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THE COMMONWEALTH OF MASSACHUSETTS

MASSACHUSETTS GAMING COMMISSION

OPEN MEETING

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

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December 4, 2012, 1:00 p.m.

OFFICE OF THE DIVISION OF INSURANCE

First Floor, Hearing Room E

1000 Washington Street

Boston, Massachusetts

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

CHAIRMAN CROSBY: I think we can call to order the 38th meeting of the Massachusetts Gaming Commission on December 4, 2002 (SIC).

First item would be approval of minutes, but I didn't have them in my packet. So, I don't know --

COMMISSIONER MCHUGH: I think they were distributed last week.

CHAIRMAN CROSBY: This was last week's, okay.

COMMISSIONER MCHUGH: I'm sorry, no, two weeks ago. The minutes from last week are not ready for approval. The minutes of two weeks ago which were distributed last week but at a late hour and people had not had time to read them. So, they have been distributed to everybody in the packet for the meeting last week.

MS. REILLY: For the 20th or the 27th?

COMMISSIONER MCHUGH: For the 20th.

MS. REILLY: The 20th were in the

1 packet last week.

2 COMMISSIONER MCHUGH: Last week, so,  
3 everybody has those. Commissioners have them  
4 and so the question is whether we are prepared  
5 today to approve the November 20 minutes.

6 CHAIRMAN CROSBY: Yes. I was on the  
7 wrong week. That's good. I was fine with  
8 them. Everybody have a chance to read them,  
9 make comments?

10 COMMISSIONER CAMERON: As always,  
11 they were expertly prepared by Commissioner  
12 McHugh.

13 CHAIRMAN CROSBY: Counselor McHugh.

14 COMMISSIONER ZUNIGA: I had read  
15 them too and I find them in order.

16 COMMISSIONER MCHUGH: Good. So, I  
17 move then with those accolades that the minutes  
18 of the November 20 meeting be approved as  
19 distributed.

20 COMMISSIONER CAMERON: Second.

21 CHAIRMAN CROSBY: Any other  
22 discussion? All in favor, aye.

23 COMMISSIONER STEBBINS: Aye.

24 COMMISSIONER ZUNIGA: Aye.

1 COMMISSIONER CAMERON: Aye.

2 COMMISSIONER MCHUGH: Aye.

3 CHAIRMAN CROSBY: The ayes have it.

4 Okay. Project work plan, for those of you who  
5 have a packet, there is our work chart in your  
6 packet. And for those of you who don't, we have  
7 it here on the wall.

8 Eileen, can you work on the scroll  
9 button just in case. If the Commissioners  
10 would all look up here. I just wanted to go  
11 through a few steps to make sure that we know  
12 where we are. For one thing, this green line  
13 is the beginning of the background check  
14 process.

15 We had presumed that the background  
16 check process would start by January 15. And  
17 point in fact, because some of our bidders will  
18 be getting their material in early, we are going  
19 to be able to start the background check process  
20 about a month early, which will pull the whole  
21 process forward by about a month.

22 Just while I'm on this, I wanted to  
23 point out these two places on your chart, again  
24 opposite the Phase I, RFA Phase I applications,

1 the green line, there is a two- to three-month  
2 period both under category one and down here  
3 under category two. And those are referred to  
4 as the hearings period.

5 The hearings period only occurs if  
6 there is objection to our background checks.  
7 We put that time in there to be on the safe side  
8 because oftentimes there are objections. But  
9 if we don't have any objections, and the  
10 background check is accepted by the bidders as  
11 we have it submitted, and they accept our  
12 decision, then again, we can pick up two months  
13 in the licensing process for category one and  
14 nearly two months in the licensing process for  
15 category two.

16 So, I just wanted to be sure everybody  
17 -- what you see down here, these are the writing  
18 of regulations for the Phase II application  
19 process. We are prepared to have those  
20 regulations done and ready for approval and use  
21 by the end of May, which means we could start  
22 the application -- the Phase II application  
23 process as soon as June 1 as opposed to waiting  
24 out until the end of September/October 1. So,

1           there is a tremendous amount of flexibility.

2                         We're prepared to move forward if the  
3 background check information gets into us on  
4 time and is clean and is accepted, if our  
5 decisions are accepted.

6                         I think Commissioner McHugh and maybe  
7 our consultants, but the writing of the regs.,  
8 this process is pretty much on track as we've  
9 identified?

10                        COMMISSIONER MCHUGH: It is, Mr.  
11 Chairman. The policy discussions we're going  
12 to have next week will provide a platform for  
13 doing that. And then we are already talking  
14 internally about how we take that next step,  
15 take those policies, turn them into regulations  
16 on a prioritized basis. I picked the targets  
17 we want to work on, get those regulations done  
18 first and then continue to move forward. So,  
19 we've begun those conversations.

20                        CHAIRMAN CROSBY: Okay, great. And  
21 we are on track also for issuing the scope of  
22 licensing decisions. Many of those decisions  
23 -- We've had most of our proposals from the  
24 bidders saying who they believe should be

1 investigated and who should not.

2 So, waiver requests have been made.  
3 We're now looking at those. Each time a waiver  
4 request is made, it causes us to do some  
5 investigating. We can't just take a bidder's  
6 proposal at face value and say okay, we will  
7 waive that investigation. We have to do some  
8 background checking to make sure that the waiver  
9 request is reasonable.

10 So, again each step where a bidder has  
11 a legitimate interest in expressing an opinion  
12 that we have to react to is a slowdown in the  
13 process. And there having been so much  
14 conversation about the speed of the process, I  
15 just want people to be able to appreciate how  
16 all of this is all interrelated and the  
17 complexity of the process.

18 So, if you would scroll up to the next  
19 page. I think basically everything -- This is  
20 the Racing Division. We are working on the  
21 request from the Legislature to review all of  
22 the pari-mutuel and simulcast regs. and  
23 policies.

24 We are in the process of working with

1 the tracks and others to do that. That process  
2 is underway. And I think we're on track pretty  
3 much. We have our equine lab testing RFP is  
4 out, right?

5 MS. GLOVSKY: It has not yet been  
6 posted. We've had a little going back and forth  
7 with Director Durenberger, but it should be up  
8 by the end of this week.

9 CHAIRMAN CROSBY: Right. Okay.  
10 So, the racing stuff is not in the critical path  
11 to the licensing, but it is stuff that we need  
12 to get done on time. We do need to be ready for  
13 the new season, which starts, I guess, April 1.

14 So, these are time sensitive and we  
15 are attentive to this schedule even though it's  
16 not really critical path to the licensing  
17 process.

18 The statutory regulatory changes for  
19 charitable gambling is all done.

20 COMMISSIONER MCHUGH: It's at the  
21 end of its process.

22 CHAIRMAN CROSBY: I'm sorry. Go  
23 ahead. Explain that.

24 COMMISSIONER MCHUGH: It will be

1 completed by the end of this month and there will  
2 be a proposal for the Legislature. We are  
3 working with, as you recall, the Attorney  
4 General, the Lottery, the Treasury. A meeting  
5 is scheduled for later this week. A draft is  
6 in circulation. We'll have it in on time. So,  
7 we are on time with that.

8 CHAIRMAN CROSBY: Okay. Great. The  
9 MOU discussions, Commissioner Cameron,  
10 anything?

11 COMMISSIONER CAMERON: Well, we have  
12 a plan. We are talking with all of our  
13 partners. We have not drafted MOUs to date, but  
14 we are working in collaboratively as we speak.  
15 We will in short order be in a position to sign  
16 some MOUs.

17 CHAIRMAN CROSBY: And they're not  
18 even due until mid-February.

19 COMMISSIONER CAMERON: They're not.

20 CHAIRMAN CROSBY: So, I think we have  
21 plenty of time on that.

22 COMMISSIONER CAMERON: Yes.

23 CHAIRMAN CROSBY: And I think people  
24 should know that there have been multitude of

1 meetings amongst all of the law enforcement  
2 agencies. You have been at their doorstep or  
3 our at theirs, the State Police, the Attorney  
4 General, the ABCC, everybody, the FBI. We've  
5 had a multitude of meetings and those  
6 relationships, I think, are coming together  
7 well.

8 The next page, this says MGC mid-term  
9 hires. This is the Director of Supplier and  
10 Workforce Development and Diversity. We've  
11 already posted that. We've actually moved this  
12 one back. That position I think was posted last  
13 week.

14 This is the Director of Licensing.  
15 We will hope to get the advice of our ED on this,  
16 but we may well move this candidate back, this  
17 position back a little bit as well.

18 We have our Executive Director  
19 scheduled to be hired on or about the end of  
20 December. And knock on wood, we are on place  
21 for that. We have several people that we are  
22 considering finalists and hopefully right  
23 around that time we will get these people teed  
24 up. We will get that decision made.

1                   Then the Deputy Director for  
2                   Investigations and Enforcement and the General  
3                   Counsel, our strategy here is to line up  
4                   finalists that we are happy with and be able to  
5                   get the ED to participate in that decision since  
6                   those two people will be key people reporting  
7                   to the Executive Director.

8                   If it turns out that the ED gets  
9                   delayed and we can't find a satisfactory  
10                  finalist or choice out of the finalists that we  
11                  are coming up with now, then we'll be prepared  
12                  to go ahead and make the IEB and the GC, General  
13                  Counsel decisions.

14                  But we're hoping to hold those and  
15                  pretty much have those or we're close to  
16                  finalists already on those and we're hoping to  
17                  hold those until the Executive Director can  
18                  weigh in on it.

19                  The gaming policy advisory committee  
20                  is meant to be up and running by the 15th of  
21                  January. This, as you know, is actually  
22                  largely a function of the Governor's  
23                  appointments.

24                  He has to appoint the chair and a

1 variety of other appointments. But we have  
2 said to the Governor's office that we are  
3 anxious to get the advisory committee going even  
4 though a number of the people on the advisory  
5 committee represent the developers and the host  
6 communities, and of course we don't know who  
7 those will be yet. But we need the  
8 participation of the other members in such  
9 things as our research program and others.

10 So, we are pushing to get this done  
11 by January 15 and we're thinking we can probably  
12 make that happen

13 The last issue here is just the  
14 Ombudsman is coordinating with a number of  
15 agencies around the State to help in outreach  
16 to the cities and towns and the developers and  
17 that is on schedule as well.

18 So, I think as we go over this,  
19 Commissioners, I think we don't have any  
20 critical path problems as yet. I think things  
21 are moving pretty much as they are intended.  
22 Any other questions?

23 COMMISSIONER ZUNIGA: I just have  
24 one small note, just note really. Not

1 represented here is a very long bar, if you will,  
2 of the local process. It's represented when it  
3 culminates in the form of an executed --

4 CHAIRMAN CROSBY: The yellow, orange  
5 and pink and red, yes.

6 COMMISSIONER ZUNIGA: Yes, right.  
7 But that is not to say that as we hear from  
8 reports that there's a lot of activity already  
9 going on in terms of negotiating or selection  
10 or approach at the local level.

