what those policy  
2 questions are. I think that they'll probably  
3 arise as we approach the phase two Phase II  
4 regulations.

5 The second phase of the Phase II  
6 regulations is really operational things. And  
7 there will be some policy questions, but I think  
8 they're going to be fewer and less open-ended than  
9 the ones we've already dealt with.

10 I think what we may find though as we  
11 proceed, and Todd will bring us up to date on where  
12 we are on the regulations, we may find that there  
13 are a couple of heretofore unrealized policy  
14 questions that we're going to have to deal with as  
15 we work through these regs., not many, but I think  
16 maybe one or two. And we can deal with them as they  
17 come up.

18 CHAIRMAN CROSBY: Aren't there some --  
19 But there's some of the pre-existing key policy  
20 questions that we haven't answered yet, aren't  
21 there?

22 COMMISSIONER MCHUGH: I thought we had  
23 gotten through all of them, but if we haven't we  
24 will.

1 CHAIRMAN CROSBY: Okay. Great.  
2 Attorney Grossman?

3 MR. GROSSMAN: Good afternoon. I  
4 think we are making substantial progress in the  
5 drafting of these regulations. At present, we  
6 have language actually put together in a great  
7 number of these sections that's in the process of  
8 being massaged so we can bring it to you for review.

9 And to that end, I would just make note  
10 of one alteration we made to the regulation grid  
11 that I emailed out to you last night. You'll see  
12 that on the chart in the middle column we've added  
13 a red part in which we identify internal target  
14 dates. That will allow us to keep track and to set  
15 milestones for the drafters so that we will know  
16 the progress we are making on each of these.

17 When I receive a copy of the provision,  
18 I will change that into black and I'll add the date.  
19 Then I'll take a look at, we'll look at it  
20 internally and forward it along to the Commission  
21 for review.

22 As you see, a number of the dates are  
23 coming up pretty soon. So, we're hoping over the  
24 course of the next few weeks that we'll start to

1 be able to send you some language to talk about in  
2 these public hearings so we can make any changes  
3 with an eye towards gathering all of the draft  
4 language for a final review.

5 And to that end, what I wanted to do was  
6 just discuss the overall plan really quickly.

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7 We've met internally with our staff and with the  
8 consultants to develop a plan. And I think where  
9 we are right now is that on March 12 we are planning  
10 to all get together to make a final run through of  
11 our projected draft language so that we can send  
12 it to the Commission for a final what I'll call a  
13 preliminary review. That is to approve it for  
14 purposes of moving it through the promulgation  
15 process.

16 We don't necessarily have to do this  
17 today. But what I'd ask that we start to think  
18 about is how the Commission would like to sit down  
19 and look at the language.

20 On March 14 that would be your meeting  
21 date for that week, I would suggest that you'll  
22 probably need a good chunk of time to be able to  
23 go through the Phase II draft language in its  
24 entirety. So, we should consider either starting

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1 the review that morning before the public meeting  
2 or even scheduling a full day on the 15th or the  
3 13th, however you feel would be best. I'm not  
4 certain the way that you might want to go through  
5 the language, whether it's line by line or just  
6 kind of in a general context.

7 Keeping in mind, of course, that you  
8 will have seen all of this language before. It  
9 won't be the first time that you're sitting down  
10 to review this language. Much of it you'll have

11 had an opportunity to review in these public  
12 settings. We'll have made whatever tweaks and  
13 adjustments that were recommended here.

14 So, by the time you sit down to review  
15 it in early to mid-March, it'll be the second or  
16 even third time you're looking at some of this  
17 language. And of course, as I noted a number of  
18 times, we'll be able to again adjust it after the  
19 public hearing.

20 So, I'd ask you just to think about how  
21 you would like to address the review process. If  
22 you are able to do it either the 13th, 14th or 15th,  
23 it would keep us actually right on schedule and  
24 even allow us to potentially, promulgate the Phase

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1 II regulations sooner than we had even projected.  
2 And I think we're moving in a direction where  
3 that's a realistic goal.

4 CHAIRMAN CROSBY: We were targeted for  
5 March 14 to go to the LGAC. How is it sooner than  
6 that?

7 MR. GROSSMAN: Well, there are some  
8 new dates that I'll actually have to circulate.  
9 They're more aligned with the Secretary of State's  
10 filing scheduled. So, the 14th date was kind of  
11 an initial date that was thrown out there. But  
12 it's in the ballpark anyway.

13 CHAIRMAN CROSBY: If you do have  
14 changes in that that should get onto that master

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15 chart because that's what we think is driving us.

16 MR. GROSSMAN: Right. And we are  
17 still consistent with that. The dates are just a  
18 few days here and there.

19 That's where we are with pretty much  
20 the entire process right now. And I'm happy to  
21 discuss any of these issues, specifically or kind  
22 of individually when we start getting the language  
23 out.

