

THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION
PUBLIC MEETING #90

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

November 14, 2013, 9:30 a.m.

BOSTON EXHIBITION AND CONVENTION CENTER

Room 107A

415 Summer Street

Boston, Massachusetts

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

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3 CHAIRMAN CROSBY: We are ready to
4 convene the 90th public meeting of the
5 Massachusetts Gaming Commission on Thursday,
6 November 7, 2013 at the Convention Center in
7 Boston.

8 First item is usually the approval
9 of minutes, but I don't think we have any
10 minutes today.

11 COMMISSIONER MCHUGH: We do not have
12 any minutes, Mr. Chairman, but that will be
13 remedied by our next meeting.

14 CHAIRMAN CROSBY: Then let's go
15 straight to number three a series of items from
16 the Director of the Racing Division.

17 DR. DURENBERGER: Good morning, Mr.
18 Chair, Commissioners. I have no administrative
19 update for you today. I think I talked myself
20 out last week. So, we'll just proceed right to
21 agenda item 3b, which is the consideration of
22 the racing license applications.

23 Included in your packet were some
24 draft decisions and then some supplemental

1 materials that were received after the deadline
2 for last week's packet that are in there. None
3 of the materials that were received after the
4 deadline alter our recommendations or
5 conditions in any way as they were reported to
6 you at last week's meeting.

7 So, unless theres any discussion of
8 the items that I presented, I would be happy to
9 move right into the voting part of the agenda,
10 if it pleases the Chair. Happy to entertain
11 any questions regarding any of the materials.

12 CHAIRMAN CROSBY: You are going to
13 want to have a vote on each, right?

14 DR. DURENBERGER: Yes, Sir.

15 CHAIRMAN CROSBY: I think it would
16 make sense just to have you go straight to the
17 conclusion and recommendation part just to
18 remind us and everyone else very briefly what
19 your bottom line is on the three.

20 DR. DURENBERGER: Okay. In the
21 matter of Sterling Suffolk Racecourse, LLC,
22 application to conduct running horse racing in
23 2014, we do recommend approval. We recommend
24 approval subject to the following conditions:

1 that the applicant shall work with the
2 Commission to ensure that key racing employees
3 once defined are identified and subjected to an
4 appropriate background check; that any
5 amendments to existing contracts and agreements
6 or newly executed contracts and agreements with
7 representative horsemen's groups must be
8 provided to the Racing Division within five
9 business days of execution.

10 The approval should you choose to
11 provide it will also authorize simulcast
12 wagering effective January 1, 2014 with the
13 brick-and-mortar and other outlets listed in
14 Exhibits 27, 28A and 28B of their application
15 as well as the three advance deposit wager and
16 account providers listed in Exhibit 29. And
17 the regulatory and representative horsemen's
18 group approval required by the Interstate
19 Horseracing Act and the Massachusetts general
20 laws and this approval would also authorize the
21 12-week premium free period elected by the
22 applicant.

23 CHAIRMAN CROSBY: Any motion to that
24 effect or anything to discuss?

1 COMMISSIONER MCHUGH: I would move
2 that with those conditions that the license be
3 awarded to Sterling Suffolk Racecourse, LLC.

4 CHAIRMAN CROSBY: Second?

5 COMMISSIONER CAMERON: Second.

6 CHAIRMAN CROSBY: And discussion on
7 the issue.

8 COMMISSIONER ZUNIGA: Just briefly,
9 since we last took this matter last -- was it a
10 week or two weeks ago?

11 MR. DAY: One week.

12 COMMISSIONER ZUNIGA: -- had the
13 vote already occurred in East Boston?

14 CHAIRMAN CROSBY: Yes.

15 DR. DURENBERGER: Yes.

16 COMMISSIONER ZUNIGA: It had?

17 DR. DURENBERGER: Yes.

18 CHAIRMAN CROSBY: And on the issue
19 of the elephant in the room issue about what
20 happens in the event that Suffolk does not go
21 forward with an application or is not awarded a
22 license, we just basically cross that bridge
23 when we get to it, right?

24 MR. DAY: Yes.

1 DR. DURENBERGER: And I do think not
2 to open up the door to the elephant, but I do
3 think that they're a little bit differently
4 situated than the new entities that are
5 applying in that you can imagine different
6 business scenarios where it may make sense for
7 them to continue. We don't need to reach that
8 in order to reach the decision on the license.

9 CHAIRMAN CROSBY: Basically, in all
10 three cases we're just saying yes for now and
11 we'll see what happens.

12 DR. DURENBERGER: Yes.

13 CHAIRMAN CROSBY: Okay. Any other
14 discussion on this motion? All in favor of the
15 motion as posed by Commissioner McHugh say aye.
16 Aye.

17 COMMISSIONER STEBBINS: Aye.

18 COMMISSIONER ZUNIGA: Aye.

19 COMMISSIONER MCHUGH: Aye.

20 COMMISSIONER CAMERON: Aye.

21 CHAIRMAN CROSBY: Opposed? The ayes
22 have it unanimously.

23 DR. DURENBERGER: The next
24 application was received from Springfield

1 Gaming and Redevelopment, LLC. That's an
2 application to conduct harness horseracing at
3 an existing facility known as Plainridge
4 Racecourse in 2014.

5 Again, the Racing Division did
6 recommend the approval of this application
7 subject to the following conditions: the
8 applicant shall work with the Commission to
9 ensure that key racing employees once defined
10 are identified and subjected to an appropriate
11 background check; the applicant shall work with
12 the Racing Division to amend its request for
13 simulcast import and export prior to January 1,
14 2014. The approval of simulcasting is pending
15 additional review by the Racing Division.

16 This approval also authorizes the
17 12-week premium free period elected by the
18 applicant and up to 15 Breeders' Cup races as
19 premium-free special events. We do not at this
20 time authorize the use of the WinLine as a
21 telephone account wagering system. Just so you
22 know, we have received the materials that we
23 requested from last week. And I believe our
24 Chief Information Officer is going to be doing

1 a site visit at the course tomorrow to do some
2 further due diligence on that. We'll come back
3 to you regarding the approval of the WinLine
4 when that is appropriate.

5 Any amendments to existing contracts
6 and agreements or newly executed contracts and
7 agreements with representative horsemen's
8 groups must be provided to the Racing Division
9 within five business days of execution. Again,
10 the applicant must provide a copy of any
11 temporary operations agreement executed between
12 Ourway Realty and Springfield Gaming and
13 Redevelopment within five business days of
14 execution.

15 COMMISSIONER CAMERON: I move that
16 we vote to award the license including the four
17 conditions as just stated.

18 CHAIRMAN CROSBY: To Springfield
19 Gaming and Redevelopment.

20 COMMISSIONER CAMERON: Yes, to
21 Springfield Gaming and Redevelopment, LLC.

22 CHAIRMAN CROSBY: Do I have a
23 second?

24 COMMISSIONER MCHUGH: Second.

1 CHAIRMAN CROSBY: Any discussion?

2 COMMISSIONER ZUNIGA: Same as last
3 one, since we last took the matter, there were
4 ongoing discussions relative to a temporary
5 operating agreement, those I take are ongoing?

6 DR. DURENBERGER: To the best of my
7 knowledge, they are ongoing.

8 COMMISSIONER ZUNIGA: Have they been
9 finalized? We are in the same position as last
10 time?

11 DR. DURENBERGER: Yes.

12 CHAIRMAN CROSBY: Any other
13 discussion? All in favor signify by with aye,
14 aye.

15 COMMISSIONER STEBBINS: Aye.

16 COMMISSIONER ZUNIGA: Aye.

17 COMMISSIONER MCHUGH: Aye.

18 COMMISSIONER CAMERON: Aye.

19 CHAIRMAN CROSBY: Any opposed, nay?
20 The ayes have it unanimously.

21 DR. DURENBERGER: The third
22 application received was from an entity,
23 Brockton Racing, LLC. This was the application
24 where we discussed a couple of different

1 options based on some of the situational -- the
2 unique situational requirements upon what the
3 application was submitted, as well as some
4 inconclusive -- we have not yet finished our
5 due diligence on this applicant.

6 We recommend the application of
7 Brockton Racing, LLC for live harness racing
8 dates in 2014, and we went with the provision
9 in 128A section 2, which talks about approving
10 one racing day. Then the ability of the
11 applicant to come back to us with a
12 supplemental application at such time as those
13 conditions are fulfilled, the conditions that
14 they've put on their application. Once those
15 are fulfilled, they come back to us and the
16 Commission and the Racing Division can consider
17 a supplemental application.

18 CHAIRMAN CROSBY: Do I have a
19 motion?

20 COMMISSIONER MCHUGH: I move that
21 the recommendation of the Racing Division to
22 award Brockton Racing, LLC a license for one
23 day in 2014 be approved.

24 COMMISSIONER CAMERON: Second.

1 CHAIRMAN CROSBY: Any discussion?
2 Everybody's familiar with the strategy and how
3 this came about and how we discussed the
4 various ways of dealing with this, and think
5 this was the best way to go under all of the
6 circumstances. All in favor, signify by saying
7 aye.

8 COMMISSIONER STEBBINS: Aye.

9 COMMISSIONER ZUNIGA: Aye.

10 COMMISSIONER MCHUGH: Aye.

11 COMMISSIONER CAMERON: Aye.

12 CHAIRMAN CROSBY: Opposed? The ayes
13 have it unanimously.

14 MR. DAY: Mr. Chairman, I just want
15 to check in to verify that these decisions of
16 the Commission will come out in a decisional
17 format that's proofed and delivered.

18 CHAIRMAN CROSBY: I'm sorry?

19 MR. DAY: If I understand correctly,
20 these decisions will be reflected in the new
21 decisional format once it's proofed and signed
22 by the Commission.

23 CHAIRMAN CROSBY: Okay.

24 COMMISSIONER MCHUGH: Will it be a

1 separate license that actually is issued the
2 license holders as well that they can put on
3 the wall so everybody can see it, so it's a
4 legit operation?

5 MR. DAY: I believe that's our plan,
6 yes.

7 DR. DURENBERGER: And not just that
8 it's a legit operation but there is also a
9 statutory requirement for the posting of such
10 license. So, it will satisfy that as well,
11 hence legit. That would conclude 3B. We are
12 ready to move onto item 3C, which is a request
13 from Plainridge Racecourse to amend its live
14 racing schedule.

15 CHAIRMAN CROSBY: Excuse me,
16 Director Durenberger, there's a series of
17 things having to do with the Raynham Taunton
18 legal issue with European waging services. Is
19 that there for a reason?

