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THE COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS GAMING COMMISSION

PUBLIC MEETING #66

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

James F. McHugh (present via videoconference)

Bruce W. Stebbins (present via videoconference)

Enrique Zuniga

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May 3, 2013, 9:00 a.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 am calling to order public meeting number 66 on May 3, 2013. We are now operating in three different locations. Commissioner Stebbins, do you want to check in, Commissioner Stebbins?

COMMISSIONER STEBBINS: I'm here in Marlborough, Massachusetts.

CHAIRMAN CROSBY: Okay. Commissioner McHugh?

COMMISSIONER MCHUGH: I'm here at Bristol Community College in Fall River.

CHAIRMAN CROSBY: Great. As we have done on the other time we had a public hearing on regs., we've tried to make it as convenient as possible by having multiple sites. Whether it turns out to be worth the trouble, we'll think about. But when it works, it's pretty remarkable. Our viewers on the Web will also be able to see all three sites, seeing here all three sites as far as we know.

A couple of things just about the

1 process, this is our regular what has been weekly  
2 meetings but has turn into biweekly meetings. And  
3 we're going to conduct a bunch of regular business.

4 But our first item on the agenda will  
5 be the hearing on our regs., on the Phase 2 regs.  
6 And we'll have that is scheduled for at least an  
7 hour from 9:00 until 10:00. We'll take public  
8 comments.

9 We will not be talking about the  
10 feedback we've gotten. We have a lot of comments  
11 in writing. We got some comments to be delivered  
12 orally. We will be reviewing those, reading  
13 those, assessing those, contrasting them all one  
14 to another. And then we'll have another public  
15 meeting within a couple of weeks where we will talk  
16 about each one of the comments that came from the  
17 various contributors. So, we won't to be actually  
18 iterating back and forth on the comments today.

19 If we have votes, we'll have them by  
20 roll call. And I think we will limit our speakers  
21 to about 10 minutes. I don't think we have very  
22 many. So, we're not going to run out of time. But  
23 for reasons of not putting everybody to sleep,  
24 we'll keep everybody to about 10 minutes.

1           Commissioner Stebbins, do you have any  
2 speakers in Marlborough?

3           COMMISSIONER STEBBINS: No, we don't.  
4 We have two guests. Neither of the two have  
5 planned to speak.

6           CHAIRMAN CROSBY: Commissioner  
7 McHugh?

8           COMMISSIONER MCHUGH: I have no  
9 speakers here. I have Professor Robillard from  
10 the community college here who teaches courses in  
11 casino, but he does not wish to speak either.

12          CHAIRMAN CROSBY: Okay. Well, we  
13 have two speakers in Boston, Kevin Conroy from  
14 Foley Hoag representing Mohegan Sun and Catherine  
15 Rollins from the Mass. Municipal Association. We  
16 will start with Attorney Conroy.

17          MR. CONROY: Good morning,  
18 Commissioners, Commissioners McHugh and Stebbins  
19 and happy birthday, Chairman.

20          CHAIRMAN CROSBY: Thank you.

21          MR. CONROY: We, Mohegan Sun -- I  
22 represent Mohegan Sun. They submitted a detailed  
23 nine-page document or comments, our comments on  
24 the RFA-2 regs. We're not going to repeat those

1 in detail today. They did ask me, however, to go  
2 through a couple of comments that they had, because  
3 they wanted to sort of emphasize those for the  
4 Commission.

5 Our comments are based on our  
6 experiences in Connecticut and Pennsylvania as  
7 well as New Jersey and is also closely following  
8 the evolution of the Gaming Act. We've been here  
9 in Massachusetts for the last five years. We've  
10 had our site in Palmer an we've closely followed  
11 this process.

12 First, we did not comment on the three  
13 questions that you asked us or that you put out for  
14 question last week. And I wanted to quickly  
15 address those. We do support the change, all of  
16 the changes that you proposed last week. We  
17 support allowing surrounding communities access  
18 to the disbursement funds on the timeline you  
19 suggested.

20 In addition to that, we do support and  
21 are happy to submit or send copies of all of our  
22 studies that we submit with the RFA-2 application  
23 to the surrounding communities when we do submit  
24 our RFA-2 application.

1           A couple of notes about the surrounding  
2 communities, we are fully committed to  
3 participating in the regional planning authority  
4 process that you've put together. And we're  
5 working very closely with the Pioneer Valley  
6 Planning Commission as well as Ombudsman Ziemba on  
7 that process. We think that process is going to  
8 be very helpful in facilitating this.

9           We've already had an initial meeting  
10 with Mr. Brennan and Ombudsman Ziemba. We hope  
11 and expect that that process will lead us and lead  
12 the potential surrounding communities around  
13 Palmer to not have to resort to using involuntary  
14 disbursements. We think that process should  
15 prevent that and we're fully committed to it.

16           CHAIRMAN CROSBY: Great.

17           MR. CONROY: We also support the  
18 change in the RFA-2 deadline, moving that up to  
19 early December. Like many of the applicants, we  
20 plan to enter into our surrounding community  
21 agreement -- excuse, our host community agreement  
22 in June. We plan to have a referendum in  
23 September.

24           The timeline you propose will not

1 interfere with what we're trying to accomplish.  
2 We think we will have more than enough time to  
3 negotiate our surrounding community agreements by  
4 that early December due date that you've put  
5 together.

6 One thing we do urge is that the  
7 Commission just set that RFA-2 due date. I think  
8 we and most of the applicants right now are working  
9 on a timeline that sort of stops with that due date.  
10 And to the extent we can get some certainty from  
11 the Commission as to when that due date is, it'll  
12 set the rest of our timeline in motion. That's a  
13 very, very -

14 CHAIRMAN CROSBY: You're talking  
15 about the application?

16 MR. CONROY: Yes, the application.  
17 That is in our mind the most important date. Once  
18 you establish that date, we can work our timelines  
19 around it. And as you know and you've really come  
20 to appreciate and are recognizing, there's a lot  
21 that is going on in Palmer and with the rest of the  
22 applicants on this. And all of that is dictated  
23 by that RFA-2 due date. So, we urge you to set that  
24 due date. But we appreciate that early December.

1 It's a timeline that we can work well within.

2 Just a couple of notes about the RFA-2  
3 regulations. First, Section 118 talks about the  
4 Commission having the authority to negotiate with  
5 applicants regarding the content of their  
6 applications. Talks about the Commission  
7 potentially suggesting to applicants that they  
8 amend their applications, -- These are the RFA-2  
9 applications. -- as well as requesting best and  
10 final offers from applicants after the  
11 applications have been submitted.

12 We appreciate that these regs. I think  
13 are a little bit ahead of the Commission's  
14 discussion on how you're going to evaluate the  
15 RFA-2 applications. I think you've only really  
16 had one meeting where you sort of started exploring  
17 exactly how you're going to -- what is going to  
18 happen after the RFA-2 applications have been  
19 submitted.

20 We do suggest in our comments some  
21 caution about this -- about some of these  
22 processes. We are concerned that if you do a best  
23 and final offer round, that (1) you're going to  
24 discourage applicants from putting their best foot

1 forward. They may hold something back in their  
2 applications knowing that the Commission is going  
3 to come back to them and asking for more.

4 We are concerned about issues of  
5 favoritism. We wonder how you can put together a  
6 best and final offer process or a negotiation  
7 process, how you're going to be able to do that  
8 transparently. How you're going to be able to  
9 sort of not show favoritism to one applicant.

10 The regulations talk about the staff  
11 doing this, wondering if that's going to be done  
12 in open sessions or if that's going to be done  
13 behind closed doors. And we are concerned about  
14 the Commission doing that behind closed doors.

15 We are concerned about the delay that  
16 could come from best and final offers and a whole  
17 other round of bidding, if you will, that comes  
18 with that.

19 And we're also concerned about how  
20 you're going to standardize that. As the  
21 Commission -- You've got an 11-page spreadsheet  
22 right now of 11 different pages of evaluation  
23 criteria. And we're wondering how you're going to  
24 fit the 11 pages of criteria into putting together

1 a best and final offer.

2 We also wanted to acknowledge that the  
3 Legislature talked about prior to in initial  
4 versions of the Gaming Act talked about doing an  
5 auction process. They talked about best and final  
6 offers. And they went away from that entirely.  
7 And they came to the system that we have today.

8 The Act doesn't talk about best and  
9 final offers. And I don't want to get into a  
10 protract conversation with Commissioner McHugh  
11 about whether it's allowed or not, but it certainly  
12 is not the legislative intent that there be best  
13 and final offers. It's certainly not in the Act.  
14 So, we have a number of areas of concern that relate  
15 to those provisions in the Act.

16 Finally, I wanted to talk again about  
17 confidentiality. I know that this has been an  
18 issue that has run throughout sort of the  
19 Commission's discussions. It's been a consistent  
20 theme for the last six months. The Commission has  
21 very appropriately told applicants, hey, we are  
22 living with the Act. And the Act requires that  
23 certain materials that we provide, applicants  
24 provide to the Commission are necessarily public.

1 And that Act is unique compared to acts across the  
2 Commonwealth.

3 CHAIRMAN CROSBY: Across the country.

4 MR. CONROY: -- across the country,  
5 excuse me. We really appreciated the specimen  
6 applications they you used in RFA-1. We thought  
7 that was a good way to provide guidance to  
8 applicants as to what was going to be confidential  
9 and what was not.

10 We urge that process again for the  
11 RFA-2 applications. I think there's a feeling out  
12 there that most of what is in the RFA-2  
13 applications is going to be public. However, we  
14 do note that there are certain areas that should  
15 not be public.

16 For example, the internal security  
17 information that Mohegan Sun has, they would  
18 prefer not making that public as part of their  
19 application. Currently right now, your regs.  
20 talk about needing additional personal checking  
21 information or personal banking information  
22 related to qualifiers. That's in your RFA-2 regs.  
23 as an area.

24 Again, we are going to urge you to keep

1 that information confidential. So, we do urge you  
2 that we are going to need to go through a specimen  
3 application process again for the RFA-2  
4 applications.

5 Coming back a little bit to RFA-1, one  
6 of our frustrations with the RFA-1 process is we  
7 understand what is confidential in our  
8 applications. However, since that time, we have  
9 been asked by the Commission as all of the  
10 applicants have, to provide numerous documents  
11 about our individual qualifiers.

12 For example, we have provided personal  
13 banking information about our qualifiers. We  
14 provide personal real estate records about our  
15 qualifiers. And when we have submitted those  
16 materials, we have told the Commission that we  
17 think they are confidential. And we have followed  
18 the Commission's regulations.

19 However, we never have gotten  
20 assurances from the Commission that this  
21 information will be kept confidential. We write  
22 these letters to the Commission when we submit this  
23 information saying hey, this information is  
24 confidential. Here's why consistent with the

1 regulations.

2           However, the Commission never gets  
3 back to us and says yes, we will keep this  
4 confidential. And that has kind of raised some  
5 anxiety among qualifiers.

6           And as they ask us, the entity, are you  
7 going to be able to keep this information  
8 confidential? And I think as it seems like you're  
9 going to need to go through another RFA-1 process  
10 with Region C, I would urge the Commission and we  
11 urge in our comments the Commission think about  
12 sort of some blanket areas similar to the specimen  
13 applications where they would deem information  
14 confidential, blanket confidentiality to begin  
15 with.

16           For example, you could indicate in your  
17 regulations that if a qualifier needs to submit  
18 personal banking information that information  
19 would be deemed confidential. It will lower  
20 anxiety throughout, I think, the qualifier, the  
21 application community. It would fit squarely  
22 with the Act in what you do.

23           CHAIRMAN CROSBY: Could you explain a  
24 little bit? I don't quite understand. Are you

1 saying just sort set out a list of items that would  
2 be --

3 MR. CONROY: Yes. And I think that  
4 you could work with -- There's a really standard  
5 request now that the IEB has given to all  
6 applicants. It's about 25 questions where  
7 they've asked for specific information from the  
8 qualifiers.

9 It's not directly part of the  
10 application. It's been the second step in the  
11 RFA-1 process where they've asked each of our  
12 qualifiers to supply-- and it's a list of 25  
13 different areas of documents. And we've all tried  
14 to do that.

15 When we've submitted that information,  
16 Chairman, however, there's been no blanket  
17 confidentiality that has applied to that material.

18 And similar to the way you did the  
19 specimen applications, we would urge you to adopt  
20 some way so that we could provide some certainty  
21 to our qualifiers, hey, this information will be  
22 kept confidential.

23 CHAIRMAN CROSBY: As you said that  
24 relates not just to the regs. that are going on but

1 to ongoing discussions. And we will be talking  
2 about that a little bit later on today.

3 MR. CONROY: Great.

4 CHAIRMAN CROSBY: That's an  
5 interesting point.

6 MR. CONROY: Thank you, very much.  
7 Those are my comments.

8 CHAIRMAN CROSBY: Okay, great. Thank  
9 you, Attorney Conroy. Did everybody hear all  
10 right in the distant sites, Marlborough and Fall  
11 River?

12 COMMISSIONER STEBBINS: Yes.

13 COMMISSIONER MCHUGH: Yes, I heard  
14 fine.

15 CHAIRMAN CROSBY: Great. I just want  
16 to write a quick note here. Okay, our second  
17 speaker as Catherine Rollins from the Mass.  
18 Municipal Association. Please join us.  
19 Welcome.

20 MS. ROLLINS: Thank you. And good  
21 morning, Mr. Chairman, and happy birthday.

22 CHAIRMAN CROSBY: Thank you.

23 MS. ROLLINS: Commissioners, thank  
24 you for giving us the opportunity to be here and

1 to comment very briefly. I will in fact keep it  
2 to a couple of minutes.

3 We appreciate the opportunity to  
4 submit input. And we have submitted extensive  
5 comments electronically. So, I will not go over  
6 them except to highlight a couple of key points.

7 COMMISSIONER STEBBINS: Steve, I am  
8 having a problem hearing.

9 COMMISSIONER MCHUGH: I am too.

10 CHAIRMAN CROSBY: Can you hear me,  
11 Commissioner McHugh? Can you hear me?

12 COMMISSIONER MCHUGH: Yes, clearly.

13 CHAIRMAN CROSBY: And Commissioner  
14 Stebbins, can you hear me?

15 COMMISSIONER STEBBINS: Yes.

16 CHAIRMAN CROSBY: But you can't hear  
17 our speaker?

18 COMMISSIONER STEBBINS: Maybe if she  
19 could just speak up or pull the mic a little closer.

20 MS. ROLLINS: Okay. As I was saying,  
21 we appreciate the opportunity to offer input. We  
22 have submitted detailed comments towards the  
23 creation of the strongest possible policy  
24 framework for municipalities in the final

1 regulations.

2 Our key point here today is that we hope  
3 that you will give significant and serious weight  
4 to any input that you receive from prospective host  
5 and surrounding communities.

6 As you very well know, casino  
7 development and slots parlors are completely new  
8 to Massachusetts. And they will have very  
9 significant and long-lasting impacts in our cities  
10 and towns. As the folks in our city halls and our  
11 town halls across the Commonwealth who may either  
12 host a casino or slots parlor or be in the region  
13 of a casino or slots parlor will need to invest  
14 significant municipal expertise, resources and  
15 time to this process.

16 While they have never dealt with the  
17 casino development process before, they often have  
18 dealt with very large and novel economic  
19 development processes. So, they know best what  
20 they need in terms of appropriate timelines, what  
21 makes sense for them, how they go about their local  
22 permitting processes and how to work with the State  
23 to most effectively bring about these very  
24 valuable projects.

1           So, I do know that you will have  
2 received or will receive in the future comments  
3 from folks in these positions. And we certainly  
4 would give significant consideration to what they  
5 are requesting.

6           The rest of our comments. And we --

7           CHAIRMAN CROSBY: Just to make sure I  
8 got the point. The point of that was simply that  
9 (A) you are urging us to pay attention to what the  
10 various communities suggest and their feedback.

11          MS. ROLLINS: Exactly, Mr. Chairman.  
12 That is the point. We do offer comments.

13          CHAIRMAN CROSBY: I think we can  
14 accept that.

15          MS. ROLLINS: But we certainly want to  
16 give deference to the local officials who are in  
17 these towns that are most directly affected. We  
18 do appreciate the level of engagement that all of  
19 the Commissioners and Ombudsman Ziemba have had to  
20 this point. Everyone has been very accessible and  
21 very transparent and methodical in the process.  
22 So, we do appreciate that.

23          The bulk of our comments beyond urging  
24 you to really take the local perspective into

1 account, offer sort of tweaks to a lot of different  
2 language that was contained in the drafts around  
3 issues pertaining to host communities, the  
4 election process, criteria around surrounding  
5 communities and the re-opening of mitigation  
6 agreements.

7 I won't go into them unless you want to  
8 discuss any of those things specifically. But we  
9 do hope that you do take into consideration some  
10 of these comments and suggestions in the final  
11 regulations.

12 CHAIRMAN CROSBY: I would actually be  
13 interested in having you expand on the issue about  
14 considering positives as well as negatives, which  
15 is one of the issues you addressed.

16 MS. ROLLINS: Sure.

17 CHAIRMAN CROSBY: What is your thought  
18 process on that?

19 MS. ROLLINS: From our perspective, if  
20 there is a negative impact in a community, we don't  
21 feel that it's really possible or advisable to try  
22 to quantify the projected positive impacts that  
23 might result.

24 The examples we use, you can't really

1 say that folks might obtain X many jobs from a  
2 surrounding community, so therefore, that might  
3 outweigh any negative traffic impacts that occur  
4 in that surrounding community.

5 They are very different in terms of  
6 potential positive impacts, potential negative  
7 impacts. I think the negative impacts are much  
8 easier to quantify and project. And we don't feel  
9 that it's something that should be a zero-sum  
10 analysis here.

11 So, we would just ask that you consider  
12 the negative impacts when you are looking to make  
13 those determinations if it comes to you for that  
14 decision.

15 CHAIRMAN CROSBY: Okay. Anything  
16 else? What is your position with MMA?

17 MS. ROLLINS: I'm a legislative  
18 analyst for economic development and energy  
19 issues.

20 CHAIRMAN CROSBY: Any questions from  
21 afar from anybody?

22 COMMISSIONER MCHUGH: Not, that was  
23 very helpful.

24 COMMISSIONER STEBBINS: No.

1                   CHAIRMAN CROSBY: Okay, great. Thank  
2 you very much, Ms. Rollins.

3                   MS. ROLLINS: Thank you.

4                   CHAIRMAN CROSBY: Okay. Any other  
5 people to speak that didn't sign up? Did you sign  
6 up?

7                   MR. SULLIVAN: I didn't know there was  
8 a sign-up sheet.

9                   CHAIRMAN CROSBY: All right. Come  
10 right up. We'll be flexible.

11                  MR. SULLIVAN: I'll be quick.

12                  CHAIRMAN CROSBY: All right.

13                  MR. SULLIVAN: Hi, my name is Sean  
14 Sullivan. I'm from Charlestown, Massachusetts.  
15 Congratulations to the Commission. You're almost  
16 a year in existence. I know it was hard to stand  
17 up the Agency. You've had a lot of work ahead of  
18 you.

19                  A big discussion now is as you enter  
20 into Phase 2 is site development. I just think  
21 that as a whole, the Legislature has asked you to  
22 look under every stone to make sure you get the  
23 maximum benefit for the State itself. And I  
24 believe that State land should be used or

1 considered for sites, possible sites, whether it  
2 be Mass. DOT land or Massport land or MBTA land to  
3 get the maximum dollar for the State itself.

4 So, as you consider siting of these  
5 resorts -- I like to refer to them as resorts and  
6 not casinos. -- because the end result is something  
7 that has to last for the next 40, 50 years. It  
8 doesn't matter how quickly you open them. They  
9 have to stay in existence. They have to become  
10 part of the State.

11 So, I'd just like to leave that with  
12 you. I know you've had a lot to think about, but  
13 I think State land should be considered for siting  
14 of such a development. Thank you.

15 CHAIRMAN CROSBY: Thank you very much.

16 COMMISSIONER CAMERON: Thank you.

17 CHAIRMAN CROSBY: Anybody else?

18 Okay. What I think we'll do is suspend this  
19 hearing on the regs. until we see whether anybody  
20 else comes in between now and 10:00. Because we  
21 did post 9:00 to 10:00 as the time that would be  
22 available.

23 And if anybody comes into another site,  
24 if Commissioner Stebbins or Commissioner McHugh if

1 you would speak up. Otherwise, we will go onto  
2 other business on our agenda.

3

4 (9:34 a.m. - Public Hearing suspended)

5

6 CHAIRMAN CROSBY: So, let's go to item  
7 -- Is there anything else we need to do to suspend  
8 it properly? Is that all right?

9 Let's go onto the meeting minutes,  
10 agenda item three, Commissioner McHugh.

11 COMMISSIONER MCHUGH: We have Mr.  
12 Chairman, three sets of minutes, minutes for April  
13 11, April 18 and April 25. The minutes all are in  
14 their new form prepared by General Counsel Blue,  
15 Assistant Secretary General Counsel Blue and  
16 Counsel Artem Shtatnov.

17 So, I would welcome comments on the  
18 form. Let's start with the April 11 minutes and  
19 use that as a sort of bell-winded for the form and  
20 then the content as well. So, I'd first ask for  
21 comments and then open to vote on the April 11  
22 minutes.

23 CHAIRMAN CROSBY: Does anybody have  
24 comments on the format?

1                   COMMISSIONER CAMERON: Commissioner  
2                   McHugh, I actually like the format. I think it was  
3                   easy to read. And by including the transcript  
4                   pages, if one of us needs more detail, it would be  
5                   easy to retrieve the additional information. So,  
6                   I am in favor of this new method. And I know that  
7                   our legal staff has so many responsibilities, this  
8                   cuts down on some of the work that they all do.

9                   CHAIRMAN CROSBY: And Commissioner  
10                  Stebbins, I heard you say that you like the format,  
11                  right?