11 CHAIRMAN CROSBY: Right. That's  
12 actually a very good point.

13 COMMISSIONER ZUNIGA: Although that  
14 is happening in parallel.

15 CHAIRMAN CROSBY: Right, right. We  
16 have marked the negotiation of surrounding  
17 community agreements, the execution of the host  
18 community agreement and the referendum as  
19 taking place after the final approval process  
20 is completed of the bidders.

21 As you know, we went through this with  
22 Springfield. That was the position that we  
23 took that we thought was important. They  
24 agreed. And we are now talking about making

1           that -- whether we'll make that a formal policy  
2           or not. That'll come up next week.

3                         But as a practical matter, everybody  
4           knows and everybody should know and I think our  
5           Ombudsman is very much in contact with  
6           communities that are just now becoming  
7           potential host communities or potential  
8           surrounding communities, that those  
9           conversations can go on starting today.

10                        And we want to make sure that the  
11           municipalities don't feel under erroneous  
12           pressure for how quickly they have to move  
13           because there is time, but we are trying to give  
14           them all of the support that they can so that  
15           they are ready to deal with bidders whenever the  
16           bidders are ready to move.

17                        But you're right. As a practical  
18           matter that process is going on even now as we  
19           know full well.

20                        There was one mistake on this that I  
21           noticed this morning. RFA Phase I  
22           applications, this line says accept application  
23           fee and it stops at December 1. That actually  
24           should be extended Eileen, to January 15, same

1 as the applications are due.

2 So, we are now about 45 days, I guess,  
3 away from the final submission of background  
4 data applications and the fees. And 45 days  
5 from today, we will know the full lay of the land  
6 of who are intending to be participants, private  
7 sector participants in the process. We will  
8 have all of their background information filed.  
9 And we will have the background checking under  
10 way.

11 Anything else on that?

12 COMMISSIONER MCHUGH: In Regions A  
13 and B.

14 CHAIRMAN CROSBY: Sorry, good point.  
15 Right, in Regions A and B and with respect to  
16 the category two license, the slots license,  
17 right.

18 COMMISSIONER MCHUGH: Right.

19 CHAIRMAN CROSBY: Correct.

20 Okay. Scope of licensing and RFA-1 status  
21 report, I don't know who wants to take the lead  
22 on this, Mr. Gushin?

23 MR. GUSHIN: How are you today, Mr.  
24 Chairman, members of the Commission?

1                   CHAIRMAN CROSBY:  Introduce  
2                   yourself to our massive public.

3                   MR. GUSHIN:  Fredric Gushin, I am  
4                   Managing Director of Spectrum Gaming Group.

5                   I just wanted to reiterate some of the  
6                   things that you've covered here.  We are well  
7                   into the scope of licensing.  We have issued  
8                   reports to the Acting Director of the IEB.  And  
9                   there will be additional reports coming forward  
10                  in the next couple of days and weeks.

11                  So, we are definitely on schedule or  
12                  ahead of schedule on scope of licensing.  We  
13                  know that there will be an application filed  
14                  relatively quickly and we are prepared, both  
15                  Michael & Carroll and Spectrum to get that  
16                  process started.

17                  And I want to emphasize that these  
18                  investigations are comprehensive and will move  
19                  as quick as possible while addressing all of the  
20                  critical issues and the robust type of  
21                  investigations that are contemplated by the  
22                  Gaming Act.

23                  And I also want to emphasize that the  
24                  investigative costs are being borne by the

1 applicants. And that is typical around the  
2 whole United States for the way gaming has been  
3 approached. The applicants pay for the cost of  
4 the investigations. That doesn't come out of  
5 the general taxpayer dollars or the general  
6 fund. And that concept was adopted in your  
7 Gaming law as well.

8 CHAIRMAN CROSBY: The Legislature  
9 picked the number 400,000 as the deposit which  
10 is -- most of which, not all of it but most of  
11 which is being applied to background check with  
12 the option that we could take an assessment if  
13 there's more costs.

14 In your experience for other similar  
15 kinds of investigations for other big  
16 companies, is that number on the reasonable?  
17 Is that number low, high?

18 MR. GUSHIN: I would say your  
19 provision is similar to other provisions in  
20 other states. That's the starting point  
21 because the determination of the cost of  
22 investigation is a variety of things.

23 The number of qualifiers, the number  
24 of related companies, the parent companies, how

1 complex the organizations are and of course the  
2 issues that surface during the course of the  
3 investigation. So, I would characterize that  
4 as a starting point. In some cases, that may  
5 be adequate to cover the investigations. In  
6 other cases where you're dealing with  
7 multinational companies that have  
8 international operations, it could go beyond  
9 that.

10 CHAIRMAN CROSBY: Okay.

11 MR. GUSHIN: Of course then Michael  
12 & Carroll and Spectrum will be here next week  
13 for those meetings on the policy issues as well.

14 CHAIRMAN CROSBY: Right, right.  
15 Any stumbling block, any unanticipated issues?

16 MR. GUSHIN: I don't see any at this  
17 point. We've had meetings with State Police  
18 and the IEB. And we're trying to do as much  
19 planning -- In our experience in these  
20 investigations, the more preplanning you can do  
21 then the faster the investigations will get  
22 completed.

23 To try and address all of those  
24 procedural issues up front is taking place right

1           now so that we can get a running start. And if  
2           we can start earlier than the first week of  
3           January, and some of them we will, we are  
4           certainly ready, willing and able to do so.

5                         CHAIRMAN CROSBY: Great.

6                         COMMISSIONER CAMERON: If I could  
7           just add to that, Mr. Chair. As far as scope  
8           of licensing, we have nine submissions to date,  
9           two others we're expecting. We're well on our  
10          way to preparing responses. We have one  
11          completed.

12                        One of the questions, and I think it's  
13          a question for many of the bidders, is really  
14          understanding of qualifiers. And if I could  
15          just explain a little bit about the kinds of  
16          things we're looking at and responding to.

17                        The principal point is that the IEB  
18          is empowered to investigate anyone it deems  
19          relevant suitable to the application. A  
20          qualifier is a person or entity that must file  
21          a complete application and whose individual  
22          qualifications must be established in order for  
23          the applicant to be found suitable.

24                        Now we will be waiving certain

1 individuals, especially those with less than  
2 one percent interest. But having said that,  
3 during the investigation if, for example,  
4 someone was waived that's a less than one  
5 percent shareholder, but during the course of  
6 investigation it turns out that that person  
7 exercises more influence than just that one  
8 percent would otherwise reflect, that person  
9 then will be fully investigated.

10 So, we are making that clear. That  
11 yes, we are looking at waiving certain  
12 individuals, but if the investigation warrants,  
13 we will be doing complete investigations on  
14 those individuals.

15 So, I'm not sure if that was  
16 completely clear to everyone in requesting  
17 waivers. But we are prepared, and as Mr. Gushin  
18 said working well together, putting the  
19 protocols in place for the investigations. The  
20 State Police has been very helpful. They've  
21 assigned us a couple of individuals already.  
22 And there are more and they will be incorporated  
23 into the investigation team.

24 CHAIRMAN CROSBY: Who are full time,



1 contest, if somebody applies for an application  
2 -- I'm sorry, applies for a waiver, the IEB  
3 says to deny it, and the party wants to contest  
4 it, that would then come to us.

5 COMMISSIONER CAMERON: The full  
6 Commission.

7 CHAIRMAN CROSBY: To the full  
8 Commission to consider. Waivers, which are  
9 approved, waiver applications which are  
10 approved under this process, the IEB will simply  
11 notify the company that yes, you have applied  
12 for a waiver and we agree.

13 COMMISSIONER CAMERON: In the form  
14 of a letter.

15 CHAIRMAN CROSBY: In the form of a  
16 formal letter.

17 COMMISSIONER CAMERON: We will fully  
18 explain the recommendations, the decision.

19 CHAIRMAN CROSBY: So, that means  
20 that in the cases where waivers are approved,  
21 the authority of the approval is completely in  
22 the IEB. And the Commission doesn't play a role  
23 in that. I think I get that. But would you  
24 just expand? Tell me how that gets arrived at.

1                   COMMISSIONER CAMERON: What we are  
2                   looking at here is the scope of licensing is the  
3                   initial part of the investigation. Requesting  
4                   who has to have a full investigation, who does  
5                   not.

6                   So, under the law that is IEB, the  
7                   Investigations and Enforcement Bureau's  
8                   responsibility to research the matter and make  
9                   determinations based on best practices, based  
10                  on best investigative practices.

11                  And certainly we have our gaming  
12                  consultants who have vast experience in these  
13                  investigations who are consulting, who are  
14                  making recommendations, but certainly it is our  
15                  determination. And the State Police has been  
16                  very good to date about looking at that because  
17                  many of the individuals are local. And they  
18                  would not be known otherwise to investigators  
19                  in another part of the country.

20                  So, they are looking at those local  
21                  names closely. So, it's a collaborative effort  
22                  and we are prepared to make a good determination  
23                  with the understanding that they can appeal that  
24                  decision to the full Commission.

1 MR. GUSHIN: Let me just add. If  
2 during the course of investigation issues  
3 surface, which indicate a waiver needs to be  
4 rescinded or a person called forward for  
5 licensing based on the facts and circumstances  
6 of a particular case, we through the IEB will  
7 be making that request to call that company or  
8 individual forward.

9 And it's really applying the  
10 Massachusetts law. You've all seen those big  
11 submissions that they've made, the charts and  
12 everything, and kind of applying the  
13 Massachusetts law to that to determine control  
14 and influence. Where is the control and  
15 influence as set forth under the statute?

16 So, that's kind of what we've all been  
17 working on in the last several weeks to try and  
18 bring life to those sections of the statute.

19 COMMISSIONER MCHUGH: There are two  
20 other considerations that underline this, Mr.  
21 Chairman, I think. And one is that at the end  
22 of the process, the qualification process that  
23 is, step one, Phase 1, we've got to make a  
24 determination as to whether to accept the

1 results of the investigation and deem that  
2 company, people, entities qualify.

3 If at that point there's something --  
4 And that will be a process that's brought before  
5 us. If at that point there's something that  
6 troubles us about a lack of someone being  
7 investigated that we think should have been  
8 investigated, there will be an opportunity fix  
9 it there.

10 The second related thing is that the  
11 legislation that was passed recognizes the  
12 desirability of preserving the confidentiality  
13 of business processes, sensitive material,  
14 trade secrets and the like. And in this  
15 industry, many of the organizational attributes  
16 and the financiers are in that category.

17 So, some of course in public  
18 companies are disclosed. But this is a process  
19 that recognizes the confidentiality pieces that  
20 the Legislature inferentially at least was  
21 intent on preserving and is faithful to that  
22 while still giving us the information that we  
23 need to know.

24 If there's a contest, then of course

1 we take a narrow slice of it and look at that.  
2 But the real check on unwarranted grants of  
3 waivers comes at the end when we all have an  
4 opportunity to review it.