20 MS. BLUE: Good morning,
21 Commissioners. The purpose of having that in
22 your package is to let you know that I have
23 been approached with a claim from the party who
24 authored that letter. That is an alleged

1 contractual dispute between one of the members
2 of Brockton Racing.

3 And it is there purely for the
4 Commission to be advised that that claim has
5 been made and that request for a hearing in
6 front of the Commission has been put out there,
7 but also for the Commission to assess whether
8 that has any impact on the granting of a racing
9 license to the Brockton applicant since the
10 Brockton applicant is an affiliated entity to
11 the entity that is alleged to be involved in
12 that claim.

13 CHAIRMAN CROSBY: We should have
14 talked about that before the vote rather than
15 after. But it sounds like your reaction --
16 These folks are sort of snidely alleging that
17 we refuse to talk with them or we refused to
18 hear this. None of us, I don't think we even
19 knew about this until just now.

20 MS. BLUE: No, we have not refused
21 in grant them a hearing. I have asked the
22 applicant on more than one occasion to address
23 this issue. And I have forwarded these matters
24 onto the applicant.

1 I did ask the applicant to be here
2 today if you had questions regarding how the
3 applicant plans to handle this matter in the
4 future. And also because I wanted to give them
5 an opportunity to respond. And you'll see
6 their response is attached to the letter as
7 well.

8 CHAIRMAN CROSBY: Right.

9 COMMISSIONER CAMERON: Mr. Carney
10 would like to respond, it sounds like.

11 MR. CARNEY: Good morning,
12 Commissioners. Yes. For the record, my name
13 is George Carney. And that issue that Counsel
14 just brought up first of all is this, that
15 dispute has been going on. That started in
16 2009. That was the last year we ran live dog
17 racing at the Raynham Dog Track. I never heard
18 a word from them.

19 We tried through our attorneys to
20 get them to send us some invoices and to see if
21 we can get this resolved. Because first of
22 all, we don't really know who to pay because
23 it's four or five different people. There's
24 been two law firms involved. Unfortunately, I

1 sent them, without checking with the attorneys
2 back then a year and a half or two ago, a check
3 for \$10,000 with the letter that said please
4 send us some invoices. Send us some invoices
5 and who we were doing business with because
6 there was an issue raised by the attorneys that
7 represent me as far as we were concerned. We
8 never heard a word.

9 Then they said they were going to
10 forward the invoices through the attorney.
11 They never sent one bill to the dog track. The
12 only communication we have had with them is
13 when they sent something to the Gaming
14 Commission and leave it hanging out there. And
15 that's it.

16 We've been trying to get this thing
17 resolved for quite a bit of time. I am not a
18 deadbeat. I pay my bills. As far as the thing
19 is concerned, if they can show me what we owe
20 them and who we pay, I will pay it immediately.
21 Thank you for your time. If there's any
22 questions, I'll be happy to answer them if I
23 can.

24 CHAIRMAN CROSBY: It looks like your

1 associate might have something to say.

2 MR. CARNEY: I don't know what she
3 has to say, but I know what I have to say.

4 COMMISSIONER MCHUGH: And you just
5 said it.

6 MS. LEE: For the record,
7 Commissioners, Grace Lee on behalf of the
8 applicant. There is not much more I can add to
9 that. What I can represent is Counsel
10 representing Mr. Carney on this particular
11 matter had in the past reached out to the first
12 law firm and repeatedly kind of tried to follow
13 up on that. So, that had been in the works.

14 And General Counsel Blue had
15 informed us and we have been working with
16 Michael Morizio and he has been working on
17 that. So, there's not much add other than what
18 Mr. Carney has eloquently stated. Thank you.

19 MR. DAY: Mr. Chairman, just a note,
20 with the approval of a one-day license, the
21 applicant, the licensee will have to come back
22 before the Commission in any event. And that
23 will provide enough time to make sure the issue
24 is resolved.

1 CHAIRMAN CROSBY: Right.

2 DR. DURENBERGER: If I could just
3 step in. The overarching issue that's
4 presented in this letter from the Counsel in
5 California, we are mindful of the Commission's
6 role in regulating simulcast wagering under the
7 Interstate Horseracing Act. And in fact, akin
8 to when we looked at the ways we were amending
9 our racing license applications for this year.

10 We didn't make a lot of tweaks to
11 them, but one of the significant tweaks we made
12 was how the whole simulcast approval process
13 takes place. So, we requested a bunch of
14 different information, additional information
15 this year than applicants had previously had to
16 provide. We've hired a chief pari-mutuel
17 officer. We've been working very closely with
18 her to sort of firm up our process, quite
19 frankly, revise it.

20 We've talked to numerous other
21 jurisdictions. We've assemble best practices
22 again in the industry. We've got new forms
23 this year for people to fill out. We are
24 creating electronic files of all of the

1 individual contracts. So, I don't want the
2 Commission or anyone else reading the record to
3 think that we're not mindful of the statements
4 that are made regarding the Commission's role
5 in regulating simulcast wagering under the
6 Interstate Horseracing Act as well as the
7 general laws.

8 COMMISSIONER MCHUGH: That's very
9 helpful.

10 MR. CARNEY: Any other questions of
11 me, Sir?

12 CHAIRMAN CROSBY: No. Thank you.
13 It sounds like at worst, at worst, it's just a
14 run-of-the-mill business dispute and nothing
15 that bears on the vote that we just took.

16 COMMISSIONER MCHUGH: I think the
17 underlying contract is reflecting who the
18 contract is with. I'm sure they'll be able to
19 work this out.

20 CHAIRMAN CROSBY: Right. Okay.

21 DR. DURENBERGER: The final issue on
22 the Racing agenda this morning is a request
23 from the Plainridge Racecourse to amend its
24 live racing schedule. As we talked about last

1 week, Chapter 123 of the Session Laws of 2013
2 amends the required number of live racing days
3 on races conducted in order to be authorized to
4 offer simulcast wagering, amending it from 100
5 days and 900 races to 80 days 720 races.
6 Plainridge Racecourse as of today, at the end
7 of today will have conducted 92 racing days 747
8 races and requests to amend its schedule to
9 cease live racing at the end of today's card in
10 conformance with the statute.

11 CHAIRMAN CROSBY: Questions or
12 issues? Do I have a motion?

13 COMMISSIONER MCHUGH: Do you
14 recommend that we adopt this?

15 DR. DURENBERGER: I do recommend,
16 yes, for the reasons outlined in the memo of
17 last week.

18 CHAIRMAN CROSBY: Simply pursuant to
19 the law, to the amendment in the law that allow
20 them to do this, right.

21 CHAIRMAN CROSBY: Commissioner, do
22 you want to move?

23 COMMISSIONER CAMERON: I move that
24 we approve the recommendation of the Racing

1 Division in the request made by Plainridge
2 Racecourse to shorten the racing season as per
3 the law.

4 CHAIRMAN CROSBY: As per the letter
5 of November 4.

6 COMMISSIONER CAMERON: As per the
7 letter of November 4.

8 CHAIRMAN CROSBY: Good, thank you.
9 Second?

10 COMMISSIONER MCHUGH: Second.

11 CHAIRMAN CROSBY: Any other
12 discussion? All in favor, signify with aye.

13 COMMISSIONER STEBBINS: Aye.

14 COMMISSIONER ZUNIGA: Aye.

15 COMMISSIONER MCHUGH: Aye.

16 COMMISSIONER CAMERON: Aye.

17 CHAIRMAN CROSBY: Opposed, nay? The
18 motion passes unanimously.

19 DR. DURENBERGER: That would
20 conclude the Racing Division's report. That
21 was a brief one. Thank you, Commissioners.

22 COMMISSIONER CAMERON: Thank you,
23 Director.

24 COMMISSIONER ZUNIGA: Thank you.

1 COMMISSIONER MCHUGH: Thank you.

2 CHAIRMAN CROSBY: Ombudsmen Ziemba.

3 MR. ZIEMBA: Thank you, Mr.

4 Chairman, Commissioners. Today, we are here to
5 hear from applicants and communities that have
6 filed petitions to become surrounding
7 communities. We are joined here by the Raynham
8 applicant and the Leominster applicant. We are
9 also joined by six communities, three for the
10 Leominster applicant and three for the Raynham
11 applicant.

12 So, we have a number of items on the
13 agenda today. So, let me just give you a
14 little bit of a preview. What I'm anticipating
15 is that we will first hear from the Leominster
16 related communities. Then we'll hear from the
17 Leominster applicant. Then we'll hear from the
18 Raynham communities. And then we'll hear from
19 the Raynham applicant.

20 Then following that those
21 presentations, we will then get into an
22 involuntary disbursements petition that has
23 been put forward by the city of Fitchburg. I
24 anticipate that it is likely that the city of

1 Fitchburg and the applicant will address a
2 number of the contents that are included in
3 their voluntary (SIC) disbursements petition in
4 their initial remarks. But they may have some
5 more to say after the initial remarks.

6 Then we have that up for a vote for
7 the Commission. As I noted in my memo to you,
8 what we decided was that similar to the way
9 that it's treated in our regulations that this
10 presentation on involuntary disbursements would
11 primarily be as a result of the presentations
12 and the papers submitted both by the applicant
13 and the potential surrounding community of
14 Fitchburg.

15 But that staff reports on all of
16 these matters on surrounding community
17 petitions are hopefully going to be completed
18 by early next week. So, to the extent that it
19 is unclear from either the initial
20 presentations by the city of Fitchburg and the
21 applicant, or the subsequent presentations
22 specifically on the involuntary disbursements
23 petition, if it's unclear that a designation
24 for an involuntary disbursement is basically an

1 obvious decision, what I would recommend to the
2 Commission is that potentially we could delay
3 the decision for one week to next week on the
4 21st when we'll be reviewing all the
5 surrounding community petitions.

6 But we put it to you today in case
7 it is an obvious decision, because there would
8 be value to the city of Fitchburg in being able
9 to utilize their consultant for an additional
10 one week if we go forward on the involuntary
11 disbursements petition.

12 So in that regard, what I am going
13 to first do is I will bring, ask the town of
14 Bolton to come up and give a presentation. We
15 have told each of the communities and the
16 applicants that the Commission has received
17 their written correspondence and will review
18 that very fully by the time of our decisions on
19 the petitions next week.

20 So, they don't need to otherwise
21 repeat what is included in those presentations.
22 But if indeed they have some additional items
23 of emphasis or additional information that they
24 wanted to bring forward to the Commission, they

1 can do so.