12                 COMMISSIONER STEBBINS: Right.

13                 CHAIRMAN CROSBY: Yes, I do too. It's  
14                 a little bit more substantive than I was concerned  
15                 that there is enough substance there that you get  
16                 a little bit of a take away. So, I was comfortable  
17                 with it as well.

18                 COMMISSIONER ZUNIGA: Same here.

19                 COMMISSIONER MCHUGH: It's cut down  
20                 about to two hours from about six, the amount of  
21                 time it takes to prepare them. So, that's an  
22                 additional savings for the legal staff, which has  
23                 an enormous amount of work to do. And I too think  
24                 it's a comprehensive and succinct and if more

1 detail is needed, we know where to go to get it.

2 CHAIRMAN CROSBY: Okay, good.

3 COMMISSIONER MCHUGH: I would then  
4 move that the April 11 minutes --

5 CHAIRMAN CROSBY: I'm sorry. Why  
6 don't you go ahead and move.

7 COMMISSIONER MCHUGH: I would move  
8 that the April 11 minutes be accepted as submitted.

9 COMMISSIONER ZUNIGA: Second.

10 CHAIRMAN CROSBY: Just a question  
11 that's raised by the minutes but not about the  
12 minutes. On page two, you talk about after  
13 completion of the investigations, the IEB will  
14 prepare a report to the Commission. And the  
15 Commission will hold a public hearing and receive  
16 public comments.

17 Have we clarified that that is in fact  
18 the process that we are going through? Is that for  
19 each one of the applicants? Is that in fact the  
20 process?

21 MS. BLUE: Yes, it is. We are going to  
22 discuss it in more detail, but yes, that is the  
23 process.

24 CHAIRMAN CROSBY: I hadn't remembered

1 that there was a public hearing and public comments  
2 on every recommendation. Okay, okay. Any other  
3 comments on the April 11 minutes?

4 COMMISSIONER MCHUGH: On that point,  
5 Mr. Chairman, I think we have the power to have  
6 public comments. I don't think there's an  
7 obligation to do that. We can clarify that as we  
8 move forward.

9 CHAIRMAN CROSBY: That's what I was  
10 thinking too. But we'll talk about that later on.  
11 I just don't want to leave a misimpression in the  
12 minutes that we are committed to something if we  
13 aren't necessarily committed to it.

14 Is it all right to just let this stand  
15 as it stands, Commissioner McHugh -- with that  
16 sentence?

17 COMMISSIONER MCHUGH: I'm  
18 comfortable. And certainly, we can correct it if  
19 we need to as we move forward.

20 CHAIRMAN CROSBY: Okay, fine. All in  
21 favor of the motion to accept the 11 minutes, aye.

22 COMMISSIONER CAMERON: Aye.

23 COMMISSIONER ZUNIGA: Aye.

24 CHAIRMAN CROSBY: Opposed?

1                   COMMISSIONER MCHUGH: Wd have to do  
2 this by roll call.

3                   CHAIRMAN CROSBY: Yes. Sorry, I  
4 forgot that. We'll start with Commissioner  
5 Stebbins.

6                   COMMISSIONER STEBBINS: Yes.

7                   CHAIRMAN CROSBY: Commissioner  
8 McHugh?

9                   COMMISSIONER MCHUGH: Yes.

10                  CHAIRMAN CROSBY: Commissioner  
11 Zuniga?

12                  COMMISSIONER ZUNIGA: Yes.

13                  CHAIRMAN CROSBY: Commissioner  
14 Cameron?

15                  COMMISSIONER CAMERON: Yes.

16                  CHAIRMAN CROSBY: And the Chair also  
17 votes yes. The minutes are accepted as written.

18                  COMMISSIONER MCHUGH: Now I move to  
19 the April 18 minutes. I move that they be -- open  
20 them for comment first of all. And if there is no  
21 comment, I would move to they be accepted as  
22 presented.

23                  COMMISSIONER CAMERON: Second.

24                  CHAIRMAN CROSBY: Any discussion?

1 All in favor, Commissioner Stebbins?

2 COMMISSIONER STEBBINS: Yes.

3 CHAIRMAN CROSBY: Commissioner  
4 McHugh?

5 COMMISSIONER MCHUGH: Yes.

6 CHAIRMAN CROSBY: Commissioner

7 Zuniga?

8 COMMISSIONER ZUNIGA: Yes.

9 CHAIRMAN CROSBY: Commissioner

10 Cameron?

11 COMMISSIONER CAMERON: Yes.

12 CHAIRMAN CROSBY: And the Chair votes  
13 yes.

14 COMMISSIONER MCHUGH: And finally  
15 then the April 25 minutes, I move that they be  
16 accepted as presented.

17 CHAIRMAN CROSBY: Second?

18 COMMISSIONER CAMERON: Second.

19 CHAIRMAN CROSBY: We have a new person  
20 on the Website. No, he's gone.

21 COMMISSIONER MCHUGH: That's our  
22 technician here.

23 CHAIRMAN CROSBY: I think it was the  
24 CIA. On discussion of these minutes, on the first

1 page it says the May 2 meeting has been canceled.  
2 The Commissioners would like to postpone  
3 discussion on the standard procedure of public  
4 comment until all Commissioners are present.

5 This was the recommendation that or the  
6 suggestion that Executive Director Day had made  
7 that we might want to consider having an  
8 opportunity for public comment. I guess that's  
9 not on our agenda to talk about today particularly,  
10 right? But you were suggesting that we talk about  
11 that at some point.

12 MR. DAY: Correct. It is not on the  
13 agenda today, but I was hoping as we look forward  
14 you give us some feedback.

15 CHAIRMAN CROSBY: That's on your  
16 tickler file somewhere, because it's worth talking  
17 about.

18 MR. DAY: Yes.

19 CHAIRMAN CROSBY: Okay, any further  
20 discussion? All in favor, Commissioner Stebbins?

21 COMMISSIONER STEBBINS: Aye.

22 CHAIRMAN CROSBY: Commission McHugh?

23 COMMISSIONER MCHUGH: Aye.

24 CHAIRMAN CROSBY: Commissioner

1 Zuniga?

2 COMMISSIONER ZUNIGA: Yes.

3 CHAIRMAN CROSBY: Commissioner  
4 Cameron?

5 COMMISSIONER CAMERON: Yes.

6 CHAIRMAN CROSBY: And the Chair also  
7 votes yes. All right. We are moving on. We have  
8 your technical assistant up on the Web again. I  
9 don't know that really need him, nothing personal.

10 Rob is there some reason why we are  
11 broadcasting four camera shots? Don't worry  
12 about it.

13 Let's move ahead to item number four,  
14 administration, Executive Director Day. How did  
15 the move go or the packing go?

16 MR. DAY: Mr. Chairman, from staff,  
17 I'd like to join with everybody else in wishing you  
18 a happy birthday. As a matter of fact, it's good  
19 to return from the West Coast. The task was  
20 completed. Although, I have to acknowledge Jan is  
21 still present finishing the task. But I get to  
22 come in and announce it's completed. So, that's  
23 helpful.

24 CHAIRMAN CROSBY: Mission

1 accomplished.

2 MR. DAY: Yes. Thank you for asking.  
3 What I'd like to do is to start briefly here and  
4 just identify some topics first of all relative to  
5 what we anticipate will be coming up in the future.  
6 Just to make sure that the Commission wants to  
7 tweak that to process or add some additional topics  
8 we're aware of them so we can incorporate them in  
9 our planning. And I'll just run down them real  
10 quick.

11 The first one that we anticipate  
12 bringing forward is a timetable and process,  
13 scheduled recommendation relative to Region C.  
14 And I'm glad Mr. Ziemba is paying attention in Fall  
15 River, because I plan on assigning this  
16 particular topic to him for coordination and  
17 presentation to the Commission.

18 CHAIRMAN CROSBY: This is scheduled  
19 for the 16th, right?

20 MR. DAY: Yes. This is scheduled for  
21 the next regular scheduled meeting on May 16. And  
22 I might add then along with that, of course, we  
23 anticipate that we'll be taking a look at the final  
24 rules that incorporate the comments that we

1 received in this process and in today's testimony.

2 CHAIRMAN CROSBY: So, we're going to  
3 have the discussion about the comments on the 16th?

4 MR. DAY: That's the plan at this  
5 point, correct. Then the next topic that we look  
6 at presenting would be really a review of the 36  
7 steps to licensing, the withdrawal process and the  
8 suitability recommendation and determination  
9 process, plus any staff notes where there might be  
10 some weaknesses or refinement needed in that  
11 process. And I've asked Catherine Blue to  
12 coordinate staff and present this picture to the  
13 Commissioners.

14 We would anticipate this would be a  
15 good time as we get to then into mid-June where we  
16 anticipate having the suitability reports come  
17 forward. The Commissioners would have this  
18 reminder and the public a reminder of the entire  
19 process in advance enough to make some difference  
20 for that meeting.

21 CHAIRMAN CROSBY: Okay.

22 MR. DAY: One thing I wanted to do here  
23 and one of our previous speakers mentioned it is  
24 that most of our investigation materials collected

1 contains confidential materials.

2 So, we of course continue to strive to  
3 make sure that this process is transparent. What  
4 we want to do is to ensure all of our applicants  
5 and their business information that we intend to  
6 appropriately protect that material that is  
7 confidential. And we wanted to make sure that  
8 that was clear as we move forward with the process.

9 CHAIRMAN CROSBY: I was going to bring  
10 this up during the legal report, but as long as  
11 you've brought it up now, what Attorney Conroy said  
12 was that the secondary round of information, which  
13 was not on the original forms, apparently 25  
14 questions. That there is no formal assertion --  
15 assurance from the Commission that either all of  
16 that information or some critical portions of that  
17 information are confidential. How are we  
18 addressing that?

19 MR. DAY: I can comment generally to  
20 the process, because the staff has been having some  
21 meetings regarding that process and the reports as  
22 we come forward, which is obviously a lot of  
23 material.

24 So, what we anticipate is -- Let me

1 pause a minute. In the end, I think what ends up  
2 happening is of course it's not ultimately up to  
3 the Commission. There's the process that takes  
4 place through the Secretary of State's office as  
5 I am made familiar that could be the end  
6 determination.

7 But what we want to do is make sure we  
8 look at all of that information and protect that  
9 information as appropriately held confidential.  
10 So, we are in that process right now. And I'm  
11 really confident that we're going to be able to  
12 look at the information, come forward with  
13 protection so that that information that is  
14 confidential is not disclosed. And answer the  
15 questions that the applicants have as we move  
16 forward.

17 CHAIRMAN CROSBY: Is that by way of  
18 saying that what Attorney Conroy said is right that  
19 we haven't yet given the people -- We haven't yet  
20 designed a policy, a formal policy? We don't know  
21 for sure what we think we can keep confidential and  
22 what we can't?

23 MR. DAY: I think we are pretty sure  
24 what is confidential, but there's a number of

1 exceptions. So, I think that's part of it. And  
2 I think part of what creates the doubt is in the  
3 process of trying to answer the question correctly  
4 that ultimately there's a determination place that  
5 is not within the Commission about that. That  
6 people are a little bit hesitant about making clear  
7 statements that this information will be protected  
8 by the Commission. So, that's what we have to  
9 clarify.

10 CHAIRMAN CROSBY: But they will -- the  
11 applicants will understand that certain things are  
12 beyond our control. But what we want to say to  
13 them as clearly as we possibly can what our  
14 standards are.

15 And for this kind of stuff, I at least,  
16 and I think all of us have tried to make clear to  
17 the applicants that this is not a place where we're  
18 pushing for transparency. We are in favor of  
19 protecting arguably confidential information to  
20 the maximum extent that the law will permit. This  
21 is not part of our transparency strategy here.

22 So, from my standpoint we should be as  
23 proactive within the limits of what we understand  
24 the law, the rules as we can to assure (A) to set

1 a standard and then to articulate that standard and  
2 to as much as possible defend that standard.  
3 Because in this case I think we are on the same side  
4 as the applicants are. I think we should be really  
5 proactive about this and try to articulate a  
6 strategy as cleanly and as quickly as we can.

7 MR. DAY: Thank you, Chairman. And  
8 that's very helpful to us, because that's exactly  
9 what we're looking at. We were at the point where  
10 we've had enough questions.

11 We felt it was important to start  
12 coming forward to re-emphasize that the great  
13 majority of this information that comes in is  
14 confidential. And we wanted to establish that as  
15 an expectation in the first place. And then  
16 reassure our applicants that we are prepared and  
17 will move forward with steps to protect  
18 appropriate information.

19 CHAIRMAN CROSBY: Well, if you take  
20 Attorney Conroy at face value, he at least doesn't  
21 know where we're coming from as a formal matter.  
22 And we should fix that as quickly as we can.

23 MR. DAY: I understand. We would be  
24 happy to do that actually.

1 CHAIRMAN CROSBY: Sorry, were you --

2 COMMISSIONER ZUNIGA: No. It's  
3 essentially that. I guess that the point is just  
4 like we have done for the specimen form, can we do  
5 for all of the additional information. But it's  
6 obviously been discussed.

7 CHAIRMAN CROSBY: This raises a  
8 secondary issue though. Apparently, these 25  
9 questions -- You may know this.

10 COMMISSIONER CAMERON: What I know is  
11 it is not cookie-cutter. There are not the same  
12 questions for every applicant at all.

13 When you conduct an investigation, one  
14 question will lead to another and a request for  
15 additional documentation based on that  
16 investigation.

17 So, to the best of my knowledge there  
18 is no additional 25 questions. It is applicant  
19 based, depending on the qualifiers and information  
20 that may be needed accordingly. So, that much I'm  
21 clear about.

22 And the confidentiality piece, I know  
23 that I've had conversations about that because  
24 people asked me that same question. It is new

1 information. In fact, I know that there are some  
2 people that have been hesitant to be interviewed,  
3 because they don't know about the confidentiality  
4 piece. That helps.

5 CHAIRMAN CROSBY: There are two  
6 issues. One is the confidentiality. I think  
7 we've articulated our view on that. But I was  
8 wondering how come I didn't know but these 25  
9 questions. But if I understand now that this is  
10 just a case-by-case follow-up, then that's a  
11 different story.

12 Is there a set of second-round  
13 questions, which routinely go to everybody?

14 MR. DAY: That is not my understanding  
15 and Commissioner Cameron described it. And  
16 that's why the number of questions as Kevin  
17 reflected, I wasn't thinking of disputing whether  
18 it was 25 at 10 or whatever it was. That's not  
19 important process.

20 But in each one of those  
21 investigations, there have been follow-up  
22 questions;. And whether there are 25 or 50 or 100  
23 or 10 that I couldn't answer. But I do know with  
24 each interview there are follow-up questions and

1 follow-up requests for information.

2 How that ultimately -- And our problem  
3 or what we're trying to do is make sure that we look  
4 at the information and respond to the applicants  
5 and even ask them if we haven't already been told  
6 what are the reasons they feel it's confidential  
7 because that's a part of the process to make sure  
8 we have that supportive information as we move  
9 forward.

10 So, it's not really a standard we've  
11 got 25 and we're going to release it. It's an  
12 ongoing investigative process. And it starts  
13 with a recognition that most of that information  
14 is in fact confidential. I guess that's what I am  
15 trying to clearly emphasize and make sure that our  
16 applicants and those that are qualifiers in  
17 submitting the information understand that that we  
18 know that.

19 CHAIRMAN CROSBY: Okay.

20 MR. DAY: As I paused right in the  
21 middle. And then the other major area on May 16,  
22 of course, is the evaluation process, and a  
23 proposal as to how that might move forward.

24 And I'd like to comment a little bit

1 more in that detail. So, I'll just hold off and  
2 come back here as I finish the rest of these  
3 comments.

4 We do need to revisit the master  
5 schedule. And I'll talk about that briefly. But  
6 we really need the evaluation process. We need to  
7 pin that down a little bit better so we've got a  
8 better idea of what the timeline will be on that  
9 in order to incorporate it into the master schedule  
10 itself, because that will be a significant time  
11 period that we'll need to go forward with.

12 Other administrative items is we are  
13 making progress in filling key positions. The  
14 workforce and supplier development and diversity  
15 position, the research and problem gambling  
16 position, chief information officer, chief  
17 financial and accounting officer and licensing  
18 director are all moving forward.

19 We have finalists that we're looking at  
20 in the workforce position and the research and  
21 problem gambling position. We are beginning a  
22 search, get some search assistance with the chief  
23 financial officer. And we are screening  
24 application or resumes for the chief information

1 officer and the licensing director.

2 So, all four of those are moving fast.  
3 Two of them are on track here. We hope to come up  
4 with a qualified applicant in the near future.

5 We are also continuing to work with the  
6 Collins Center to organize and to begin the  
7 performance management process within the Gaming  
8 Commission itself, and will continue to work on the  
9 transition to incorporate the Executive Director  
10 in the process. So, I appreciate your continued  
11 patience as we find our way through that process.

12 The other two items on I want to comment  
13 briefly on the agenda. The master schedule, at  
14 the last meeting we proposed potential -- one of  
15 the big proposals was to move the application date  
16 to December, early December.

17 CHAIRMAN CROSBY: Second.

18 MR. DAY: December 2, and of course the  
19 other dates that we talked about is establishing  
20 a more realistic timeframe for the suitability  
21 reports. And I know that Commissioner Zuniga has  
22 incorporated those. So, if it's all right with  
23 the Chairman, I'll defer to Commissioner Zuniga on  
24 that process.

1           And then budget as well, we are of  
2 course in trying to as we are moving forward  
3 develop a 2014 budget for the Commissioners'  
4 consideration. So, we have that in place and  
5 ready to go as we move forward. So, we will  
6 present a proposal to the Commissioners for  
7 adoption -- for consideration, I should say.

8           CHAIRMAN CROSBY: Is this still all on  
9 the 16th?

10          MR. DAY: No, this isn't. I moved off  
11 of the 16th. I forgot to pause. I paused a  
12 little bit but then moved right along. And  
13 Commissioner Zuniga I know has some additional  
14 budget items. So, I'd like to defer to him on  
15 those as well for discussion.

16          The next topic that I have is the  
17 evaluation process. And Mr. Chairman, if you'd  
18 like me to move into that or pause briefly for  
19 Commissioner Zuniga to weigh in on the master  
20 schedule and the budget, whichever way you'd like.

21          CHAIRMAN CROSBY: Well, yes. Let's  
22 go ahead with either or both. I think you're going  
23 to be working with, talking with Ombudsman Ziemba  
24 on the schedule.

1 COMMISSIONER ZUNIGA: Correct.

2 CHAIRMAN CROSBY: So, however much of  
3 either of those two things you want to bring up,  
4 go ahead.

5 COMMISSIONER ZUNIGA: Sure. I will  
6 speak conceptually to the schedule and can speak  
7 in more detail if you need me to. I don't have the  
8 tool here with us.

9 COMMISSIONER MCHUGH: I am having  
10 difficulty hearing you, Commissioner Zuniga.

11 COMMISSIONER ZUNIGA: Is this better,  
12 Commissioner?

13 COMMISSIONER MCHUGH: It's better.  
14 Thank you.

15 COMMISSIONER ZUNIGA: I'll remain  
16 close to the microphone. The schedule, we don't  
17 have the tool here with us. I didn't anticipate  
18 that today we would present it in lieu of the fact  
19 that we have three cameras here.

20 We have made the updates to the tool  
21 that Director Day was just describing, and come up  
22 with some forecast dates relative to the award of  
23 the licenses. Much of it has to be further updated  
24 to really reflect the time that the referendum is

1 going to take place at each of the host  
2 communities. Because that is really a date that  
3 then triggers a lot of the subsequent dates  
4 relative to the surrounding community discussion,  
5 which given our rules, in terms of notification,  
6 hearing and then limits in terms of dates prior to  
7 the award of the license really drive that  
8 schedule. So, those dates have not yet been  
9 incorporated, which will really allow us to give  
10 an ultimate forecast.

11 We should contemplate whether that  
12 should be modeled in the schedule by region or by  
13 applicant or by type of license. That is not  
14 currently yet modeled. That is something that we  
15 should do. And I will continue to model with the  
16 help of our consultants and Ombudsman Ziemba,  
17 because that is really what will drive more  
18 certainly relative to the award dates. I can take  
19 questions to that effect or more comments if you  
20 need me to.

21 MR. DAY: The only supplement I'd have  
22 is that one of the key dates, of course, is our  
23 decision regarding whether or not we want to  
24 establish the earlier application date. Then of

1 course, once we get the evaluation piece, which we  
2 are planning to have a proposal for Commission  
3 consideration the 16th, it could be possible that  
4 then we could look at the master schedule on the  
5 30th, depending on the Commission's decisions  
6 prior to that.

7 CHAIRMAN CROSBY: When are you  
8 thinking we would make the final decision on  
9 whether to move the application date to early  
10 December?

11 MR. DAY: Mr. Chairman, I would say  
12 that would be when the Commission is prepared.  
13 But today would be fine or the 16th if you wanted  
14 to think about it some more and then the evaluation  
15 information forward. And then at that point we'd  
16 probably be ready.

17 CHAIRMAN CROSBY: Certainly, from  
18 what I've seen and heard in reaction to the  
19 recommendation, and I have had a chance to read all  
20 of the submissions that we've got, it seems to me  
21 like there is little -- there is some, but very,  
22 very little resistance to the idea of moving the  
23 date up with the other adjustments that we've come  
24 up with.

1           So, I'd be perfectly happy to decide  
2 today. But sometimes I want to move more quickly  
3 than other people. And maybe not everybody has  
4 had a chance to read comments. But I think again,  
5 going back to what Attorney Conroy was saying, that  
6 is the seminal day for everybody. And the faster  
7 we can make the decision, the better.

8           So, maybe let's talk about whether we  
9 want to decide that today? Or do we want to wait  
10 until the 16th?

11           COMMISSIONER ZUNIGA: We could  
12 perfectly do that. I always thought of when  
13 thinking about schedule, I always think of the  
14 latest date and then we can always go from there.