5 CHAIRMAN CROSBY: That make sense to  
6 me. I hadn't actually thought -- The privacy  
7 thing makes sense to me. So, ultimately we do  
8 have a final bite at the apple?

9 COMMISSIONER MCHUGH: Right.

10 CHAIRMAN CROSBY: I've got that.

11 COMMISSIONER ZUNIGA: Just by way of  
12 quick update, we executed the contract for these  
13 investigations this morning. So, we are also  
14 good to go from that perspective.

15 CHAIRMAN CROSBY: Great. So, the  
16 investigative team is basically ready to go.

17 COMMISSIONER ZUNIGA: It's ready to  
18 go.

19 MR. GUSHIN: Basically, ready to go.

20 CHAIRMAN CROSBY: Awaiting, simply  
21 awaiting background information. Do you want  
22 to frame, does one of you want to frame a motion  
23 on this? Do we need that?

24 COMMISSIONER MCHUGH: It seems to me



1 to the Director of the IEB, who will send a  
2 letter from the IEB to the applicant saying  
3 waivers have been granted, not granted and  
4 outlining those who must qualify and those whom  
5 the Commission says need not qualify, reserving  
6 the right to have further investigation and add  
7 further qualifiers as the investigation  
8 proceeds. And understanding that at any time  
9 the Commission has the full right to request  
10 whatever information is necessary for a  
11 complete investigation.

12 The applicant will also be advised  
13 that requests for waivers that have been denied  
14 may be appealed to the full Commission. And  
15 then we will take whatever submissions are made,  
16 consider them and either affirm or reverse the  
17 denial of the decision. And that essentially  
18 is the waiver process.

19 It's consistent with our regulatory  
20 framework that we worked so hard on adopting  
21 some months ago. And it's consistent with  
22 expedition and it's consistent with preserving  
23 the statutory rights of the parties as outlined  
24 in the legislation.

1                   So, I would move, unless there is a  
2                   correction to that description of the process  
3                   that we acknowledge that process and approve of  
4                   it as the Commission's waiver process.

5                   CHAIRMAN CROSBY:    Second?

6                   COMMISSIONER ZUNIGA:  So second.

7                   CHAIRMAN CROSBY:  Based on this  
8                   conversation, I am sold on that.  Any other  
9                   discussion?  All in favor, aye.

10                  COMMISSIONER STEBBINS:  Aye.

11                  COMMISSIONER ZUNIGA:  Aye.

12                  COMMISSIONER CAMERON:  Aye.

13                  COMMISSIONER MCHUGH:  Aye.

14                  CHAIRMAN CROSBY:  Opposed?  The  
15                  ayes have it.  Okay.

16                  COMMISSIONER CAMERON:  Very well  
17                  said.

18                  CHAIRMAN CROSBY:  Did you want to  
19                  talk further about the process and so forth?

20                  COMMISSIONER CAMERON:  I don't think  
21                  there's anything other than we are -- we've had  
22                  all the discussions on document security.  And  
23                  we have the ability to take in documents in a  
24                  secure fashion to the IEB.  And we will --

1           Again, we will have State Police embedded into  
2           the investigative teams. And we are prepared  
3           at this point to move forward.

4                       CHAIRMAN CROSBY: Okay. Great,  
5           great. Key policy questions status report, I  
6           don't know if there is very much here. Mostly,  
7           I just wanted to make sure that everybody feels  
8           like they are ready pretty much or will be ready  
9           for next week.

10                      At least our plan was to for the most  
11           part have written suggestions or at least  
12           written framing of the issues for at least the  
13           ones and twos, the highest priority -- two high  
14           category division. All of which pretty much  
15           need to be decided before we can get going very  
16           intensely with that reg. writing process.

17                      And if we can get through some of the  
18           three's as well, we'll do that. But we  
19           certainly need to get through the ones and twos.  
20           Is everybody all set with that? Okay. That  
21           should be an interesting week. Anything else  
22           about those issues?

23                      Region C status review.

24           Commissioner McHugh submitted a memo, which I

1 think is in the packets. I think it would help  
2 to start with you just sort of summarizing for  
3 us and for the public how you see the status at  
4 the moment.

5 COMMISSIONER MCHUGH: All right, Mr.  
6 Chairman, I'll be happy to do that. This memo  
7 was triggered really by the denial on October  
8 12 of the compact that had been negotiated  
9 between the State and the Mashpee Wampanoag  
10 Tribe. And by a little over approximately two  
11 months that's elapsed since that time, and it  
12 seemed to me that it was worthwhile at least  
13 thinking about where we are, where we're  
14 likely to go, some of the obstacles, some of the  
15 positive things that are there. And just  
16 thinking about whether and to what extent we  
17 ought to do something, if anything.

18 On the side of what's in place, there  
19 are, it seems to me, three primary components.  
20 There is a site that is in the control of the  
21 Wampanoag Tribe that they have. There is a plan  
22 that's been fully fleshed out and thought  
23 through. And there is an agreement, of course,  
24 with the City of Taunton, which was passed by

1 the citizens of Taunton. So, that piece of  
2 groundwork has been laid for a tribal casino.

3 There are obstacles though that  
4 remain in the path of the casino moving forward  
5 beyond this. The first of those is the compact.  
6 And it is important, I think, to understand that  
7 although the compact provided for renegotiation  
8 in the event of its disapproval, and although  
9 there is every indication that those  
10 negotiations will proceed, the denial really  
11 focused on the amount that the Tribe had agreed  
12 in the compact to pay the Commonwealth, and  
13 found that amount to be excessive. Not simply  
14 because of the amount, but because of the kind.

15 The amount that the Tribe had agreed  
16 to pay the Commonwealth was 21.5 percent of  
17 gross gaming revenues. And I must apologize  
18 because there's a typo in this memorandum.  
19 I've used twice the term net gaming revenues.  
20 The corrected, the version that goes up on our  
21 site will have the correct phraseology. It's  
22 gross gaming revenues.

23 They had agreed to pay the  
24 Commonwealth 21.5 percent of gross gaming

1 revenues. But that amount decreased to 15  
2 percent if the Commission awarded a commercial  
3 license in Region C.

4 The statutory framework provides  
5 that the state has no power to tax an Indian  
6 casino. It can simply receive payments for  
7 concessions that it awards the Tribe, but it's  
8 not required to.

9 And looking at the compact, the  
10 Bureau of Indian Affairs said the only real  
11 concession here is an exclusivity provision in  
12 the compact. And the exclusivity provision, if  
13 not honored, caused the amount of the payment  
14 to decrease from 21.5 percent to 15 percent.  
15 And therefore, the value of the exclusivity  
16 provision was 6.5 percent of gross gaming  
17 revenues.

18 And it is fairly clear from reading  
19 the compact -- from reading the decision and  
20 particularly the things that the Bureau of  
21 Indian Affairs said could not be included in the  
22 compact that 6.5 percent of gross gaming  
23 revenues was the only amount in that compact  
24 that the Bureau said was appropriate.

1                   Whether and to what extent higher  
2                   figures can be negotiated for additional  
3                   concessions is something that will have to be  
4                   determined as it moves forward. And one can  
5                   make whatever judgment one wants about the  
6                   political viability of a 6.5 percent revenue  
7                   stream. So, that's a piece of what's there.

8                   A second factor that's on the  
9                   landscape is a lawsuit brought by a commercial  
10                  developer, K.G. Urban, which has a site  
11                  apparently in the New Bedford area and which  
12                  claims that the whole tribal set aside is a  
13                  race-based preference that violates the 14th  
14                  amendment to the Constitution of the United  
15                  States.

16                  And we're not going through all of the  
17                  permutations and combinations of doctrine that  
18                  attend a decision in that case that was made by  
19                  the Court of Appeals for the First Circuit. The  
20                  First Circuit said that there was embedded in  
21                  the litigation a concern of 14th amendment equal  
22                  protection, but the set aside and the  
23                  Legislative process could be viewed as a  
24                  temporary hold on development of a commercial

1 facility in Region C in order for the IGRA  
2 process, the Indian Gaming process to work its  
3 way out.

4 But the likelihood that the statutory  
5 hold could be viewed as serving the broad  
6 Federal Legislative purposes diminished the  
7 longer it remained in place, particularly the  
8 longer it remained in place without a fixed  
9 termination point in sight.

10 So, there is an issue with how long  
11 the Federal courts will permit a hold on  
12 commercial development to be in place in Region  
13 C before what the hold looks like is a permanent  
14 hold as opposed to this temporary hold to let  
15 the Federal process work its way through the  
16 necessary approvals.

17 A related factor, the third factor is  
18 the First Circuit's notation of fact that the  
19 Commonwealth of Massachusetts has its own  
20 equivalent of the 14th amendment. And some of  
21 the same issues could be raised in litigation  
22 in the state courts. They haven't been. The  
23 Attorney General takes the position that they'd  
24 be unsuccessful. But nonetheless, that piece

1 is there too and could get decided adversely to  
2 the Tribe have the same effect.

3 The fourth of those factors is the  
4 so-called Carciereri decision, which was decided  
5 by the Supreme Court of the United States in  
6 2009, which basically says that -- Let me back  
7 up a minute.

8 In addition to having an approved  
9 compact before a gaming facility can be built,  
10 the Secretary of the Interior through the Bureau  
11 of Indian Affairs has to take into trust the land  
12 that will host the casino. And there is  
13 legislation that describes how that land is to  
14 be taken into trust, the criteria and the like.

15 The Carciereri decision, Carciereri  
16 against Salazar is the name of the case was  
17 decided in 2009. And in it, the Supreme Court  
18 of the United States interpreting this statute  
19 said that only tribes that were under Federal  
20 jurisdiction when the statute was passed in 1934  
21 could have lands taken into trust.

22 So, the statute reads that recognized  
23 tribes now under Federal jurisdiction is the  
24 phrase, recognized tribes now under Federal

1 jurisdiction can have land taken into trust.  
2 And they interpreted that to say the land had  
3 to be in trust had to be -- the Tribe had to be  
4 under the jurisdiction of the Federal  
5 government in 1934.

6 There is a dissent in that case that  
7 says maybe tribes can be under the Federal  
8 jurisdiction even though the Feds. didn't know  
9 it. And the dissent cited some examples of  
10 where that had occurred.

11 It may be that the Mashpee Tribe was  
12 under Federal jurisdiction in 1934. It's not  
13 clear. They were not formally recognized until  
14 2007. And that is another issue that has to be  
15 worked out before the Tribe ultimately can  
16 proceed.

17 There have been Legislative efforts  
18 made to correct or to change the Supreme Court's  
19 decision going into the future because it's an  
20 interpretation of the statute. The  
21 Legislature can change the statute, hence  
22 change the result on a going forward basis.  
23 They've been unsuccessful thus far.

24 There is a movement now in the Senate

1 to effect that change, whether it will be  
2 effective by the end of the year, it is unknown.  
3 So, that's simply another factor on the horizon.