2 So, from the town of Bolton, I
3 believe we have Selectman Larry Delaney and
4 town administrator Don Lowe.

5 MR. DELANEY: Mr. Lowe is still in
6 transit. I am Larry Delaney.

7 CHAIRMAN CROSBY: Good morning.

8 MR. DELANEY: Good morning, Mr.
9 Chairman, members of the Commission. The
10 reason that the town of Bolton asked to speak
11 to you with regard to our petition is because
12 that this is such an important issue to the
13 town.

14 Route 117 affects every aspect of
15 life in Bolton. We're a town of 5000 people
16 and already 23,000 cars a day go through it.
17 In our petition, we attached a statement from
18 our police chief who noted that the volume of
19 calls we have is equivalent of a town four
20 times our size, because of the volume of
21 traffic we're already dealing with on Route
22 117.

23 The town of Bolton doesn't adjoin
24 Leominster, but the gaming establishment is

1 proposed on the far side of Leominster. And we
2 are actually closer to the gaming establishment
3 than four of the five surrounding communities
4 which have already reached agreements with the
5 applicant.

6 The applicant says, well, Bolton,
7 you don't understand how the regs. work. It
8 doesn't really matter who we made agreements
9 with. In fact, we are just going to look
10 through the criteria and under your regs.,
11 Bolton is not severely affected.

12 That struck me is an odd argument
13 but it's consistent with this extreme position
14 that Cordish has taken. They did it in their
15 RFA application where they named zero
16 surrounding communities, named no one. They
17 were then asked is there anyone who's proposed
18 to be a surrounding community you rejected?
19 They wouldn't answer that question in their
20 materials. They said we're negotiating with
21 people.

22 As of the time they had filed their
23 application, there had been zero outreach to
24 the town of Bolton. But right after the

1 election, we wrote them and said,
2 congratulations. We'd like to be considered a
3 surrounding community. Sent that by certified
4 mail. They received it in Baltimore four days
5 before their application. We weren't mentioned
6 at all. Then we didn't hear from them until
7 our town administrator reached out a week
8 later. We didn't hear from them at all. The
9 first contact with Cordish was the day of your
10 Lancaster hearings.

11 So, I think the entity here that
12 doesn't understand the regs. is Cordish,
13 because they've done zero outreach to Bolton.

14 Secondly, when their so-called
15 outreach began, the form of the outreach was a
16 form agreement that they have entered into with
17 the other towns the terms of which they
18 explained to us was if you sign this agreement,
19 you're a surrounding town. If you don't sign
20 this agreement, we're going to oppose your
21 petition.

22 We said, can't we separate these
23 issues? Can't we just decide that we are a
24 surrounding town and then we will work through

1 the good-faith negotiations? Cordish's
2 position was no. You sign the agreement and
3 you're a surrounding town, otherwise you're
4 not. I think that is consistent with this
5 extreme position no one is a surrounding town.
6 That they have picked this unique area of
7 Massachusetts where no town is affected, will
8 be adversely affected by their establishment.
9 And I think that is inconsistent with the
10 Legislature's intent. It's inconsistent with
11 your rules.

12 Another extreme position that
13 Cordish has taken was they have minimized
14 traffic coming east on 117 in their traffic
15 analysis. Looking through their traffic impact
16 study, we identified it as Exhibit G in our
17 petition, I think it is also figure 12 in their
18 traffic study -- figure 11, excuse me. What
19 they did in order to reach the conclusion that
20 only 11 percent of the traffic headed to
21 Leominster was going to go through Bolton, they
22 have this is bizarre graphic, which says
23 everyone from Boston, every single person from
24 Boston, every single person from the South

1 Shore is going to go up around Route 2.

2 Some folks will do that. Some GPS's
3 will tell you to go that way. But I think if
4 you go through what people in Bolton know is if
5 you take Route 2 through Concord, you do that
6 once. And then you're going to find other
7 routes.

8 I work in Boston. I never would
9 take Route 2 in Concord to get here even if the
10 GPS says it's a mile or two miles shorter. So,
11 they have grossly underestimated -- excuse me.
12 This is Don Lowe, our town administrator who
13 actually signed our petition. They have
14 grossly underestimated the volume of traffic.
15 This is all proprietary data of theirs. They
16 haven't pushed back.

17 All they have said is no, it's 11
18 percent. We're not going to explain. And
19 really we're not going get that many people
20 from Boston. But they didn't explain their
21 data. They didn't do an analysis, for example,
22 even if Bolton is right and half of that inner
23 Boston traffic went out the Pike, the number
24 would only be 13 percent.

1 They didn't do that because we
2 suspect we're right. And it's going to be --
3 the volume of traffic is going to be 30 or 40
4 percent coming on 117. And the map illustrates
5 that as the direct access by a transportation
6 infrastructure is 117 from 495.

7 In concluding, I think the question
8 to ask Cordish is if not Bolton who? Who would
9 be a surrounding community to this project?
10 Because we think we are the most affected with
11 the possible exception of Lancaster.

12 The reason that we say that is that
13 every car that comes out of Lancaster has
14 already gone through Bolton. And while
15 Lancaster has some issues related to proximity,
16 Bolton has massive issues related to the
17 traffic slowdowns. And by the time traffic
18 gets to Lancaster, it's flowing smoothly. They
19 have two difficult intersections in Lancaster,
20 we have six in Bolton. And we are also every
21 night, we are dealing with essentially a three-
22 hour delay for a mile west of 117. And that's
23 ignored in their materials.

24 So, the question again is if not

1 Bolton then who would be a surrounding
2 community under their analysis? Thank you.

3 CHAIRMAN CROSBY: All right. Thank
4 you very much. The question on the table, I
5 guess, that we will be considering probably
6 next week is whether or not to judge Bolton as
7 a surrounding community, right? Whether or not
8 to deem Bolton as a surrounding community. You
9 said the question is if not Bolton, who? But
10 that's not really the question, right?

11 MR. DELANEY: I'm sorry, Mr.
12 Chairman. I was being a little rhetorical.
13 The argument that they're making is Bolton,
14 rush-hour will only be a couple of cars or 50
15 cars a minute -- excuse me an hour through
16 here. So, they're not going to be
17 significantly affected. The point I was trying
18 to make is that under that analysis no town is
19 significantly affected by this establishment.

20 CHAIRMAN CROSBY: So, your
21 conclusion is that you think Bolton ought to be
22 deemed a surrounding community?

23 MR. DELANEY: Yes.

24 CHAIRMAN CROSBY: Thank you.

1 MR. ZIEMBA: Next we'll be joined by
2 Fitchburg.,

3 CHAIRMAN CROSBY: Does anybody else
4 have any questions? Thank you.

5 MR. ZIEMBA: Next we'll be joined by
6 the city of Fitchburg. Representing Fitchburg,
7 city solicitor John Barrett and William
8 Devereaux special counsel to the city.

9 MR. BARRETT: Good morning Mr.
10 Chairman and members of the Commission. I'm
11 John Barrett. I'm the city solicitor for the
12 city of Fitchburg. I had prepared some
13 comments. Our main speaker will probably be
14 Bill Devereaux. And unfortunately he was stuck
15 in traffic. I don't know if it's the same
16 traffic that I was stuck in on Route 2, but he
17 is on his way.

18 MR. FEHER: I am Matthew Feher with
19 Pannone, Lopes, Devereux and West, special
20 counsel to the city. Bill is here. He's
21 parking the car and will be here in five
22 minutes. So, I don't know if you want to wait
23 or take someone else.

24 MR. ZIEMBA: We can take Sterling

1 out of turn.

2 CHAIRMAN CROSBY: Sure.

3 MR. ZIEMBA: So, representing
4 Sterling, we have Mr. Stanley Weinberg, outside
5 counsel to the town of Sterling. Thank you,
6 Mr. Weinberg.

7 MR. WEINGERG: Good morning, Mr.
8 Chairman, Commissioners. My name is Stanley
9 Weinberg. I'm an attorney from Shrewsbury,
10 Massachusetts. And I have the privilege of
11 representing the town of Sterling.

12 As you know, Sterling has filed a
13 petition to be designated a surrounding
14 community. And they've done so in order to
15 protect itself against and provide mitigation
16 for the net detrimental impacts of the proposed
17 slots parlor in the neighboring city of
18 Leominster.

19 Obviously, you have before us the
20 submittal that the town has presented. I'm
21 sure we're not going to go through that and
22 reiterate what's in there today. Obviously,
23 you have an opportunity to review that. I'll
24 be glad to answer any questions that you might

1 have on that.

2 I would like to though emphasize a
3 few important salient points. First of all,
4 Sterling abuts the city of Leominster. And the
5 proposed facility is less than one-quarter of a
6 mile from the jurisdictional line of the city
7 of Sterling. Sterling is concerned about
8 various potential detrimental impacts as I've
9 enumerated in the filing.

10 A priority issue is the traffic
11 impacts, which you've already heard from Bolton
12 and you'll hear that again from other
13 communities as well. There are several
14 roadways, including interstate I-90 as well as
15 Route 62, Route 12, Chocksett Crossing and
16 other roadways, which will serve as feeders to
17 the facility.

18 Even the numbers submitted by the
19 proponent's traffic analyses acknowledges that
20 there will be detrimental -- strike that, there
21 will be traffic impacts upon roadways in the
22 town of Sterling. The fundamental question is
23 what is the extent of those impacts.
24 Obviously, the proponent is trying to diminish

1 that and say they are really de minimus in
2 nature and there will be no detrimental impact.

3 The problem we have is that all of
4 the numbers that we have before us are the
5 proponent's numbers. We don't have any
6 objective data and analysis to demonstrate what
7 in fact the detrimental impacts of traffic and
8 other issues will in fact will be.

9 Even the traffic numbers submitted
10 by the proponent don't account for and don't
11 even address what I would suggest to be
12 potentially foreseeable issues and stressors
13 with respect to traffic once the facility is
14 fully opened as a destination gaming facility
15 with restaurants, liquor, music venue and
16 perhaps hotel facilities as well, causing
17 further stresses upon the traffic, public
18 safety and economic issues in the town of
19 Sterling.

20 So, we need an objective analysis of
21 the Cordish numbers and essentially a fair
22 opportunity to determine what the appropriate
23 mitigation measures should be in order to
24 protect the town of Sterling, the residents of

1 the town of Sterling from the various
2 detrimental impacts that we see will result.