24 CHAIRMAN CROSBY: Comments?

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1 COMMISSIONER CAMERON: Another  
2 color-coded chart.

3 CHAIRMAN CROSBY: It's great.

4 COMMISSIONER CAMERON: I love. Todd,  
5 when half of the language is in one color and the  
6 other half in another color that means two folks  
7 have responsibility?

8 MR. GROSSMAN: That's right.

9 CHAIRMAN CROSBY: Did you come up with  
10 this?

11 MR. GROSSMAN: I came up with it all on  
12 my own.

13 COMMISSIONER CAMERON: And you picked  
14 the colors as well.

15 MR. GROSSMAN: I did, I did. I'm  
16 still reserving your color for when we work you in  
17 there.

18 CHAIRMAN CROSBY: It's a great job.

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19 MR. GROSSMAN: Thank you.

20 CHAIRMAN CROSBY: It's exactly what I  
21 for one was looking for to track this out. It's  
22 terrific. It's really helpful. The fact that  
23 you've got it all set up for all of the rest of the  
24 regs. that are coming too is great.

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1 I think as far as how you want to handle  
2 the review process, why don't you just talk about  
3 it with Commissioner MCHugh and you do it however  
4 you want to. If you think it's best to pick a day,  
5 let's pick a day. I don't think we need to discuss  
6 it really. It's up to you. You just tell us how  
7 you want to do it.

8 MR. GROSSMAN: I sense we should just  
9 pick a separate day. It certainly may take longer  
10 than just an hour or two sitting here at the  
11 meeting.

12 CHAIRMAN CROSBY: If we're going to do  
13 that then we do it and do it quick, because of what  
14 happens to schedules. We ought to make that  
15 decision today or tomorrow. And if so, pick the  
16 date and get it on the calendar.

17 MR. GROSSMAN: Okay. Will do.

18 CHAIRMAN CROSBY: Great, perfect.

19 COMMISSIONER CAMERON: Thank you.

20 COMMISSIONER MCHUGH: Thank you.

21 COMMISSIONER ZUNIGA: Thank you.

22 COMMISSIONER STEBBINS: Thank you.

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23 COMMISSIONER CAMERON: Good work.

24 MS. WELLS: Good afternoon.

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1 CHAIRMAN CROSBY: Director wells.

2 MS. WELLS: Chairman, members of the  
3 Commission. So, the first matter I wanted to  
4 update the Commission on a matter we discussed last  
5 week as far as declaration. There are two  
6 candidates for licenses who have not made a  
7 declaration.

8 At the last meeting, I had indicated I  
9 would send out a letter that the IEB was going to  
10 require that they declare by the 15th. Because of  
11 the snowstorm and then the holiday next Monday, I  
12 sent out a letter saying that we were looking for  
13 the declaration by the 18th.

14 I've heard back from both applicants  
15 tentatively. One of them has indicated they'll  
16 meet the deadline and let us know, which is great  
17 news and very helpful to the IEB as far as going  
18 forward. So, I look forward to getting that  
19 information on the 19th.

20 The second applicant has expressed  
21 some concerns because of the structure of their  
22 negotiations at the present time. I've had  
23 several conversations with two of the attorneys.  
24 we're going back and forth. I spoke to one of them

1 earlier, two hours ago.

2 I expect that I will get further  
3 information over the next few days. So, the way  
4 I left it with them at this point was that if they  
5 are not prepared to do the declaration on that  
6 Tuesday, then they would submit something in  
7 writing and we would go forward with it at that time  
8 given what they respond.

9 They have been forthcoming with me as  
10 far as expressing their concerns and why. We want  
11 to be encouraging the competition. We want to  
12 encourage this in a speedy manner though. We need  
13 to know one way or the other as far as what we need  
14 to prioritize. So, that conversation is ongoing.

15 And I indicated to them I would need to  
16 give an update to the full Commission that  
17 following Thursday. So, they indicated they  
18 would be in constant communication with me and let  
19 me know what's going on and give me as much  
20 information as possible.

21 CHAIRMAN CROSBY: So, at the moment,  
22 we are saying get us your decision by the 18th.

23 MS. WELLS: The 19th, the Tuesday  
24 because of the holiday. Yes.

1 CHAIRMAN CROSBY: Then the 21st would  
2 be our next meeting?



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3 MS. WELLS: Correct.

4 CHAIRMAN CROSBY: The only problem  
5 with what you're saying is that we are telling the  
6 other party that they have to tell us by the 19th.  
7 And what we're saying to the second party is if you  
8 don't want to tell us by the 19th, tell us why you  
9 don't want to tell us and we'll think about it.  
10 And I'm not sure that's fair to first party, unless  
11 they had really decided. If they're decided then  
12 that's fine. There's no big deal.

13 COMMISSIONER CAMERON: These two are  
14 different than every other applicant who has  
15 already firmly let us know.