4 If there is no change, then the next  
5 factor is a decision that was reached last June  
6 in a case called Patchak, at least that was one  
7 of the names. The other name is about 35  
8 letters long. So, I won't burden you with that.  
9 That was basically a case that a decision by the  
10 Supreme Court again that said that anybody who  
11 was adversely affected by the Secretary's  
12 decision to take land into trust could bring a  
13 lawsuit to challenge that decision, not win the  
14 lawsuit but could bring the lawsuit.

15 And that provides the specter of  
16 litigation affecting a decision, unless the  
17 statute is changed, whatever that decision may  
18 be.

19 And importantly from that  
20 standpoint, it appears that the individual who  
21 brought the lawsuit would have a six-year period  
22 to do so. There's a six-year statute of  
23 limitations in effect that would begin to run  
24 when the Secretary made the decision and extend

1 for another six years during which the person  
2 would have a right to bring the lawsuit.

3 The net of this is not a conclusion  
4 as I see it that a tribal gaming facility cannot  
5 be built in this area, but simply to outline the  
6 obstacles that are there and they're numerous.  
7 And to raise the question about whether by the  
8 time these issues resolve themselves, Region C  
9 will have been left behind the other areas of  
10 the state in the development and the benefits  
11 the statute was designed to create.

12 If the process works its way forward  
13 and the Tribe receives a compact and has its land  
14 taken into trust and all of that moves forward  
15 that's one thing.

16 But if at the end of say a year it  
17 becomes clear that either it isn't going to  
18 happen or that we concluded it isn't going to  
19 happen -- Maybe those are the same thing. One  
20 would hope, I guess, that they are. -- then we're  
21 faced with perhaps what the problem of starting  
22 a commercial process a year and more behind  
23 everybody else's commercial process.

24 And so, it seems to me worth thinking

1 about whether there is some way to preserve  
2 everybody's options in light of these facts.  
3 And insure ourselves and the public that the  
4 benefits of the statute accrue to Region C  
5 either through the existence of an Indian gaming  
6 facility or through the existence of a  
7 commercial facility.

8 And in either event before the lapse  
9 of time that puts Region C, which has  
10 significant economic troubles of its own, is  
11 substantially behind the other regions of the  
12 state in realizing the benefits the statute was  
13 designed to create.

14 So, I simply lay that out. That's  
15 what the memo was designed to do, just to provide  
16 a platform for thinking about this issue. And  
17 that, Mr. Chairman, is a summary of the  
18 essentials of the content of the memo.

19 CHAIRMAN CROSBY: I certainly feel  
20 like the situation -- At one point we thought  
21 we would be sitting waiting on the issue of land  
22 in trust, which was complicated enough. And we  
23 had not come to grips with how we would figure  
24 out how long we can wait for land in trust and

1           so forth.

2                         But since we got started in this, the  
3           contingencies have continued to proliferate and  
4           is now a sequence of contingent issues. And I  
5           agree that it's our job -- it's included in our  
6           job to try to put this on the table and to think  
7           through is there a way to be respectful of the  
8           Legislative intent to give the Tribe its special  
9           shot at this on the one hand.

10                        And on the other honor what I think  
11           was also a Legislative intent, which is that  
12           Southeastern Mass. not get left and to lay  
13           fallow for a long time. Weighing that is  
14           tough, but I think that is what we should be  
15           doing.

16                        I do have one question to ask you  
17           before we have further conversation. We gave  
18           the Tribe a heads-up as we did other interested  
19           parties that we were going to have this on the  
20           agenda.

21                        And Chairman Cromwell wrote us a  
22           courteous letter saying that he understands  
23           this may be on the agenda. This is in the  
24           packets -- but that he wants to assure us that

1 the Tribe is moving forward expeditiously.

2 But then he said, as we understand it,  
3 in accordance with the Massachusetts Expanded  
4 Gaming Act, Region C remains exclusively  
5 available to us for this purpose. And we are  
6 proceeding with all deliberate speed.

7 That's not my understanding of where  
8 things stand. And I wanted to ask you for  
9 clarification on this exclusivity issue.

10 COMMISSIONER MCHUGH: The explicit  
11 exclusivity in Region C comes from the compact.  
12 There's a provision in the compact that provides  
13 for exclusivity in Region C. But the compact  
14 was disapproved. So, at the moment that  
15 compact has no force and effect.

16 Secondly, the exclusivity in the  
17 compact came with its own remedy and that was  
18 the remedy that the Secretary focused on in his  
19 disapproving the amount. The remedy was that  
20 the amount paid by the Tribe to the Commonwealth  
21 would drop from 21.5 percent of gross gaming  
22 revenues to 15 percent.

23 The statute itself interestingly  
24 does not contain an exclusively provision.

1 Section 91E of the Expanded Gaming Legislation  
2 provides two things. It says that the  
3 Commission must issue a commercial RFA if by the  
4 end of July, I think it was, a compact had not  
5 been negotiated.

6 And it said secondly that the  
7 Commission must issue a commercial RFA if it  
8 concludes that the land in trust is not going  
9 to happen. Nowhere does it say that it cannot  
10 issue an RFA before that.

11 Implicitly perhaps, the Legislative  
12 intent was at least to let the July 31 deadline  
13 hang out there as a prod for everybody to work  
14 hard to get that done. But there is nothing  
15 that says that the Commission can't issue a  
16 commercial RFA at any time.

17 What that provision does do though,  
18 it seems to me, and this ties into what you were  
19 saying a minute ago, is evince a Legislative  
20 intent that Region C not lay fallow for an  
21 extended period of time while these processes  
22 are working their way through.

23 So, I think the Legislative intent  
24 there is pretty clear that both of those

1 provisions are a prod to get things done or for  
2 the Commission to take action.

3 CHAIRMAN CROSBY: Other thoughts how  
4 we deal with this?

5 COMMISSIONER ZUNIGA: One I picked  
6 up on something you articulated really well on  
7 the memo, which is the confounding effect -- And  
8 you did as well just in summary, but the  
9 confounding effect that these factors have  
10 together, which I guess from my perspective I  
11 tend to see them individually.

12 But taken together, is something that  
13 we need to talk about, because as talked about  
14 here, they seem to be pointing in the direction  
15 against holding this issue for a long time, for  
16 a protracted time. Because it appears that  
17 that decision of the First Circuit while it did  
18 not articulate a time as to the temporariness,  
19 if that's a word, of the hold, it seemed clear  
20 that it was not indefinitely.

21 COMMISSIONER MCHUGH: Yes, I think  
22 that's right. And I think that's a risk. It's  
23 one of the uncertainties. And exactly what  
24 criteria the court will use to evaluate how much

1 time is too much time, how much time translates  
2 the temporary hold in support of a Federal  
3 objective into a permanent hold in support of  
4 an impermissible outcome is unclear.

5 And the court didn't because it  
6 wasn't required to get into those kinds of  
7 criteria. The Federal Court -- the District  
8 Court will have to make that decision at some  
9 point. And thus far has not been asked to do  
10 that, but it's there and it's not permanent.

11 The one way -- I'm sorry. Go ahead,  
12 did you want to say something?

13 COMMISSIONER CAMERON: No, just that  
14 I was interested in your thoughts about -- And  
15 again this is a very comprehensive memo, helpful  
16 to think about the issue. -- your thoughts about  
17 not letting the Region fall behind but  
18 preserving the interests of all.

19 Are you referring to letting the  
20 compact situation work its way, renegotiation  
21 work that process land in trust, but at the same  
22 time possibly pursuing a commercial, at least  
23 starting a process or thinking about starting  
24 a process? Is that what you were referring to?

1                   COMMISSIONER MCHUGH: It seems to me  
2                   that's an approach that one might take, is to  
3                   put -- Create in effect, parallel paths in  
4                   Region C. I'm not there yet, but it seems to  
5                   me that maybe something worth thinking about.

6                   And in effect, let the tribal,  
7                   Federal state tribal process work its way  
8                   through. At the same time, start a parallel  
9                   process for at least the preliminaries of the  
10                  commercial licensing process. And if one got  
11                  to a point where the Federal process, the IGRA  
12                  process looked like it was going to succeed, one  
13                  could step back and let that go forward.

14                  If on the other hand, it looked like  
15                  that was not going to succeed or some clear cliff  
16                  occurred, then the Commission would be very  
17                  seamlessly to move forward with a commercial  
18                  process that it had already started.

19                  How one works that out, whether  
20                  that's a viable approach, whether that makes  
21                  sense, I don't know. But that's something it  
22                  seems to me we could think about.

23                  It's concrete. And it'd be a way to  
24                  preserve the interest of Region C, the interest

1 of the Tribe and the interest of those who are  
2 interested in a commercial license. In a  
3 sense, the commercial license applicants would  
4 face risks that a compact would be negotiated  
5 that would give the Tribe exclusivity in Region  
6 C that that would be successful and that process  
7 would go forward. And we would honor that.  
8 And they would therefore not succeed in the  
9 license application.

10 But in all of these Regions, all of  
11 the applicants are facing competition of one  
12 kind or another. This can be viewed as simply  
13 another form of competition, it seems to me,  
14 from an economic sense as to which they can take  
15 the risks and make whatever judgments they want.

16 So, that's one way to approach it.  
17 That's not the only way, but it's certainly a  
18 way to think about it. I don't think we should  
19 make a decision today. But I do think we should  
20 think about that or perhaps other approaches  
21 that we might take.

22 COMMISSIONER ZUNIGA: Would it be  
23 relevant or pragmatic or at least important for  
24 this Commission to start thinking about a

1 timeline in advance what would constitute  
2 perhaps an acceptable time to allow some of  
3 these issues to work themselves out or not?

4 And I guess I'm coming from the  
5 perspective of it occurs to me that that may be  
6 a preferable position for this Commission as  
7 opposed to arriving to a time where too much time  
8 has passed and now the hold is no longer a  
9 temporary hold, if you will.

10 COMMISSIONER MCHUGH: That's  
11 certainly something we could do. And that has  
12 been suggested by people.

13 CHAIRMAN CROSBY: Including the  
14 Legislature was thinking about that as well.

15 COMMISSIONER MCHUGH: Right. That  
16 was in the original Legislation. They put the  
17 time limits in as a prod.

18 The difficulty with that is twofold.  
19 One, this is sort -- not sort of. This is an  
20 organic process. And what looks like a  
21 reasonable time today, may not in six months  
22 look like a reasonable time. You get to the end  
23 of six months say and relief is just around the  
24 corner. So, you extend it or do you really

1 enforce the six months.

2 The second thing is if you set a  
3 deadline out some distance and do nothing else,  
4 you're still faced with this how do you catch  
5 up if a deadline passes without anything being  
6 done?

7 And if the answer is you start the  
8 parallel process so that you're prepared to if  
9 the deadline comes and goes without success.  
10 And what's really the utility of the deadline  
11 as opposed to deciding after six months that  
12 you've got another three months to go. We've  
13 looked at what's going on now.