15           When we issue the RFA Phase 2 formally  
16 with the application form of response, that to me  
17 is the latest date to issue a date certain for the  
18 deadline. We could issue a deadline any time. We  
19 can show it in a schedule tool as we have done up  
20 until this point. We can continue to do that.

21           But the latest date in my view to issue  
22 a deadline is when we issue the form of response  
23 and live responses. Because if we change it  
24 afterwards, our bidders could legitimately claim

1 that we are moving the rug from under their feet.

2 COMMISSIONER CAMERON: Is there any  
3 reason to wait to do that?

4 COMMISSIONER ZUNIGA: No, there  
5 isn't. Let me speak to what I guess --

6 CHAIRMAN CROSBY: I see Ombudsman  
7 Ziemba. We'll get to you in a second.

8 COMMISSIONER ZUNIGA: What Ombudsman  
9 Ziemba has been talking to communities and  
10 communicating well and rockering like he does has  
11 been in my estimation the timeline and dynamics  
12 relative to host community agreements,  
13 surrounding community process and referendum.

14 And that's a very important piece of  
15 the schedule. In my view, there is also another  
16 important piece. When we move deadlines, then  
17 applicants are given less or more time to respond,  
18 to work on the response. Working on the host and  
19 surrounding communities is a big, big piece of the  
20 application but it's not the only piece.

21 The other piece, the filling out the  
22 response, understanding what may or may not be  
23 confidential in that response, for example, all of  
24 that has to be -- responding in a way that in their

1 view increases their chances based on the criteria  
2 that we have laid out. All of that takes place in  
3 parallel with the host and surrounding community  
4 process.

5 So, when we shrink the time, that other  
6 piece has to be considered. Now I understand that  
7 also is a conversation that Ombudsman Ziemba may  
8 be having. But it's good to hear for example today  
9 Attorney Conroy say that at least one of the  
10 applicants will work with that deadline. I'd be  
11 curious as to whether others have the same view.

12 CHAIRMAN CROSBY: Ombudsman Ziemba,  
13 do you want to speak to this?

14 MR. ZIEMBA: In regard to setting the  
15 deadlines, I think it might make sense to fully  
16 incorporate the comments on the evaluation process  
17 into the deadline as Director Day just spoke about.  
18 As in the process could go into our process. That  
19 has to go into the deadlines that we've discussed.

20 We can feel very confident based on  
21 looking at the comments we received that the  
22 recommendation to move the deadline forward by  
23 basically one month is a good recommendation, but  
24 I do note that there are comments on both sides of

1 the matter.

2 We had comments notably from MAPC where  
3 they explained that there's tremendous pressures  
4 out there in host communities and in surrounding  
5 communities to meet the dates that we've set. And  
6 that they've actually recommended that we move the  
7 deadline instead of where we currently stand at the  
8 end of December ahead a month.

9 We also did receive comment that  
10 potentially we should set it even sooner than we  
11 currently have given that the amount of days that  
12 it would take to evaluate these proposals, to set  
13 public hearings and other considerations that go  
14 into the process after the application.

15 So, like you, Mr. Chairman, I remain  
16 pretty confident that the early December date is  
17 a workable one. And that it allows us to allow us  
18 to continue on in our work and get our evaluations  
19 done in a time that is around the data that we've  
20 been talking about for numerous months. But I  
21 think it might make sense to incorporate some of  
22 Director Day's analysis into the deadline  
23 discussion.

24 CHAIRMAN CROSBY: Okay. I think it

1 makes sense. Let's don't finalize it today.  
2 Let's let a little bit more time go by. There's  
3 still six to seven, eight months, whichever date  
4 we pick.

5           Given all of this conversation, not  
6 just what we've had now, but all of the comments  
7 that I've seen to this question, as well as all of  
8 the other conversations that are going on about  
9 deadlines and so forth, I'd be interested to have  
10 you think about whether we could make it yet  
11 another month sooner.

12           I'll ask other folks out there too who  
13 are watching, could we consider making it the first  
14 of November rather than the first of December?  
15 What are the consequences to that?

16           We don't need to talk about that right  
17 now. As I'm hearing, I understand what the issues  
18 are relative to surrounding communities and that  
19 we have to look at carefully. But I'd like to  
20 think about maybe making it the first of November.

21           So, maybe John if you would help think  
22 that process through a little bit. And let's see  
23 if we can May 16 make a final decision on which date  
24 we are going to come up with.

1 MR. ZIEMBA: One thing I'd recommend,  
2 Mr. Chairman, is that I have had sort of very  
3 informal conversations with applicants all of the  
4 time, but given the importance of the timetable,  
5 if we could have a little bit more of a formal  
6 comments by the applicants and obviously any  
7 surrounding communities, RPAs and other  
8 representatives on that deadline, we incorporate  
9 that into our current regulation comment period.

10 But to the extent that by at least the  
11 next meeting or some time before that we receive  
12 more specific comments on the ability of each of  
13 the applicants to meet any of those deadlines and  
14 what their current projected timetables are.

15 One thing I'd note is that just in the  
16 paper, for example, the Milford applicant reported  
17 to Milford that it anticipated that its referendum  
18 would occur at the end of October. I believe it  
19 was October 28 or so. Just because it can get a  
20 referendum done slightly before November 1  
21 according to its projected schedule, does that  
22 still allow enough time for it and other applicants  
23 to get in their applications to us.

24 We received no comments specifically

1 from the Milford applicant during this period of  
2 time. And I'm just using them because they have  
3 been publicly reported as a little bit later in the  
4 process of determining how they're going forward.

5 But I think it would be very useful to  
6 receive more official comments from all of  
7 applicants about their plans on these and of course  
8 representatives from surrounding communities on  
9 whether or not they can meet the deadlines.

10 CHAIRMAN CROSBY: Okay, yes. I know  
11 what the surrounding communities are going to say.  
12 Let's put that up as a question to ask for a formal  
13 feedback.

14 We could even do this by -- We can do  
15 it differently for the regions if we wanted to, I  
16 suppose. We could have an application date that  
17 would be different for one region than it would be  
18 for another. If it turned out for example, that  
19 all of the applicants were in one region were fine  
20 with it but all of the applicants in another  
21 weren't, and they had been relying on our earlier  
22 date, we could stagger it, which could be helpful  
23 in a certain respect.

24 So anyway, let's do ask for formal

1 comment on that and see if we can tie this down on  
2 the 16th. Commissioner McHugh?

3 COMMISSIONER MCHUGH: Mr. Chairman, I  
4 would very much like to tie this down on the 16th.

5 We looked at a variety of different  
6 dates. We've gotten some helpful and thoughtful  
7 comments on this first go around. And we can  
8 certainly ask for additional comments. But if we  
9 get additional comments, it would be particularly  
10 helpful for me and to all of us to have some  
11 specifics rather than it would be very difficult  
12 for us to do one thing or another, so that we could  
13 figure out how to meet the difficulties that are  
14 being projected, because I think there are going  
15 to be ways to do that.

16 One of the commentators this time  
17 around talked about the number of days that it's  
18 going to take to do a variety of things that have  
19 to do with for approval process. And there are  
20 ways to deal with that, to shrink those days down  
21 I think that we can discuss.

22 But I really think that it would be  
23 helpful to all of us as well as to the commentators  
24 to ask for specific illustrations of the time

1 that's needed for certain tasks so that we can  
2 ameliorate them in some other way.

3 CHAIRMAN CROSBY: I agree with that.  
4 I think you were talking -- They are posted on our  
5 Website. I think you were talking about the  
6 Suffolk Downs comments on this most recent  
7 question. And although I happen to think they  
8 were mistaken about some stuff, nevertheless, it  
9 was helpful to have an applicant talk in such  
10 careful detail about the impacts.

11 So, I totally agree with you. That's  
12 really helpful. When we do understand -- Just to  
13 reiterate your point, when we do understand the  
14 concerns, we can often figure out workarounds.  
15 So, I think we're all set. Commissioner Stebbins,  
16 are you looking to say something?

17 COMMISSIONER STEBBINS: No, I'm fine  
18 with that suggestion.

19 CHAIRMAN CROSBY: Okay. So, we'll  
20 put a question up for as specific feedback as  
21 possible. All of us I think -- I know because I  
22 see all of the comments coming in. All of us,  
23 staff, Commissioners, applicants, surrounding  
24 communities, everybody is increasingly

1 understanding the intricacy of this process and  
2 the nuance of this process.

3 And the more questions we ask, the  
4 better understanding we get of all of the issues.  
5 So, I think this is a constructive process. And  
6 we will look forward to two more weeks of questions  
7 and then we'll see whether we can button this up  
8 on March 16th.

9 COMMISSIONER ZUNIGA: May 16.

10 CHAIRMAN CROSBY: That was helpful.  
11 Thank you. Do you want to do something about the  
12 budget?

13 COMMISSIONER ZUNIGA: Yes, I can. As  
14 Director Day was outlining, we'll be working in the  
15 next month or so to present -- formulate and  
16 present a fiscal year '14 budget. As you'll  
17 recall, we have approved a budget for fiscal year  
18 '13. It ends on June 30. And we are  
19 contemplating a number of expenditures as we  
20 speak.

21 I'll be talking about later the  
22 research agenda, Mr. Chairman, that has a big  
23 implication in the budget and the cash flow. As  
24 I was mentioning last meeting in the previous

1 update relative to the research piece, we intend  
2 to assess our applicants for certain costs of  
3 investigations for RFA Phase 2, as well assessing  
4 our licensees for certain costs once they become  
5 licensed that will effectively go to defray some  
6 costs of both the research and other costs of the  
7 Commission.

8 But until such time, we need to really  
9 figure out the cash flow implications that some of  
10 these expenditures have. Because we were loaned  
11 a certain amount that we need to preserve and  
12 carefully consider as we make these large budget  
13 expenditures.

14 CHAIRMAN CROSBY: Just to be clear on  
15 this, and I'm totally fine with this. We were  
16 loaned \$15 million. There was considerable  
17 debate in the Legislature about how much money we  
18 would need before we were able to start becoming  
19 self-sustaining by assessing licensees for our  
20 operating costs, which will eventually what will  
21 happen. And the range was anywhere from \$15- to  
22 \$50 million was necessary. No one really had any  
23 idea. We got the \$15 million.

24 And the \$15 million will probably hold

1 us through pretty much all of next year,  
2 particularly because we're able to lay off some of  
3 our operating costs like the background  
4 investigations and so forth on other sources of  
5 revenue.

6 But the issue that we need to address  
7 is to make sure that for however long this  
8 licensing process takes us that we have the  
9 operating capital to do it.

10 And that can mean reassessing  
11 expenditure decisions. That can mean looking for  
12 new sources of income. It can mean speeding up the  
13 process. It can mean any number of things. But  
14 there is no need to be bashful about addressing  
15 this issue just like we are addressing -- if we  
16 happen to run late on the licenses because the  
17 right way to do the license is to run late, we'll  
18 run late.

19 And if we need to figure out a way to  
20 stretch our money because it's going to take us a  
21 while to do the licenses because that's the right  
22 thing to do, we'll figure out a way to stretch our  
23 money.

24 So, that's the conversation I

1 appreciate that you've been leading us on this.  
2 And there's no issue about having this squarely on  
3 the table. And big expenditures like multiple  
4 millions of dollars for research and a million  
5 dollars for performance management and a million  
6 dollars for my salary. And all of these are big  
7 expenses.

8 COMMISSIONER ZUNIGA: That's the one  
9 thing I disagree with you, Mr. Chairman.

10 CHAIRMAN CROSBY: So, I'm clear that  
11 this is an important topic. And we can't shrink  
12 from facing it straight up.

13 COMMISSIONER ZUNIGA: Right. Just to  
14 emphasize some of that, many of the expenditures  
15 we're contemplating for fiscal year '14 really as  
16 we formulate the budget have not really been  
17 determined.

18 As we make the decisions that we are  
19 also talking about relative to the mix of advisors,  
20 for example, the model for coordinating those  
21 advisors, additional hires that may be down the  
22 pipeline after the ones that Director Day is  
23 mentioning, but that come in fiscal year '14, many  
24 of those assumptions, I guess -- I don't guess.

1 They do have a monetary implication. And we need  
2 to make assumptions to project those costs. But  
3 some of those can only come after me some of the  
4 decisions that are imminent for it.

5 CHAIRMAN CROSBY: Just one other thing  
6 and we'll speak about this more when talk about the  
7 research, but I said as this process unfolds, we  
8 are all learning the intricacies of the system and  
9 learning things that we didn't really understand  
10 beforehand.

11 The Legislature mandates that we do a  
12 very comprehensive baseline assessment of  
13 socioeconomic conditions. But it's meant to be  
14 paid for out of the Public Health Trust Fund. But  
15 the Public Health Trust Fund doesn't get money  
16 until after we've licensed everybody, which is too  
17 late to do the baseline study.

18 I don't think anybody ever  
19 contemplated that when the Legislature was  
20 thinking about that. So, we're stuck. We're  
21 trying to figure out how do we do the legislative  
22 mandate of getting this study done when the revenue  
23 sources isn't there yet. So, we're all learning  
24 as we go.

1 Commissioner McHugh, were you about to  
2 say something?

3 COMMISSIONER MCHUGH: No, Mr.  
4 Chairman. When we get to the research agenda  
5 then --

6 CHAIRMAN CROSBY: Okay, fine. Great.  
7 So, are you set then on the budget?

8 COMMISSIONER ZUNIGA: Yes. I don't  
9 have any other updates. We'll continue this  
10 discussion as we formulate the fiscal year '14  
11 budget.

12 CHAIRMAN CROSBY: Thank you, yes.  
13 Thank you. Commissioner Cameron reminded me that  
14 we are now past 10:00. Let's suspend the  
15 discussion on the rest of the agenda and return to  
16 the discussion about the RFA-2 regs.

17  
18 (10:17 a.m. - Meeting suspended)

19  
20 (10:18 p.m. - Public Hearing  
21 reconvened)

22  
23 CHAIRMAN CROSBY: Has anybody else  
24 come forward in any of our locations that wishes

1 to speak about the regs.?

2 COMMISSIONER STEBBINS: We have two  
3 additional guests. I don't know if either of  
4 these two guests would like to come forward.

5 CHAIRMAN CROSBY: Bruce, closer to the  
6 mic.

7 COMMISSIONER STEBBINS: We have two  
8 additional guests that have joined us here in  
9 Marlborough. I'll ask them if they have any  
10 interest in coming forward to comment or testify  
11 on the regs.? No takers.

12 COMMISSIONER MCHUGH: There are none  
13 in Fall River, Mr. Chair.

14 CHAIRMAN CROSBY: There are speakers?

15 COMMISSIONER ZUNIGA: There are none.

16 COMMISSIONER MCHUGH: There are none.

17 CHAIRMAN CROSBY: There are none.

18 Okay. Then I think that we have met our stated  
19 obligation of staying open for regs. and comments  
20 from 9:00 until a little after 10:00. If the  
21 process is fine, we will close off the hearing on  
22 the regs. Is that all right?

23

24 (10:19 a.m. Public Hearing closed)

1                   CHAIRMAN CROSBY:  And move back to the  
2 agenda and Executive Director Day's report.

3                   MR. DAY:  Thank you, Chairman Crosby.  
4 What I'd like to do now is enter into a discussion  
5 about the evaluation process.

6                   And I think as the Chairman reported at  
7 the last meeting, Commissioner Stebbins and  
8 Commissioner McHugh have been researching other  
9 similar processes.  And perhaps I can defer to  
10 Commissioner McHugh if he'd be willing to kind of  
11 bring us up-to-date on their process and what they  
12 discovered generally.

13                   I'll have some additional thoughts and  
14 as do Commissioner Stebbins and Zuniga.  Then  
15 Commissioner McHugh and I planned to sort of take  
16 all of this into consideration and get together  
17 next Tuesday to further work on a proposal that  
18 we'll be looking at on May 16.

19                   CHAIRMAN CROSBY:  That's great.  
20 Let's just have a quick recess before we start that  
21 and come back in five minutes and go to  
22 Commissioner McHugh.

23

24                   (A recess was taken)

1                   CHAIRMAN CROSBY: We are back again.  
2 We were with Executive Director Day talking about  
3 evaluation process along with Commissioner  
4 McHugh. Commissioner?

5                   COMMISSIONER MCHUGH: All right. I  
6 will take it from here. Commissioner Stebbins and  
7 I visited with a number of agencies in the  
8 Commonwealth who in one way or another have dealt  
9 with approving, analyzing, granting contracts for  
10 large projects to see how they go about the  
11 evaluation process and whether there is something  
12 that we could learn from way they do things.

13                   Each was very forthcoming and helpful  
14 to us. We spoke with the Department of  
15 Transportation, representatives of A and F,  
16 Massport, the Boston Redevelopment Authority,  
17 Mass. Development, the Commonwealth's funding  
18 agency.

19                   We also talked with representatives of  
20 Moelis and Company who are financial advisors that  
21 were responsible for among other things dealing  
22 with casino issues in Ohio and now represent the  
23 financial advisors in the Revel bankruptcy in  
24 Atlantic City. And we talked with individuals who

1 were participants in this process, specifically  
2 Byrne McKinney and Pinnacle Advisory Group and  
3 Steve Cecil of the architectural firm the Cecil  
4 Group.

5 We looked at four basic elements of the  
6 evaluation process that each of these used. And  
7 I'm just going to touch on the highlights very  
8 briefly. We looked at those four elements to see  
9 what we could learn and what was adaptable to our  
10 processes.

11 I stated the obvious that nobody else  
12 faced exactly the same challenge that we face,  
13 because they also had different interests. The  
14 BRA and -- the Department of Transportation and  
15 Massport are basically landlords or property  
16 owners who are dealing with a specific piece of  
17 property and trying to get the highest value for  
18 that.

19 The BRA is basically dealing with a set  
20 of zoning issues, comprehensive planning issues  
21 with respect to a specific piece of property.

22 And the A and F and Mass. Development  
23 are looking at financial proposals for a specific  
24 piece of property. Nobody else is looking at

1 competitive processes that deal with different  
2 properties in different areas. So, that's a major  
3 difference.

4 Nonetheless, there are some things  
5 that in the four areas that we thought were helpful  
6 and that we looked at. That is the content of the  
7 RFPs that were used by these entities to solicit  
8 proposals, the review process, the composition of  
9 the review team and the form that the award took.  
10 So, let me just touch briefly on each of those.

11 In each case in which one of the  
12 entities issued an RFP, the RFP contained detail  
13 regarding what the proposals had to contain and the  
14 form in which they had to, the bidders had to submit  
15 it. And that allowed for both certainty on the  
16 part of the applicant, the bidder, as to what they  
17 had to provide and allowed because of the form  
18 specificity a comparison of apples to apples and  
19 allowed an easy, more or less, way to look at  
20 components of the various proposals that came in.

21 Each of the RFPs contained evaluation  
22 criteria that would be used in selecting the  
23 winning applicant in general order of importance.  
24 None attached specific weights to the criteria.

1 And each contained disclaimers saying that in  
2 essence that the overall objective of the exercise  
3 was to get the best value for the Commonwealth.  
4 And that the awarding authority be it Mass DOT, be  
5 it Massport, would use its best judgment as to  
6 which proposal would yield that value.

7 Nonetheless, the clarity with which  
8 the criteria stated was important not only in view  
9 of all of the things we'll be talking about, not  
10 only so that the bidders would understand what the  
11 criteria were, but so that the evaluators could  
12 assure that they were focusing on the criteria with  
13 some precision as they went through the analytical  
14 process.

15 So, those were the highlights of what  
16 we discovered about the RFP. We obtained samples  
17 of RFPs. They are on the shared drive from a  
18 number of the entities. And they are there for  
19 staff and Commissioners to review.

20 The review process once the bidders  
21 submitted their proposals differed, because some  
22 of the entities have large staffs that engaged in  
23 this process. So, the review process was largely  
24 staff driven with some outside consultants.

1 Others did not have any staff to speak of and used  
2 a team of consultants to review the processes.

3 The Massport and DOT and BRA in  
4 particular had largely staffed their own  
5 processes. That's because they do this over and  
6 over again in a continuing fashion and build up  
7 within the agencies the expertise that's necessary  
8 to review a number of different aspects of the  
9 proposals.

10 Mass. Development and A and F, on the  
11 other hand, did not have large staffs, relied  
12 typically on outside input for the review that they  
13 created.

14 Each of the proposals, each of the  
15 entities in some way or another got community input  
16 as part of the analysis process. The BRA created  
17 an independent advisory group composed of  
18 neighborhood residents, citizens, community  
19 leaders. DOT put together an advisory group in  
20 largely the same fashion. Massport did most of  
21 its community inputs through its community  
22 relations office.

23 But all three of those entities relied  
24 heavily on community input at all stages of the

1 process leading up to formulation of a final  
2 proposal to the board in order both to get  
3 feedback from the community and also to build  
4 community acceptance and buy-in of the proposal as  
5 it moved forward.

6 All the entities, whether they  
7 assembled teams from the outside - And I'll get to  
8 that in a second. -- or whether they relied on  
9 inside team, staff team, assembled a specific team  
10 for a specific project and put that project -- that  
11 team under the leadership of a team leader. So,  
12 that there was either an internal or an external  
13 team leader for the analysts who were looking at  
14 the proposals and making recommendations about  
15 them.

16 In the end, each of the entities  
17 created what had various names but was in essence  
18 a recommendation to the approving board for the  
19 essential terms of the deal that they were  
20 recommending. They did not necessarily specify  
21 all of the terms of the package, but they specified  
22 the essential terms that required board approval.

23 And they did that because of a  
24 recognition that after the award, it was likely

1 that there would have to be further refinements of  
2 specific minutia they'd have to be tracking.  
3 There'd have to be some changes as things went  
4 along. And those did not necessarily have to go  
5 back to the approving board for review.

6 But the essential terms of the deal,  
7 for example, in the case of DOT doing a lease deal.  
8 The length of the lease, the amount of the lease,  
9 the amount of the rental, the amenities that would  
10 be used to generate that revenue. The kinds of  
11 uses to which the property will be put, those kinds  
12 of essential terms were part of the  
13 recommendations that was sent to the board.