16 MS. WELLS: I could contact the other  
17 applicant that said they would let us know by the  
18 19th and let them know the situation with the other  
19 one and say we want to put you on the same level  
20 playing field if you have the same concerns. I  
21 don't get the impression they have the same  
22 concerns.

23 CHAIRMAN CROSBY: Most people know  
24 what license they want. They're working on it.

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1 MS. WELLS: Right, exactly, exactly.

2 COMMISSIONER CAMERON: Did they  
3 indicate that they were nearing a decision?

4 MS. WELLS: I tried to nail them down.  
5 They are working on that. And the attorneys that  
6 I spoke to are pushing on their end saying that the

7 IEB and the Commission, they need this  
8 information. They need it. So, that is being  
9 communicated, which is I hope moving that process  
10 forward. I need a date.

11 CHAIRMAN CROSBY: You gave us this  
12 letter, right?

13 MS. WELLS: Yes, that's the one. I've  
14 had conversations with Mass. Gaming since then.

15 CHAIRMAN CROSBY: Because I think they  
16 raise some very legitimate points.

17 MS. WELLS: Right, which is why when I  
18 spoke to them I said that we should have ongoing  
19 conversation about this in the interest of  
20 fairness.

21 CHAIRMAN CROSBY: Right. Okay.

22 COMMISSIONER CAMERON: I think this is  
23 an unintended consequence. I don't we  
24 anticipated -- not a consequence necessarily, but

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1 unintended situation. We didn't foresee someone  
2 being unable to let us know or else we could have  
3 taken some steps earlier on.

4 CHAIRMAN CROSBY: Right.

5 COMMISSIONER CAMERON: So, now it's  
6 how do we remedy it so that we have the information  
7 we need.

8 CHAIRMAN CROSBY: Right. It raises  
9 something that I mentioned to you yesterday. If  
10 a party wants to change, if somebody is working now

11 on a slots parlor and then they decide we want to  
12 upgrade it to a casino, can they do that? which,  
13 I don't know. We never talked about it.

14 COMMISSIONER CAMERON: But we didn't  
15 anticipate it.

16 CHAIRMAN CROSBY: I understand. That  
17 happens a lot of times. Just as conditional  
18 licenses, as we get into this, New Hampshire will  
19 find this out too, it's complicated to try to work  
20 these things through. So, I'm okay with your plan  
21 so long as the other party gets told the same thing.

22 MS. WELLS: Okay. I'll make sure to  
23 do that.

24 CHAIRMAN CROSBY: If they've decided

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1 and they are going to go for something, fine, then  
2 this doesn't matter, but I think they should know  
3 that.

4 So, effectively what we are saying is  
5 we're going to make a final decision on this on the  
6 21st unless they both announce what they're doing.

7 COMMISSIONER MCHUGH: What's the  
8 this? We're going to make a final decision on  
9 this.

10 CHAIRMAN CROSBY: On whether or not we  
11 will require somebody -- everybody, these  
12 remaining two bidders to tell us which kind of  
13 license they are doing in order that we can  
14 expedite the sluts.

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COMMISSIONER MCHUGH: Right. Okay.

16 CHAIRMAN CROSBY: But as the letter  
17 writer says, you're trading off expediting the  
18 slots against some other benefits.

19 COMMISSIONER MCHUGH: Yes and against  
20 some of the backdrop and against some of the things  
21 that we ourselves said.

22 CHAIRMAN CROSBY: Right. They're  
23 totally legitimate points.

24 COMMISSIONER MCHUGH: Right. Okay.

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1 CHAIRMAN CROSBY: Okay, great.

2 MS. WELLS: The investigation status  
3 report, all applications have been sent to the  
4 consultants and the background investigations are  
5 continuing. I'm being updated on a regular basis  
6 and the Massachusetts State Police is also  
7 involved in the investigatory process. So, we are  
8 all working with each other. It's all moving  
9 forward.

10 I will update as that becomes  
11 appropriate. Right now I wouldn't give any  
12 details of the investigation, obviously.

13 Then the third, the item that I wanted  
14 to bring to your attention that we had talked about  
15 a little bit at the last meeting was the processing  
16 of the public records requests for copies of the  
17 applications, these redacted copies.

18 I will point out that the State Police

19 have reviewed the applications and then also the  
20 submitted redacted forms, which were to be in  
21 compliance with the specimen form, which was  
22 posted. What they found is that certain  
23 applicants have sort of over redacted and certain  
24 applicants have under redacted.

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1 So, they have gone through in a very  
2 painstaking manner. It's very labor-intensive  
3 and have shown where the discrepancies lie in  
4 comparing it to what should be on there by the  
5 specimen form.

6 So, the proposed procedure for going  
7 forward with these public records requests, we  
8 would inform applicants of any discrepancies so  
9 they would know where the issues were that we had  
10 discovered. So that they are aware of any  
11 concerns one way or another.