14 It seems to me that's a fairer way to  
15 deal with the enormously complicated problems  
16 and issues and concerns that the Tribe has to  
17 face. It seems to me that not setting a  
18 deadline now would allow them to work those  
19 things out and give them a better opportunity  
20 to do so free from artificial deadline -- free  
21 from artificial barriers to add to those that  
22 already exist.

23 CHAIRMAN CROSBY: But I think if we  
24 did something on a parallel track that's going

1 to have the same psychological effect.

2 COMMISSIONER MCHUGH: Right.

3 CHAIRMAN CROSBY: Which I'm not sure  
4 is a bad thing.

5 COMMISSIONER MCHUGH: No. I don't  
6 think it would be a bad thing either, but it would  
7 be functional rather than --

8 CHAIRMAN CROSBY: Right.

9 COMMISSIONER MCHUGH: -- arbitrary.

10 CHAIRMAN CROSBY: Right.

11 COMMISSIONER MCHUGH: And I don't  
12 mean arbitrary in a sense of impermissibly  
13 arbitrary, but any deadline is arbitrary.

14 CHAIRMAN CROSBY: Right, right. It  
15 is of note that the Commission was not precluded  
16 from putting out a commercial license still.  
17 As you said, and frankly I didn't get this when  
18 I first read the statute, what it says is if the  
19 original deadline, if the July 31 deadlines were  
20 not met then under that circumstance we would,  
21 we were compelled to issue a license.

22 It never said that if the compact is  
23 granted or anything else happens with the Tribe  
24 that we don't issue a license. It was always

1 left the possibility that there might be a  
2 commercial license. That was not an accident.  
3 I'm sure of that. And I don't know exactly and  
4 we can learn something about why that was, but  
5 this is very carefully written legislation.  
6 And that was not a mistake.

7 Second thing is, I am clear that  
8 although I think the Legislature is reluctant,  
9 understandably, for the same reasons that we are  
10 to put any timeframes on this and left the  
11 timeframe issue up to us, I'm clear from now  
12 traveling around Southeastern Mass. a lot and  
13 talking to a lot of state and local officials  
14 and just seeing what else is in the statute that  
15 this was not anticipated to be a real long hold.  
16 This was not intended to put Southeastern Mass.  
17 measurably behind the eight ball.

18 And we now are wrestling with our own  
19 process, which we have been told we should speed  
20 it up, speed it up, speed it up. If we  
21 eventually decide we are going to do a  
22 commercial license, we are going to have to go  
23 through -- We won't have to set up a Commission.  
24 We all have done that part. But everything else

1 that's taking place up here we'll have to do.

2 And that means that if we wait, as you  
3 said, if we wait six months, if we wait a year,  
4 if we wait 18 months, that is utter dead time.  
5 And we will then have to start this process.

6 And the idea of walking the line  
7 between continuing to let the Tribe play out its  
8 situation, which the Chief assures us and I'm  
9 sure it's right that he is working on,  
10 presumably he's optimistic about and more power  
11 to him. But if we can do that while we minimize  
12 the negatives of what happens to Southeastern  
13 Mass. if we end having to do a commercial license  
14 is as you're suggesting. Given what we've been  
15 talking about all this time, the thing to  
16 consider is the background check.

17 The first phase of the application  
18 process is a phase, which does not necessarily  
19 have to get to the second phase. But it is the  
20 biggest time segment. And we could consider,  
21 this is basically what I think you were saying,  
22 we could consider starting that process for  
23 anybody who happens to be interested in --  
24 There's a lot of uncertainties for a bidder.

1           Maybe nobody would take us up on it, but we could  
2           consider that.

3                         So that at least if we did at sometime  
4           in the future decide to go forward with a  
5           commercial license, we would have the  
6           background work behind us. And we would only  
7           have the relatively short period of time that's  
8           taken to get to second phase applications and  
9           make a decision on the second phase  
10          applications.

11                        COMMISSIONER ZUNIGA: In that  
12          scenario, Mr. Chairman, we and an applicant  
13          would spend a considerable amount of time and  
14          money on those investigations, predicated on  
15          some doubtful outcome. So, I wonder what  
16          recourse, if you will, or what would have been  
17          thought about or thought through in terms of  
18          recouping those costs if new information  
19          emerges between the time those investigations  
20          are conducted and the eventual award of a  
21          license or not.

22                        CHAIRMAN CROSBY: I haven't thought  
23          this through. I think Commissioner McHugh said  
24          off the bat that his suggestion is that we not

1           make any decisions today, which I think is  
2           right. I'll bet there are going to be a lot of  
3           people that are interested in commenting on what  
4           we are thinking about. And we would welcome  
5           those comments.

6                         But as I think about this, and I've  
7           had the same thought process as you know about  
8           Eastern Mass., in Western Mass. you've got now  
9           at least three and maybe as many as five  
10          companies that are now willing to have a 33  
11          percent chance, willing to spend a lot of money  
12          against a 33 percent chance, maybe a 20 percent  
13          chance of winning.

14                        So, they're in the business of taking  
15          odds. Anybody who is bidding here is taking a  
16          shot. It's a calculated risk. K.G. Urban is  
17          willing to spend a lot of money pursuing its  
18          particular action. They're taking a shot.

19                        The Tribe is taking a shot. Genting  
20          its funder is taking a shot. Everybody is  
21          taking calculated risks. That's the nature of  
22          the business. This would pose a calculated  
23          risk. And we may -- I think you are right, we  
24          may have to think through our regs. How does

1           that work? Like I said, I haven't thought this  
2           through at all carefully.

3                         But it's simply saying to folks that  
4           we're offering them this opportunity to stay in  
5           the game, to not be prejudiced by this passage  
6           of time if they choose to take that opportunity.

7                         COMMISSIONER MCHUGH: Those risks  
8           all have an economic value. So, the market can  
9           place that value on the risk. These are  
10          sophisticated people. And make a judgment  
11          about whether the economic value of taking the  
12          risk is worthwhile.

13                        And in that sense, I agree with the  
14          Chairman, it may be no different than an  
15          economic assessment that one makes in a crowded  
16          field like one has in the West. Different kind  
17          of risk, a different kind of assessment that has  
18          to be done, but still a risk that has an economic  
19          value that people can make judgments about.

20                        So, that's one way to approach it.  
21          Another way might be -- Undoubtedly, there are  
22          other ways to approach it too. That's one that  
23          immediately comes to mind.

24                        COMMISSIONER ZUNIGA: Perhaps to

1 state the obvious, all of the work that we've  
2 done on regulations Phase I and to a great degree  
3 may be incompletely on Phase II, regulations for  
4 Phase II would apply to a commercial license in  
5 Region C.

6 COMMISSIONER MCHUGH: Right.

7 COMMISSIONER ZUNIGA: So, a lot of  
8 that legwork is already taking place. We would  
9 probably have to consider a date of request for  
10 applications, if you will, as the starting point  
11 however long in the future for that Region. And  
12 allow the same amount of time for responses,  
13 which already put somebody at a time difference,  
14 which is your point from earlier.

15 COMMISSIONER MCHUGH: Right. Sure.  
16 You'd have to to be fair. If we ultimately  
17 decided to do this, you couldn't have January  
18 15 be the same deadline.

19 COMMISSIONER CAMERON: Ninety-day  
20 period from --

21 COMMISSIONER MCHUGH: -- some date,  
22 yes. But whenever you set that, you would then  
23 at least in the short term stop the widening gap.

24 CHAIRMAN CROSBY: Right, right.

1 COMMISSIONER CAMERON: You would.

2 CHAIRMAN CROSBY: Could I ask a  
3 question? One of the concerns -- The way the  
4 BIA letter, the Interior letter reads on its  
5 face sounds pretty emphatic that 6.5 percent  
6 would be the rate that they would be willing to  
7 accept. Now whether that is flexible or not,  
8 none of us has any way of knowing.

9 But it's either 6.5 percent or  
10 somewhere between 6.5 percent and a lot short  
11 of 21.5, which changes a lot of numbers that were  
12 anticipated in the legislation. The amount of  
13 money available for problem gambling, the  
14 amount of money available for mitigation.

15 There are issues about as the compact  
16 also said that we were limited, the Commission  
17 would be limited in having any regulatory say  
18 over nongaming personnel and facilities  
19 different from the way we will have authority  
20 relative to the commercial. And those are  
21 issues. And I don't know how big they are, but  
22 those are clearly issues.

23 Is it within our right to contemplate  
24 the significance of those as we wrestle with the

1 right thing to do here?

2 COMMISSIONER MCHUGH: Sure. I  
3 think we can contemplate anything we want, Mr.  
4 Chairman. I would urge us not to think now  
5 about the likely amounts, because the basic  
6 rule, as I understand it and I'm not an expert  
7 in this area, but as I understand it, the basic  
8 rule is that the state may receive compensation  
9 for a concession that it gives the Tribe but it's  
10 not obligated to give.

11 In Connecticut, for example, the  
12 casinos again as I understand it, pay the State  
13 of Connecticut, the two casinos, simply the  
14 costs of overseeing the table games. But  
15 they've been awarded an exclusive right to run  
16 slot machines.

17 And they pay the State of Connecticut  
18 25 percent of gross gaming revenues for that.  
19 So, that's less than 25 percent of the gross  
20 gaming revenues for the whole operation, but  
21 they spit that up in that fashion.

22 Now what's going to happen, it seems  
23 to me, in the renewed negotiations is the able  
24 lawyers on both sides are going to look at other

1           concessions that are permissible under IGRA,  
2           see what they are, see what value can be attached  
3           to them realistically and then put them in the  
4           compact. And we at this point don't have any  
5           idea of what they are going to come up with.

6                   CHAIRMAN CROSBY: And I agree with  
7           that point that that's not really where our  
8           focus ought to be at this stage of the game,  
9           particularly if we are going to contemplate some  
10          kind of a parallel path. But I think as we  
11          wrestle with whether or not to have a parallel  
12          path, the point you made seeing -- We can pile  
13          uncertainty on uncertainty on uncertainty on  
14          uncertainty suggests that maybe we have to think  
15          pretty hard about protecting the alternative  
16          strategy.

17                   And the difficulty -- It's right.  
18          There's no point in us worrying about what  
19          number specifically, but the fact that we can  
20          be pretty sure there will be a problem coming  
21          to a number just adds to, at least in my view,  
22          adds to the legitimacy of the idea of coming up  
23          with some kind of a parallel path approach.

24                   COMMISSIONER ZUNIGA: I am thinking

1 of another scenario, which is if this Commission  
2 were to take an action like starting a request  
3 for application, would that then have an effect  
4 on the Bureau's decision of that 6.5 percent was  
5 the only exclusivity. Because that's a new  
6 data point to those compact negotiations,  
7 correct? That maybe that 6.5 would further be  
8 not accepted if it's clear that the Commission  
9 has taken steps towards undermining the  
10 exclusivity.