14 None of the groups with one exception  
15 used a numerical review or a weighted system. All  
16 used verbal systems. Some comparative, some not.  
17 But they all used with one exception verbal  
18 assessments or comparative rankings to come up  
19 with their final recommendation.

20 In terms of the review team, who was on  
21 the review team, there was a sharp difference  
22 between the entities that did this over and over  
23 again and those that didn't. The Department of  
24 Transportation, Massport and BRA had in-house

1 staff that did much of the work. Although the  
2 Department of Transportation used an outside  
3 appraiser to set a value of the property and the  
4 yield that was reasonable to expect. So, even  
5 there, they used outside expertise to create the  
6 benchmark against which they would measure  
7 proposals.

8 Massport used an outside appraiser and  
9 a design consultant for design and costs to help  
10 them determine whether not only the yield the  
11 property should bring, but also whether the  
12 proposal that was being made by the respondents was  
13 realistic and achievable as opposed to some kind  
14 of a pie in the sky proposal that would really not  
15 have any likelihood of succeeding.

16 Mass. Development and A and F relied  
17 heavily on outside consultants. Mass.  
18 Development had a review manager in charge of the  
19 outside consultant team. Then it had business  
20 consultants and real estate consultants. And  
21 they provided us with a helpful list of the  
22 qualities and attributes of the members of the  
23 team. But they were looking at these proposals  
24 essentially from a financing aspect.

1           A and F similarly put together an  
2 outside team of people to review the financial  
3 implications of the proposals they were rating.

4           The two individuals, Byrne McKinney  
5 and Steve Cecil who participated in this process  
6 suggested that there were two ways to go about  
7 assembling the team. They have been involved in  
8 both ways.

9           One was to assemble, and we talked  
10 about this at least informally, one was to assemble  
11 the individuals. And then pick somebody to be the  
12 leader. Another way was to pick the leader and  
13 have the leader assemble the team. And that can  
14 be done through an RFP process that allows us to  
15 cherry pick from among the respondents members of  
16 the team that we would like the leader to employ  
17 if we choose to do so, the RFP could do that. But  
18 otherwise, picks a leader in whom we have  
19 confidence and then allows the leader to go out and  
20 pick the members of the team that will be the  
21 evaluators.

22           Another way that Steve Cecil had used,  
23 and he sent us a specimen contract, was to pick a  
24 firm, a large firm specifying somebody in the firm

1 who the awarding authority, us in this case, has  
2 confidence in saying we'd like him to lead or her  
3 to lead letting the firm then decide on various firm  
4 members or outside consultants to the process.

5 Finally, we looked at the forms of the  
6 award. And all of the awards except for the A and  
7 F award took the form of what they called a term  
8 sheet. And I've described what they were. They  
9 contain the major components of the award. They  
10 allowed staff to manage the minutia or detail as  
11 it evolves over the course of a project. They were  
12 all uniformed in their assessment that the project  
13 that's proposed is never exactly the project that  
14 is built.

15 And there has to be some flexibility to  
16 take into account evolving conditions as they move  
17 forward without having to go through a rather  
18 cumbersome process of coming back to their boards  
19 to get additional formal approval.

20 So, they locked down the essential  
21 terms and conditions under which the award was made  
22 with the expectation that it would only be  
23 deviations from those major terms that would  
24 require a return to the board. And that the staff

1 would oversee the development with respect to  
2 matters of detail.

3 A and F was different because at the end  
4 there were four parties to the agreement that they  
5 typically participated in. There was A and F, the  
6 developer, the municipality where the development  
7 was being built and DOR which was going to give some  
8 tax relief to the developers as it moved forward.  
9 And that took the form of a contract that was pretty  
10 specific as to the major financing elements and the  
11 major expectations and the major revenues to which  
12 the developer was committing. And the major  
13 concessions that the municipality was giving in  
14 order to have the developer create it.

15 So, those were the highlights of what  
16 we found. There are a number of those things that  
17 I think are helpful to us as we look at our  
18 development of an evaluation process. So, I look  
19 forward to those discussions as we move forward.

20 But I will stop at this point and ask  
21 Commissioner Stebbins if there are other things  
22 that I have omitted that you would like to add or  
23 amplify on from our discoveries and our  
24 conversations.

1                   COMMISSIONER STEBBINS: Just real  
2 briefly, and as always Commissioner McHugh does a  
3 great job of walking through the fine details in  
4 pulling that report together of the meetings that  
5 we had with those entities.

6                   Just to burrow down a little bit  
7 further, what was interesting, even though most of  
8 the entities described on focusing on one parcel  
9 of property and for the most part trying to  
10 maximize the best financial value to the  
11 Commonwealth or to an agency through the  
12 development of that property, the BRA was  
13 interesting because not only were they looking for  
14 a financial return, but they expected the project  
15 and planned for the project to fit within their  
16 development plans.

17                   They specifically talked about a  
18 parcel of property adjacent to the Boston  
19 Convention Center. Not only just one making the  
20 property available for lease, but complying with  
21 their plans for a hotel to be constructed on that  
22 site. Even though they were certainly looking for  
23 highest and best value, they were also looking for  
24 a development plan that met their needs in terms

1 of their overall development strategy for that  
2 part of Boston.

3           Again, just to echo the term sheet,  
4 examples that we were shared from several of the  
5 entities, I think in the end may have some  
6 utilization in terms of how we might develop a  
7 license and our ability to attach conditions to  
8 license agreement for an applicant.

9           And also, the notion of a project  
10 manager be that somebody internal or external who  
11 helps usher the process through to make sure we  
12 have the right evaluation teams participating.

13           But I certainly think as we move ahead  
14 there'd be an opportunity knowing that we kind of  
15 have five categories of evaluation that there  
16 being five Commissioners that we ourselves might  
17 inject ourselves in the process to work with an  
18 evaluation team.

19           But no additional comments beyond  
20 those to add to what Commissioner McHugh shared  
21 with us in outlining the process that we went  
22 through.

23           CHAIRMAN CROSBY: Commissioners,  
24 reactions?

1 COMMISSIONER ZUNIGA: I did have some.

2 CHAIRMAN CROSBY: Yes, go ahead.

3 COMMISSIONER ZUNIGA: I think this  
4 outline in the memo is very helpful. I think  
5 there's many similarities that some of these  
6 agencies and parties have to what we will be  
7 contemplating here as we figure out the details of  
8 the award and the evaluation, the evaluation and  
9 award of the licenses.

10 But as Commissioner McHugh suggests, I  
11 want to emphasize there's also very important  
12 differences. I would say that by virtue of the  
13 number of projects that some of these agencies  
14 review that the key difference to what we will  
15 contemplate here -- And I will speak to that in a  
16 few more minutes. -- but also the boards that  
17 review these projects are very different in my  
18 opinion to this Commission, if we're trying to draw  
19 parallels to this Commission.

20 I actually see a board of the BRA, for  
21 example, or a board of DOT having a lot more  
22 similarities with the Gaming Policy Advisory  
23 Committee that this Commission has by virtue of  
24 when they meet, how often they meet, the fact that

1 they have day jobs elsewhere, and the fact that  
2 those agencies also operate within the confines of  
3 a Secretary for example and ultimately the  
4 Governor's office or the Mayor's office in case of  
5 the BRA.

6 So, as we talk about the role of this  
7 Commission, I'm really particularly interested in  
8 what we have in our view to be the role of each of  
9 us and our staff with a mix of our consultants, I  
10 guess, in how we implement that. I think it's  
11 important similarities, but I would also just  
12 emphasize there's important differences.

13 I also wanted to mention something  
14 else. I think these parties were very helpful,  
15 but I wonder if there's not another party that we  
16 should talk to. And that would be the Inspector  
17 General. I think Inspector General's office  
18 spends a lot of time thinking about procurement  
19 procedures, enforcing rules and laws that do not  
20 apply to us. And I want to emphasize that.

21 But because they think about those  
22 procedures under the confines of ensuring public  
23 confidence in all of the processes that they  
24 contemplate, I think this is a party that would be,

1 in my opinion, very helpful to consult with. I  
2 don't think we have formally, I think we ought to.

3 Again, I want to emphasize that the  
4 rules that they enforce do not apply to us. That's  
5 explicitly stated in our statute, Chapter 30b and  
6 others. But they have spent a lifetime really,  
7 the lifetime of that office trying to figure out  
8 what processes are best utilized on agencies like  
9 us. Those were a couple of thoughts.

10 I'm really looking forward to a healthy  
11 discussion as to how these four items that are very  
12 well laid out here, the contents, the review team  
13 composition, the role of the Commissioners and  
14 staff and the mix of consultants, how we are going  
15 to implement them because I think that's key.  
16 It's critical as to how we're going to do this.

17 I have some opinions but I will reserve  
18 them when we get to that. I don't know if it's  
19 today or on the 16th, but I think it should be soon.

20 COMMISSIONER STEBBINS: Commissioner  
21 Zuniga, could you -- I guess Commissioner McHugh  
22 and I have a conversation with the IG in advance  
23 of our meeting on the 16th?

24 COMMISSIONER ZUNIGA: I do. I do

1 suggest that you do that. One thing that I'm going  
2 to guess is going to be unequivocally similar is  
3 the criteria that you articulate.

4 All of these agencies do seem to agree  
5 that the criteria should be very clear. And the  
6 process for evaluation of that criteria should be  
7 very clear to the bidders. That's a fundamental  
8 thing.

9 And back to my point about the  
10 differences, when you're DOT and you have two or  
11 so criteria, financial, the financial aspect and  
12 how that fits, for example, with the strategic  
13 plan, that's I would pose a lot easier compared to  
14 the criteria that we have, which is fundamentally  
15 complicated because some of it is complete. How  
16 do you maximize the revenues to the Commonwealth  
17 while mitigating the effects on a host or  
18 surrounding community, for example. That really  
19 butts against each other in my view in many ways.

20 So, as we contemplate how to implement  
21 and evaluate that criteria, that's the piece that  
22 I want to make sure that we communicate as clear  
23 as we can because that's a paramount goal, if we  
24 can do that.

1           But the short answer to that is yes. I  
2 would really encourage that you two speak and  
3 consult with someone in the Inspector General's  
4 office.

5           CHAIRMAN CROSBY: Commissioner  
6 Cameron?

7           COMMISSIONER CAMERON: Go ahead,  
8 Commissioner McHugh.

9           COMMISSIONER MCHUGH: No, I'm sorry.  
10 Go ahead.

11           COMMISSIONER CAMERON: I just want to  
12 thank the two of you, comprehensive thoughtful  
13 document. What's clear to me is that there are so  
14 many options. There's not one approach that is  
15 successful. That's apparent in speaking with  
16 many other jurisdictions from around the country  
17 and actually the Singapore folks.

18           So, I as well look forward to  
19 discussing how we take all of this information and  
20 put together a format that makes the most sense  
21 here. I agree with the transparency and clear-cut  
22 -- that bidders are understanding what we will be  
23 using. That has to be clear.

24           And as far as the Inspector General, as

1 many people as we can talk to is always helpful.  
2 But I do want to thank you, very well done document.

3 CHAIRMAN CROSBY: Commissioner  
4 Stebbins, the point you made about the BRA, you  
5 said like they're not just looking for the highest  
6 and best value. They're looking for the  
7 integration of a plan into a larger development  
8 strategy. Was there a take away about that for us?  
9 Were you highlighting that because you thought  
10 that directly had a relevance to us?

11 COMMISSIONER STEBBINS: If I said the  
12 BRA, I correct myself. It was Massport. And I  
13 was somewhat intrigued because I think the  
14 Massport process to a degree may be a little bit  
15 closer, reflective of the process we might  
16 envision. In that we're going to take things into  
17 consideration like architecture and the site  
18 development that's also what Massport is  
19 considering.

20 But obviously having a plan for that  
21 site in addition to maximizing the best value, I  
22 saw Massport's process out of all of them being  
23 somewhat similar to a process that we might move  
24 forward with, as well as the public involvement

1 comment component to it.

2 CHAIRMAN CROSBY: Yes. Okay. I had  
3 a few other just random reactions and thoughts.  
4 One is to build on what Commissioner Zuniga said.  
5 The difference between those commissions and our  
6 Commission is obviously really dramatic. Again,  
7 we're dealing with this with our whole operations.  
8 And this is something we've already talked about  
9 a lot with Executive Director Day.

10 His prior commission was a part-time  
11 commission as most commissions are and as all of  
12 the commissions are that you looked at in this  
13 project. That means a staff intensity, which  
14 would not be acceptable to me for this Commission.

15 And I know you weren't suggesting this,  
16 Commissioner McHugh or Stebbins, but just to make  
17 the point, there is the DOT says ultimately DOT  
18 staff sends the project they favor. And in  
19 another place -- And they have this draft project  
20 input report. And the staff essentially makes the  
21 decision.

22 And I know you're not suggesting we  
23 should do that, but I just want to make it clear  
24 that that's a long way away from anything that I

1 would find acceptable. And throughout our  
2 processes here, everything we're doing we need to  
3 figure out how do we adapt conventional staff to  
4 Commission operations to this situation with five  
5 full-time, extraordinarily capable  
6 Commissioners.

7 So, that's just something I think we  
8 all understand that but I want to highlight it  
9 because I think it's really important.

10 The IG issue, you can't disagree with  
11 what Commissioner Cameron said. There's no harm  
12 in the more people you ask, you always get  
13 something. But you do have to be a little bit  
14 careful of the questions one asks because you're  
15 talking to people who have spent their lives  
16 enforcing rules as you say that we are not required  
17 to adhere to. And there are reasons why we are not  
18 required.

19 But it will get people outside their  
20 comfort zone. They'll be talking and wanting to  
21 enforce or to reinforce in our minds standards and  
22 processes and so forth that don't apply. And you  
23 run the risk of setting expectations.

24 So, I just think it's something that

1 has to be thought through kind of carefully about  
2 how you get the good, which can clearly come of it,  
3 without sort of putting us in a situation where  
4 we're looked at as scants for not doing what they  
5 live with all day long as the conventional  
6 procurement processes.

7 This is a very different kind of  
8 procurement and we're exempt from those rules for  
9 reasons.

10 COMMISSIONER ZUNIGA: Can I react to  
11 that?

12 CHAIRMAN CROSBY: Sure.

13 COMMISSIONER ZUNIGA: I am less  
14 concerned from an enforcement standpoint than from  
15 a training standpoint. I think what I'm  
16 suggesting --

17 COMMISSIONER MCHUGH: I am having  
18 trouble hearing you.

19 COMMISSIONER ZUNIGA: I'm sorry. My  
20 understanding of how the Inspector General sees  
21 itself is twofold, fundamentally, twofold. As an  
22 enforcement agency as I suggest on the one side,  
23 but also as a training agency. One that provides  
24 training and advice to all of the public agencies,

1 cities, towns, procurement officials that may want  
2 at any time.

3 I am thinking of it from that side of  
4 the house as we ask for their input. I think they  
5 would be the first ones to recognize that none of  
6 the rules that they enforce apply to us.

7 But I think again from a process  
8 standpoint, I think their suggestions and we  
9 should just take them as that could be valuable as  
10 we try to make decisions. I think they will be  
11 nonbinding. I don't think anybody should think of  
12 it that way.

13 MR. DAY: Chairman Crosby?

14 CHAIRMAN CROSBY: Yes.

15 MR. DAY: If I could, I looked at,  
16 reviewed the memorandum too and I had a few  
17 thoughts that I wanted to exchange with the  
18 Commission to stimulate discussion whenever  
19 you're ready.

20 CHAIRMAN CROSBY: I had two more  
21 things, sorry, if you don't mind.

22 MR. DAY: Go right ahead.

23 CHAIRMAN CROSBY: Just two other quick  
24 observations. One about public comment, we've

1 done this in spades in this project. And we want  
2 to keep that up. But there is a kind of public  
3 comment that would be of interest and maybe value  
4 for the public not in a host or a surrounding  
5 community, what are their views about which of the  
6 various proposals we get are the most valuable.

7 Obviously, the host and surrounding  
8 communities all have strong vested interests one  
9 way or another. They're going to be either very  
10 positive or very negative probably over a specific  
11 site. But having the rest of the public, and I'm  
12 now looking at Director Driscoll in this, having  
13 the rest of the public have an opportunity to say  
14 I think Suffolk Downs, I think Everett, I think  
15 Milford is good, bad or indifferent. Or these are  
16 reasons why I think rural is better than an urban  
17 and whatever.

18 We'll be getting comments from  
19 editorial boards. It might be worth thinking  
20 about is there any systematic way that we could  
21 invite comment from the broader public? So, I  
22 just throw that out there. I think it would be  
23 interesting. I would certainly be interested to  
24 know if there was any systematic way to get any kind

1 of constructive feedback from people about within  
2 each region about which site they thought was  
3 better or worse.

4 Then my last point is, and this has  
5 being touched on, particularly as I was reviewing  
6 all of the comments that came in over our regs.,  
7 I realized that I didn't really know what it meant  
8 to make an award. If when we vote at the end of  
9 a day and we pick developer A over B and C, is that  
10 it? Is that the award? Or does there have to be  
11 a huge contract negotiation? Because it  
12 certainly relates to the timing issue.

13 And the timing issue relates to a  
14 variety of revenue streams including the  
15 Commonwealth's revenue stream. And I just hadn't  
16 really thought that through.

17 And I think it looks like your people  
18 are in the process of addressing that issue. But  
19 what exactly -- When exactly the award is made that  
20 triggers the various revenue streams is a really  
21 critical step for us.

22 COMMISSIONER ZUNIGA: I feel I can add  
23 something in this that I'm familiar with. As  
24 Commissioner Stebbins was suggesting, when you are

1 landlord, when you're DOT and you are bidding  
2 something to be done on a piece of property that  
3 you own, you get a term sheet and eventually a  
4 contract. Maybe the award is made, has to be made  
5 practically via a term sheet.

6 But then that party, DOT, will enter  
7 ultimately into a lease arrangement by some term,  
8 by some conditions. We won't have that here  
9 fundamentally, because we don't own the land, for  
10 example. We're not landlords. We're awarding a  
11 license, which is the right to do something in the  
12 future.

13 So, there will be all kinds of  
14 conditions. I think a fundamental condition in  
15 the award is that they do what they say they are  
16 going to do. And there's a number of things that  
17 we have to put in place between the time we award  
18 that license and we let that operation open for  
19 business in terms of monitoring to make sure that  
20 they effectively deliver what they promise.

21 Again, emphasizing the idea of a term  
22 sheet, the notion here is that by its very nature  
23 that project is going to be very conceptual.  
24 There's going to be drawings. There's going to be

1 a site. And there's going to be all kinds of great  
2 plans. But that said, after that, there's a  
3 number of things that have to happen and there's  
4 a lot of work that we have to do to monitor. And  
5 how best we can memorialize that is something that  
6 we need to think about. But perhaps more  
7 importantly how do we make sure that what's coming  
8 to fruition is what we agreed to is something that  
9 we need to be closely monitoring.

10 CHAIRMAN CROSBY: That's a separate  
11 issue from the one I was talking about, but they're  
12 both important, I agree.

13 It might be interesting to ask other  
14 jurisdictions. Maybe our consultants will tell  
15 us. In Pennsylvania and Ohio where there were  
16 awards made, what was the trigger mechanism? What  
17 defines award for purposes of generating the  
18 revenue? We might be able to get some advice from  
19 them.

20 Okay, that was my last comment. So,  
21 fire away.

22 MR. DAY: Thank you, Chairman. From  
23 my perspective, I just have a few thoughts and  
24 observations to draw out to the Commission. My

1 purpose is to stimulate some discussion for  
2 Commissioner McHugh and I as we get back together  
3 to talk about this whole process on Tuesday.

4 And it's my understanding and what the  
5 Commission's end result is the granting of a  
6 license. And upon granting of a license then that  
7 is the key for the revenue streams. But  
8 obviously, we want to make sure that's correct.

9 The granting of the license to me is a  
10 process that is conditional. There has to be  
11 conditions. Those conditions are, at least as I  
12 understand it, would be conditions about the  
13 application, whatever the applicant put in their  
14 application. It would be the responses and  
15 evaluation criteria, whatever that was. Public  
16 hearings, whatever the applicant committed to in  
17 public hearing.

18 So, that essentially I think as  
19 Commissioner Zuniga addressed, that that actually  
20 ties them once they get a license. They can't just  
21 change direction. They are tying themselves to  
22 what they're going to move forward with. And then  
23 falls in the process as you suggested the  
24 after-the-fact follow-up on the construction

1 process and that particular area.

2 The public comment, I think, is very  
3 interesting as well. One thing we didn't talk is  
4 a number of these processes that Commissioner  
5 McHugh and Commissioner Stebbins went through also  
6 involved -- many of them involved some form of  
7 public advisory, some form of outside input into  
8 the process in different manners, which is  
9 something as well that I think is worthwhile. I  
10 agree it's worthwhile considering as we move  
11 forward.

12 And what ultimately I'm trying to  
13 suggest and see if this is some direction the  
14 Commission wants to move forward, is a process that  
15 really takes this huge amount of information in an  
16 application and moves it kind of down into what  
17 would be reasonable and effective for the  
18 Commission to consider. And assure itself it's  
19 involved effectively in the process itself.

20 So, that's what I'm trying to get to.  
21 I think that would be useful in the process and in  
22 taking into consideration what has already been  
23 brought forward by Commissioners McHugh and  
24 Stebbins.

1           Of course, as we start the initial part  
2 is the application itself. So, I think we are now  
3 working to make sure we have that material  
4 available the first week in June. But I think that  
5 one thing I saw consistently as well is to try to  
6 make sure the questions we are asking are as clear  
7 and as detailed as we can to then insure that when  
8 we get responses from applicants, they in fact are  
9 consistent. They should have some manner of  
10 consistency in those responses so it allows us to  
11 do comparisons about what is we're looking at.