12 Then applicants who desire additional  
13 reductions beyond the specimen form would submit  
14 a written request to the Commission. And that  
15 request and my recommendation is that be reviewed  
16 by legal. I can work with the legal department in  
17 conjunction and help out in that process.

18 I think at this point it makes sense and  
19 I've spoken to Attorney Grossman, it would be  
20 appropriate at this meeting if you deem it  
21 appropriate, the Commission to probably delegate  
22 that authority to the legal department at this

23 point.

24 Then the legal department would make a

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1 determination based on the written request by the  
2 applicant. And then once the applicant would be  
3 notified of legal's determination, and then if the  
4 applicant is not satisfied with that  
5 determination, the applicant may appeal that to  
6 the full Commission.

7 Then part of the issue that we sort of  
8 need to bring out and flesh out a little bit is the  
9 method of disclosure once this whole process is  
10 completed. This should take a little time because  
11 I expect there will be some back-and-forth with  
12 some of the applicants. But that is still to be  
13 determined.

14 I sent out notification to all of the  
15 applicants that we were going to discuss this at  
16 the meeting today. If anyone had any comments at  
17 the meeting, I don't know if anyone who is present  
18 at the meeting has any comments. We also informed  
19 them they could submit comments to the email at the  
20 Commission, the comments email,  
21 massgamingcomments@state.

22 And I think at least one has come in I  
23 don't know if there's any more. But no final date  
24 has been set on that because we have just done this

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1 notification within the last couple of days. And  
2 it seemed appropriate to have more time for  
3 individual applicants or interested parties from  
4 the public to make comments.

5 So, that's where we are with that whole  
6 process. So, at this point my recommendation is  
7 that the Commission delegate the authority to  
8 legal to take the first crack at the requested  
9 additional redactions. And then we start the  
10 conversation about what we're going to do once we  
11 get these final versions of the redacted  
12 applications.

13 CHAIRMAN CROSBY: So, there's two  
14 questions. One is will we permit further  
15 redactions than were on the original form --

16 MS. WELLS: Yes.

17 CHAIRMAN CROSBY: -- (A). And (B) how  
18 are we going to distribute them, how are we going  
19 to make them available when they are all completed.

20 MS. WELLS: Correct.

21 COMMISSIONER MCHUGH: Those are two  
22 questions. Isn't there a third question as to how  
23 we're going to deal with either the under redaction  
24 or over redaction on the forms we now have?

1 MS. WELLS: So, say a form is under  
2 redacted. That I think that's a matter of letting  
3 them know you missed some things on these forms.

4 Those things should be redacted. We should not be  
5 posting things online --

6 COMMISSIONER CAMERON: Personal  
7 addresses.

8 MS. WELLS: -- personal information,  
9 social security numbers. So, that's part of the  
10 reason we had the State Police go through this. We  
11 want to be extra careful even if an applicant made  
12 a mistake and let someone's social security number  
13 go through, we are double-checking to make sure  
14 that doesn't happen.

15 So, at a minimum, the only thing we  
16 would set forth to the public would be anything  
17 that complies with the specimen form.

18 Anything in addition, we would let the  
19 applicant know that you have over redacted. And  
20 if you want those things redacted, you have to  
21 request that in writing in accordance with the  
22 policy that I just set forth.

23 COMMISSIONER MCHUGH: And suppose  
24 they don't request it in writing, then what

1 happens?

2 MS. WELLS: There are really two  
3 options. We could send it back to them -- we would  
4 inform them that you have failed to comply in this  
5 manner. We could then, because we have the  
6 original applications, change the form and either  
7 post or whatever the method we're going to use to



8 disclose the information if it's requested. We  
9 could do it ourselves or send it back to them. You  
10 have to send us a copy with these changes.

11 or if you don't do it by a certain date,  
12 we will do it for you.

13 COMMISSIONER MCHUGH: If we could just  
14 spend a second on that first one. This is a hugely  
15 labor-intensive process. And at this point --

16 CHAIRMAN CROSBY: You're talking  
17 about going through all --

18 COMMISSIONER ZUNIGA: And redacting.

19 COMMISSIONER MCHUGH: -- and  
20 redacting. This is a hugely labor-intensive  
21 process. And now at this point, we have, as I  
22 understand it a set of instructions that told  
23 people what they were supposed to do. A specimen  
24 form that showed them how to do what they were told

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1 to do. A letter telling them that we needed them  
2 to do what the instructions and the specimen form  
3 told them to do. And their response to all of that  
4 that still is in some cases wrong.

5 MS. WELLS: Correct.

6 COMMISSIONER MCHUGH: It seems to me  
7 that as part -- And the question is how do we  
8 correct that most expeditiously so we can get on  
9 with the business of letting the public know the  
10 parts that the public is entitled to know.