11 CHAIRMAN CROSBY: You mean 6.5 would  
12 be too high?

13 COMMISSIONER ZUNIGA: Yes. I am  
14 just thinking of a scenario. If this  
15 Commission is perceived as having taking steps  
16 significant or not towards undermining an  
17 exclusivity, is it conceivable that 6.5 is now  
18 too much in the eyes of the Bureau?

19 COMMISSIONER MCHUGH: Well, that  
20 depends on whether the Commission takes such a  
21 step. And one way to avoid that problem would  
22 be for the Commission not to take that step and  
23 to say, for example, that it remains prepared  
24 to consider, if the Legislature approves it, a

1 compact that contains exclusivity and to honor  
2 that.

3 But is at the same time, going down  
4 a parallel track and we'll follow that parallel  
5 track in the event that the negotiations are  
6 unsuccessful, in the event they don't contain  
7 an exclusivity provision, in the event that the  
8 land appears unlikely to be taken into trust.  
9 Under a number of contingencies, it will move  
10 off of the exclusivity track and move onto  
11 another.

12 That still leaves, it seems to me  
13 logically, the value of 6.5 percent in place for  
14 exclusivity if exclusivity is awarded. It just  
15 simply says we haven't made a decision as to  
16 whether we are going to award exclusivity.  
17 Does that make sense?

18 COMMISSIONER ZUNIGA: Sure. Again,  
19 it's the outcome that provides the exclusivity.

20 COMMISSIONER MCHUGH: It's the  
21 outcome.

22 COMMISSIONER ZUNIGA: Not the steps  
23 in the interim.

24 COMMISSIONER MCHUGH: Right, right.

1                   CHAIRMAN CROSBY:  Other thoughts,  
2           ideas?  Well, I think -- I don't hear anybody  
3           disagreeing that we shouldn't contemplate the  
4           possibility of some kind of a parallel path.

5                   I think it's important to be very  
6           clear that I think all of us feel very respectful  
7           of the rights of the Tribe to pursue its options  
8           under the law fully, even as we try to wrestle  
9           with looking out for what we think the  
10          Legislature intended in Southeastern Mass.

11                   And I don't hear anybody objecting to  
12          that.  And I don't hear anybody objecting to  
13          Commissioner McHugh's idea that we think about  
14          an alternative if you suggest there are going  
15          to be some subtleties in this.

16                   But if it's okay, I'd like to suggest  
17          that Commissioner McHugh take this a step  
18          further and put something on paper that we can  
19          react to along the lines of what we've been  
20          talking about.  Maybe that's one thing that  
21          will flesh out some of the issues.

22                   And that we plan to have that on the  
23          agenda next week.  And in the meantime, I guess,  
24          invite anybody that wants to contribute to this

1 thought process to do so. Nothing will happen  
2 parentally. Nothing here will happen without  
3 plenty of discussion, without plenty of  
4 opportunity for people to comment.

5 Even if we do come up with something  
6 next week, I think we can assure people that  
7 there will be an opportunity further to react  
8 to that. Because I think we don't want to take  
9 any step here hastily, but we do want to think  
10 this through.

11 So, if everybody is okay with that I  
12 would ask Commissioner McHugh to do that.

13 COMMISSIONER MCHUGH: I'd be happy  
14 to do that, Mr. Chairman. I just would  
15 underscore the thought that this would be a  
16 discussion item for next week. And maybe we'd  
17 even coalesce around a tentative something.  
18 But then certainly want to have a full reaction  
19 to it before we took a vote. So, that this would  
20 be another discussion item for next week. But  
21 I'd be happy to do that under those  
22 circumstances.

23 CHAIRMAN CROSBY: Great.

24 COMMISSIONER STEBBINS: Are there

1           folks that we should plan to reach out to in  
2           advance of that meeting to get their input at  
3           the next meeting?

4                       CHAIRMAN CROSBY: Well, we reached  
5           out to everybody who had a particular interest  
6           in this before this week. So, I am sure  
7           everybody is paying attention. We might think  
8           of somebody else, but we gave a heads-up to the  
9           key parties just to make sure they knew this was  
10          going to be on the agenda.

11                      We didn't say anymore than that. I  
12          think everybody is probably pretty well teed up.  
13          We told the Governor's office. We told the  
14          Legislature. We told the Tribe. We told the  
15          community. I'm not sure who else. I'm not  
16          sure -- Is there anybody else that you can think  
17          of?

18                      COMMISSIONER STEBBINS: No. I'm  
19          just thinking, obviously, now that I've had a  
20          chance to see this, should we block out sometime  
21          in the schedule for those interested parties to  
22          have some time to talk about it directly with  
23          us.

24                      COMMISSIONER ZUNIGA: Next week is a

1 busy schedule.

2 COMMISSIONER MCHUGH: Next week is a  
3 busy week, but I think it would be helpful.  
4 Certainly, comments at any time are welcome.  
5 But I think it would be helpful to take this,  
6 as long as we're thinking this way, to put  
7 something on the table that has another level  
8 of concreteness. And then allow people not  
9 only to talk about the idea, but if they accept  
10 the idea, to help us think through the  
11 execution, which would be another week for  
12 comments or something.

13 And then perhaps take a vote the week  
14 after that so that we make sure that everybody  
15 has a chance to be heard. And that we get the  
16 benefit of what undoubtedly will be a lot of  
17 thoughtful commentary. Some schedule like  
18 that.

19 CHAIRMAN CROSBY: Okay, great.  
20 Thank you. That's important and helpful.

21 Administration, personnel searches,  
22 I don't know that there's anything new to  
23 report. We did post the Director of Supplier  
24 and Workforce Development. Anything else

1           that's hot?

2                       The stenography procurement, is that  
3           Commissioner Zuniga?

4                       COMMISSIONER ZUNIGA: Yes. I can  
5           provide a background. Included in the packet  
6           here is a memorandum from Director Glovsky  
7           relative to the procurement of stenographic  
8           services and her recommendation.

9                       If everybody had a chance to read  
10          through the memorandum? The recommendation is  
11          that the Gaming Commission accept the following  
12          three vendors and prequalify all three of them  
13          to conduct stenographic and transcript services  
14          based on the responses to the request for  
15          responses conducted on October 26, 2012. Those  
16          vendors are Catuogno and Sten-Tel, Reporters,  
17          Inc. and Copley Court Reporting.

18                      I can take any questions, if there are  
19          any or we can ask them of Director Glovsky who  
20          helped us with administration of this  
21          procurement.

22                      COMMISSIONER MCHUGH: I should know  
23          the answer to this, but I didn't see it in my  
24          quick reading of this memorandum. Are the

1 services included the preparation of draft  
2 minutes?

3 COMMISSIONER ZUNIGA: That's  
4 correct, transcript for those minutes, yes.

5 COMMISSIONER MCHUGH: Transcript  
6 plus, there are two different documents.

7 COMMISSIONER ZUNIGA: Yes.

8 MS. GLOVSKY: What we did is we got  
9 hourly rates for a variety of services. And  
10 included in that was for the preparation of  
11 summarized minutes. And there is a separate  
12 fee for that.

13 COMMISSIONER MCHUGH: Okay.

14 COMMISSIONER ZUNIGA: The motion has  
15 been made. I can take any comments.

16 CHAIRMAN CROSBY: Oh, did you make  
17 the motion?

18 COMMISSIONER ZUNIGA: Yes, I made  
19 the motion.

20 CHAIRMAN CROSBY: Is there a second?

21 COMMISSIONER STEBBINS: Second.

22 CHAIRMAN CROSBY: Any other  
23 discussion?

24 CHAIRMAN CROSBY: And this would be

1 for use anywhere, anytime, for all of our  
2 various kinds of things?

3 COMMISSIONER ZUNIGA: The same as in  
4 a prior procurement, the idea of prequalifying  
5 three vendors who are qualified gives this  
6 Commission a lot of flexibility.

7 CHAIRMAN CROSBY: I think it's a good  
8 idea.

9 COMMISSIONER ZUNIGA; And they're  
10 all great qualified people.

11 CHAIRMAN CROSBY: Good. All in  
12 favor, aye.

13 COMMISSIONER STEBBINS: Aye.

14 COMMISSIONER ZUNIGA: Aye.

15 COMMISSIONER CAMERON: Aye.

16 COMMISSIONER MCHUGH: Aye.

17 CHAIRMAN CROSBY: Opposed? The  
18 ayes have it.

19 Employee manual, chapters four and  
20 five, these are just for a background. Did  
21 anybody have any questions now? I think we are  
22 going to vote on this next week.

23 COMMISSIONER ZUNIGA: That's the  
24 intention.

1                   CHAIRMAN CROSBY: Right.

2                   COMMISSIONER MCHUGH: Again, I think  
3 these are very thoughtful and thorough. I may  
4 have some minor comments, but it's another good  
5 job. We're moving this process forward.

6                   CHAIRMAN CROSBY: Great. Racing  
7 Division, our director is out sick. Do you  
8 have, Commissioner Cameron --

9                   COMMISSIONER CAMERON: I am prepared  
10 to give a report, Mr. Chair.

11                  CHAIRMAN CROSBY: All right.

12                  COMMISSIONER CAMERON: The working  
13 group has their second meeting. They met out  
14 at Plainridge this past week to talk very  
15 similar to discussion to what transpired in  
16 Suffolk, talking equine medications, best  
17 practices, model rules, good discussions by all  
18 accounts.

19                  Also, the resumes, the deadlines are  
20 close of business today for the posted positions  
21 for Racing. Interviews are being scheduled for  
22 next week.

23                  And staff are beginning stages of  
24 cleaning out the lab at this time. And they're

1 looking for storage. There are quite a few  
2 files, I'm told back to 1935, racing files. So,  
3 I think in the future that may be something we  
4 look to automate, to put on disks. But for now  
5 we are looking for some storage in order to take  
6 possession of the files. Janice is looking at  
7 me.

8 COMMISSIONER MCHUGH: Have we looked  
9 at trying to get them converted to microfiche?

10 COMMISSIONER CAMERON: Not at this  
11 time. We don't feel like we have enough time  
12 before January 1 to do that. So, we are  
13 probably going to look for storage and then  
14 start immediately after that look for -- to  
15 start that process.

16 COMMISSIONER MCHUGH: Some of those  
17 files really go back into the glory days of  
18 racing in Massachusetts. So, it'd really  
19 important to preserve them.

20 COMMISSIONER CAMERON: I think you  
21 are correct. Would you like to look through  
22 them as we --

23 COMMISSIONER MCHUGH: No.  
24 Actually, it'd be kind of fun. Some of those

1 horses that raced over there -- The Mass Cap that  
2 was one of the premier races on the East Coast.  
3 Some great races were over there. Yes, maybe  
4 I would like to look at them.

5 COMMISSIONER CAMERON: Okay. We'll  
6 make that available. That concludes my report,  
7 Mr. Chair.

8 CHAIRMAN CROSBY: Okay, great.  
9 Item six, public education information,  
10 Ombudsman Ziemba?

11 MR. ZIEMBA: Good day, Mr. Chairman.  
12 We continue to field questions from hosts and  
13 potential surrounding communities. Of  
14 particular focus over this past week have been  
15 the cities of Holyoke and the City of Everett  
16 as they just had recent announcements. There  
17 are a number of different questions about the  
18 process that we've been helping them work  
19 through. They're in the process of organizing  
20 themselves for eventual conversations with  
21 applicants.