12           Then as those applications come in, the  
13 initial process, of course, is the screening of the  
14 applications itself. Are they complete? In that  
15 process, most of that response would be something  
16 in many routine areas that staff can just respond  
17 back to the applicant and make sure that  
18 information is there.

19           But there are very likely areas, could  
20 be areas that are nonresponsive. And that would  
21 be something that would either come back to the  
22 Commissioners for directions on how to proceed  
23 with that kind of situation if it develops.

24           I have a thought that staff workgroups

1 in some fashion would be an appropriate screening  
2 tool to process that information. There's a  
3 number of ways to break down those workgroups or  
4 a number of workgroups which could be already we  
5 divided up the evaluation criteria in I think about  
6 five different areas. That could be the subject  
7 of each workgroup. It could be additional  
8 subjects in particular that we wanted to  
9 emphasize.

10 And then it would seem to me that's also  
11 an appropriate spot for the Commissioners to  
12 assign themselves based on the expertise and  
13 delegation that you've already established. So,  
14 that actually moves the Commission right into  
15 direct participation in the product that comes out  
16 of those workgroups early on in the process.

17 In that continuing process of kind of  
18 funneling the information, I would suggest it  
19 would be a good idea then to take a delegation  
20 really -- a representative from each of those  
21 workgroups and then combine those evaluation  
22 processes or workgroups into each application.

23 And at that point, of course, the  
24 Commission -- it's kind of the product the

1 Commission would like in the end to consider.  
2 Would that be some kind of ranking one through 11  
3 or whatever we end up with applicants? Or would  
4 it be an application brief and maybe specific  
5 findings or observations plus a recommendation?

6 At that point, it would be really up to  
7 the Commission. That's why I'm mentioning that as  
8 kind of some thought process about how much do you  
9 want to see at that point? If you're involved in  
10 the beginning of the process, how much do you want  
11 to see in this process? Then on top of that, of  
12 course, is the hearings.

13 So, as the Commission conducts  
14 hearings and I'm pretty confident that you want to  
15 hear from each one of these applicants about  
16 exactly what they are proposing. So, the idea  
17 would be in the end that you would have this product  
18 that's developed through the evaluation process  
19 plus the facts brought in from the hearing process  
20 itself to be able to ultimately come to a decision  
21 to award or grant a license as a privilege to do  
22 business in casino gaming and resorts in the State  
23 of Massachusetts.

24 That sounds short, but it's actually --

1 I left a lot of other points out of it. But I  
2 thought something like would be helpful just to  
3 throw it out and say here's a kind of a concept that  
4 you might want to consider.

5 COMMISSIONER ZUNIGA: I think that's  
6 some great ideas. I look forward to the  
7 involvement of each one of us, each one of the  
8 Commissioners in some of the groups that you  
9 articulate.

10 I actually wanted to comment a little  
11 bit on something you may have left out just now,  
12 Director Day. And that is relative to the mix of  
13 advisors and the role of advisors. Because I am  
14 going to come from something perhaps on principal  
15 as to making sure that we're careful that we do not  
16 delegate an important role, whatever that may be,  
17 to an outside party.

18 Whether it's a coordinating role or  
19 whether it's one of interaction or other. I  
20 believe the fundamental role of -- All of the roles  
21 that are important in this evaluation process,  
22 should reside in some form or fashion with somebody  
23 at the Commission, whether it's yourself, staff,  
24 working groups. And that each one of those

1 parties consult and get the advice of advisors  
2 because we need them fundamentally.

3 But I do not want this Commission to be  
4 in a position of having delegated away to a third  
5 party that is not part of the Commission too much  
6 of an important role. I guess we could talk about  
7 in more detail, but I come from that side.

8 COMMISSIONER CAMERON: I would agree  
9 with Commissioner Zuniga. That's very similar  
10 to what we do with investigations. Other  
11 jurisdictions turn the investigations over to  
12 contract investigators and just submitted a report  
13 for the Commission's review at the end of the  
14 investigation.

15 We chose not to do that. That we are  
16 in control of those investigations under Director  
17 Wells and the State Police assigned to IEB. They  
18 are making the decisions about how to proceed with  
19 the investigations. So, I would agree that that's  
20 an important piece for us is not to delegate.

21 MR. DAY: Commissioner Zuniga, thank  
22 you. I did omit that. That's one thing that I'm  
23 hoping that the Commission would be willing to give  
24 us some authorization to move forward on.

1 I do feel and I think the Commissioners  
2 that I've been discussing it with as well is that  
3 we will need to add some expertise to this process.  
4 I would recommend we add it to these workgroups.  
5 Of course, some example expertise I think as we  
6 already discussed, architecture, design,  
7 financial would be very helpful I think as  
8 evaluating these proposals as they move forward.

9 What I was talking about is then the  
10 smaller group that actually consolidates all of  
11 this information. And we did have some discussion  
12 about where or when the material would actually  
13 come before the Commission in session, we talked  
14 a little bit about maybe after these workgroups you  
15 could bring that.

16 But if you get five areas times 10 or  
17 11 applications that's a lot of material trying to  
18 conduct a public hearing about. So, that's why  
19 I'm thinking it might be more practical to narrow  
20 that down by bringing one delegate from each one  
21 of those groups in.

22 At that point, I was as well  
23 anticipating that I would join that group and of  
24 course reinforcing what Commissioner Zuniga

1 mentioned. Then in the end, I am responsible to  
2 make sure the process keeps moving. But I'd also  
3 think it would be appropriate to consider the  
4 possibility of adding a consultant in that process  
5 that would help me manage and move that forward to  
6 the Commission. So, that is a key step that I  
7 omitted and I thank Commissioner Zuniga for  
8 bringing it up.

9 But I do think our ability to move  
10 forward, we've started some identification. But  
11 I think it would be to our benefit to move forward  
12 with identifying what those various areas of  
13 interest are. And moving forward with a process,  
14 RFP or whatever we need to do to begin setting that  
15 up so we're ready for the Commissioners to actually  
16 give us the go-ahead one way or the other.

17 One thing we didn't mention in these  
18 workgroups besides the concept of possible of  
19 involving some kind of advisory, our advisory  
20 personnel or something is that there may also be  
21 other state government agencies that would be  
22 helpful to the process that may be able to -- I  
23 can't speak for them, but may be able to loan us  
24 some expertise for the duration of that process.

1                   CHAIRMAN CROSBY: Absolutely, yes.  
2                   Definitely. Commissioner Stebbins, you've been  
3                   working on a suggested list of consultant  
4                   resources and working on RFPs. Are we at a point  
5                   where you are ready for us to give authorization  
6                   to put some RFPs out?

7                   COMMISSIONER STEBBINS: We are  
8                   getting close. We have one RFP that's pretty  
9                   complete with respect to financial advisory  
10                  services.

11                  We've also got components, which we can  
12                  easily fold into an RFP for what I'd call the site  
13                  development aspects. The AIA as well as Mass.  
14                  Development gave us some good feedback as to the  
15                  team and the professions that we should consider  
16                  tapping into for the site development  
17                  considerations.

18                  I've also gotten some initial  
19                  information on economic impact review and I will  
20                  drilling down on that a little bit further. That  
21                  fourth category of our criteria, which deals with  
22                  mitigation, I can tell you that the least on the  
23                  problem gaming criteria or evaluation that both  
24                  our friends at the Mass. Council of Compulsive

1 Gambling as well as the National Council have  
2 offered help us review those pieces of the  
3 criteria.

4 CHAIRMAN CROSBY: What do  
5 Commissioner McHugh and Director Day see as the  
6 process for finalizing this? How are you  
7 envisioning that we would go forward from here to  
8 finalize the evaluation process, whether we do  
9 these teams whatever?

10 MR. DAY: Go ahead, Commissioner  
11 McHugh.

12 COMMISSIONER MCHUGH: I would  
13 envision that we talk next week, as Director Day  
14 has planned, and come back with a proposal that  
15 takes that we've been discussing that's been on the  
16 table for a while, and the 32 steps or 36 steps that  
17 were proposed. And presents to the Commission for  
18 approval a process that is as detailed as we can  
19 make it but also recommends the groups and the  
20 areas of responsibilities of the groups and the  
21 other things that Director Day just talked about.

22 It seems to me we get that approved next  
23 week -- I mean the next time we meet. That would  
24 be an enormous help for us to determine the outside

1 consultants that we need and the other assistance  
2 that we're going to need. And also to begin to  
3 determine what the timeline is going to look like  
4 so that the master schedule can be revised to take  
5 account of that process.

6 It seems to me that that's -- trying to  
7 get a handle around that process is the core of  
8 building out resources that we need and the time  
9 it's going to take us to get done.

10 CHAIRMAN CROSBY: In your mind's eye  
11 that would be on the 16th that we would hammer this  
12 to the ground.

13 MR. DAY: Yes, I would agree with  
14 Commissioner McHugh. The consultant issue I was  
15 talking about was more a matter of we have to in  
16 this process determine or identify where we think  
17 the expertise needs to be and going forward to  
18 identify who might be available to do that. And  
19 then at that point, we'd have that to bring back  
20 to the Commission.

21 CHAIRMAN CROSBY: Right. I think the  
22 idea of five workgroups set up against the five  
23 sets of criteria that we have is a really good idea.  
24 I like that. I like the idea having Commissioners

1 -- each Commissioner take one. This is now  
2 presumptively. This is not definite, but maybe  
3 even have the Commissioners chair the workgroups.

4 And have the Commissioners have the  
5 administrative responsibility for each workgroup.  
6 And then figure out for each workgroup where we  
7 need outside help, realizing as you said, we've got  
8 public agencies. We've got hired consultants.  
9 We've got our own consultants who have been already  
10 onboard. Amongst all the various resources that  
11 we've got, figure out who's going to need what for  
12 which workgroup. I like that as an operating  
13 presumption. And then fitting that into a  
14 timeframe.

15 So, I think on the RFPs, just in the  
16 interest of time, they don't have to be perfect in  
17 terms of exactly what we need. And it seems to me  
18 that maybe we ought to authorize Commissioner  
19 Stebbins or maybe Director Day to go ahead and  
20 release one or more RFPs for the areas where we're  
21 pretty sure we're going to need help.

22 They can be really fairly broadly  
23 written. We know the kinds of firms we're going  
24 to be talking to. And if turns out we don't use

1       them that doesn't matter, but we at least get the  
2       process going.

3               So, certainly on the financial  
4       services and maybe on the site design, the two that  
5       Commissioner Stebbins said are pretty well teed  
6       up, and anyplace else. If you can move those RFPs  
7       during the next two weeks prior to the 16th, I think  
8       that's all to the good.

9               COMMISSIONER ZUNIGA: I would agree  
10       with that. It's actually some of the advice that  
11       we're giving to surrounding communities that they  
12       should prep for the potential of needing some  
13       advisors. They can just get them or engage them  
14       at any time after conducting the RFP.

15              I would emphasize the second one. It  
16       seems like there's a lot of agreement relative to  
17       a financial advisor. That's perhaps a very  
18       intense and unique discipline.

19              The second one, the second category, as  
20       Commissioner Stebbins highlights, is one that I  
21       would suggest we follow a similar approach like we  
22       did for the research. That we write it broadly.  
23       That we invite multiple disciplines that could  
24       fall under the criteria of site development,

1 building, environmental assessments, etc., you  
2 know, architects, engineers. And that we invite  
3 firms and individuals to identify whether they  
4 would be responding to one or more or all of the  
5 broad categories within that RFP. And we see what  
6 we get.

7 We may get firms that team amongst  
8 themselves because they could offer more of a  
9 comprehensive approach. Or we could get  
10 individuals that say I am particularly interested  
11 in providing a narrow discipline, a narrow  
12 expertise, let's say. And then we can make  
13 decisions after we see these responses.

14 CHAIRMAN CROSBY: Do we need a vote to  
15 authorize the Executive Director -- I don't think  
16 we do. -- to go ahead and put out RFPs if you're  
17 ready. At any time, by consensus, anything that's  
18 ready to go, let's move it just in the interest of  
19 time.

20 There is apropos of what Commissioner  
21 Zuniga said about using our own advice that we're  
22 giving to surrounding communities. There is a  
23 list of contractors, engineers, architects, etc.  
24 that DHCD publishes. Ombudsman Ziemba knows the

1 exact number. We've got it around. But that's  
2 already procured. They're all prequalified.

3 There may well be, and I hope there are,  
4 and if there are we ought to try to use that list  
5 because we're recommending that the surrounding  
6 communities use that list rather than doing a de  
7 novo RFP process.

8 So, Commissioner Stebbins, you're part  
9 of this conversation too, we're looking at that  
10 list and maybe we can pull people off that list for  
11 some of our functional needs rather than having to  
12 do a whole new RFP. It would also be good to  
13 familiarize ourselves with who is on that list.

14 Two other observations, one is just to  
15 keep in the backs of our minds as we structure this  
16 process, remembering now this is going to take  
17 place post application, so post August for  
18 Category 2? Is that when we've got the deadline?  
19 What is our deadline for Category 2? I can't  
20 remember.

21 COMMISSIONER ZUNIGA: October.

22 MR. DAY: October, thank you, yes.

23 MS. RAWLINS: November or December for  
24 Category 1. But as soon as we make those awards,

1 bang, we'll be operating. The organization is  
2 going to have to do a 180 to start operating all  
3 of the things that we have to do to get ready to  
4 do our regulatory role and the supervision of the  
5 ramping up during the construction phase and  
6 everything else.

7 And you and I have talked about this in  
8 other contexts, but you and your staff are going  
9 to have your hands full getting ready for the day  
10 after the awards are given. And we still don't  
11 have a chart yet that shows what needs to happen  
12 between that date or starting that date until the  
13 time the facilities open.

14 So, just as we're making these  
15 assignments, we need to remember that you and your  
16 staff are going to have a lot of stuff going on to  
17 get ready to take the next phase. So, we can't  
18 just look at this in a vacuum. We ought to  
19 remember what all else is going to be on your plate.

20 The last thing is we've moved around  
21 and around this issue of weighting or not or the  
22 kind of weighting. What was clear from the report  
23 that Commissioner McHugh and Stebbins gave us is  
24 that the people they've talked to, it's not

1 standard operating procedure to have a numerical  
2 kind of weighting process.

3 I know at least Commissioner Zuniga has  
4 or has had some strong feelings about that. And  
5 I still don't really know what Commissioner McHugh  
6 and Stebbins would say how they would rank these  
7 five different categories or various factors  
8 within these five different categories.

9 So, my question is, where is that  
10 decision? Is that also going to get all teed up?  
11 Is that going to part of the proposal that you're  
12 going to give to us for the 16th? Does that need  
13 to be talked about now? Where is that in the  
14 process, anybody?

15 MR. DAY: Chairman Crosby, we  
16 definitely would at least I see covering that as  
17 we get into the proposal for May 16. But it would  
18 be helpful to me, because even as I read the  
19 memorandum, there was the use that referred to of  
20 scoring system, sort of an informal process that  
21 helped people kind of make decisions on what was  
22 stronger or weaker. So, there is a possibility of  
23 using it in another fashion rather than a scoring  
24 it at the end result. But it may help when you're

1 dealing with the detail the middle.

2           So, I know that there are -- I know that  
3 Commissioner Zuniga has mentioned scoring systems  
4 a lot. I have experience with scoring systems.  
5 But on the other hand, there may be some possible  
6 utilization that would serve a very specific  
7 purpose as we move forward. But I would benefit  
8 from any comment from the Commissioners as if they  
9 had a preference or a consideration one way or the  
10 other.

11           CHAIRMAN CROSBY: Let's start out with  
12 Commissioners McHugh and Stebbins, if you have  
13 anything you to say based on the work you've done,  
14 since you're sort of carrying the ball on this.  
15 And then see what others have to say.

16           COMMISSIONER MCHUGH: The thing that  
17 struck me was that -- two things I guess struck me  
18 about the RFPs and the process that was used to  
19 evaluate them.

20           The first thing about the RFPs was that  
21 there never in any of them was a specific weight  
22 to assigned to the criteria. And the criteria  
23 were not simple and easily divisible into  
24 financial and design. But the RFPs that we were

1 provided are there on the shared drive. They're  
2 available to everybody. They're as complex in  
3 some areas as I think ours will wind up being.

4 But in each case, the issuing authority  
5 reserved the right to -- did not assign a weight  
6 to them although a couple of them did list the  
7 criteria in relative order of importance without  
8 assigning a specific weight. And each one of the  
9 people to whom we talked said that that was  
10 designed to allow maximum flexibility in the  
11 evaluation process while at least giving people an  
12 idea, a rough idea as to how they -- at the outset  
13 how the issuing authority viewed the importance of  
14 the criteria.

15 In terms of scoring systems, it seems  
16 to me it's worthwhile to rank comparatively the  
17 various components of the responses. But  
18 everybody say but one, that was Massport, said that  
19 a numerical ranking system really was not helpful.  
20 And the Massport approach, I'd be happy to expand  
21 on it in some other fashion.

22 So, it strikes me based on what we have  
23 seen and other surveys we've done and in these  
24 discussions here that a comparative system rather

1 than a numerical system where we assign criteria  
2 is by far a better way to go to assure that we get  
3 maximum value to the Commonwealth.

4 CHAIRMAN CROSBY: Commissioner?

5 COMMISSIONER ZUNIGA: I think in some  
6 ways, and I'm glad we're getting to the nuanced  
7 differences between ranking and scoring, which I  
8 think is important.

9 I have expressed my comfort and  
10 experience with scoring systems. I'm not  
11 necessarily wedded to one here, especially in the  
12 context of multiple and complex criteria sometimes  
13 going against each other. But I think that  
14 there's -- As I've said before, I guess, if we do  
15 nothing in terms of weighing, at least some people  
16 maybe not everybody, may interpret our five  
17 categories with five working groups to be weighted  
18 the same, to be weighted at 20 percent. And who  
19 could fault them for that. We could make it very  
20 explicit that it's not necessarily the case.

21 But I have some opinions as to those  
22 different buckets. And I'll give you one right  
23 now. The mitigation piece in my view is a process  
24 that happens before they get to this Commission.

1 There's a local process. There's a host community  
2 agreement and a series of surrounding community  
3 agreements potentially that are going to take care  
4 of, at least we hope, mitigation issues.

5           Whereas, we have a slightly different  
6 role where we analyze the financial piece of it.  
7 And maybe I'm just talking from comfort in terms  
8 of that discipline. But that's something that  
9 really resides in my view on this Commission to be  
10 analyzed.

11           That maybe a difference that elicits a  
12 different weighing or maybe not. But that's I  
13 believe a fundamental difference in those two big  
14 buckets. I could go on into any one of the  
15 subcategories, but I guess you get the point.

16           CHAIRMAN CROSBY: Yes. This is what  
17 we've got to talk about. I would of sort of  
18 intuitively have said that I think the five are  
19 about the same. I would say it's imprecise but I  
20 could sort of see a process emerging by which our  
21 workgroups with active Commissioner involvement  
22 as well as staff and consultants does a ranking  
23 within each criteria.

24           In other words, you take all three

1 Eastern Mass. applicants. And the mitigation  
2 workgroup ranks them by how they met the mitigation  
3 criteria. And then you put those five rankings  
4 together and you will start to see a pattern. That  
5 is a weighting. That's a metric.

6 This is all just semantics to a certain  
7 extent. That is a metric. But I can see that as  
8 being kind of a logical process. And for the more  
9 or less the five are the same. And if somebody  
10 comes out on top in three of the five then that's  
11 getting you pretty close to a decision.

12 COMMISSIONER MCHUGH: Mr. Chairman, I  
13 don't think it's semantics. I agree with that  
14 approach. That's the approach that I favor. And  
15 I don't agree that it's just semantics because it  
16 seems to me that you can go through that kind of  
17 a comparative evaluation process and see one  
18 category, which is assigned a 20 percent weight,  
19 but only have 20 percent, but it is so far better  
20 than everybody else's proposal and adds so much  
21 value to the project that however it started out  
22 with thinking that all of these were approximately  
23 equal that you become convinced by looking at it  
24 that this is a dominant consideration.

1           And we ought to preserve the  
2 flexibility to do that by not saying that we are  
3 going to assign specific amount of weight. At  
4 least that's the way I look at it.

5           And allow the comparative ranking and  
6 the possibility of somebody's proposal in one of  
7 those areas being so far ahead of everything else  
8 or anything that we conceived that it really pushes  
9 that one to the top. I don't know that that will  
10 happen, but it seems to me we ought to preserve the  
11 flexibility to allow it to if it does.

12           CHAIRMAN CROSBY: I am not sure  
13 whether you were disagreeing or agreeing or adding  
14 but I completely agree with that.

15           In that process that I'm thinking  
16 about, somebody might be number two on four things  
17 but just barely number two, and number one on the  
18 other one by such a distance that that carries the  
19 day. So, we wouldn't be locked into all right if  
20 you're number one on three you win automatically.

21           If you're number one on three that's  
22 pretty telltale that's pretty significant, but  
23 it's not dispositive because there's left that  
24 subjective evaluation about how the other two rank

1 versus your three first-place finishes.

2 That's as an evolving process that sort  
3 of starts to sound reasonable to me. Go ahead.

4 COMMISSIONER CAMERON: That lends  
5 itself to do you really want to say one, two, three  
6 or do you want to have categories like excellent  
7 as opposed to number one. Whatever and then  
8 really some detailed information in that category.

9 I think just a strict number is  
10 sometimes hard to articulate. How are you number  
11 one over number two? Where if you have detail in  
12 a category, whatever that is, it's easier to  
13 articulate and to justify.

14 CHAIRMAN CROSBY: You could make it  
15 excellent, very good, acceptable as opposed to  
16 one, two, three.

17 COMMISSIONER CAMERON: Yes, correct.

18 CHAIRMAN CROSBY: Count the number of  
19 excellents you have and that creates a  
20 presumption.

21 COMMISSIONER ZUNIGA: I view those as  
22 very similar, but I understand the difference.  
23 One thought I had, ultimately and this may just be  
24 the nature of what we have to deal with, we may be

1 in a scenario where one of us likes an applicant  
2 because of the great or superb job that they do on  
3 criteria one. And one of us likes another  
4 applicant because of the superb job that they do  
5 on criteria two.