11 And it seems to me that it may be that

12 the most efficient way to do that is to do that  
13 ourselves. But if we do that ourselves, it also  
14 seems to me that at this point it is fair to assess  
15 the costs of our processing, our labor costs, our  
16 time costs, our overhead costs, our everything  
17 else costs against the applicants whose  
18 applications require correction.

19 It seems to me that we shouldn't be  
20 spending the public's money doing things that the  
21 applicants failed to do in order to comply with our  
22 instructions particularly after all of this  
23 notice.

24 CHAIRMAN CROSBY: Just for the record,

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1 I think this should already be happening. The way  
2 we've discussed this is we should be billing any  
3 hours that anybody's spending -- anything having  
4 to do with the background process should be billed  
5 to the applicants already. So, I totally agree  
6 with you. But I hope we're doing that already.

7 COMMISSIONER CAMERON: But to cost it  
8 out separately I think is important. I totally  
9 agree with Commissioner McHugh. And I absolutely  
10 want to commend the State Police for -- we  
11 anticipated this or we realized how much work this  
12 would be. They were good enough to send us  
13 additional troopers who I'm sure have never been  
14 asked to do work like this before, frankly. And  
15 they are doing it with enthusiasm and with

16 attention to detail that I really, really credit  
17 them for.

18           So, I would agree that at this point  
19 this is the third notification as to how to do  
20 this properly. And at some point, there should be  
21 a consequence. And the consequence Commissioner  
22 McHugh is talking about is okay. We've asked you,  
23 we've asked you again, we've asked you a third time  
24 and now here's the bill.

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1           COMMISSIONER ZUNIGA: I couldn't  
2 agree more. To some degree it's already  
3 happening. We will bill much of the resources  
4 being spent. But there's an opportunity cost that  
5 is really at issue here. If we get delays, if we  
6 have to spend additional resources, maybe not  
7 right now but tomorrow or later that cost is  
8 additional and we will assess it.

9           COMMISSIONER CAMERON: In many ways  
10 this is slowing down investigation, because those  
11 troopers are here to investigate. And we're using  
12 them for work that should have been handled  
13 properly in the first place.

14           CHAIRMAN CROSBY: Right. Okay.  
15 what about the issue, are we comfortable with this  
16 plan of delegating to Attorney Grossman to the  
17 legal department the threshold decision on whether  
18 or not, if I'm understanding this right, on whether  
19 we should permit further redaction? And then

20 Attorney Grossman will make a threshold decision  
21 and bring it to us?

22 MS. WELLS: He would respond to the  
23 applicant. If they are unsatisfied with that they  
24 would then have the right to appeal to the

1 Commission if they wanted to.

2 CHAIRMAN CROSBY: That means we're  
3 delegating to Attorney Grossman the ability to  
4 moderate our regs. about what may or may not be  
5 redacted.

6 COMMISSIONER MCHUGH: No, not really,  
7 Mr. Chairman. The current regulations do provide  
8 for a process under which people can ask for  
9 information to be redacted, information that  
10 presumptively would be public, and list the  
11 criteria that are to be employed by the Commission  
12 in deciding that. The way the regulations are  
13 written, the Commission decides those things.

14 It's unwieldy, Director Wells is  
15 probably pointing out, for the Commission to be  
16 deciding things in the first instance. So, the  
17 question is do we delegate that to somebody?  
18 Eight percent of them, 90 percent of them they'll  
19 be satisfied with it. The other 10 percent,  
20 they'll come to us and we'll have to make that  
21 decision applying those criteria.

22 So, I would support Director Wells'  
23 approach.

24

COMMISSIONER CAMERON: I do as well.

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1 It's been working very well with other  
2 determinations that IEB has made on behalf of the  
3 Commission. We have empowered IEB to make certain  
4 determinations with always the ability to come to  
5 the full Commission. It does expedite the  
6 process. And I know Attorney Grossman is very  
7 adept at checking with our gaming consultants, our  
8 legal consultants with regard to these matters.

9 So, I am very confident that he will  
10 make good decisions and that will keep the process  
11 moving.

12 COMMISSIONER MCHUGH: I wonder if I  
13 could just modify that a little bit and delegate  
14 to the Director of the IEB the responsibility for  
15 making that decision or to the IEB knowing that the  
16 Director will rely on the legal staff to make the  
17 appropriate -- give the appropriate advice in  
18 close cases.

19 I am worried about now, particularly  
20 given the fact that this is remedial and it's late,  
21 us being in the middle of trying to write  
22 regulations and meet that regulation deadline,  
23 which is a labor-intensive task, putting another  
24 labor-intensive process in the hands of what now

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1 is small legal staff, soon to expand, but at the  
2 moment a small legal staff.

3 Director wells, what do you think about  
4 that?

5 MS. WELLS: I am happy to do whatever  
6 the Commission desires.

7 COMMISSIONER MCHUGH: I don't want to  
8 force something on you.

9 MS. WELLS: No, no, no. I'm  
10 absolutely happy to do whatever. I think I need  
11 to consult with legal because there are legal  
12 issues involved. Our plan all along, I've spoken  
13 with Attorney Grossman, our plan all along was to  
14 work in tandem. So, however what the official  
15 designation is I don't think matters too much,  
16 because I think we'll be working together.