22 We have received a number of  
23 inquiries over this last week regarding racing  
24 from local aid payments from a number of

1           Legislators.

2                       CHAIRMAN CROSBY: This is the dog  
3           payment?

4                       MR. ZIEMBA: This is the dog, yes.  
5           So, what we decided to do is that we decided to  
6           get more of a historical analysis of how those  
7           payments have been made over the last -- not over  
8           the last couple of fiscal years, but going back  
9           to FY'08 and FY'09 and how the Treasurer's  
10          office has been involved or not involved in  
11          those payments.

12                      Counsel Murray has prepared a memo  
13          that we can circulate in the next day or so. But  
14          it's my hope that we can give some solution to  
15          this matter very quickly just because of the  
16          level of interest.

17                      CHAIRMAN CROSBY: Is this the memo  
18          that would go to the Legislature to the  
19          Senator's office that you and I talked about  
20          last week?

21                      MR. ZIEMBA: Correct. And one of  
22          the things that we're trying to determine is  
23          legislation actually necessary to have a cure  
24          of this issue. And we're trying to make every

1 effort to see that it's not if that's within the  
2 intent of the Legislature.

3 CHAIRMAN CROSBY: Somebody is  
4 keeping in close touch with them. Because  
5 there's not going to be much time left if you  
6 decide that it does take a Legislative fix.

7 MR. ZIEMBA: Correct. One good  
8 thing from Counsel Murray's memo is that this  
9 date that I was concerned about regarding  
10 December 31 may not be a real date. So, that  
11 there would not be a deadline other than the fact  
12 that communities need to receive these monies  
13 as quickly as possible. But the importance of  
14 December 31 date may not be real. But we are  
15 double-checking because there are so many  
16 different agencies and constitutional officers  
17 involved in the question is a little bit tricky.

18 CHAIRMAN CROSBY: If it isn't, then  
19 I gave a bum steer to Senator Pacheco. And you  
20 just need to straighten it out with him.

21 MR. ZIEMBA: Correct. And I've been  
22 in contact with Senator Pacheco's office. I  
23 called them as of yesterday asking them for just  
24 another day or so to resolve this. And I've

1           been in touch with another senator and I'll be  
2           in touch with all of them within the next hour  
3           if not days -- day.

4                   CHAIRMAN CROSBY:   Okay.

5                   MR. ZIEMBA:   We continue to work on  
6           the policy questions.   We've reached out to the  
7           regional planning agencies, host communities,  
8           surrounding communities to get some of the  
9           answers that we will be discussing next week.

10                   There's a question that we received  
11           regarding the public availability of comments  
12           that we've received to date.   I don't think  
13           we've yet posted those on our website.   And I  
14           put that up the Commission if that's something  
15           we do now or if we do as we start considering  
16           them next week.

17                   CHAIRMAN CROSBY:   Wait a minute.   We  
18           posted a lot of them -- A lot of the questions  
19           came into the website -- a lot of the responses.

20                   MR. ZIEMBA:   But the comments that  
21           we've received, I don't believe that they've  
22           been actually posted to the website.

23                   COMMISSIONER MCHUGH:   They're not  
24           posted, publicly available.   They came into to

1 us.

2 MS. REILLY: They came into the MGC  
3 comments inbox, the email inbox.

4 CHAIRMAN CROSBY: Oh, I thought they  
5 were available.

6 MS. REILLY: They're not posted on  
7 the web. We can post them.

8 CHAIRMAN CROSBY: Okay. I don't see  
9 any reason not to. I would say yes, let's do  
10 that. I referred somebody to them. I thought  
11 they were on the web. So, yes, I would say let's  
12 definitely do that.

13 MR. ZIEMBA: Great. Yesterday,  
14 Commissioner Zuniga and I met with three of the  
15 regional planning agencies with potential host  
16 committees to continue to go over that process  
17 of how we can help smooth out the host and  
18 surrounding community process and discussion.

19 The last thing I'll mention is just  
20 sort of reification of things that have been  
21 discussed here today. In the context of our  
22 communications on Region C, we stressed the  
23 importance of opportunity to be heard and notice  
24 of decisions before they are made. Obviously,

1 that is entirely in concert with the  
2 conversations that have gone on today.

3 So, to the extent that I can work with  
4 Commissioner McHugh and others on how we get out  
5 further notice to not only just the potential  
6 host community, but the entire Region that may  
7 be impacted by such a decision.

8 CHAIRMAN CROSBY: Pursuant to  
9 Commissioner Stebbins' point, one group that we  
10 did not give a heads-up to at least that I know  
11 of was the two RPAs, Old Colony and SRPEDD.

12 MR. ZIEMBA: It was mentioned to one  
13 of the RPAs, but not to Old Colony.

14 CHAIRMAN CROSBY: They'll know it by  
15 now, but still it's worth reaching out just for  
16 the reason that Commissioner Stebbins is  
17 saying.

18 MR. ZIEMBA: And perhaps they can  
19 help us to reach out to all of the potential  
20 communities that might want to have a say about  
21 it.

22 CHAIRMAN CROSBY: Right, right.

23 MR. ZIEMBA: That's what I have to  
24 report.

1                   CHAIRMAN CROSBY: Any themes of the  
2                   questions? Like do the folks of Holyoke and  
3                   Everett have a grasp of the process? Or are  
4                   going through this de novo pretty much?

5                   MR. ZIEMBA: No. I think they have  
6                   a pretty good understanding of the process. We  
7                   went over a lot of the impending deadlines, what  
8                   they mean, what they don't mean.

9                   One theme that we've experienced is  
10                  the access to the funds that will be necessary  
11                  to pay for the studies that would be involved,  
12                  just for the consultants that would be involved  
13                  in reviewing applicants. We've pointed them in  
14                  the direction of the Department of Rev. and  
15                  Division of Local Services to make sure that  
16                  they don't do anything that runs afoul of  
17                  municipal finance law.

18                  But as part of our homework, I think  
19                  I've been a little bit slow in getting out a  
20                  further advisory to all of those communities so  
21                  that they know of the process of applying to us  
22                  for those funds and the limitations that they  
23                  may experience on a municipal finance law  
24                  perspective.

1                   My hope would be that the reliance  
2                   would be on the actual experts of municipal  
3                   finance law at DLS. But that said, I think we  
4                   can put out some directives that would at least  
5                   point people in the right direction that they  
6                   can confirm their understandings with DLS. And  
7                   it was my hope that we would have had that to  
8                   date, but I haven't been able to get that out  
9                   just yet.

10                   CHAIRMAN CROSBY: But sometime soon  
11                   it sounds like, a couple of days?

12                   MR. ZIEMBA: Yes, within the next  
13                   week hopefully.

14                   COMMISSIONER ZUNIGA: Another  
15                   element to that is to have a document that we  
16                   execute with a host or surrounding community  
17                   that we may call a grant agreement. I'll be the  
18                   one taking the follow-up on that.

19                   CHAIRMAN CROSBY: Okay.

20                   COMMISSIONER STEBBINS: Quick  
21                   question for you, John. Do you have a good  
22                   sense of the process Holyoke has created for  
23                   themselves? This is kind of relatively new to  
24                   the scene. And also you hear that companies had

1 to come up with \$25,000 pretty quickly.

2 MR. ZIEMBA: I don't know if it's  
3 entirely dissimilar from the Springfield  
4 process except for the fact that it is obviously  
5 truncated in form. It's running a little bit  
6 quicker. The decision was just made last week.  
7 So, that they're moving forward with the  
8 knowledge of the January 15 deadline that we  
9 have.

10 In conversations with the city, I'm  
11 not sure that the January 15 deadline is the end  
12 all, be all with their process. But I'm still  
13 getting to learn a little bit more about their  
14 process and will over the coming days. My  
15 general feel is that they are trying to react  
16 to the timetables that are existing but to  
17 create a process that they can evaluate  
18 proposals.

19 CHAIRMAN CROSBY: Anything else?

20 COMMISSIONER MCHUGH: Sounds good.

21 CHAIRMAN CROSBY: Thank you. Our  
22 conference on the 12th, Promoting  
23 Sustainability and Achieving Design  
24 Excellence. I don't know is there anything

1 else to talk about that?

2 COMMISSIONER STEBBINS: No. We  
3 continue to get the word out. Just as a  
4 reminder, one of the reasons we're having this  
5 is that several places in the statute it gives  
6 the Commission the authority to create  
7 regulations with respect to design. As well  
8 as in Section 18 it talks about we will evaluate  
9 proposals based on the sustainability of  
10 buildings and their ability to reach certain  
11 LEED certification levels.

12 So, this is a helpful forum. I hope  
13 will be a helpful forum for us in terms of some  
14 of the policy questions that we are raising as  
15 we move ahead to the RFA-2 process. I guess the  
16 subject matter is not to be taken lightly.

17 CHAIRMAN CROSBY: No, I totally  
18 agree with that. Even design excellence,  
19 having architects talk to us about what they  
20 think design excellence means, particularly  
21 when the legislation talks about merging the  
22 facilities into the cultural landscape,  
23 pre-existing cultural landscape.

24 I hope we get a lot of really good

1 stuff here because this a really important area.  
2 And I hope our prospective bidders will be there  
3 too. I think -- I hope there will be good stuff.

4 Do we have a sign-up sheet for that?

5 MS. REILLY: It's on the website.

6 CHAIRMAN CROSBY: Do we know how many  
7 people have signed up?

8 MS. REILLY: I think we are about 59  
9 people.

10 CHAIRMAN CROSBY: That's good.  
11 Okay. Director Driscoll, we have you on the  
12 agenda. Do you have --

13 MS. DRISCOLL: Yes, I just have to  
14 set up my computer up and hook up to the  
15 Internet. So, it might take a minute.

16 CHAIRMAN CROSBY: Let's have a  
17 five-minute break while you set up.

18  
19 (A recess was taken)

20  
21 CHAIRMAN CROSBY: I think we are  
22 ready to reconvene.

23 MS. DRISCOLL: So, I just wanted to  
24 basically give you a sense of where we currently

1 are. As I mentioned before, we are in the  
2 process of establishing basically an  
3 information portal for -- as a place where  
4 information is easily accessible,  
5 user-friendly.

6 Whether it's questions from host and  
7 surrounding communities -- host and surrounding  
8 communities, developers, media, elected  
9 officials, whatever the case may be, this is  
10 going to be a place where information is going  
11 to be easy to find, readily accessible and easy  
12 for us to update on a frequent basis.

13 We have three concepts going right  
14 now. And just to sort of give you a sense, what  
15 I am doing right now is I had let the designers  
16 know how I wanted the information laid out, what  
17 I thought was most important upfront. And what  
18 elements of what we're discussing I wanted to  
19 highlight in sort of the prominent places, the  
20 prominent real estate on the homepage of the  
21 website.