6 Whether that comes from the  
7 recommendations of the subgroups and the  
8 Commissioners or ultimately really discussed at  
9 this Commission. We may end up and that's just  
10 maybe the nature of this process with a split vote,  
11 let's say. Somebody saying -- Mr. Chairman saying  
12 who moves to accept one versus another. Maybe  
13 that's just the nature of what we have.

14 I guess as I am thinking through it  
15 that's something that just may end up happening.

16 COMMISSIONER CAMERON: And the other  
17 side of that is do you at some point say okay, here  
18 are four, which two of our groups of licenses  
19 that's the case, there are four applicants, do you  
20 say okay, these two are the top. And then you  
21 start a secondary process in comparing just those  
22 two. It's something else to consider.

23 COMMISSIONER ZUNIGA: Yes. We do  
24 have that flexibility currently with the regs. as

1 drafted.

2 COMMISSIONER CAMERON: Yes.

3 COMMISSIONER ZUNIGA: But that's  
4 something that we know our priority that will be  
5 a process that we really intend to use or reserve  
6 the right to use.

7 CHAIRMAN CROSBY: As a practical  
8 matter, I think the system we were talking about,  
9 either if we did a ranking, one, two, three or if  
10 we just did excellent, very good, acceptable, if  
11 somebody fell out at the bottom, you'd know it.  
12 They'd be gone.

13 So, as a practical matter, I think the  
14 process we just talked about would do that. You  
15 would see somebody that just wasn't in the game.  
16 And all of our attention would then focus to  
17 whoever was still in the game.

18 COMMISSIONER CAMERON: Unless they're  
19 very close.

20 CHAIRMAN CROSBY: But then you  
21 wouldn't kick one out. If they were very close,  
22 you probably wouldn't kick one out, because they  
23 were just this much below. But anyway I think  
24 these all sort of get us to the same place.

1           I certainly would think as Chair, I'll  
2 do everything I can to have us have unanimous  
3 decisions. I think it would be better if we could  
4 have unanimous decisions. But that's certainly,  
5 I don't see what that -- That's not locked in stone.  
6 If it turns out we disagree, we disagree. That's  
7 life.

8           This has been helpful for me. This is  
9 beginning to give me a sense. And it sounds like  
10 we're not all in very different places about how  
11 this might start to evolve into a ranking,  
12 decision-making, weighting, whatever word you  
13 call it, process. So, that was helpful. Anybody  
14 else want to add more to this?

15           Okay, where are we?

16           MR. DAY: That it was my report.

17           CHAIRMAN CROSBY: Geez, is that all?

18           Yes, indeed. Let's do that. We are going to move  
19 our Racing Director --

20           DR. DURENBERGER: I'm okay.

21           CHAIRMAN CROSBY: Are you sure?

22           DR. DURENBERGER: I'm sure.

23           CHAIRMAN CROSBY: Okay. Totally?

24           DR. DURENBERGER: Yes.

1                   CHAIRMAN CROSBY: Then we'll stick  
2 with our schedule as it stands. Let's me just make  
3 sure I haven't forgotten anything here.

4                   Let's go to item number five, the  
5 Ombudsman report. Ombudsman Ziemba is in  
6 Marlborough. Speak closely to the mic, please.  
7 And you're on.

8                   MR. ZIEMBA: Thank you, Mr. Chairman.  
9 What I thought I would do today is give you a little  
10 bit of an update of where we stand with the RPA  
11 process, the meetings that are ongoing out in the  
12 communities with the RPAs.

13                   As a reminder, we asked each of the  
14 different applicants on whether or not they wanted  
15 to participate in the RPA process. Initially, we  
16 asked all of the nine that has designated sites on  
17 whether or not they wanted to participate in the  
18 process. And over the last couple of weeks, we've  
19 asked the remaining two on whether or not they want  
20 to participate in the process.

21                   So, in the three answers that they  
22 could give would be the yes, they are interested  
23 in participating in the process and they'll attend  
24 a planning/scoping meeting. They have not

1 determined whether or not they're interested, but  
2 they plan -- they'd attend a scoping meeting. And  
3 the third category is that they're not interested  
4 in participating.

5 We've had no one indicate that they are  
6 not interested in participating. But I'll give  
7 you a little bit more of a flavor of where each of  
8 the applicants stands here.

9 Crossroads, they have indicated that  
10 they are interested in utilizing the services of  
11 the RPA. And in the next couple of weeks, we are  
12 scheduled to have that meeting between the RPA, the  
13 host community, us, and the applicant.

14 Hard Rock, they indicated that they  
15 haven't determined whether or not they're  
16 interested, but they are moving forward with the  
17 scoping meeting. We recently had a date, but  
18 unfortunately one of the four parties couldn't  
19 make it at the later moments. But they have  
20 already begun working with PVPC on an initial  
21 basis. Even though this again has not yet  
22 determined, they have already started to work with  
23 the PVPC.

24 Mass. Gaming and Entertainment, I

1 think it's fair to say that they have not  
2 determined yet whether or not they'll utilize the  
3 services of the RPA. Hopefully, they'll get back  
4 to us. We've been in contact with the City of  
5 Worcester.

6 The City of Worcester has indicated  
7 that they are interested in utilizing this process  
8 assuming that the applicant moves forward and  
9 voluntarily wants to participate.

10 MGM, they indicated that they will  
11 participate in the process. And unfortunately,  
12 we're still waiting on a date. I believe that, as  
13 you know, they just entered into a host community  
14 agreement with the City of Springfield. And that  
15 took a tremendous amount of resources, staff  
16 resources and time to get that together. So, the  
17 scheduling of the date for the surrounding  
18 community's scoping meeting has not yet occurred,  
19 but we're hoping to get that very soon.

20 As I reported at the last meeting,  
21 we've already had the meeting with Mohegan Sun.  
22 That was an excellent meeting between the four  
23 parties. And we're starting to move forward on  
24 planning the next steps.

1 Penn National, no date is scheduled due  
2 to the recent decision by the City of Springfield.

3 Plainridge, we recently had the  
4 initial scoping meeting. That was also a very  
5 good meeting. And we're starting to plan the next  
6 stages when at least initially the Commission  
7 would come out and explain to some of the locals,  
8 the surrounding communities, potential  
9 surrounding communities what the surrounding  
10 community process is, what the Gaming Act is. And  
11 I would go down there and explain that to a  
12 gathering of communities.

13 PPE Casino Cornish Resorts they have  
14 not yet determined whether or not they're  
15 interested in utilizing the services of an RPA.

16 Raynham Park, they indicated that they  
17 are interested in participating, but we're still  
18 waiting on a date. I've had recent conversations  
19 with the community and they're looking forward to  
20 that meeting.

21 Sterling Suffolk Racecourse, they have  
22 not determined whether or not they're interested,  
23 but we are scheduling the meeting in the next week  
24 or so, in the next week and a half or so with them,

1 that initial scoping meeting between the  
2 communities and Sterling Suffolk.

3 And then the final applicant is Wynn  
4 LLC, and they also have not determined whether or  
5 not they're interested. And I guess it would be  
6 fair to say it's uncertain whether or not they will  
7 need to utilize the services of an RPA.

8 I think that's a quick report, but  
9 that's what I was planning to give to the  
10 Commission today.

11 CHAIRMAN CROSBY: Can you hear us all  
12 right?

13 MR. ZIEMBA: Yes, I can.

14 CHAIRMAN CROSBY: When you said about  
15 Wynn, you said there was some question as to  
16 whether they will need to use the RPA. Did you  
17 mean that they will choose to use?

18 MR. ZIEMBA: Yes. I don't think it's  
19 probably fair to use those two words  
20 interchangeably. Obviously, it's a voluntary  
21 process. If they choose to participate they can  
22 do so. If they choose not to participate, they  
23 don't have to participate.

24 I think in the past, there's been

1       conversations about whether or not the use of an  
2       RPA would be necessary for them to successfully  
3       reach out to surrounding communities. So, I  
4       probably shouldn't have said the word need. I  
5       should have said the word choose.

6                 CHAIRMAN CROSBY: Okay. Then when  
7       you talked about Mohegan meeting, I think you  
8       referred to the four parties. Who was that?

9                 MR. ZIEMBA: The four parties to all of  
10      these scoping meetings are the host community, the  
11      applicant, the Gaming Commission and then the RPA.

12                CHAIRMAN CROSBY: Okay, great. Got  
13      it.

14                MR. ZIEMBA: So, a part of the  
15      difficulty in getting these meetings is it's  
16      tremendously difficult to do four-party  
17      scheduling where each one of the parties except for  
18      us has some entities that go to the meetings. I  
19      want to thank Mary Thurlow for sticking to it and  
20      trying to get all of those scheduled.

21                CHAIRMAN CROSBY: Okay, great. I  
22      have a question, but does anybody else want to  
23      react to the Ombudsman's report thus far?

24                An emerging issue that one sees reading

1 all of the different comments and that you're  
2 certainly familiar with, John, is the nature of the  
3 review of impacts that will be done by surrounding  
4 communities, it seems to me I think, if I  
5 understand you correctly, that you're thinking  
6 that the primary work will be done either at the  
7 behest of the applicant in it's basically having  
8 to do with its host community work, but just  
9 because it would be in the nature of their need for  
10 purposes of our applications to do impact  
11 assessments around them.

12 Included in that since it's also at the  
13 behest of MEPA -- at the behest of the applicant  
14 there'll be a MEPA process, which will necessarily  
15 have a pretty comprehensive assessment of impacts  
16 on the entire region. And it seems to me that  
17 you're not anticipating for the very most part that  
18 there would be individual contracts done on a  
19 surrounding community by surrounding community  
20 basis of the impacts on them.

21 That what we would be mostly doing is  
22 a peer review of that other work, the MEPA and other  
23 work that would be done by somebody to make sure  
24 that the surrounding community's interests were

1 sufficiently attended to.

2 That's clearly not what some of the  
3 surrounding communities are thinking. And I'm  
4 just wondering where you are on this? How are you  
5 thinking about approaching this? How much more do  
6 we, the Commission, need to talk about it, etc.?

7 MR. ZIEMBA: I think my understanding  
8 in this matter comes from all of my conversations  
9 with regional planning agencies in developing the  
10 RPA process. And we took a look at the stores of  
11 data that will be available to take a look at in  
12 determining impacts.

13 So, primarily it is the applicant's  
14 responsibility to put together numerous studies  
15 that will eventually be sent to the Commission.  
16 But those studies are also utilized in the process  
17 of determining what a good host community  
18 agreement is.

19 It's very likely that in most, if not  
20 all host communities, there will be a very, very  
21 substantial and robust review of those same  
22 impacts conducted by some likely third-party of  
23 what those impacts would be.

24 So, in the process of developing the

1 RPA process, the collective belief that we had  
2 during that process would be that there would be  
3 very substantial stores of data between both the  
4 applicant's data and then the host community data  
5 that could then be in turn reviewed by a third  
6 party, basically a peer review.

7 For surrounding communities, it is  
8 very understandable that they would not want to  
9 rely specifically upon the information that is  
10 provided solely by a developer. And I'm not  
11 saying that our applicants are any different from  
12 any developer of any different type of project.  
13 It's just a typical concern of either host  
14 communities or in our world surrounding  
15 communities that you want to make sure that you can  
16 verify those impacts.

17 So primarily, I think that we were  
18 believing or we were thinking that the RPAs  
19 specifically in our pattern would be utilized to  
20 do peer reviews. But if indeed something has not  
21 occurred where as a report of a particular type of  
22 impact has not occurred, it could very well require  
23 an additional independent study.

24 But because there will be multiple data

1 sources and they will also have the benefit of at  
2 least a couple of independent firms, it is our hope  
3 that with the expertise that would be provided by  
4 the RPAs that we could get a very true  
5 understanding of what those impacts are.

6 Now that, as you mentioned, Mr.  
7 Chairman, that may be very different from what some  
8 surrounding communities may contemplate. They  
9 may contemplate that they would only want to do  
10 their own independent studies. And they would not  
11 rely upon either the data from the host community  
12 or the applicants.

13 And I think that that would have to be  
14 a discussion indeed if there was ever a petition  
15 for involuntary disbursements. I think there  
16 would have to be a discussion of why a sole  
17 independent study would be necessary rather than  
18 relying on the specific data sources that have been  
19 commissioned to date.

20 Perhaps a surrounding community could  
21 say this particular report that was done by  
22 applicant X for host community Y is not very  
23 robust. The firm doesn't have the experience that  
24 we think is necessary to review these potential

1 impacts. A case could be made of why an  
2 independent study would be necessary instead of a  
3 peer review.

4 But I think by default, all of these  
5 studies do cost a substantial amount of money.  
6 And at least in my thinking, every dollar that you  
7 are spending on a study, albeit necessary, may take  
8 away from a dollar that actually could be spent on  
9 mitigation. So, if you can find a way to  
10 efficiently get to a result in analyzing what the  
11 actual impacts are, that frees up hopefully some  
12 dollars that could be spent on actual mitigation  
13 of those impacts.

14 CHAIRMAN CROSBY: I think we know that  
15 there are a bunch of surrounding communities that  
16 are already teed up to be clear that no amount of  
17 applicant funded research is going to be enough.

18 But I think maybe we need to set  
19 expectations. We are going to have to be  
20 arbitrator of this, right? If surrounding  
21 community A says that it needs an independent study  
22 of something or other, and we don't think it does,  
23 then we're going to be the arbitrator of that,  
24 right?

1 MR. ZIEMBA: That's right.

2 CHAIRMAN CROSBY: And we're pretty  
3 clearly predisposed, and I think the same way you  
4 do about this, but I just wanted to have you  
5 articulate your thought process for all of us, I  
6 lean the same way.

7 It seems to me that in the normal  
8 development process that these kinds studies are  
9 done. These are big projects, but it's not like  
10 there haven't been other great big projects that  
11 are similar to these. That the standards for  
12 what's required, the standard of rigor is a known  
13 standard. You can't write it on a piece of paper  
14 very well, but it's a well-known standard.

15 And we probably need to do something to  
16 set the expectations of the surrounding  
17 communities sooner than later. That there's  
18 going to be a very strong presumption that the  
19 applicant-driven research is going to be the  
20 research that we'll rely on. Because I know a lot  
21 of people are getting teed up to do something quite  
22 different from that.

23 MR. ZIEMBA: I guess I would just put  
24 a little footnote on that. I think the thought was

1 that between at least the applicant and the host  
2 community, which will also be hiring independent  
3 outside advisors, that between those two sources  
4 of data that potentially we can ascertain the  
5 reality of that data.

6 And especially with the RPA process, I  
7 feel fairly confident that the RPAs with their  
8 expertise will be able to take a look at the various  
9 reports that have been done by these professional  
10 teams and be able to poke holes in them if there  
11 are holes. And to be able to say we need more data  
12 on this. We need a further study on this. And  
13 then they can take a look at it.

14 Potentially, if a potential  
15 surrounding community wants to use its own team  
16 rather than the RPA, they can do basically the same  
17 thing. Their own independent advisor could take  
18 a look at those stores of information and say this  
19 is going to work, this is not going to work. We  
20 want a lot more detail here.

21 So, potentially you could have a  
22 situation where it's not a one shot determination  
23 by the Commission where the Commission says hey,  
24 we agree with the following technical assistance.

1 Potentially, that may or may not work all of the  
2 time.

3 So, there might be further need for the  
4 applicants in the potential surrounding  
5 communities to work within whatever confines we  
6 come up with in the involuntary disbursement  
7 process.

8 I am under no illusion that an  
9 involuntary disbursements process will be  
10 satisfactory to anyone. It's unlikely to be  
11 satisfactory to the applicant. It's probably not  
12 going to be fully satisfactory to the potential  
13 surrounding community.

14 So, that is why we are very much  
15 encouraging the applicants to reach out to  
16 potential surrounding communities and iron out  
17 these issues that take time to really determine  
18 what is necessary rather than a day hearing before  
19 the Commission. It's just a difficult process  
20 that is hopefully going to be avoided through  
21 conversations between the applicants and the  
22 potential surrounding communities.

23 CHAIRMAN CROSBY: In the written  
24 comments on the regs., both bidders and

1 surrounding communities have complained about our  
2 involuntary process. So, it must be right.

3 COMMISSIONER ZUNIGA: I think maybe  
4 while not desirable, I think the involuntary  
5 disbursement is key in addressing the potential  
6 for an impasse that could happen. I think you've  
7 thought it well within the confines of the RPA  
8 process.

9 COMMISSIONER MCHUGH: I agree with  
10 that. It seems to me that we ought to set  
11 expectations. And the expectation ought to be  
12 that it is for all of the reasons that John has  
13 articulated a peer review. And if somebody can  
14 demonstrate to us why that's insufficient, we'll  
15 listen and make any decision that's necessary.

16 But particularly with the RPAs who are  
17 there to serve all of the towns and communities in  
18 the region involved in the process, it seems to me  
19 the integrity of the outcome can be assured.

20 CHAIRMAN CROSBY: Even for an  
21 applicant where the RPA process is not being used,  
22 we can still use the RPAs to tell us whether or not  
23 they think that the work that's been done is  
24 sufficient, right? We don't have the expertise to

1 make that judgment ourselves.

2 So, would you expect that even in a  
3 community where the RPA process isn't used that if  
4 there's an impasse between a potential surrounding  
5 community and a bidder that we would use the RPAs  
6 for their judgment about that?

7 MR. ZIEMBA: The RPAs certainly have  
8 the expertise to advise us. My only concern is if  
9 they're involved in a process that is sort of  
10 outside of, excuse me for lack of a better word,  
11 adjudicatory process before us, a decision process  
12 before us, on whether or not that provides a legal  
13 conflict, but whether or not the parties would see  
14 RPAs being involved in a decision-making process  
15 over on through the Commission.

16 As contrary to the sort of team  
17 building process that would be involved in its  
18 evaluation, I think it was meant that the RPAs  
19 would try to get the applicants and the potential  
20 surrounding communities together at a table to  
21 have a very productive dialogue. So, that they  
22 could come to an understanding of what the actual  
23 numbers are, what the actual impacts are. And  
24 then you could have the conversation about the

1 mitigation.

2 I'm just worried that if we pull RPAs  
3 out of that collegial process to be involved in our  
4 process, which will obviously be a very  
5 contentious process, whether or not that hurts  
6 their ability to work with those parties to  
7 hopefully work things out.

8 So, that's the one worry that I have.  
9 And I don't think it rises to a legal conflict or  
10 a State ethics conflict or anything of the like,  
11 but I have a little bit of discomfort in that.

12 COMMISSIONER MCHUGH: But does that  
13 rule out the possibility that even if the applicant  
14 or the surrounding community or both have not  
15 agreed to the RPA process, but again request for  
16 independent study and hold some kind of a peer  
17 review, we could go to the RPA and say make an  
18 effort to get these people together. Have them  
19 make that effort. And if they can't, then take  
20 that into account in making a decision as to  
21 whether or not we're going to require an  
22 involuntary payment for an independent study.

23 MR. ZIEMBA: That makes a lot of sense.  
24 In that instance that you just described where both

1 parties are not part of this collegial process, I  
2 think that's a much easier question to answer.

3 The question of whether or not they're  
4 involved in a process and it's a smaller matter or  
5 whether or not we could use their services, which  
6 would be invaluable to us. I think it's harder of  
7 a question that I wouldn't want to say we couldn't  
8 use that. Again, I just feel a little bit  
9 reluctant for the reasons that I mentioned.

10 Commissioner McHugh, in the instance  
11 that you just described where they both have  
12 voluntarily said that they won't participate, that  
13 could be very useful for us to use the services of  
14 the RPAs.

15 CHAIRMAN CROSBY: That's the case I  
16 was talking about. That was the case I was talking  
17 about.

18 MR. ZIEMBA: Okay. I think I was  
19 describing a situation where a community then  
20 applies to us for an involuntary disbursement.  
21 But if there's participation by numerous  
22 communities with an applicant trying to work  
23 things out that gets a little bit more thorny.

24 CHAIRMAN CROSBY: Right. I know this

1 isn't easy sitting where you sit, but I do think  
2 it's important as we are communicating with  
3 surrounding communities and bidders that this is  
4 going to be the process.

5 We are really talking about a fairly  
6 strong presumption here. It's a rebuttable  
7 presumption and we'll be reasonable, but it's a  
8 pretty strong presumption. And that should  
9 affect particularly the surrounding communities,  
10 but bidders as well on how they talk with one  
11 another about doing this in a collaborative way.

12 And the stronger we are, the clearer we  
13 are on the point on the presumptive nature of this  
14 use of peer review as opposed to original research,  
15 I think the better it will be in the long run. Are  
16 you all right?

17 MR. ZIEMBA: I think that's fair. I  
18 mean obviously there's matters of timing if an  
19 applicant doesn't have studies available, a  
20 surrounding community would be in no other  
21 position but to move forward on their own study.

22 So again, we are encouraging  
23 applicants to get those studies done as quickly as  
24 possible and have those available to communities

1 to evaluate true impacts.

2 CHAIRMAN CROSBY: Okay. Anybody else  
3 anything?

4 Let's have a quick break and then we'll  
5 come back in a very few minutes and do legal.

6

7 (A recess was taken)

8

9 CHAIRMAN CROSBY: We are reconvening  
10 public meeting number 66. And we have our General  
11 Counsel.

12 MS. BLUE: The legal department is  
13 here today on two matters. The first is a  
14 conversation with Mr. Grossman about referendum  
15 spending limits. And Mr. Grossman is in Fall  
16 River.

17 CHAIRMAN CROSBY: All right, Attorney  
18 Grossman.

19 MR. GROSSMAN: Good morning. We were  
20 asked to take a look at whether the Commission --

21 CHAIRMAN CROSBY: Speak into the mic  
22 closely, Todd.

23 MR. GROSSMAN: Sure. I was asked to  
24 take a look at whether the Commission is able to

1 set a spending cap or a limit on the amount of money  
2 that an applicant --

3 I was asked to take a look as to whether  
4 the Commission could set a limit on the amount that  
5 applicants could spend in advocating for a  
6 positive vote in the host community elections.