17 CHAIRMAN CROSBY: I think that's a  
18 good suggestion also because the Legislature  
19 delegated some decision-making to the IEB. And  
20 this sort of expands on that legislative  
21 delegation. So, I think that's a good correction.

22 COMMISSIONER MCHUGH: Right.

23 COMMISSIONER ZUNIGA: I agree.

24 CHAIRMAN CROSBY: Are there other

1 members of the legal who can help with this?

2 COMMISSIONER MCHUGH: Oh, sure.

3 Artem has been very helpful. And to the extent

4 necessary we can get Attorney Holmes to help as  
5 well. But I think Artem's been terrific. So, we  
6 can manage this.

7 I just want to make sure that the  
8 primary focus stays where -- So, we can allocate  
9 responsibility, final responsibility for all of  
10 these tasks harmoniously.

11 So, I'd move because the regulation  
12 says the Commission, I'd move formally that the  
13 decision on whether to allow requests for  
14 additional confidentiality be delegated in the  
15 first instance to the Director of the IEB with the  
16 right of dissatisfied applicant to appeal to the  
17 full Commission any action the Director takes.

18 CHAIRMAN CROSBY: Implicit in that is  
19 the Director could at anytime bring them to us on  
20 her own if she felt it was important enough.

21 COMMISSIONER MCHUGH: Yes, right.

22 CHAIRMAN CROSBY: Keeping in mind the  
23 equity issue here. If one person can redact  
24 something, what about everybody else.

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1 MS. WELLS: Yes, right.

2 COMMISSIONER CAMERON: I second the  
3 motion.

4 CHAIRMAN CROSBY: Any other  
5 discussion? All in favor, aye.

6 COMMISSIONER STEBBINS: Aye.

7 COMMISSIONER ZUNIGA: Aye.

8 COMMISSIONER CAMERON: Aye.

9 COMMISSIONER MCHUGH: Aye.

10 CHAIRMAN CROSBY: Opposed? The ayes  
11 have it unanimously.

12 MS. WELLS: I have nothing further  
13 unless there are any questions for me.

14 COMMISSIONER MCHUGH: I don't want to  
15 prolong this, but there's the third question.  
16 Once we get finished with this, are going to decide  
17 today how we're going to promulgate this? Are we  
18 going to put them up on the web? Are we going to  
19 give them to individual applicants?

20 Once they're redacted, once the  
21 process is finished and it doesn't have to wait  
22 until they're all done, some are going to be done  
23 sooner than others, we have pending Freedom of  
24 Information Act requests. We need to respond to

1 them. So, the question is how do we want to  
2 respond to them? There was some talk of putting  
3 them up on the web for people to look at.

4 MS. WELLS: It may be helpful because  
5 we hadn't set a deadline for comments, it may be  
6 helpful to sort of frame the discussion how long  
7 do we want to receive comments on this. I don't  
8 know if we should be deciding anything today or  
9 just beginning the conversation.

10 COMMISSIONER CAMERON: Did you say a  
11 week?



12 MS. WELLS: We didn't specify.  
13 COMMISSIONER CAMERON: We did not  
14 specify how long we'd put it out to comment?  
15 MS. WELLS: Yes. Because there was a  
16 short period of time. So, that may be the first  
17 step and then sort of framing the discussion.  
18 COMMISSIONER CAMERON: That was last  
19 week. So, we've had it out for comment for a week  
20 now?  
21 MS. WELLS: No, no, because of the  
22 snowstorm and then computer issues.  
23 COMMISSIONER CAMERON: Do we wait one  
24 more week for comment?

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1 MS. DRISCOLL: It's going up on the web  
2 today.  
3 COMMISSIONER CAMERON: It went up  
4 today?  
5 MS. DRISCOLL: It's going up today.  
6 The request for public comment is going up today.  
7 CHAIRMAN CROSBY: About how to handle  
8 the redacted versions.  
9 MS. DRISCOLL: Correct.  
10 CHAIRMAN CROSBY: But everybody who  
11 saw the meeting last week knows, which is pretty  
12 much everybody, knows that this has been on the  
13 table. And haven't we already gotten some  
14 comments?  
15 COMMISSIONER MCHUGH: We have.

16 MS. WELLS: Yes. And I also directly  
17 sent an email to the applicants thinking would be  
18 part of the discussion today.

19 CHAIRMAN CROSBY: I would defer to  
20 Commissioner MCHugh as to how much time is  
21 appropriate.

22 COMMISSIONER MCHUGH: There's nothing  
23 wrong with giving it one more week. But this is  
24 an issue that we have been floating for awhile.

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1 And next week I would say is the firm resolution  
2 of this.