3 So, we are therefore respectfully
4 requesting designation as a surrounding
5 community. And you heard the expression
6 before, if not Bolton then who? And I would
7 certainly suggest that if not Sterling a
8 community that abuts the city of Leominster, a
9 community in which roadways will be servicing
10 the facility is not in fact a surrounding
11 community, then who is? I suggest again that
12 Sterling certainly is. And I request the
13 designation as such. I'll be glad to answer
14 any question to might have. Thank you very
15 much.

16 CHAIRMAN CROSBY: Thank you.

17 MR. ZIEMBA: We'll be rejoined by
18 the city of Fitchburg and its representatives.

19 MR. DEVEREAUX: Good morning, Mr.
20 Chairman, members of the Commission. My name
21 is William Devereaux. I have addressed the
22 Commission previously. To my right is John
23 Barrett, the city solicitor for Fitchburg. And
24 to his right is Matthew Feher who has also

1 assisted me in this matter.

2 I'm not going to regurgitate the
3 memorandum that we gave to the Commission. I
4 think we had adequately address the factors
5 that are laid out in the statute as to why
6 Fitchburg is a surrounding community. I would
7 submit that it is not only a case that's been
8 made, but it's a logical conclusion that
9 Fitchburg is a surrounding community to
10 Leominster and where the proposed gaming
11 facility is going to be.

12 I did read Cordish's memo that
13 apparently was sent to you a day and a half
14 ago. I am still trying to understand some of
15 the logic of it. Basically, I do want to
16 dispel a couple of notions. One is that we
17 refuse to negotiate with Cordish. That is just
18 not accurate. The Mayor did sit with
19 representatives of Cordish and basically their
20 position was that they are bringing nothing but
21 good things. And that the town of Fitchburg
22 should take what they offer.

23 I note that in their memo they
24 indicate that we shouldn't hold it against them

1 that they have already made community
2 agreements with I would submit other towns that
3 have a compelling case that they are
4 surrounding communities but not as compelling a
5 case as Fitchburg. They don't want you to, I
6 think the words were, use that against them.

7 We're not here to create an
8 adversarial situation at this point. But
9 frankly, it is a task of admission that those
10 are surrounding communities recognized by
11 Cordish. And you can't be a surrounding
12 community if you've agreed to essentially take
13 what they've offered but not be a surrounding
14 community if you haven't.

15 In essence, on the one hand we are
16 not a surrounding community as I read their
17 memo because various factors that they've
18 cited, which I submit really don't hold water.
19 But then we are a surrounding community because
20 we are going to get all of these benefits. And
21 I would submit to you that we're not here to
22 say that convenience gaming is a bad thing.
23 It's an entertainment venue. People have an
24 absolute right, adults have a right to choose

1 whether to patronize it or not.

2 But there are going to be some
3 negative consequences to it, despite the fact
4 that Cordish doesn't seem to want to
5 acknowledge that. And those negative
6 consequences have to be weighed by this
7 Commission.

8 And I would submit to you that
9 that's the reason we have the disbursement
10 fund. To say that we haven't rebutted their
11 traffic experts that we haven't obviously had a
12 chance to examine. We don't even know what the
13 foundation of their data is. To say that we
14 haven't rebutted some of the other assertions,
15 frankly, puts the cart before the horse.

16 If we are a surrounding community
17 and we get a disbursement, we can get
18 independent experts that can address those
19 concerns and bring to you intelligent
20 information that you can weigh. I can tell you
21 that Fitchburg hopes, the door is always open,
22 if we can have meaningful discussions with
23 Cordish and reach an agreement, we would like
24 to do that.

1 But in the meantime, we're going to
2 protect the city's interests. And I do hope
3 the Commission will protect the city's interest
4 by finding that it is a surrounding community.
5 And then we'll go through the process. We will
6 get information to present to the Commission.
7 If we have to go through the arbitration
8 process, we would be prepared to do that. I
9 don't have anything further, unless the
10 Commission has some questions.

11 CHAIRMAN CROSBY: Commissioners?

12 COMMISSIONER CAMERON: No questions.

13 COMMISSIONER ZUNIGA: I actually
14 have one for John. Are we going to take the
15 matter of involuntary disbursements at a later
16 time as well?

17 MR. ZIEMBA: Yes.

18 COMMISSIONER ZUNIGA: Because I have
19 questions about that request.

20 MR. ZIEMBA: Yes.

21 COMMISSIONER ZUNIGA; I will reserve
22 them for that time.

23 MR. BARRETT: If we are going to
24 deal with the involuntary disbursements, I have

1 comments particularly to that.

2 CHAIRMAN CROSBY: Later. Thank you.

3 MR. ZIEMBA: Joining us from PPE
4 Casino Resorts, we have Mr. Joseph Weinberg.

5 MR. WEINBERG: While they are
6 setting up the AV here, let me just start by
7 saying good morning. As you all know, I'm Joe
8 Weinberg, managing member for PPE.

9 I thought I would start a little bit
10 just by an introduction to how we've approached
11 the issue of surrounding communities. There's
12 no precedent for this anywhere in the state,
13 other than trying to interpret the statutes.
14 We took the approach of looking are our, I'm
15 going to call them, neighboring communities.
16 And how could we work with our neighboring
17 communities to try to make the benefits of our
18 project available to our region and really try
19 to approach this as a project that would
20 benefit the region.

21 From the standpoint of the technical
22 requirements of a surrounding community which
23 requires or outlines that you're a surrounding
24 community if you meet a number of tests. It's

1 not just you have a border that is adjacent but
2 it really gets more into is there a significant
3 adverse impact that you are going to have on
4 that community.

5 And we truly believe that we are not
6 going to have a significant adverse impact on
7 any of the communities around us. As you know,
8 the statute also looks at if there are any
9 adverse impacts, how do you weigh that against
10 the positive benefits of the project. And I
11 think the Commission, the state, the people of
12 Massachusetts who voted for this gaming act, if
13 they believed that the net benefits were
14 negative, we probably wouldn't be sitting here
15 today.

16 So. what we did you see on the map
17 here, you see Leominster in the middle. And
18 then we have eight communities who we have been
19 contacted by or in touch with regarding what I
20 will call these cooperation/surrounding
21 community agreements.

22 You can see to the east is Lancaster
23 and Bolton. Lancaster is the only community
24 that actually shares a border with the casino

1 project itself. In fact, we have entered into
2 a signed a surrounding community agreement with
3 Lancaster.

4 CHAIRMAN CROSBY: That's a completed
5 agreement?

6 MR. WEINBERG: Completed. And I
7 actually have it to give to John today. We
8 also have four other completed agreements with
9 Lunenburg, Townsend, Westminster and Princeton.

10 Just to address one of the final
11 comments from Bill recently, the statute
12 encouraged these amicable negotiations with
13 neighboring communities. And you have to start
14 and try to put them together as you are able to
15 do it. I think us and any other developer who
16 felt like by being amicable to work out one of
17 these cooperation surrounding community
18 agreements that if it was going to be held as a
19 prejudicial evidence that anyone else who is in
20 the same area is entitled to the same status as
21 a surrounding community, we and I don't think
22 anyone would undertake these type of amicable
23 agreements.

24 The idea is to try to create this

1 sphere of cooperation, but if it is going to
2 come back to haunt you that you've actually had
3 these constructive discussions, you've
4 negotiated agreements but that is going to
5 prejudicial to you with those who do not want
6 to negotiate in good-faith or you just can't
7 come to agreement, I don't think that's what
8 the statute says. I don't think that's what
9 the intent was. And I think it's impractical
10 if that were the intent, because then you get
11 into constantly riding in the circle.

12 So, our approach has been to try to
13 work with our neighbors, to try to work through
14 the benefits of the project. There's been one
15 consistent concern we've heard from everybody
16 we've dealt with and that's been traffic.

17 And we believe that the traffic
18 impact on the local roads, and I'll be getting
19 to that in a moment, are going to be
20 negligible. We think most of the traffic is
21 going to come off the state roads, the state
22 highways.

23 But the approach we have taken in
24 the agreements we have executed, the five that

1 we have executed, has been as opposed to us
2 trying to convince you that our traffic studies
3 are correct, and the town trying to convince us
4 that their projections are correct, the
5 implication of the traffic, because no one
6 thinks the traffic is going to cause a level of
7 service impacts on the local roads, the main
8 issue has been over the public safety costs.
9 That if there are more accidents or more DUIs,
10 a lot of the towns have limited public safety
11 officials. So, they were concerned about
12 overtime costs for police or fire.

13 CHAIRMAN CROSBY: Excuse me, from
14 what I've picked up, the biggest issue was
15 actually the flow of traffic and how much that
16 was going to affect people's lives. It also
17 included the demand for public safety services.
18 But I would have said, just from what I've
19 heard that that was secondary.

20 MR. WEINBERG: I will tell you in
21 our discussions, the primary -- Bolton may be
22 the only exception, but even in those
23 discussions -- I want to take you through it
24 because you have to have a flavor of the issues

1 that are being discussed.

2 The primary concern has been the
3 cost of police and fire responding to accidents
4 caused by there being increased traffic. I
5 will show you in a second as we go through the
6 local roads. The increase in traffic we're
7 having on local roads doesn't exceed two
8 percent, 117 is the exception. But the other
9 local roads that go through Sterling or
10 Fitchburg or Westminster or Princeton, there's
11 a negligible impact on the flow of traffic or
12 the increase in traffic.

13 So, the way we dealt with it in the
14 five agreements that we've done was we've said
15 that we will pay for any responses -- actual
16 costs of any response that your fire or police
17 have to our customers. And some, they bill us
18 for whatever they believe legitimately is
19 caused by additional events caused by customers
20 of the casino. In other instances, we've tried
21 to do a formula which basically looks at the
22 number of traffic incidents on the roads --
23 It's all public data. -- for the 12 months
24 prior to the opening of the facility, and then

1 the 12 months after the casino opens.

2 And while from a practical
3 standpoint, we would not be responsible for the
4 causation for all of that because there has got
5 to be something else going on in the region, we
6 have agreed in those incidents that we would
7 whatever it is, we'll take responsibility for
8 any increase in accidents on the road based on
9 that formulaic comparison.

10 That's allowed to get out of the
11 cycle of having to argue over is our traffic
12 report correct or do you need to go do lots of
13 other studies because you can spend money on
14 lots of other studies, they're just more
15 projections on what it's going to be. So, in
16 those five agreements that we've done where
17 it's a very rational look at okay, how do you
18 make sure you can't argue with it. You look at
19 actual data.

20 Before we leave this, this shows a
21 one-, three- and five-mile circumference around
22 the gaming site. As you can see, the only
23 communities that are within five miles for the
24 most part of the casino not of Leominster but

1 of the casino is Lancaster and Sterling.