7 And what I found was that there are no present  
8 restrictions in the General Laws or in the  
9 regulations promulgated by the Office of Campaign  
10 and Political Finance that set such limits.

11 And the reason for it seems to be that  
12 all of the cases, whether it's the Supreme Court  
13 or the Massachusetts Supreme Judicial Court, seems  
14 to counsel against setting such a limit on  
15 constitutional grounds. And without getting into  
16 a whole constitutional law discussion in the  
17 distinction between the U.S. Constitution and the  
18 Massachusetts State Constitution and the  
19 Declaration of Rights, I would just suggest that  
20 there are a number of cases that the Supreme Court  
21 has handed down that suggests and states in my  
22 opinion fairly clearly that imposition of such a  
23 cap or any type of restriction on such spending  
24 relative to a ballot question as opposed to the

1 election of a candidate would be an infringement  
2 of liberty afforded under the First Amendment in  
3 the Constitution.

4 And I'll get into all of these type of  
5 issues individually. I would just say though that  
6 the reason why I say that the Court has counsel  
7 against doing that as opposed to definitively  
8 saying that you can't do it is that the Court has  
9 left the door open in one very limited  
10 circumstance, which I'll get to towards the end.  
11 But before we get there, I just wanted to, if the  
12 Commission will indulge me for a minute, I thought  
13 I would just read some of the language that the  
14 Supreme Court has included in its decision that I  
15 think more clearly articulates the law in a way  
16 that's better than I can do it myself.

17 So, I would first quote is from the  
18 First National Bank of Boston case. That was  
19 actually a case that involved the Massachusetts  
20 statutes. It was a 1978 case. The Court there  
21 said that referenda are held on issues not  
22 candidates for public office. The risk of  
23 corruption perceived in cases involving candidate  
24 elections simply is not present in a popular vote

1 on a public issue.

2 To be sure corporate advertising may  
3 influence the outcome of the vote. This would be  
4 its purpose. But the fact that advocacy may  
5 persuade the electorate entirely a reason to  
6 suppress it. The Constitution protects  
7 expression, which is eloquent no less than that  
8 which is unexisting.

9 We noted only recently that the concept  
10 that government may restrict the speech of some  
11 elements of our society in order to enhance the  
12 relative voice of others is only foreign to the  
13 First Amendment. Moreover, the people in our  
14 democracy are entrusted with the responsibility  
15 for judging and evaluating the relative merits of  
16 conflicting arguments. They may consider in  
17 making their judgment the source and credibility  
18 of the advocate. But if there be any danger that  
19 the people cannot evaluate the information and  
20 arguments advanced by the appellant, it is a danger  
21 contemplated by the framers of the First  
22 Amendment.

23 So, that is just one of the passages  
24 that the Court used to outline what the problem is

1 with trying to set a limit on the spending when it  
2 comes to ballot questions. And that is to be  
3 distinguished against spending in elections in  
4 which most of us are probably aware caps are set  
5 in that individuals can only contribute certain  
6 amounts towards candidates and thus.

7 And the reason for that was also  
8 articulated by the Supreme Court when it said that  
9 the reason it sets that exception is that to the  
10 extent that large contributions are given to  
11 secure a political quid pro quo from current and  
12 potential office holders, the integrity of our  
13 system of representative democracy is undermined.

14 And what the Court has basically said  
15 is that that consideration is not present when it  
16 comes to a ballot question versus the election of  
17 a candidate.

18 So, the exception that allows or what  
19 the Court has suggested allows for certain  
20 arguable infringement on the First Amendment are  
21 not applicable when it comes to a ballot question.

22 In order to abridge any constitutional  
23 protection, the state generally has to have some  
24 type of compelling interest. So, the reason that

1 I was asked to study this issue is that it has been  
2 suggested that the applicants are more fully  
3 funded, more able to sway a vote potentially than  
4 any opposition groups who would arguably be  
5 largely underfunded. And the result of that may  
6 be a skewed result of the election.

7 So, in an effort to try to prevent that  
8 from happening it was suggested perhaps that a cap  
9 be set on the amount that an applicant could spend  
10 on that type of vote.

11 That's exactly what the Court, the  
12 Supreme Court has suggested can't be done. And it  
13 described the state interest in doing so in  
14 setting a cap in this manner. It said that  
15 whatever may be the state interests or degree of  
16 that interest in regulating and limiting  
17 contributions to or expenditures of a candidate or  
18 a candidate committee, there is no significant  
19 state or public interest in curtailing debate and  
20 discussion of a ballot measure.

21 Placing limits on contributions, which  
22 in turn limit expenditures, plainly impairs  
23 freedom of expression. The integrity of the  
24 political system will be adequately protected if

1 contributors are identified in a public filing  
2 revealing the amounts contributed.

3 And indeed in Massachusetts, of  
4 course, there are disclosure requirements,  
5 particularly when it comes to these types of  
6 elections that any contributors or the applicants  
7 will have to file. So, it will be clear how much  
8 was spent on these elections.

9 In sum, I said the Court left the door  
10 open in one instance. So, if the Commission were  
11 inclined to set a spending cap, I believe what it  
12 would have to do is establish a record on the facts  
13 that demonstrate a compelling interest in  
14 potentially abridging these regs. What the Court  
15 has essentially said is that you would have to  
16 demonstrate facts that would showed that such a cap  
17 would be justified essentially because  
18 corporations or in this case applicants wealthy  
19 and powerful could undermine the democratic  
20 process by drowning out other points of view.

21 In order to achieve something like  
22 that, there likely would need to be some type of  
23 study or expert testimony or something like that,  
24 which may be at this point incompatible with the

1 approach the Commission has taken in setting up  
2 this system in issuing the license, which is to  
3 attempt to avoid any pitfalls that could lead to  
4 litigation.

5 And it seems to me that review of these  
6 cases when read together when distilled the  
7 essence seems to be that setting any type of cap  
8 without establishment of a clear record explaining  
9 why the state's interest in doing so is so  
10 compelling would violate the First Amendment and  
11 potentially the Declaration of Rights in the  
12 Massachusetts State Constitution.

13 So, my recommendation at this point  
14 would be that absent some compelling interest on  
15 part of the Commission that we not seek to set a  
16 spending cap and that the disclosure requirements  
17 should be satisfactory.

18 CHAIRMAN CROSBY: Thank you, Todd.  
19 That was well done. Any Commissioner reactions or  
20 anybody?

21 COMMISSIONER CAMERON: I agree with  
22 the recommendation. Attorney Grossman laid out  
23 the facts and how the courts have already ruled.  
24 It appears to me that that's a sound

1 recommendation.

2 CHAIRMAN CROSBY: Anybody else?

3 COMMISSIONER ZUNIGA: I would agree  
4 with that. Thank you, Todd. It's very  
5 thoughtful and well researched. And I would agree  
6 as well.

7 CHAIRMAN CROSBY: The Globe editorial  
8 I think for the record did not call for a cap. I  
9 think the Globe editorial probably anticipated  
10 that there's a constitutional issue and talked  
11 about us, recommended that we do things, try to  
12 figure out ways to discourage overspending or  
13 otherwise equalize the conversation, which we  
14 might be able to contort ourselves into something,  
15 which wouldn't run afoul of this.

16 Even though I think, for what it's  
17 worth which is nothing, the Court's reasoning is  
18 specious. It totally fails to understand what  
19 does distort the democratic process. It's  
20 nevertheless -- It's the law of the land. It's  
21 probably not worth us opening that can of worms at  
22 this stage of the game. We've got enough cans of  
23 worms to deal with.

24 Unless anybody -- Commissioner

1 Stebbins, do you have a view?

2 COMMISSIONER STEBBINS: No. Todd,  
3 that was a good report that deal with the  
4 applicable cases.

5 CHAIRMAN CROSBY: Commissioner  
6 McHugh?

7 COMMISSIONER MCHUGH: No. I fully  
8 agree. I don't think that the Court when it comes  
9 to referenda is misapprehending anything. I  
10 think they got it exactly right when it comes to  
11 referenda. But that's neither here nor there  
12 either.

13 CHAIRMAN CROSBY: Right. We'll talk  
14 about it over lunch.

15 COMMISSIONER ZUNIGA: Perhaps worthy  
16 of note is that what we've attempted to by virtue  
17 of this hearing, and we'll be doing more of them  
18 because we are also required, it gives an  
19 opportunity for everybody to express any kind of  
20 views. They don't have to be limited.

21 CHAIRMAN CROSBY: We were  
22 specifically talking about the referendum, but  
23 nevertheless.

24 COMMISSIONER ZUNIGA: Yes.

1                   CHAIRMAN CROSBY: That's a good point.  
2                   We are certainly going out of our way to make sure  
3                   everybody has an equal opportunity to communicate.  
4                   Okay. Thank you very much, legal department.  
5                   Let's move on.

6                   MS. BLUE: The final matter that I have  
7                   before you today is to ask for you to approve the  
8                   appointment of David Murray as a hearing officer  
9                   on behalf of the Commission, and delegate to him  
10                  the necessary authority to hear matters that would  
11                  come before the Commission under its regulations  
12                  for hearing.

13                  Mr. Murray has been with us for a little  
14                  while helping us with Racing matters. And he has  
15                  expertise certainly in the Racing area and will be  
16                  very able to take on this responsibility.

17                  He will be with us on a part-time basis  
18                  as we assess the need for the hearing officers as  
19                  we move forward. Mr. Murray can't be with us here  
20                  today, but he did ask me to convey to you the fact  
21                  that he is delighted to serve in this role and is  
22                  very much looking forward to taking this on.

23                  So, if you could approve his  
24                  appointment and delegate the necessary

1 responsibility that would be great.

2 CHAIRMAN CROSBY: Any discussion?

3 COMMISSIONER CAMERON: I had the  
4 opportunity to work with Mr. Murray in my oversight  
5 role for Racing. I thought he did an excellent  
6 job. He listens. He understands the issues.  
7 and I think he'd be a fine choice in that manner.

8 CHAIRMAN CROSBY: Do we have a motion  
9 or comment?

10 COMMISSIONER MCHUGH: Could I just ask  
11 a question? Is there a term for this appointment?  
12 I guess I'll just put a question mark there.

13 MS. BLUE: We would need to amend his  
14 current contract. I propose amending it for a  
15 year to get us through at least the next racing  
16 season and perhaps into some of the gaming  
17 licensing if we need him. And then we would review  
18 it from there.

19 CHAIRMAN CROSBY: Okay Commissioner?

20 COMMISSIONER MCHUGH: Yes. I  
21 understand the answer. Thank you.

22 CHAIRMAN CROSBY: Does somebody want  
23 to move?

24 COMMISSIONER ZUNIGA: Sure. I move

1 that we accept the recommendation as put forward  
2 and appoint Dave Murray as the hearing officer for  
3 the Racing Division.

4 CHAIRMAN CROSBY: Second?

5 COMMISSIONER CAMERON: Second.

6 CHAIRMAN CROSBY: Any further  
7 discussion? All of favor please -- No. So, we  
8 have to go around. Commissioner Stebbins?

9 COMMISSIONER STEBBINS: Yes.

10 CHAIRMAN CROSBY: Commissioner  
11 McHugh?

12 COMMISSIONER MCHUGH: Yes.

13 CHAIRMAN CROSBY: Commissioner  
14 Zuniga?

15 COMMISSIONER ZUNIGA: Yes.

16 CHAIRMAN CROSBY: Commissioner  
17 Cameron?

18 COMMISSIONER CAMERON: Yes.

19 CHAIRMAN CROSBY: And the Chair also  
20 notes yes. Thank you.

21 MS. BLUE: Thank you.

22 CHAIRMAN CROSBY: Dr. Durenberger?

23 DR. DURENBERGER: Good afternoon.

24 CHAIRMAN CROSBY: Mr. Chairman, thank

1 you. I really don't have much of an  
2 administrative update today. So, we'll just kind  
3 of breeze into the two orders of business that  
4 appear on the agenda.

5 One is that we are in possession of the  
6 2011 annual report of the old Massachusetts State  
7 Racing Commission that has come to us. And it's  
8 a rather awkward situation in that none of the  
9 Commissioners were seated at any point during the  
10 time, the period of time that this report covers,  
11 which was calendar year 2011.

12 It has gone up through the agencies and  
13 come back to us. So, we would recommend that you  
14 approve our filing of the report on behalf of the  
15 now-defunct Massachusetts State Racing  
16 Commission.

17 CHAIRMAN CROSBY: Do we need a motion  
18 for this? We do. Any discussion? Go ahead.

19 COMMISSIONER CAMERON: No discussion.  
20 I was just going to make the motion that we accept  
21 the report, and accept the filing of the report.

22 CHAIRMAN CROSBY: Second?

23 COMMISSIONER ZUNIGA: Second.

24 CHAIRMAN CROSBY: Any thoughts?

1 Commissioner McHugh, you look like you're about to  
2 say something.

3 COMMISSIONER MCHUGH: Are we making it  
4 clear in this process that we're not necessarily  
5 adopting or making any judgment about the accuracy  
6 of the content of the report or conversely are we  
7 making a judgment about the contents of the report?

8 CHAIRMAN CROSBY: We actually talked  
9 about this in your absence. It's very clear on the  
10 report, it's very clear on the record that we are  
11 merely approving its submission. And we're  
12 taking no position whatsoever on its content.

13 COMMISSIONER MCHUGH: Could we make  
14 that part of the motion so it's clear on the  
15 ultimate vote?

16 CHAIRMAN CROSBY: Sure.

17 COMMISSIONER MCHUGH: In other words,  
18 that we accept the report for filing without making  
19 any judgment on its content. Does that work?

20 CHAIRMAN CROSBY: Is it okay to amend  
21 your motion?

22 COMMISSIONER CAMERON: Yes. I amend  
23 the motion stating same that we accept the report  
24 for filing and had no control nor do we have any

1 judgment on the content.

2 CHAIRMAN CROSBY: Okay. Any further  
3 discussion? All those in favor, Commissioner  
4 Stebbins?

5 COMMISSIONER STEBBINS: Yes.

6 CHAIRMAN CROSBY: Commissioner  
7 McHugh?

8 COMMISSIONER MCHUGH: Yes.

9 CHAIRMAN CROSBY: Commissioner  
10 Zuniga?

11 COMMISSIONER ZUNIGA: Yes.

12 CHAIRMAN CROSBY: Commissioner  
13 Cameron?

14 COMMISSIONER CAMERON: Yes.

15 CHAIRMAN CROSBY: And the Chair also  
16 votes yes. Thank you.

17 DR. DURENBERGER: Okay. We will file  
18 that. And the second order of business for the  
19 Racing Division is the approval of special events  
20 to be simulcast at Raynham Park for 2013.

21 Our live racing licensees as part of  
22 their application process apply for the special  
23 events where they are able to simulcast interstate  
24 horseraces and do so in a premium-free capacity.

1                   So, in other words, at anytime they're  
2 broadcasting a signal, they have to pay if they are  
3 a running horse racing meeting licensee, they have  
4 to pay the harness horse premium and vice versa.  
5 So, there are in 128C section 2, provision 3 that  
6 does permit the offering of simulcast wagering on  
7 15 running horse special events without having to  
8 pay the premium. That provision applies to  
9 Raynham Park.

10                   And they recently submitted a list to  
11 us of their 15 special events for 2013. They are  
12 as follows: this Saturday's Kentucky Derby, in two  
13 weeks the Preakness Stakes, three weeks after that  
14 the Belmont Stakes, otherwise known in whole as the  
15 Triple Crown, and 12 Breeders' Cup races which are  
16 offered over the course of two days in November.  
17 And my recommendation is that the special events  
18 do be approved.

19                   CHAIRMAN CROSBY: Is there anything  
20 controversial about this? I gather this is  
21 something that's been going on forever. The  
22 letter from Raynham does not ask our permission.  
23 It doesn't request. It informs us that it is  
24 taking those days.

1 (A) I don't know whether they have the  
2 right to do it that way. Your cover memo says it's  
3 a request but it's not in its language. Is this  
4 anything we ought to be thinking about? Or is this  
5 just so routine that we ought to just let it go and  
6 it's fine?

7 DR. DURENBERGER: Both. So, it is  
8 routine. These are probably 15 largest races --  
9 in terms of handle, the 15 largest races that they  
10 would simulcast during the year on the  
11 thoroughbred side. So, that would make sense that  
12 those are the special events that they would  
13 request to have as their premium-free events.

14 And I think it is a little bit addressed  
15 in our 128D, the proposed legislation that we put  
16 forth, which is that this structure of bringing in  
17 a signal, simulcasting it, paying a fee and then  
18 a premium and then having exceptions to the  
19 premium, I think that's something that we  
20 addressed in 128D that we thought may deserve being  
21 looked at. And that was part of the elegance  
22 conversation that we had that there may be a better  
23 way.

24 CHAIRMAN CROSBY: But for purposes of

1 now?

2 DR. DURENBERGER: I see no reason not  
3 to. As you say, the word informed appears here,  
4 but I do think that it's within our purview to  
5 approve.

6 CHAIRMAN CROSBY: Is this anything  
7 that at any later date I sort of imagine down the  
8 road -- Is it important for us, for example, in  
9 doing so to correct the impression what maybe  
10 Raynham -- I don't want to make too big a deal out  
11 of this. Is there any precedent that we need to  
12 protect might we ever want to do anything  
13 differently about this on our own, in which case  
14 we should make sure that this informs isn't right?  
15 This is a privilege not a right and we're subject  
16 to review every year or something like that?

17 DR. DURENBERGER: For the live racing  
18 licensees, it actually is reviewed every year  
19 because it's part of their application process,  
20 which is on an annual basis.

21 Raynham is in a unique position because  
22 of the provision in the Acts of 2011 that  
23 essentially extended their simulcast license.  
24 So, they're in a unique position. So, we can

1 certainly look at it. It's a limited window of  
2 time that this process is actually going to be in  
3 effect. But we'll certainly revisit it.

4 CHAIRMAN CROSBY: This lapses next  
5 year?

6 DR. DURENBERGER: Yes. But happy to  
7 revisit it and come back to you.

8 CHAIRMAN CROSBY: I don't want to  
9 create, make work. If it's not a big deal that's  
10 up to you. Other comments, Commissioners?

11 Okay. Do we need a motion? Yes,  
12 somebody, Commissioner?

13 COMMISSIONER CAMERON: I move that we  
14 accept the advisement of Raynham Park that the 15  
15 races included are approved.

16 CHAIRMAN CROSBY: Or that we accept  
17 the recommendation of the Director to approve the  
18 request of Raynham. Is that all right?

19 COMMISSIONER CAMERON: Okay. So, we  
20 will accept the recommendation of the Director to  
21 approve the advisement of Raynham Taunton Park.

22 CHAIRMAN CROSBY: Second?

23 COMMISSIONER ZUNIGA: Second.

24 CHAIRMAN CROSBY: Any further

1 discussion? All in favor, Commissioner Stebbins?

2 COMMISSIONER STEBBINS: Yes.

3 CHAIRMAN CROSBY: Commissioner

4 McHugh?

5 COMMISSIONER MCHUGH: Yes.

6 CHAIRMAN CROSBY: Commissioner

7 Zuniga?

8 COMMISSIONER ZUNIGA: Yes.

9 CHAIRMAN CROSBY: Commissioner

10 Cameron?

11 COMMISSIONER CAMERON: Yes.

12 CHAIRMAN CROSBY: And the chair votes  
13 yes.

14 DR. DURENBERGER: And that would  
15 conclude the Racing Division's report unless you  
16 have any other items of business you'd like to  
17 speak about?

18 COMMISSIONER CAMERON: Thank you,  
19 Director.

20 CHAIRMAN CROSBY: Great. Any  
21 exciting business going on at Suffolk Downs for  
22 opening-day?

23 DR. DURENBERGER: We're working on it.

24 CHAIRMAN CROSBY: All right, great.

1 Thank you. We are now to the research agenda.  
2 Let's do this in two parts. I'll just give a few  
3 notes on the meeting.

4 Since Commissioner McHugh and  
5 Commissioner Cameron were not here, we didn't  
6 spend a lot of time summarizing the day that  
7 Commissioner Zuniga and I spent with our research  
8 team where they had an organizational meeting with  
9 almost all of their key players together in  
10 Amherst. We spent the day there and actually went  
11 to dinner with them as well.

12 First of all, it's just important for  
13 you to know that it's underway. They are moving.  
14 We haven't fully and technically consummated an  
15 agreement yet, but we have told them that we are  
16 anticipating going forward. And that they can go  
17 ahead and accrue expenses against in effect an  
18 April 1 start date, which will eventually be  
19 incorporated into our contract.

20 They will be coming here on the 16th,  
21 another item for our 16th agenda, and give a  
22 PowerPoint presentation about the theoretical  
23 framework of the study, which Commissioner Zuniga  
24 and I thought was really interesting. And all of

1 the Commissioners and the public would be  
2 interested in seeing. And while they're here,  
3 they'll also give us, Rachel Volberg will give us  
4 a status report on the research project.

5 There were a few notes of interest. We  
6 talked quite a bit about whether our regs. had  
7 enough attention paid to making sure that the  
8 operators know what their requirements will be to  
9 give us the information that we need to do our  
10 research, fulfill our research mandate.

11 And the Chapter 97 and 91, I think --

12 COMMISSIONER ZUNIGA: Seventy-one.

13 CHAIRMAN CROSBY: Seventy-one, yes,  
14 97 and 71 that talked about the research, and we've  
15 asked the legal department to look at that and make  
16 sure that our regs. give a heads-up.

17 We're asking for quite a bit of  
18 information anonymous, but nevertheless  
19 information from the bidders. And we want to make  
20 sure that people are aware of that early on.