3 MS. WELLS: I didn't know, one of the  
4 things we mentioned if there were any public  
5 comments. I didn't know if there was any.

6 CHAIRMAN CROSBY: Did we invite people  
7 to do that?

8 MS. WELLS: We had mentioned it.

9 COMMISSIONER CAMERON: Written  
10 comments I think would be more appropriate.

11 COMMISSIONER CAMERON: Thank you,  
12 Director. And thank you for your hard work at  
13 learning all of these issues in a two-week period.

14 MS. WELLS: Thank you.

15 CHAIRMAN CROSBY: Director  
16 Durenberger.

17 DR. DURENBERGER: Good afternoon, Mr.  
18 Chair, Commissioners.

19 COMMISSIONER MCHUGH: Good afternoon.

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20 DR. DURENBERGER: I'll do a quick  
21 administrative update for you. Last week, I spoke  
22 with you about some difficulties in our IT  
23 abilities. And I'd like to report that we've had  
24 some tremendous success this week.

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1 we were able to send out the letter to  
2 Division of Local Services regarding the  
3 calculation of local aid payments. That went out  
4 today.

5 we've been able to begin processing of  
6 payments to the racing stabilization fund. So, we  
7 are not 100 percent there, but we are operational.  
8 So, that's very good news to report.

9 we have a couple of new hires,  
10 administrative hires going through background.  
11 We've been conducting a number of seasonal  
12 employment interviews this week.

13 Next week I anticipate coming before  
14 you to make recommendations on our laboratory  
15 services, drug testing for the horseracing, the  
16 RFP as well as the auditing software.

17 On the legislative review side, I have  
18 more update than discussion for you this week.  
19 We've come a long way, I think, since the draft  
20 report that we put before the Commission back in  
21 January and that appeared on the website.

22 Next week we are prepared to present a  
23 finalized version of our report and some statutory

24 language to come before you. But we had this week

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1 a request from two significant stakeholders to  
2 have an additional opportunity to submit some  
3 advocacy documents. And we thought that was a  
4 reasonable request for two reasons.

5 One is that that one week delay does not  
6 push us back on our ultimate timetable. So, it  
7 didn't affect that at all. But two, the  
8 recommendations that we are going to make we  
9 anticipate they're going to have significant  
10 affects on the industry. And we thought that to  
11 the extent that we can maximize the soundness of  
12 those recommendations we should certainly do so.  
13 So, that will be coming before you next week.

14 what we have before us, what I'd like  
15 to say is that the Commission was tasked with  
16 reviewing the current pari-mutuel and simulcast  
17 laws in chapters 128A and C for efficacy and need  
18 to change as we've mentioned many times. And our  
19 conclusion is that while the current statutory  
20 scheme is effective in the literal sense of the  
21 word, there is a very real need for change when we  
22 look backward and when we look forward.

23 Looking back, we have a very rich  
24 historical context that has informed these laws up

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1 to this point. The business model has changed  
2 significantly over the years and the perpetual  
3 sunseting of these provisions has at times  
4 significantly tested the patience of the  
5 stakeholders and I'm assuming the Legislators  
6 alike.

7 CHAIRMAN CROSBY: You're right.

8 DR. DURENBERGER: Looking forward, we  
9 see on the horizon and entirely new environment.  
10 we see gaming monies being infused into racing.  
11 we see simulcasting licenses that are untethered  
12 to live racing licenses. And we've concluded that  
13 the need to change is absolute. So, we look  
14 forward to presenting our report to you next week.

15 we'd like to remind everybody that we  
16 have scheduled on February 25 the public hearing  
17 on our proposed changes to 205 CMR 3.0 and 4.0 as  
18 they pertain to the veterinary practices and  
19 medication rules. That is in this room at one  
20 o'clock and the document is still available on the  
21 website for public comment.

22 CHAIRMAN CROSBY: That must be posted.  
23 Obviously, that's posted.

24 DR. DURENBERGER: I'll check on that.

1 CHAIRMAN CROSBY: The date is posted?

2 DR. DURENBERGER: I'll check on that.

3 COMMISSIONER CAMERON: Newspapers, I  
4 think there's a whole procedure for posting.

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5 DR. DURENBERGER: Yes.

6 CHAIRMAN CROSBY: Great. Any other  
7 questions?

8 COMMISSIONER CAMERON: It was kind of  
9 a little intrigue for next week's report there.

10 DR. DURENBERGER: I didn't mean it to  
11 be a teaser. But I did think it was important to  
12 let you know exactly where we were and why we  
13 weren't quite there with you there today.