2 There's a little bit of Lunenburg and a small
3 bit of Bolton. You get to the next --

4 COMMISSIONER MCHUGH: Why did you
5 pick one, three and five miles?

6 MR. WEINBERG: Just to show a range
7 of proximity, because really -- And I'm going
8 try to get into this as we go through the
9 upcoming slides, clearly as you radiate out
10 from the facility, the potential impacts
11 diminish. Our traffic does not have a lot of
12 peak flow to it. We are a 24-hour operation.
13 If anything our traffic is countercyclical to
14 the normal midweek rush-hour periods.

15 So, morning and afternoon drive
16 times are low peak periods for the casino
17 traffic. So, you really have traffic being
18 dispersed along the lots of different roads and
19 coming at a lot of different times and mainly
20 off-peak periods. Clearly, as you radiate out
21 from the facility, it's hard to argue that
22 there's lots of measurable impacts.

23 This slide just shows Fitchburg --
24 I'll get into addressing the individual

1 communities in a second. This shows the road
2 network. You'll be able to see these directly
3 from the handout I gave you, and the type of
4 traffic that we project we'll be putting on the
5 local roads. As you'll see whether it's 13
6 coming down through Townsend and Lunenberg or
7 12 and 31, 140, 12 and 62 through Sterling, the
8 amount of traffic generated by the facility is
9 less than one percent, one, two percent. It's
10 very negligible traffic coming through the
11 local arteries. The projection that most of
12 the traffic will come down 90, 2 and then 117.

13 This next slide shows --

14 CHAIRMAN CROSBY: Excuse me one
15 second. I see it looks like one 117 says 11
16 percent. And 2 is 37 percent --

17 MR. WEINBERG: I am going to make it
18 easier for you to see that in a second. This
19 is the trip route utilization overview. In
20 looking at -- And this kind of addresses the
21 comments from the selectman from Bolton. When
22 you look at what routes people are going to
23 use, our traffic people looked at the most
24 likely, quickest routes to the casino.

1 Most of our traffic, given what we
2 have to look at in terms of what is going to be
3 the full build-out of the gaming business in
4 Massachusetts. So, when you know there's going
5 to be a facility in the Boston area, one in the
6 south side and one to the west, a predominant
7 amount of our traffic is going to come from the
8 mid-part of the Beltway in the north, and then
9 north and south on 190. That is how we got to
10 our trip utilization. So, we show kind of
11 where we believe people are coming from and
12 what route they would take from each market.

13 I think it is also helpful in terms
14 of looking at will this facility create any
15 kind of material significant adverse impacts on
16 any of the surrounding communities. The
17 location that we are building in is a
18 commercially zoned area. It has been
19 identified both by Leominster and the Wachusett
20 Regional Planning Commission for intense
21 commercial development.

22 So, whether it's the casino or it's
23 other types of developments, this area has
24 already been slated for development and is

1 targeted by the region. This slide compares
2 the traffic that the facility will generate in
3 terms of trip generation and this looks at
4 midweek peak hour. And it looks at a number of
5 different comparisons.

6 The first the NED mixed use
7 development. There had originally been several
8 years ago a regional mall planned for this
9 location. So, this identifies what that would
10 have generated in terms of peak traffic. There
11 is an existing Walmart across the street from
12 the proposed gaming site. And their peak
13 traffic is about double what the gaming
14 facility is projected to have.

15 We've also provided comparisons to a
16 typical strip shopping center, 160,000 square
17 feet, a supermarket and Lowe's which is also in
18 the area of the casino. So, when you compare
19 it to other commercial uses that are targeted
20 for this area, the gaming facility does not
21 generate excessive peak traffic.

22 This is probably easier to look at
23 in terms of this looks at the trip distribution
24 on the local roads. So, what percentage of the

1 site trips are coming through each community
2 and each of the local roads. You can see with
3 the exception of Lancaster and Bolton that all
4 of the other communities have less than two
5 percent of the trips coming through their
6 communities.

7 You can also see why we took the
8 approach of trying to just treat everybody in a
9 similar framework. Because really the traffic
10 that is coming through the local roads are give
11 or take relatively the same through each of
12 these communities.

13 CHAIRMAN CROSBY: Well, not quite.

14 MR. WEINBERG: What's that? With
15 the exception of Lancaster and Bolton, right.
16 And in those instances, we're looking at about
17 11 percent of the local trips coming through
18 those communities.

19 And this looks at the daily increase
20 in traffic versus current condition through
21 each of these communities. Similar to the
22 prior slide, it shows you that the increases
23 are also in the two percent range with the
24 exception of Lancaster you'll see about an

1 eight percent increase in traffic on 117. And
2 Bolton will see an increase of about four
3 percent.

4 The reason why the increase in
5 Bolton is less than Lancaster is that this is
6 an increase in traffic. So, they have a much
7 higher volume of traffic today coming through
8 Bolton than Lancaster. So, the additional --
9 actually if you go to the next slide, Jeff.

10 COMMISSIONER MCHUGH: This is the
11 percentage over the existing.

12 MR. WEINBERG: Right. So, you have
13 compare to what is the existing state and what
14 is the impact of the incremental traffic that
15 we're adding to the roads.

16 The other thing that needs to be
17 kept in mind is that for instance through the
18 MEPA process, one of the things we're looking
19 at is the intersection -- This was required
20 under our ENF scoping -- was looking at the
21 intersection of 495 and 117. So, issues of
22 traffic improvements that are required under
23 MEPA if there are any, that will be something
24 that will be looked at as part of our

1 environmental impact review that's something we
2 are responsible for outside of the surrounding
3 community agreements.

4 So, if there are traffic
5 improvements that are needed to be made under
6 the MEPA process, we're required to make that.
7 So, that is not an issue in terms of the road
8 improvements under the MEPA process under the
9 surrounding community agreement.

10 Moving on from traffic for a moment.
11 Some of the other items that have been outlined
12 in some of the petitions by the communities for
13 surrounding community designation have implied
14 that somehow we will put some stress on the
15 infrastructure of these towns. And that is
16 simply not true. All of our utility
17 infrastructure, water, sewer is being provided
18 by the city of Leominster. We will be
19 improving the drainage in the area.

20 Right now the area that we are at
21 actually has a lack of storm water and drainage
22 controls. So, we are going to be putting in
23 state-of-the-art systems and really improving
24 the drainage issues in the area. Electricity

1 and gas are coming from the National Grid
2 provider. And there is plenty of capacity.

3 There had been a statement in the
4 Sterling petition that we were somehow
5 impacting their aquifer. We provided a letter
6 from the Department of Public Works from the
7 city of Leominster stating that this area is
8 being served today solely from the capacity of
9 the city of Leominster. It is not impacting
10 the aquifers of Sterling.

11 From a traffic standpoint,
12 construction traffic we will mandate that our
13 construction activities happen on the major
14 roads unless of course the contractor is
15 located in one of these local communities,
16 which is one of the things that we are trying
17 to do which is to hire as many local people as
18 possible.

19 Obviously, noise from construction.
20 We are in a commercial industrial area. So,
21 there is no overflow or impact from
22 construction noise to any of these communities.

23 From a traffic standpoint, there is
24 no road, including 117, where we are

1 diminishing the level of service of the road.
2 190 which is our major artery that we are off
3 of is way underutilized at this point. It's
4 only using about 30 percent of its capacity.
5 So, we have that infrastructure available to
6 us.

7 From a public safety standpoint, we
8 are building a police substation as part of the
9 facility for the Leominster Police. That is in
10 addition to the state police and Mass. Gaming
11 presence.

12 CHAIRMAN CROSBY: I was going to ask
13 about clarification. I've heard concerns. So,
14 what you are committed to is that you will
15 build enough to provide a substation in
16 addition to that space which is required for
17 the Massachusetts State Police in the Gaming
18 Commission?

19 MR. WEINBERG: Absolutely. If
20 anything, we undersold the amount of existing
21 regulatory and state and local presence. But
22 to clarify, absolutely we will have both what
23 we are required to do under the statute for the
24 Gaming Commission, the State Police as well as

1 a new substation for the city of Leominster
2 Police force. And that is a written obligation
3 under our host agreement.

4 And then another item that is
5 included in some of the petitions is a concern
6 over social aspects regarding problem gaming.
7 As you all know, the facilities will be paying
8 a lot of money and a big portion of the tax
9 goes towards addressing problem gaming issues.
10 In fact, the state will be spending a
11 disproportionate percentage of what's being
12 spent in the entire nation.

13 So, if anything we believe that
14 there will be more resources available for
15 addressing these social issues that exist
16 today. Of course, we are surrounded by states
17 and gaming facilities. So, we just believe
18 that given the size of our facility that if
19 anything, collectively between the facility
20 operators and the state, we will be bringing
21 more resources to this issue.

22 In fact, the state has 12 state-
23 funded programs to address problem gaming. One
24 of those is located in the city of Fitchburg.

1 So, the state is already funding those programs
2 in the region.

3 COMMISSIONER MCHUGH: Before we
4 leave this slide, what do you mean by the first
5 no level of service increase on any local or
6 state roads?

7 MR. WEINBERG: Roads are given
8 letter designations, A, B, C, D and F -- It
9 skips E -- which indicates at what level of
10 operation it is at. A being the best level of
11 operation. F obviously being failing. So,
12 typically you need to move from one letter
13 designation down in level of service, I think,
14 the typical rule of thumb is 10 percent
15 increase in the traffic. And not only that but
16 that causes it to then not operate properly.
17 But typically 10 percent is the threshold. So,
18 there is no road that we are impacting to that
19 degree that we are changing how the state would
20 designate the level of service on those roads.

21 COMMISSIONER MCHUGH: You have an 11
22 percent increase on 117.

23 MR. WEINBERG: It's not an 11
24 percent increase on 117. It's 11 --

1 CHAIRMAN CROSBY: Eight percent.

2 MR. WEINBERG: That was 11 percent
3 of the trips.

4 COMMISSIONER MCHUGH: 11 percent of
5 the trips.

6 CHAIRMAN CROSBY: The generated
7 trips, which nets to an eight percent increase
8 over its present volume.

9 COMMISSIONER MCHUGH: That's right.
10 That's right.

11 MR. WEINBERG: Eight percent in
12 Lancaster and four percent in Bolton.

13 COMMISSIONER MCHUGH: So, I guess
14 I'm thinking -- I hear you. But I'm thinking
15 you add a drop of water to a full cup and it
16 overflows. That's not an exact analogy. But
17 the impact on an already overstressed road may
18 only be a slight increase. But that slight
19 increase may have a detrimental --

20 MR. WEINBERG: And that's why we
21 look at the peak traffic numbers. For
22 instance, in the Bolton, Lancaster area, we
23 project about 54 trips per hour during the peak
24 5:00 to 6:00. So, during the peak rush-hour

1 traffic, we project about 54 trips going
2 through that area.