21 We talked about the need to coordinate  
22 with the Department of Public Health, the State  
23 Department of Public Health. And we are in fact  
24 moving forward on that. Actually, today the PI,

1 the principal investigator on the research project  
2 is meeting with the senior people at the Department  
3 of Public Health to get that relationship built.

4 We talked about whether there were any  
5 conflict of interest rules or our ethics rules.  
6 And decided that there were that they would have  
7 to comply. They are whatever the word is,  
8 special --

9 COMMISSIONER ZUNIGA: Special State  
10 employees.

11 CHAIRMAN CROSBY: -- special State  
12 employees. And that we were going to be sure to  
13 get the appropriate ethics rules out to them that  
14 they know they need to comply with.

15 One thing I did mention last week that  
16 was shocking to hear, Commissioner McHugh and  
17 Commissioner Cameron, the co-PI on this project is  
18 Rob Williams -- Williams?

19 COMMISSIONER ZUNIGA: Yes.

20 CHAIRMAN CROSBY: -- from Canada who  
21 is the head of problem gambling research arm in  
22 Canada. And they've done research on problem  
23 gambling recently that talked about -- that got  
24 data that 50 percent of the revenue generated in

1 the Alberta casinos comes from two-and-a-half  
2 percent of the gamblers who are the problem  
3 gamblers. Fifty percent of the revenue from  
4 two-and-a-half percent of the gamblers. That was  
5 Alberta. And there was another one in Montreal,  
6 Toronto?

7 COMMISSIONER ZUNIGA: Ontario.

8 CHAIRMAN CROSBY: Ontario.

9 COMMISSIONER ZUNIGA: That was 30  
10 percent.

11 CHAIRMAN CROSBY: That was 30 percent.

12 As we discussed last week, that's not necessarily  
13 indicative of anything other than what the problem  
14 gambling situation is in those two communities.  
15 But still it's a very sobering issue and sobering  
16 facts. And we're going to be looking very, very  
17 hard, probably as hard as anybody's ever looked at  
18 what the problem gambling issue will be in our  
19 community, communities once this gets started.

20 Finally, we talked about making sure  
21 there's a close working relationship with Marlene  
22 Warner from the Mass. Council on Compulsive  
23 Gambling. Again, that relationship is a close one  
24 already. And they're working together. I think

1 that's about it.

2           They're setting up shop. The research  
3 team is going through the same thing we went  
4 through, which is desperately trying to get  
5 organized in the early days without an office and  
6 without business cards and the whole bit. But  
7 UMass Amherst is providing them space, giving them  
8 an overhead structure. They are going to start  
9 next week, mid-week they'll have their first  
10 graduate student that will start to provide some  
11 staff help. So, they're moving quickly.

12           As you heard before, they are  
13 tremendously excited about this project.  
14 Everybody involved with it on the research side  
15 really appreciates what a unique and unusual  
16 project this is.

17           So, that was the substance of it. If  
18 you want to add anything else or go to the budget.

19           COMMISSIONER ZUNIGA: Sure. I can  
20 speak to that status of where we are on the contract  
21 and budget element of this. We received on May 1  
22 at the end of the day really, so a little too late  
23 to be included in the packets for this meeting, the  
24 latest draft of the budget. So, I can speak to it

1 in general, although all of these document resides  
2 in our shared drive and I can make it -- of course,  
3 it's all available for us.

4 There are two elements that I want to  
5 highlight relative to how the budget progressed,  
6 if you will, from an initial cost proposal to what  
7 where we stand right now or today. And I'll speak  
8 to it now.

9 I came to realize, this was just  
10 something that happened to me personally that the  
11 cost proposal as put forward in the response to the  
12 RFA, those costs were not necessarily going to be  
13 uniform throughout the period that they were  
14 proposing. We just said give us an estimate for  
15 a three- and a six-year period. They gave us a few  
16 numbers with a lot of backup.

17 But by its very nature, those costs  
18 happen to have -- they have to be frontloaded,  
19 which is what I'll highlight in a few minutes. By  
20 design, those costs have to happen with some degree  
21 of intensity in the first year because of the  
22 baseline study.

23 But also given our timeframe for what  
24 we're projecting right now in terms of award of a

1 license, prior to that third-year threshold that  
2 I highlighted -- that we asked when we asked for  
3 a cost response. So, much of the costs as we see  
4 them are, as I say, frontloaded.

5 There's another element to it as well,  
6 which when we began negotiations with the team from  
7 Amherst, we noted that there were elements of the  
8 other team's response, the CHA TDM Game team that  
9 we found particularly insightful relative to a  
10 response rate.

11 Their methodology and approach  
12 included additional steps that would insure and we  
13 agreed with this a higher response rate in terms  
14 of the survey as conducted. Those include a  
15 couple of items like an online tool also --

16 CHAIRMAN CROSBY: -- incentives.

17 COMMISSIONER ZUNIGA: -- incentives,  
18 various incentives for responses that insures a  
19 higher response rate. And in a time of caller ID  
20 and cell phone use, that happens to be particularly  
21 important.

22 CHAIRMAN CROSBY: If I can just add to  
23 this.

24 COMMISSIONER ZUNIGA: Sure.

1                   CHAIRMAN CROSBY: This was really  
2 interesting that apparently, the somewhat less  
3 expensive mechanism for getting interviews in our  
4 major baseline survey that was originally proposed  
5 was expected to get a response rate of about 10  
6 percent. If we adopted these extra mechanisms for  
7 inducing higher response that would go up to around  
8 25 percent.

9                   In the research world, there is a  
10 debate as to whether or not a 10 percent response  
11 rate gets you a legitimate enough number to  
12 protect, but no debate that a 25 percent response  
13 rate is a number that you can defend. By protect,  
14 I mean defend.

15                   We desperately need to have this data  
16 be bulletproof, because if we come up with  
17 anything, whatever it is that people don't like,  
18 they're going to attack our methodology.

19                   So, we decided it was worth spending  
20 some extra money to get the research -- I think it  
21 was only like \$180,000 over the first period.

22                   COMMISSIONER ZUNIGA: First year,  
23 yes.

24                   CHAIRMAN CROSBY: -- first year, yes.

1 But whatever the number was, we decided to spend  
2 the extra money to get the response rate up so that  
3 we took away that potential vulnerability in our  
4 results.

5 COMMISSIONER ZUNIGA: Actually, along  
6 those lines, the number once you factor in those  
7 two things we talked about, the incentives and an  
8 online as an additional tool for surveying,  
9 there's a third element that was also discussed  
10 when we went out there. It's called an online  
11 panel.

12 There's survey groups that are now a  
13 lot more popular in the online world, groups that  
14 are put together to take any number of surveys.  
15 And this is just another group that we would use  
16 that costs money that is not originally  
17 contemplated.

18 In general, these three additional  
19 steps have an incremental cost of \$322,000.

20 CHAIRMAN CROSBY: A net.

21 COMMISSIONER ZUNIGA: A net  
22 incremental cost, which is something again that  
23 was not part of the proposal. But the biggest, as  
24 I mentioned, difference, if you will, in terms what

1 we will put forward right now, which is a 15-month  
2 budget and just taking at face value cost proposal  
3 of what we got \$4.7 million for the first three  
4 years, and a total cumulative of \$10 million for  
5 the total six years comes from the fact that these  
6 costs have to be frontloaded by the nature of what  
7 we're doing.

8 CHAIRMAN CROSBY: Let me just  
9 reiterate. I reiterate just one thing I said  
10 before. It's really important that it was never  
11 anticipated that we would use this money, use our  
12 present loan from the Rainy Day Fund to pay for our  
13 research project, research in problem gaming.  
14 That's meant to be paid for out of the Public Trust  
15 Health Fund. But as it turns out, we can't get  
16 money in the Public Health Trust Fund until after  
17 we've awarded licenses, which is too late to do the  
18 baseline research.

19 An anomaly that the Legislature didn't  
20 anticipate in the law. We can probably, I'll make  
21 the case, we can pay ourselves back once we get a  
22 Public Health Trust Fund. But in the short-term,  
23 it creates this cash issue that we hadn't really  
24 anticipated.

1                   COMMISSIONER ZUNIGA: Right, this  
2 cash concern. I think we can manage it, by the  
3 way. We will be coming back with more accurate  
4 projections especially in the context of what we  
5 discussed earlier and the next fiscal year and how  
6 we see some of the revenues and assessments coming  
7 to this Commission in the next fiscal year. But,  
8 yes.

9                   So, what we have essentially is a 15-  
10 year budget.

11                  CHAIRMAN CROSBY: Fifteen month.

12                  COMMISSIONER CAMERON: Fifteen month,  
13 I'm sorry. Did I say year? That's a big  
14 difference. A 15-month budget of \$3,459,391 at  
15 this point that I would ask for consideration and  
16 discussion, of course, ultimately approval in  
17 terms of entering into an ISA, which is essentially  
18 a contract with the team from UMass to proceed with  
19 in full gear with the research project.

20                  CHAIRMAN CROSBY: Commissioner  
21 McHugh?

22                  COMMISSIONER ZUNIGA: Questions?

23                  CHAIRMAN CROSBY: You look like you're  
24 about to speak.

1                   COMMISSIONER MCHUGH: Yes, Mr.  
2 Chairman. Our last approach to this authorized  
3 Commissioner Zuniga to enter into negotiations  
4 with the team. And then come back to us with a  
5 budget or a proposal in the context of a cash flow  
6 analysis that showed the impact of the payouts on  
7 our cash flow and our ability to support it.

8                   And that was a Commission vote that  
9 took into account the expenditures we'd already  
10 made but also the expenditures we were likely to  
11 make as we staffed up to deal with the coming  
12 evaluation process, the coming licensing process  
13 and the addition of staff to the Commission.

14                  What we have today is a proposal for  
15 approval of an expenditure but no analysis of a  
16 cash flow and the expenditure's impact on our cash  
17 flow. And I understand the anomaly. I also  
18 understand fully and embrace the importance of  
19 this study. But at the same time, I'm looking at  
20 the expenditures we're likely going to have to make  
21 over the next few months and year to get ourselves  
22 staffed up and operational.

23                  So, I would be prepared or have the  
24 Commission authorize or would like to talk about

1 the Commission to authorizing this study to  
2 proceed under terms that would allow us to cut back  
3 on, reduce, postpone whatever spending if and to  
4 the extent it's necessary for us to hire the  
5 personnel that we need and make the other  
6 expenditures we need in order to get the licensing  
7 process moving forward on the schedules that we  
8 have agreed upon, and the schedules that are  
9 necessary to have us maintain in order to get the  
10 revenues that we need to fund the study. Rather  
11 than have an unconditional approval of this  
12 approximately \$3.5 million over the next 15  
13 months.

14           Hopefully, we'll find a way to be able  
15 to afford it and we could go forward. But it seems  
16 to me like that expenditure like all others has to  
17 be considered in context.

18           So, that's what I'd like to discuss for  
19 a minute. And then have Commissioner Zuniga come  
20 back promptly or in connection with the projection  
21 of FY '14 budget so we can revisit this amount of  
22 how much we can afford to spend now on this  
23 critically important study.

24           COMMISSIONER ZUNIGA: Yes. I think

1 that's a great and important point. I will  
2 mention that I believe that we have the ability at  
3 any point to postpone, defer, suspend, put on hold  
4 any number of activities within this current  
5 budget and the current contract.

6 We could and will make it very explicit  
7 on one. But I will note that of course by its very  
8 nature because of such breadth and scope, some of  
9 those activities, if you will, will be easier on  
10 certain costs compared to others.

11 By its very nature, there are some  
12 costs that are setup costs, others are fixed costs  
13 and others are variable costs. And of course, the  
14 notion of coming back is a sound one, if we need  
15 to. And we would just have to consider with  
16 varying degrees of variability, if you will,  
17 expenditures that had already been incurred if we  
18 decided, for example that we needed to stop or  
19 suspend certain activities.

20 But I believe fundamentally that we  
21 have the right to do that under the current  
22 standard terms of the contracts, of the  
23 Commonwealth contract form. Because this is an  
24 ISA, we could make it more explicit and we will.

1 And we can have those discussions.

2 Again, to be nuanced there are certain  
3 activities that by its very nature they need to be  
4 expended.

5 COMMISSIONER MCHUGH: I'm not certain  
6 that I understand that, the part about the certain  
7 activities that they need to to engage them.

8 Here's what I'm concerned about. If  
9 we make an unconditional commitment to this  
10 critically important study in isolation without  
11 considering the context in which that commitment  
12 is made, then we basically create a fixed  
13 obligation around which we have to fold other  
14 potential expenditures. That's why I think that  
15 when we talked about this last time, we talked  
16 about coming back with a cash flow analysis when  
17 we considered the amount.

18 If we have a fixed expenditure, a fixed  
19 commitment and then we have to mold other  
20 expenditures around that fixed commitment, we may  
21 well wind up being unable to afford at the time we  
22 need to afford obtaining resources, whether they  
23 be consultants or permanent employees, who are  
24 critical to moving the entire process forward.

1 And then being able to realize the monies we need  
2 to fund this project.

3 So, it seems to me that whatever we do  
4 today ought to maintain the flexibility that I  
5 submit we need, fiscal flexibility that I submit  
6 we need and have us revisit where we are and how  
7 much we can afford when we get a more robust  
8 projections as to what our cash flow over the next  
9 15 months will be, something that you are  
10 undoubtedly working on now.

11 COMMISSIONER ZUNIGA: Yes. I think  
12 we're talking about much of the same thing. And  
13 I am not asking and I don't think we are suggesting  
14 that this be an unconditional approval, if you  
15 will, or commitment.

16 Let me give you an example in the  
17 context of let's say a large construction project,  
18 which to a degree this is what we're embarking on,  
19 a large project. One that includes some upfront  
20 costs, some modilzation costs. And if the owner,  
21 which that's effectively our role of owners  
22 decides to suspend or in its most dramatic aspects  
23 stop all activities relative to that project,  
24 there will be some costs associated with

1 demobilizing, for example.

2           And they just would have to agree with  
3 that but we would have to consider some incremental  
4 costs, as a small example. So, if we were to  
5 decide, for example, to extend the period to  
6 mothball certain activities, let's say, there  
7 would be additional costs to those activities,  
8 hopefully less than a burn rate of continuing the  
9 project in full.

10           So, I believe we have that authority  
11 and ability as the contracting party here. We can  
12 make that very explicit. But as I was just talking  
13 about costs, they will not necessarily disappear  
14 just because we wanted somebody to stop, even if  
15 we ask them to stop.

16           CHAIRMAN CROSBY: For the most part  
17 they will.

18           COMMISSIONER ZUNIGA: Yes.

19           CHAIRMAN CROSBY: Any time you turn  
20 something off, sometimes you incur costs when you  
21 turn it off. For the most part, if we wanted to  
22 put the brakes on performance management,  
23 research --

24           COMMISSIONER ZUNIGA: We can do that.

1                   CHAIRMAN CROSBY: -- personnel hires,  
2 we can do it, right. And this is not unconditional  
3 any more than any of the rest of our commitments  
4 are unconditional except any which is governed by  
5 law.

6                   So, I think we're in agreement with  
7 you, Commissioner McHugh, and we agree that we need  
8 to come back with a real cash flow not a back of  
9 the envelope job, which we've done to sort of the  
10 nearest million and see how it looks.

11                   And then as you well know, there are a  
12 lot of critical variables that we don't know to put  
13 into that. There are both expenses and incomes  
14 that we can't put into that cash flow, which is what  
15 leaves us in this uncertain position.

16                   Certainly, for the next six to nine  
17 months, maybe even six to 12 months we're fine.  
18 And that gives us plenty of time to look at the cash  
19 flow. And if we need to make contingency  
20 decisions, we've got time to make them. Anything  
21 else on this?

22                   What we've done, just again to  
23 reiterate, we were expecting them to do a six-year  
24 contract or at least a three-year with a

1 three-year renewal option. But we haven't  
2 negotiated that financial deal yet. And in the  
3 interest of time to make sure we get this up and  
4 going, albeit in a conditional way, we decided we'd  
5 just do a 15-month budget. That gets everybody  
6 going. That gets the paperwork started.

7 And then as soon as we can within  
8 probably the next few weeks, we'll come back with  
9 a budget for the balance of the research term. And  
10 having scrubbed and reviewed those numbers, then  
11 have a second conversation about the full research  
12 project.

13 So, this is just a 15-month budget to  
14 get us going.

15 COMMISSIONER ZUNIGA: Right.  
16 Actually, I would argue we could come back much  
17 later when we have a lot more certainty in terms  
18 of this provides -- let's not say 14 months from  
19 now. Let's say six months, let's say halfway  
20 through this budget we could come back with a lot  
21 more robust understanding of both future  
22 commitments and cash flow and revenues for the  
23 operating expenses.

24 COMMISSIONER MCHUGH: Come back

1 halfway through this budget?

2 COMMISSIONER ZUNIGA: Yes, in order to  
3 approve the next version of this effort.

4 COMMISSIONER MCHUGH: So, come back  
5 after we've spent \$1.7 million?

6 COMMISSIONER ZUNIGA: Or anytime  
7 before we're done doing that.

8 CHAIRMAN CROSBY: There's two  
9 different issues. One is we're going to be  
10 keeping a month-by-month cash flow and making sure  
11 that we can keep the commitments that we've made.  
12 That's going to happen on an ongoing basis. And  
13 we're going to have a comprehensive look at a  
14 15-month cash flow or through fiscal 2014 as soon  
15 as we can put that together.

16 The six-year contract I was saying we  
17 could do in another couple of weeks. Enrique was  
18 saying maybe we don't need to do it in a couple of  
19 weeks. We could do it in a few months down the road  
20 when we've got a lot more questions answered.

21 COMMISSIONER MCHUGH: I understand  
22 that. I'm not concerned about the six-year  
23 contract at the moment. I'm concerned about this  
24 one in the present context.

1                   CHAIRMAN CROSBY: Well, that's what he  
2 was talking about.

3                   COMMISSIONER ZUNIGA: Yes.

4                   COMMISSIONER MCHUGH: So long as it's  
5 clear in whatever motion we make today that this  
6 is a commitment that's conditional on our ability  
7 to afford it as we go forward and subject to  
8 suspension or postponement, then that sounds to me  
9 like an excellent way to proceed without  
10 sacrificing unnecessarily the speed and the  
11 baseline data gathering that we need to do to have  
12 an effective study.

13                   But it seems to me that that ought to  
14 be clear so that nobody's confused by the nature  
15 of the commitment.

16                   CHAIRMAN CROSBY: Okay.

17                   COMMISSIONER ZUNIGA: I think that's  
18 clear.

19                   CHAIRMAN CROSBY: Do you want to move?

20                   COMMISSIONER ZUNIGA: Yes. I then  
21 move that the Commission approve the budget as  
22 presented for the 15-month effort to start the  
23 research project for the amount of \$3,459,391 with  
24 the understanding and subject to the ability of

1 this Commission to forecast the cash flows and the  
2 ability to pay for this effort as well as with the  
3 ability of suspending at any point.

4 CHAIRMAN CROSBY: Some or all at any  
5 point.

6 COMMISSIONER ZUNIGA: Yes, some or all  
7 at any point.

8 CHAIRMAN CROSBY: Second?

9 COMMISSIONER CAMERON: Second.

10 COMMISSIONER MCHUGH: I second that.

11 CHAIRMAN CROSBY: Okay. Any further  
12 discussion? We will call the roll, Commissioner  
13 Stebbins?

14 COMMISSIONER STEBBINS: Yes.

15 CHAIRMAN CROSBY: Commissioner  
16 McHugh?

17 COMMISSIONER MCHUGH: Yes.

18 CHAIRMAN CROSBY: Commissioner  
19 Zuniga?

20 COMMISSIONER ZUNIGA: Yes.

21 CHAIRMAN CROSBY: Commissioner  
22 Cameron?

23 COMMISSIONER CAMERON: Yes.

24 CHAIRMAN CROSBY: And the Chair also

1 votes yes. I think we can call it a day. Anything  
2 else? Have we forgotten anything anybody?

3 COMMISSIONER MCHUGH: No, simply  
4 happy birthday, Mr. Chairman.

5 CHAIRMAN CROSBY: Thank you very much.  
6 All right, everybody, have a good weekend. Thank  
7 you very much.

8 CHAIRMAN CROSBY: Motion to adjourn.

9 COMMISSIONER ZUNIGA: So, moved.

10 CHAIRMAN CROSBY: Second?

11 COMMISSIONER CAMERON: Second.

12 CHAIRMAN CROSBY: All in favor, and we  
13 are adjourned.

14

15 (Meeting adjourned at 1:08 p.m.)

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1 ATTACHMENTS:

- 2 1. Massachusetts Gaming Commission May 3,  
3 2013 Notice of Meeting and Agenda
- 4 2. Written Responses Regarding Phase 2  
5 Regulations
- 6 3. Massachusetts Gaming Commission April 11,  
7 2013 Meeting Minutes
- 8 4. Massachusetts Gaming Commission April 18,  
9 2013 Meeting Minutes
- 10 5. Massachusetts Gaming Commission April 25,  
11 2013 Meeting Minutes
- 12 6. Division of Racing May 3, 2013 Memorandum  
13 Regarding Annual Report - State Racing  
14 Commission 2011
- 15 7. Division of Racing May 3, 2013 Memorandum  
16 Regarding Approval of 2013 "Special Events"  
17 to be simulcast at Raynham Park
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SPEAKERS:

- Kevin Conroy, Esq., Foley Hoag/Mohegan Sun
- Catherine Rollins, Mass. Municipal Association
- Sean Sullivan, Charlestown, Massachusetts
  
- Catherine Blue, General Counsel
- Dr. Jennifer Durenberger, Director of Racing
- Todd Grossman, Staff Attorney (present via  
videoconference)
- John Ziemba, Ombudsman (present via  
videoconference)

C E R T I F I C A T E

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I, Laurie J. Jordan, an Approved Court Reporter,  
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WITNESS MY HAND this 6th day of May, 2018.



LAURIE J. JORDAN  
Notary Public

My Commission expires:  
May 11, 2018