14 COMMISSIONER CAMERON: Thank you,  
15 Director Durenberger.

16 COMMISSIONER MCHUGH: That hearing on  
17 the 25th is for the Commission, right?

18 DR. DURENBERGER: It is. It's a  
19 public hearing.

20 COMMISSIONER MCHUGH: I understand  
21 that. But it's for all of us?

22 DR. DURENBERGER: Yes.

23 COMMISSIONER MCHUGH: That's Monday,  
24 the 25th. And what was the time?

1 DR. DURENBERGER: One o'clock.

2 COMMISSIONER CAMERON: For whoever  
3 from the Commission can make it, correct?

4 COMMISSIONER MCHUGH: It's a majority  
5 of the Commission. We have to have a Commission  
6 meeting.

7 CHAIRMAN CROSBY: It's an official  
8 public meeting of the Commission.

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9 COMMISSIONER MCHUGH: Right, same way  
10 we did last time.

11 CHAIRMAN CROSBY: Just somebody make  
12 sure.

13 DR. DURENBERGER: I did send an email  
14 to Jaime earlier in case that any of us forgot to  
15 schedule that.

16 CHAIRMAN CROSBY: Okay. Great.  
17 Anything else?

18 COMMISSIONER CAMERON: No.

19 COMMISSIONER MCHUGH: No, thank you.

20 CHAIRMAN CROSBY: Wow, only quarter to  
21 three? Anybody that needs to make a plane might  
22 make it.

23 I just had one other quick update that  
24 I learned. I've gone back and forth with our new

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1 Executive Director, Rick Day from Washington.  
2 Incidentally, all of the feedback -- I got a lot  
3 of feedback from other people like the problem  
4 gaming world who know about him in Washington.  
5 And the feedback is very, very strong, which is  
6 great, very positive, which is great.

7 I also spoke to the Chair of the gaming  
8 commission in Washington to talk about the  
9 interaction. And they were more than happy to  
10 have us coordinate with Rick, use his business  
11 email, talk to him during the business day while  
12 the transition is happening in hopes that he would

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13 reciprocate once he is with us. That if he needed  
14 to fly back at their expense for a couple days to  
15 solve a problem, of course, I said fine. So, it's  
16 working great.

17            Luckily for Washington, Rick has a very  
18 strong Deputy, which is a credit to his management  
19 skills who they are so confident in that he will  
20 be nominated and elected probably as his  
21 replacement tomorrow.

22            So, Rick will plan to be here on March  
23 18 for his first day. They're not going to come  
24 back between now and then.

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1            COMMISSIONER ZUNIGA: St. Patrick's  
2 Day.

3            CHAIRMAN CROSBY: St. Patrick's Day,  
4 yes.

5            COMMISSIONER MCHUGH: Well, no.

6            COMMISSIONER ZUNIGA: It's the day  
7 after, I'm sorry.

8            COMMISSIONER MCHUGH: Evacuation Day,  
9 St. Patrick's Day is the day before.

10           CHAIRMAN CROSBY: Evacuation Day is a  
11 Suffolk County -- Is it still a holiday?

12           COMMISSIONER ZUNIGA: No, it's not any  
13 more.

14           COMMISSIONER CHAIRMAN: When is the  
15 parade, Janice?

16           MS. REILLY: I'm in Charlestown, I'm  
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17 not Southie.

18 CHAIRMAN CROSBY: So, that's good news  
19 about Rick. And he's excited and so forth. Any  
20 other business? Do we have a motion to adjourn?

21 COMMISSIONER ZUNIGA: So moved.

22 CHAIRMAN CROSBY: Second?

23 COMMISSIONER CAMERON: Second.

24 CHAIRMAN CROSBY: All in favor, aye.

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1 COMMISSIONER STEBBINS: Aye.

2 COMMISSIONER ZUNIGA: Aye.

3 COMMISSIONER MCHUGH: Aye.

4 COMMISSIONER CAMERON: Aye.

5 CHAIRMAN CROSBY: All right. Thank

6 you.

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8 (Meeting adjourned at 2:45 p.m.)

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1 ATTACHMENTS:

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- 3 1. Massachusetts Gaming Commission February
- 4 14, 2013 Notice of Meeting and Agenda
- 5 2. February 7, 2013 Massachusetts Gaming
- 6 Commission Meeting Minutes
- 7 3. Massachusetts Gaming Commission Draft
- 8 Evaluation Criteria Matrix

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12 SPEAKERS:

- 13 Dr. Jennifer Durenberger, Director Racing Division
- 14 Todd Grossman, Staff Attorney
- 15 Karen wells, Director IEB
- 16 John Ziemba, Ombudsman

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1                    C E R T I F I C A T E

2

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

7

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

12 I, Laurie J. Jordan, further certify I neither am  
13 counsel for, related to, nor employed by any of the  
14 parties to the action in which this hearing was  
15 taken and further that I am not financially nor  
16 otherwise interested in the outcome of this action.  
17 Proceedings recorded by Verbatim means, and  
18 transcript produced from computer.

19            WITNESS MY HAND this 15th day of February, 2013.

20

21

22 LAURIE J. JORDAN            My Commission expires:

23 Notary Public                May 11, 2018

24