22 So, they gave me three options. I'm  
23 in the process now of reviewing them to  
24 basically decide which one I think achieves our

1 goal. But just to give you a sense of where it's  
2 headed, one of the first concepts looks  
3 something like this. Hopefully, this comes up  
4 quickly.

5 So, as you can see this would  
6 basically be the start of the homepage. Okay.  
7 I shouldn't have done that. Hold on,  
8 temperamental. That's weird. That would be  
9 the second page. Basically, a homepage, it  
10 would have a revolving pic at the front, get out  
11 some key messages. As you can see up top here  
12 it's got an about section, the Commission, news  
13 and events, our blog, licensing and  
14 regulations, and then the I want to section.

15 That would be key because in the I  
16 want to section it will say fill out an  
17 application, look for job opportunities,  
18 contact the Commission, request a speaker,  
19 report a crime, whatever the case may be. There  
20 will be a key list of I want to's right there.

21 As you can see up top here, we have  
22 all of our social media availabilities, key  
23 place for jobs, key place for contact. Key  
24 place to identify problem gambling resources,

1 1-800 number, things along those lines.

2 As the page moves down here, we'll  
3 have our key news and updates up in the left-hand  
4 corner, events on the side where you see all of  
5 our live streaming videos. Again, if you go  
6 down here, those would be as you see on the left,  
7 basically blog entries, press releases, latest  
8 news.

9 A perfect example of that would be  
10 when, for example, Ombudsman Ziemba goes to a  
11 meeting with regional planning groups, meets  
12 with a surrounding or host community, comes back  
13 with some immediate information of a frequent  
14 question, for example, that he's getting, great  
15 opportunity to blog about it.

16 Commissioner McHugh attends a  
17 responsible gambling forum like he did last  
18 week, comes back with some feedback, great place  
19 to do two paragraphs on your experience and  
20 insights that you took away from that meeting.

21 Socialize with us that's basically an  
22 ongoing almost like a twitter feed basically  
23 where every time we tweet something, the latest  
24 pops up right there. You scroll down, again,

1 part of the homepage stay updated on the  
2 Massachusetts Gaming Commission. That's where  
3 people can fill in their email address and be  
4 very specific, check off what they want from us.

5 So, people can get as much or as  
6 little information that they're interested in.  
7 Meeting notices and agendas, public hearing  
8 notices, press releases and then what will soon  
9 be our newsletter.

10 Over here in the corner it says tell  
11 us what you think. I thought that that was very  
12 important to have a tell us what you think  
13 category.

14 CHAIRMAN CROSBY: And this is Gayle  
15 with the pigtails?

16 MS. DRISCOLL: Maybe we'll remove  
17 the pigtail profile, but again, that's where you  
18 can read bios, you can sign up for our speakers  
19 bureau, etc. important information is repeated  
20 back again down here.

21 COMMISSIONER MCHUGH: When somebody  
22 signs up for those little check-off boxes then  
23 after that it's all automated?

24 MS. DRISCOLL: Correct, that will

1 all be automated. By the way, I don't want to  
2 oversimplify. Although we've got the design  
3 down and we know where we are headed, I don't  
4 want to oversimplify what it's going to take to  
5 actually build this out, because that's going  
6 to be a little bit more complicated. But we're  
7 heading in a good direction.

8 So, let me go back here. Just to give  
9 you a sense, if we went with that concept here  
10 is what the drop down would look like. Again,  
11 with an idea that this should be very easy to  
12 navigate.

13 I can't click on any of these, but as  
14 you can see under the about section, if you want  
15 to read the law, if you're a developer looking  
16 for information, if you want an update on the  
17 Tribal situation. That area where it says  
18 diversity will actually be a workforce  
19 development/diversity segment.

20 Procurement, Racing, the research  
21 agenda, host and surrounding, FAQs, we really  
22 tried to break it down. By the way, we'll be  
23 adding the necessary areas as we go. But just  
24 to get started, these are what we've seen in some

1 of the key issues.

2 I am just going to take you to  
3 concepts, which happens, I think, to be -- okay.  
4 Here's a little bit of a different concept.  
5 This for me I really wanted to stress timelines.  
6 So, on the homepage there would be a very  
7 prominent calendar that would actually be  
8 color-coded where we would be able to have all  
9 of our open meetings, speaking engagements,  
10 public hearings, educational forms. And then  
11 also it would be key to highlight milestones and  
12 deadlines.

13 So, given the fact and clearly that  
14 our timeline continues to be a very prominent  
15 part of this discussion, I wanted to make it a  
16 prominent part of the homepage.

17 Then again, using updates right here,  
18 which would be fed by both press releases, blog  
19 posts whatever the case may be. Again, you go  
20 down, you can access to all of our videos, live  
21 streams, whether it be from our meetings or  
22 whatever the case may be, a prominent public  
23 comments section. And again, a place where  
24 we're reminding people how to stay connected

1 through the various social media.

2 CHAIRMAN CROSBY: All of these  
3 categories would probably be in any one of the  
4 formats, right? This is a just a different  
5 emphasis?

6 MS. DRISCOLL: Correct, yes.

7 CHAIRMAN CROSBY: These are all  
8 great areas that we would want whichever format  
9 you go with.

10 MS. DRISCOLL: So, these are all  
11 designs based on instructions to the designer  
12 to make these particular issues up front, yes.  
13 Because we've already worked all of that out.  
14 So, I'm just kind of giving you a sense.

15 In this particular design, the  
16 calendar is more pronounced than on the other  
17 page. But as you can see all the same, about  
18 the Commission, news and events, it's all the  
19 same. This will be, again like I said, a  
20 revolving photo, probably about five of them.

21 Let's go to concept three.

22 CHAIRMAN CROSBY: I like our logo.

23 MS. DRISCOLL: Yes, it looks nice  
24 when you see it working in action. So,

1           similarly here social media upfront, live  
2           streaming on the right. Then as you can see  
3           right here, again, recent news for the blog  
4           posts and then again, calendar right up front,  
5           a little bit less prominent than in the second  
6           design, but you get the picture.

7                       Public comments, and again, a place  
8           -- if you look down here, again, a prominent  
9           place for people to sign up to receive very  
10          specifically the type of information that they  
11          desire to get so that we are not bombarding  
12          people with more information than they want.  
13          But they can actually tailor it to hear from us  
14          on things that matter to them most.

15                      Again, just a little bit more of the  
16          same but just to give you a sense of the drop  
17          down and what it looks like. So, what's neat  
18          about that is when it comes down it's actually  
19          coming down and going to the right as opposed  
20          to the long vertical way.

21                      COMMISSIONER MCHUGH: Those look  
22          great.

23                      CHAIRMAN CROSBY: I agree.

24                      COMMISSIONER CAMERON: Headless

1 Commissioners.

2 COMMISSIONER MCHUGH: That's not  
3 what I was referring to.

4 MS. DRISCOLL: But I think that this  
5 is going to be really helpful. Again because  
6 what's happening is, as we know, just the vast  
7 number of issues that keep presenting  
8 themselves.

9 The one other thing too that I suggest  
10 strongly that we add is like I said I want  
11 timeline to be front and center. So, I'm  
12 leaning towards the design that has the calendar  
13 prominent because we do get asked so frequently  
14 about various dates.

15 Then the other issue is under the  
16 Commission there will be a laundry list --  
17 That's not it. But under the Commission,  
18 there'll be a laundry list of categories. One  
19 of them should obviously be the Commission's  
20 budget and explaining as much as we possibly can  
21 the budget expenses, etc., etc. so that anyone  
22 that's looking for that information, one-stop  
23 shopping right here, everything that anyone  
24 would like to know.

1 CHAIRMAN CROSBY: Great.

2 MS. DRISCOLL: So, the designers  
3 will basically be finishing that ASAP. And  
4 then we go onto the actual building out, which  
5 is a bit more complex.

6 Like anything, I made it clear that  
7 we want it yesterday. So, how quickly they can  
8 do that -- But they did say not to oversimplify  
9 the complexity of doing that well. But they  
10 understand the sense of urgency. So, the month  
11 of January, laser focused on getting it done.

12 I think we are happy with the designs.  
13 It doesn't make sense in going back and forth.  
14 I think it hits on exactly what we needed to.  
15 Now it's just a matter of I'm doing the content  
16 while they do the necessary design. And I think  
17 we hopefully in the month of January we'll have  
18 it done.

19 CHAIRMAN CROSBY: Great.

20 COMMISSIONER CAMERON: Excellent.

21 COMMISSIONER MCHUGH: It looks  
22 terrific.

23 CHAIRMAN CROSBY: Anything else on  
24 your --

1 MS. DRISCOLL: No, again, many media  
2 inquiries on many different issues that we're  
3 just trying to keep up on. Speaker's bureau  
4 requests we're trying to keep up on and just  
5 getting as much -

6 Again, promoting the casino design  
7 forum and also getting something out this week  
8 that clearly defines for the public what the  
9 plan is for the meetings and the policy  
10 questions next week. That will go out by the  
11 end of the week.

12 CHAIRMAN CROSBY: Okay, great.

13 COMMISSIONER CAMERON: Thank you.

14 CHAIRMAN CROSBY: Thank you. I  
15 think that's the end. Any other business?  
16 Anything I missed? All right. Motion to  
17 adjourn?

18 COMMISSIONER MCHUGH: So moved.

19 COMMISSIONER CAMERON: Second.

20 CHAIRMAN CROSBY: All in favor, aye.

21 COMMISSIONER STEBBINS: Aye.

22 COMMISSIONER ZUNIGA: Aye.

23 COMMISSIONER CAMERON: Aye.

24 COMMISSIONER MCHUGH: Aye.

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CHAIRMAN CROSBY: All right. Thank  
you, folks.

(Meeting adjourned at 2:55 p.m.)

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ATTACHMENTS:

1. Agenda
2. Massachusetts Gaming Commission 11/28/2012  
Summary Schedule Work Plan Update
3. December 3, 2012 Mashpee Wampanoag Tribe  
Letter
4. December 4, 2012 Memorandum Regarding Region C
5. November 27, 2012 Memorandum Regarding  
Recommendation to Pre-Qualify Vendors for  
Stenographic Services
6. Massachusetts Gaming Commission Section 4  
of Employee Handbook
7. Massachusetts Gaming Commission Section 5  
of Employee Handbook

SPEAKERS:

Fredric Gushin, Spectrum Gaming  
John Ziemba, Ombudsman  
Elaine Driscoll, Director of Communications and  
Outreach

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C E R T I F I C A T E

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

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

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

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//Laurie J. Jordan// Date: December 5, 2012

Court Reporter for Office Solutions Plus, LLC

My commission expires: May 11, 2018

//Elizabeth Tice// Date: December 5, 2012

Elizabeth Tice, President, Office Solutions Plus, LLC

My commission expires: August 26, 2016