3 Again, our traffic is typically
4 countercyclical to those rush-hour traffic.
5 So, we're talking about adding less than one
6 car a minute to the traffic. So, during those
7 stress periods, it really is not a terribly
8 significant increase in the traffic on the
9 road.

10 COMMISSIONER MCHUGH: I hear you.

11 CHAIRMAN CROSBY: Obviously, we are
12 not competent to make these decisions by
13 ourselves. So, this debate will be for the
14 experts to talk about. We'll listen.

15 The issue before us is whether or
16 not certain towns should be deemed surrounding
17 communities. And it sounds to me like your
18 position at least in two or three of the cases
19 -- at least in two of the cases is not that
20 they shouldn't be surrounding communities, but
21 that you want to speak to the issue of the
22 nature of the surrounding community agreement.
23 Because if Townsend is a surrounding community,
24 it seems like pretty logical that Lancaster or

1 Bolton is going to be a surrounding community.

2 MR. WEINBERG: Let me address that.

3 There is a difference between entering into a
4 cooperative amicable agreement with a town
5 under the statute, which is one of the ways a
6 community can be designated a surrounding
7 community versus where an amicable agreement
8 cannot be reached, then you have to go to okay
9 there is a test set down.

10 And there are certain parameters set
11 down under the statute. And we do not believe
12 any of the petitioning jurisdictions meet the
13 test of a significant adverse impact from the
14 facility.

15 If we go to the next slide, we
16 cannot ignore because there's a balancing act
17 of the positives, the negatives if any. When
18 you look at the positive impacts of the
19 facility in terms of jobs, we have over 1200
20 jobs construction, permanent direct and equal
21 number of indirect. We have a \$30 million
22 annual payroll. We have over \$20 million in
23 goods and services that we are buying in the
24 area on an annual basis. We have tremendous

1 support from all of the areas Chambers of
2 Commerce, businesses, attractions,
3 universities, community colleges, workforce
4 development, the venues in the area.

5 We have the program with the
6 University of Massachusetts where we're funding
7 between \$1 million and \$1.5 million a year to
8 grow new businesses in the medical device
9 industry and to get those companies to
10 manufacture in the north central area. We will
11 be a major charitable giver in the area.

12 So, there is tremendous positive
13 impact that the communities around us will
14 receive the benefit of and we want them to.
15 And that's why we're all doing this.

16 But when it comes to do they meet,
17 do the petitioning communities meet the test of
18 a surrounding community under the statute, what
19 we've done in an amicable way with any other
20 community is really not relevant.

21 CHAIRMAN CROSBY: Your position on
22 Lancaster is they don't actually qualify as a
23 surrounding community but you gratuitously have
24 done a surrounding community agreement with

1 them because of the way in which they have
2 negotiated with you?

3 MR. WEINBERG: We don't believe that
4 we have significant and adverse impacts on
5 Lancaster, but clearly they actually have a
6 border that touches where we are. So that was
7 one that we would say was very important to
8 come to terms with.

9 We would say after Lancaster, in the
10 terms of -- We want to reach amicable agreement
11 with all of the communities we share up there.
12 But when we believe that the terms are not
13 acceptable to us in terms of what has been
14 discussed, for instance take Bolton for
15 example. We have a final agreement that was
16 presented to their board of selectmen last
17 night or two nights ago. We have worked hard
18 to try to reach --

19 CHAIRMAN CROSBY: And what happened
20 with that?

21 MR. WEINBERG: They rejected it two
22 to one.

23 CHAIRMAN CROSBY: So, one of the
24 selectman thought it was okay and two thought

1 it wasn't?

2 MR. WEINBERG: Yes. And if you read
3 the comments, just so you have a flavor of the
4 difficult position everybody is in here, when
5 you read the comments that were in the paper
6 and I don't know if it was this morning, but I
7 just saw the article this morning, the comments
8 coming out of the selectmen, who I never met
9 with by the way -- The gentleman who made the
10 presentation, he made a lot of comments, I
11 never met with him. We met with the town
12 administrator. And we worked through an
13 agreement.

14 The comments from the selectmen were
15 not -- the agreement doesn't work because it
16 doesn't address this specific impact that we
17 have. The comments are we can do a better deal
18 or we should get what Leominster got. Or we
19 should get a larger piece of what Leominster
20 received. Or the facility is going to make a
21 lot of money. They ought to pay us more.

22 So, those are the types of
23 impressions out there that some of these boards
24 have. I'm just quoting what is in the paper.

1 I wasn't there. So, I can't say whether the
2 quotes are accurate or not. But that is what
3 was reported.

4 That is not what the intent of this
5 process was. It was to identify impacts to the
6 extent they are identifiable and to try to
7 address it. And that's what we have done.

8 For instance, just to give you a
9 sense, the agreement with Bolton -- By the way,
10 the agreement we have with all of these
11 communities on the issue of traffic and the
12 cost of that traffic, it self modulates. So,
13 the community gets compensated based on the
14 actual impacts they have. So, there is a
15 misunderstanding by, and I think there is a
16 misunderstanding in Bolton that somehow they
17 should get more than the other guy got because
18 if they have more traffic incidents the way we
19 have approached it, then they get more because
20 it's based on that actual experience.

21 Again, to answer your question, we
22 do not believe they meet the test or any of the
23 other petitioning communities meet the test of
24 a surrounding community. We think the fact

1 that we have signed and we've done a good job
2 of trying to bring other communities into the
3 fold and have negotiated successfully five
4 agreements, to hold that against seems to be
5 (INAUDIBLE) to the whole intent of the process.

6 COMMISSIONER MCHUGH: So, if I
7 understand your position, just to make sure I
8 do understand it, apart perhaps from Lancaster,
9 none of the communities is a surrounding
10 community within the meaning of the statute and
11 the regs. But you've negotiated agreements
12 with them, so you don't get to the factor test.

13 MR. WEINBERG: Exactly.

14 COMMISSIONER MCHUGH: And nobody
15 should against the you the fact that -- or use
16 as a precedent the fact that you entered into a
17 surrounding community agreement with a
18 community that is not really a surrounding
19 community.

20 MR. WEINBERG: You said it much
21 better than I did. Yes, I agree.

22 COMMISSIONER MCHUGH: No, I just
23 want to make sure I understand.

24 CHAIRMAN CROSBY: You did, Judge.

1 MR. WEINBERG: That's a very clear
2 summation. I'm happy to answer any questions.

3 CHAIRMAN CROSBY: What are the
4 essential terms of the deal with Lancaster, the
5 agreement with Lancaster same as the one you
6 put up before?

7 MR. WEINBERG: This is not the
8 Lancaster agreement, but I'll tell you --

9 CHAIRMAN CROSBY: But are they the
10 same?

11 MR. WEINBERG: Lancaster is slightly
12 different.

13 CHAIRMAN CROSBY: So, I'm asking
14 about Lancaster.

15 MR. WEINBERG: So, on Lancaster
16 there's an annual community impact fee payment
17 of \$35,000 per year. We agreed to pay them up
18 to \$200,000 to do road design on an
19 intersection that they believe they are having
20 issues with today. So, we agreed to fund the
21 road design work. Any improvement there we
22 will benefit from as well.

23 Then it has these additional
24 provisions. This is true of the five that we

1 have signed. There is a public safety response
2 cost reimbursement, which is we reimburse the
3 actual cost for police and fire responses
4 caused by our facility.

5 We have created what we call a
6 surrounding community benefit payment, which is
7 a rising scale of a percentage of our gaming
8 revenues over a breakpoint, which starts at .25
9 percent and rises to one percent. So, the idea
10 was that we achieve great results in the
11 facility that the communities will shared in
12 the benefits.

13 CHAIRMAN CROSBY: The .25 to one is
14 for each of the communities that signed this or
15 is this a pool?

16 MR. WEINBERG: It's a pool that
17 would be shared by those communities that enter
18 into --

19 CHAIRMAN CROSBY: And what is the
20 breakpoint?

21 MR. WEINBERG: The first breakpoint
22 is \$200 million. Cooperation in seeking funds
23 from the community impact fund from the state.
24 Local hiring preferences, local vendor

1 preferences for the facility, of course our
2 ongoing commitment for running a responsible
3 gaming program at the facility. Participation
4 in regional marketing and tourism and cross-
5 marketing programs with both the communities
6 and their businesses. Then we also provide for
7 the reimbursement of the town's cost in
8 negotiating the agreement with us.

9 COMMISSIONER STEBBINS: Do the local
10 hiring and local vendor preference dilute
11 anything that was in your agreement with the
12 city of Leominster?

13 MR. WEINBERG: It is all subject to
14 the host agreement. So, we believe that the
15 people we will be hiring and the businesses
16 that we will be doing business with that there
17 is not sufficient capacity in Leominster to
18 satisfy all of our needs. So, we believe that
19 there is a major opportunity for the whole
20 area.

21 CHAIRMAN CROSBY: Is there a
22 reopener of some sort in the Lancaster deal?
23 Take for example, if your estimation that the
24 eight percent increase doesn't move it from one

1 category down to another, if it did, if it were
2 15 percent instead is there any kind of a
3 reopener?

4 MR. WEINBERG: There is not a
5 reopener. One of the reasons for the
6 participation in the community benefit fund was
7 there may be some relationship between our
8 revenues that we are doing and the type of
9 traffic we're generating. So, that would
10 provide additional compensation to the
11 communities.

12 Of course, the community impact fund
13 that is being created under the gaming tax to
14 the state, that is really the very reason for
15 the use of those impact funds are things today
16 we can't sit here and say that is going to be
17 an issue. That fund is to address needs in the
18 future.

19 CHAIRMAN CROSBY: The way we've
20 characterize that fund is that it will be
21 available for unanticipated or unanticipatable.
22 The fact that your eight percent number by your
23 own discussion, the number of public safety
24 incidents you can claim one thing, somebody can

1 claim another. Nobody is going to really know
2 it until it's over. So, you put in a sliding
3 scale which seems eminently fair. You might
4 very well take the same approach towards
5 traffic.

6 COMMISSIONER ZUNIGA: I wanted to
7 ask about the MEPA process that you will be
8 required to do and follow through, can you
9 expound a little bit on what those improvements
10 may look like currently in that intersection?

11 MR. WEINBERG: Under the MEPA
12 process, we followed our ENF filing. Part of
13 that process is then there is a scoping in
14 terms of anything else the state wants us to
15 look at. That is also instructive on the whole
16 issue of the surrounding community agreements.

17 Because MEPA did not require us to
18 look at any roads in Sterling and Fitchburg or
19 any of these communities. There was one
20 intersection which they wanted us to look at
21 which the state is already looking at which is
22 the intersection of 495 and 117. And it's
23 really part of a potential revenue share in
24 whatever improvements.

1 If it is anticipated we are going to
2 cause -- And this will come out during our EIR,
3 to the extent that we are exacerbating the
4 problem there, then we would be required to
5 share in the cost with the state and other
6 users in any improvements at that intersection.
7 I have my traffic consultant just to make sure
8 I'm being accurate.

9 By the way, when the Walmart was
10 built in the same area, there was no
11 requirement to look at any roads by MEPA in
12 Fitchburg or in Sterling because it wasn't
13 anticipated that there would be any
14 exacerbation of problems with those roads. So,
15 that is also something that is very instructive
16 in terms of the validity of our traffic
17 projections.

18 CHAIRMAN CROSBY: Anything else?

19 Thank you.

20 MR. ZIEMBA: Thank you, Mr.
21 Chairman. Now we'll move on unless the
22 Commission wants to take a break.

23 CHAIRMAN CROSBY: Just one thing
24 just to be sure that I'm clear, but I think

1 also everybody watching. So, the process here
2 is that we with your leadership will get our
3 own external experts to look at these
4 assumptions and assertions and claims and
5 counterclaims and so forth, and will try to
6 advise us as to what they think is the net
7 negative consequence, net material negative
8 consequence.

9 And that we will then take that
10 under advisement, talk about it probably and
11 come to our own conclusion as to this threshold
12 issue of should a community be deemed a
13 surrounding community or not.

14 MR. ZIEMBA: That's correct.

15 COMMISSIONER MCHUGH: We will do at
16 our next meeting?

17 MR. ZIEMBA: That's correct. I'd
18 certainly hope that the numbers would be
19 reduced to where they are now.

20 CHAIRMAN CROSBY: From where they
21 are now.

22 MR. ZIEMBA: From, I wish we had
23 smaller numbers going into this analysis for
24 next Thursday.

1 CHAIRMAN CROSBY: I hope you're
2 right. This is obvious, John, but this is
3 stuff where we are going to have a tough time
4 -- We have anything to do but to rely on
5 experts. And if there are dueling experts, I'm
6 not exactly sure how we're going to resolve
7 that. Unfortunately, we are going to need to
8 see that early enough in the game.

9 If there are continuing material
10 problems and counterclaims to try to figure
11 that out, I'm not quite sure how we do that.
12 But we are going to need enough time to give
13 that a fair look.

14 MR. ZIEMBA: From the beginning of
15 this process, we had always counseled numerous
16 entities that to the degree that we can have
17 the outside group providing either an
18 affirmation of numbers or questioning those
19 numbers, it certainly makes the process of
20 going into these Commission reviews a lot more
21 understandable and manageable. But we are now
22 in a situation of trying to look at those
23 numbers ourselves and make determinations based
24 on what has been submitted.

1 CHAIRMAN CROSBY: Right.

2 COMMISSIONER MCHUGH: Do the RPAs
3 have any information that they can add to this
4 mix?

5 MR. ZIEMBA: We have RPA reviews for
6 the Raynham application. We don't have an RPA
7 review for the Leominster application. But as
8 part of our process, we are going to contact
9 the RPAs just to see if there's been any
10 studies that we are not aware of.

11 CHAIRMAN CROSBY: For that big
12 development the mixed use development on that
13 same site there must be a lot of prior work.

14 MR. ZIEMBA: That's right.

15 CHAIRMAN CROSBY: For what
16 apparently is a much bigger facility in terms
17 of its impact.

18 MR. ZIEMBA: That's right.

19 CHAIRMAN CROSBY: Okay. What's
20 next? It's 11:00, let's maybe come back at
21 11:15.

22

23 (A recess was taken)

24

1 CHAIRMAN CROSBY: I am pleased to
2 see that our representatives of applicants and
3 surrounding communities are talking. And if
4 they want to keep talking and come to
5 conclusions, we can always postpone this
6 meeting.

7 We are reconvening the 90th session.
8 It's about 11:15, Ombudsman Ziemba.

9 MR. ZIEMBA: Thank you, Mr.
10 Chairman. We will now be joined by
11 representatives of the towns that have
12 submitted petitions relative to the Raynham
13 facility. First up we a representative from
14 the town of Bridgewater, Mr. Dutton, town
15 manager.

16 MR. DUTTON: Thank you. Good
17 morning members.

18 COMMISSIONER ZUNIGA: Good morning.

19 CHAIRMAN CROSBY: Good morning.

20 COMMISSIONER MCHUGH: Good morning.

21 MR. DUTTON: My name is Michael
22 Dutton. I am the town manager of the town of
23 Bridgewater. Thank you for this opportunity to
24 testify on the town of Bridgewater's petition

1 to be named a surrounding community.

2 For reasons set forth in the
3 petition we filed on October 31, we urge the
4 Commission to find that Bridgewater will
5 experience significant impacts due to the
6 operation of the facility. The applicant has
7 already designated every other town abutting
8 Raynham a surrounding community but not the one
9 with the second longest common border and the
10 shared school district. My testimony today is
11 short.

12 CHAIRMAN CROSBY: Thank you.

13 MR. DUTTON: That always scores
14 points. We are adding information to our prior
15 petition as follows. Number one, an analysis
16 of the applicant's nearby community impact
17 report dated September 2013 finds two critical
18 flaws. First, the applicant contends that the
19 site is located approximately one mile from the
20 Bridgewater line. That's correct. But over
21 two miles by road via Routes 138 and 106. This
22 ignores the most direct route which is Route
23 138 South to Elm Street in Raynham to Route 104
24 in Bridgewater, which is a primary east-west

1 roadway which transects most of Bridgewater.

2 Similarly, the study makes no
3 reference to travel over Route 104 Westbound to
4 Route 138 North as a means of accessing the
5 proposed facility.

6 Number two, the applicant refers to
7 the report issued by the Old Colony Planning
8 Council, the regional planning organization,
9 which fails to find any impact, significant
10 impact to Bridgewater. This report simply is a
11 review of the applicant's nearby community
12 study, which we find flawed and does not
13 analyze any data or independently generated
14 reports.

15 In fact, the OCPC report itself
16 suggests the applicant should expand its
17 traffic study area to include Route 106 and
18 Route 104 through Bridgewater, because it
19 believes that the local roadways will be
20 significantly impacted.

21 Also, in 2012 Mass. DOT commissioned
22 an OCPC study specifically to review Route 104
23 in Bridgewater for bottlenecks and to make
24 recommendations for roadway improvements. We

1 clearly already have a highly congested
2 roadway, which will be impacted by additional
3 east-west traffic generated by the slots
4 facility.

5 Number three, an increase in traffic
6 on Routes 24 and 495 as the applicant concedes
7 will generate additional emergency calls for
8 Bridgewater as the first responder. Since
9 2006, our fire department has responded to
10 almost 500 calls on Routes 24 and 495. Since
11 2006, our police department has responded to
12 over 300 calls to the most westerly part of
13 Route 104. Since 2006, our fire department has
14 responded to almost 100 calls for mutual aid to
15 Raynham with whom we have a mutual aid
16 agreement.

17 An increase in traffic to and from
18 the applicant's proposed facility will require
19 additional resources from the town of
20 Bridgewater.

21 Number four, the town of Bridgewater
22 and the town of Raynham share a regional school
23 district. A slots facility could be the single
24 most important impact to Bridgewater for two

1 reasons. One, a slots employee with children
2 moving to the town of Bridgewater where homes
3 are generally less expensive than Raynham will
4 increase our assessment. That's the simple
5 calculation.

6 Second, the host community
7 agreement, which has been approved by the
8 voters in Raynham, will add \$1 million in
9 unrestricted revenue to the town of Raynham.
10 Added to the expected increase in property tax
11 value, Raynham could conceivably have an
12 additional \$2 million a year to devote the
13 regional school district.

14 While there is certainly nothing
15 wrong with devoting resources to education, we
16 are concerned that the new and sudden supply of
17 unrestricted revenue will place Bridgewater at
18 a distinct disadvantage including the
19 possibility that the district would in fact
20 break apart.

21 We do not believe it was the intent
22 of the Gaming Act to put communities in this
23 position. In fact, we do not believe the issue
24 of shared regional school districts was ever

1 contemplated during the Act's drafting.
2 However, it is the undeniable consequence,
3 which could be addressed by a surrounding
4 community agreement.

5 I must acknowledge to the Commission
6 that the applicant has receptive to discussing
7 a nearby community agreement and has reached
8 out to Bridgewater on a number of occasions.
9 And we've had a number of sessions with them,
10 albeit brief.

11 And we are appreciative of these
12 overtures, but we are firmly convinced that the
13 residents of Bridgewater are more protected
14 from any future impacts by being designated a
15 surrounding community by the applicant or the
16 Gaming Commission.

17 As I mentioned earlier, all of the
18 other abutting communities have been designated
19 and we are perplexed why we, the community that
20 bears 60 percent of the cost of the regional
21 school district we share with the host
22 community, why we would not be among those
23 designated towns.

24 So, I thank you very much for your

1 time and your consideration and the time you
2 put into what's obviously a time-consuming and
3 difficult job. I don't envy the Commission at
4 all. Thank you and I'm happy to answer any
5 questions.

6 CHAIRMAN CROSBY: Run the school
7 district by me again. Why might the -- First
8 of all, is there something in the host
9 community agreement with Raynham that specifies
10 money going to the consolidated school
11 district?

12 MR. DUTTON: No, quite the opposite.
13 There's unrestricted, a \$1 million unrestricted
14 payment to the town of Raynham that's included
15 in the host agreement.

16 Our feeling is that that money, any
17 additional what I call unrestricted monies
18 going into the host community, more power to
19 the host communities. But it will put
20 increasing pressure on our town, Bridgewater,
21 who is a member of the regional school
22 district, the two-town regional school
23 district. It will put more pressure on our
24 budget to match the available money that

1 Raynham has to spend on their education.

2 CHAIRMAN CROSBY: How does that
3 work? Are you forced on a pro-rata basis to
4 match all the money they put up?

5 MR. DUTTON: Not necessarily forced
6 on a pro rata basis, but certainly if the
7 school committee votes a budget that is much
8 larger than the current budget, primarily
9 because Raynham can afford to pay that extra
10 assessment, it will put pressure on Bridgewater
11 to try to match and to afford the additional
12 assessment that we would see.

13 COMMISSIONER MCHUGH: Are you paying
14 equal amounts now?

15 MR. DUTTON: It's not exactly equal.
16 I won't try to explain the educational funding
17 formula. That would be a disaster, but roughly
18 60 percent of the regional budget is what we
19 pay right now. Raynham pays roughly 40 percent
20 and that is in turn about 60 percent of our
21 total budget.

22 CHAIRMAN CROSBY: I'm sorry,
23 Bridgewater pays what percent of the regional
24 budget?

1 MR. DUTTON: About 60 percent.

2 CHAIRMAN CROSBY: What is the makeup
3 of the school committee?

4 MR. DUTTON: The makeup of the
5 school committee is roughly equal members from
6 Bridgewater and Raynham. They are voted, I
7 believe, at-large.

8 COMMISSIONER MCHUGH: What is the
9 student population percentage?

10 MR. DUTTON: Percentage split is
11 roughly 60/40.

12 COMMISSIONER ZUNIGA: This is a
13 district regional at the high school level
14 only, correct?

15 MR. DUTTON: The district is
16 regional, entire region, all of the schools K-
17 12.

18 COMMISSIONER ZUNIGA: But this
19 dynamic of a breaking apart has been going on
20 in that region for a while, it's not new.

21 MR. DUTTON: It's not a new concept.
22 Our fear is that this could be the impetus to
23 actually break that apart, the financial
24 pressure on Bridgewater and more financial

1 independence of Raynham could force the
2 district to fall apart.

3 CHAIRMAN CROSBY: That's a creative
4 approach, which is not to pass judgment at all
5 on the pros or cons of it. Any other
6 questions?

7 COMMISSIONER MCHUGH: Thank you,
8 very much.

9 COMMISSIONER ZUNIGA: Thank you.

10 COMMISSIONER CAMERON: Thank you.

11 MR. ZIEMBA: Next we are joined by
12 Jonathan Silverstein representing the town of
13 Lakeville.

14 CHAIRMAN CROSBY: The ubiquitous.

15 MR. SILVERSTEIN: I've been called
16 many things, never ubiquitous, Mr. Chairman.
17 Good morning, once again, Jonathan Silverstein
18 for the town of Lakeville today. I received a
19 call last night from the town asking me to
20 represent its interests here today. So,
21 forgive me if I don't have a prepared
22 presentation on the town's behalf.

23 I want to begin by saying that
24 although Lakeville is not an abutter to

1 Raynham, it misses abutting Raynham by not many
2 feet all to the southeast. There are number of
3 concerns that the town has with respect both to
4 major arteries 495, 140, 44 as well as a number
5 of more local roads. As well as you heard the
6 Bridgewater town manager mentioned property
7 values, Lakeville as well has lower property
8 values than Raynham and has concerns about
9 housing pressures there and impact on schools.

10 I believe it was November 1 that
11 Lakeville received a draft neighboring
12 community agreement from the applicant. And
13 last week for the first time it had an
14 opportunity to sit down with the applicant. Of
15 course, the town was not included in the
16 applicant's impact study and has not received
17 any impact -- any consultant funding to conduct
18 impact analyses of its own.

19 In its opposition to the town's
20 submission, the applicant noted that SRPEDD,
21 the RPA had not identified any impacts on
22 Lakeville. Again, I'll note that SRPEDD was
23 only peer-reviewing what the applicant did
24 which did not address Lakeville.

1 And I'll also just read for you a
2 short excerpt from an email that the town
3 received from SRPEDD. This was on November 1.
4 This was from SRPEDD to the town: Because the
5 MEPA studies are not complete for the proposed
6 facility, there are limitations to this
7 analysis. And we intend to update the work as
8 more information becomes available. But given
9 the rapidly moving time schedules -- Something
10 I've spoken in the past to the Commission
11 about. -- we felt it was important to provide
12 you what we have done to date.

13 So, since they were only peer-
14 reviewing what the applicant had done, which
15 did not address Lakeville and SRPEDD explicitly
16 stated hey, this isn't really a very
17 comprehensive study, Lakeville continues to
18 have concerns. And given the timelines, given
19 the lack of impact consultant funding,
20 Lakeville's concerns are primarily about the
21 unforeseen impact or the unknowable impacts at
22 this point not because they are truly
23 unknowable but because there hasn't been any
24 study of those impacts on Lakeville.

1 So, that brings us to where we are
2 today with Lakeville just wanting to protect
3 its interests by getting its petition into the
4 Commission prior to the deadline, which it did.

5 I believe and Ms. Lee when she
6 speaks on behalf of the applicant can correct
7 me if I'm wrong, I believe it's very likely
8 we'll be able to reach agreement with the
9 applicant before the Commission has to take
10 this up again next Thursday. There has, as has
11 been noted, what the applicant is terming a
12 nearby community agreement proposed to the
13 town. And there may be a couple of minor
14 changes that need to be made to that.

15 The problem has been that since it
16 was first proposed to the town, the town simply
17 hasn't had a meeting of its board of selectmen,
18 which is the contracting authority to be able
19 to review that. They have that meeting coming
20 up on Monday. I'm hopeful that I'll be able to
21 report to Mr. Ziemba. If not, on Tuesday if
22 there are some other changes that the board
23 needs to make that I'll be able to work quickly
24 with Ms. Lee and the applicant to make those

1 changes. And then I'll be able to report
2 before your meeting next Thursday that the town
3 has reached agreement. But those are the
4 primary concerns of the town.

5 I'll be happy to address any other
6 concerns or questions that the Commission may
7 have.

8 CHAIRMAN CROSBY: Anybody?

9 COMMISSIONER MCHUGH: It sounds like
10 you are on the right track.

11 CHAIRMAN CROSBY: Thank you.

12 MR. SILVERSTEIN: Thanks so much.

13 MR. ZIEMBA: Now we'll be joined by
14 the town of Rehoboth, Mr. Jeff Ritter, Town
15 Administrator.

16 MR. RITTER: Good morning.

17 COMMISSIONER CAMERON: Good morning.

18 CHAIRMAN CROSBY: Good morning.

19 MR. RITTER: I'll break the record
20 for the shortest presentation today. The one
21 and only reason that we come before you today
22 is that as you may or may not know the town of
23 Rehoboth is located approximately 10 miles from
24 the site.

1 However, the most important
2 consideration is that the town of Rehoboth has
3 Route 44 that goes directly through the center
4 of the community. To that end, what we're
5 trying to do is that we are trying to impress
6 upon the Commission that Rehoboth is going to
7 be impacted in our public safety realm, in our
8 ability to respond to police, fire, ambulance.
9 So, that's primarily our statement. I wish you
10 would give us consideration and we look forward
11 to hearing from you.

12 CHAIRMAN CROSBY: Are there
13 discussions going on with the applicant?

14 MR. RITTER: We have had discussions
15 with the applicant. And we haven't come to any
16 conclusions as of yet.

17 CHAIRMAN CROSBY: Anybody else?
18 Thank you.

19 COMMISSIONER CAMERON: Thank you.

20 COMMISSIONER MCHUGH: You did set
21 the record.

22 CHAIRMAN CROSBY: You did set the
23 record, but records are meant to be broken.
24 Don't forget that everybody else out there.

1 MR. ZIEMBA: The Raynham Park, LLC
2 applicant, if they could come forward, Ms.
3 Grace Lee and Mr. Tom Bonner.

4 MS. LEE: Good morning,
5 Commissioners. For the record there is
6 actually three of us Grace Lee for the
7 applicant. I have with me General Counsel for
8 Greenwood Entertainment and Racing, Tom Bonner.
9 And then with me also is Tom Carney part of the
10 Carney Group.

11 I'm going to actually hand it over
12 to Mr. Bonner. He's been working with Tom and
13 I in reaching out to all of the communities.
14 And he'll be able to give you -- If there are
15 no questions right now, I am going to have Mr.
16 Bonner give you an update of what we've done
17 and how we've approached this.

18 MR. BONEER: Thank you, Grace. Good
19 morning, Mr. Chairman, good morning,
20 Commissioners. I am a big fan of brief
21 presentations, but Mr. Ritter set the bar
22 extremely high. I don't think I can match his,
23 but we will be brief.

24 One of the things that I'd like to

1 emphasize to the Commission is that we
2 understand the significance of this process.
3 We've addressed it as a collaborative process.
4 We've included the communities in our meetings
5 that we've had.

6 One of the reasons that I think
7 we've been able to demonstrate an interest in
8 and a concern for this project is the
9 participation of the Carney family in our
10 project. These neighboring towns know the
11 Carney family. They know the operation. They
12 know what the Carney family businesses have
13 meant over the years. And I think that there's
14 a certain level of comfort that comes from
15 dealing with a known entity and quantity. So,
16 we are glad that they have been able to be a
17 part of the process.

18 The big picture, we have 11 towns
19 with whom we have had various communications.
20 We've had one meeting with some towns. We have
21 had four meetings with some towns. I have a
22 meeting at 2:00 today with Grace and Tom Carney
23 to meet with another town. So, we devoted our
24 full effort to this once we got the October 4

1 application behind us.

2 We've designated four towns to date
3 of the 11, Easton, Taunton, West Bridgewater
4 and we just designated Middleboro on Monday.
5 We have an executed surrounding community
6 agreement with Taunton.

7 That leaves five petitioners.
8 Middleboro had petitioned you for recognition.
9 But in the interim, we did recognize them. So,
10 there's five towns that have petitioned the
11 Commission for recognition. They are Berkeley,
12 Dighton, Bridgewater, Rehoboth and Lakeville.
13 You heard from Rehoboth, Bridgewater and
14 Lakeville today. You know the status from the
15 comments that were made today.

16 With respect to Berkeley, we have
17 been in detailed discussions about the
18 possibility of Berkeley executing a nearby
19 community agreement as distinguished from a
20 surrounding community agreement. I am
21 optimistic that we'll be able to report next
22 week that we've reached an agreement with them.

23 So, if we're successful with
24 Berkeley and Lakeville as was just indicated,

1 we'll knock another two off the list. The
2 point is we are working hard; we're making
3 progress. That covers nine.

4 The other two towns I haven't
5 addressed, Norton and Stoughton. Stoughton did
6 not petition for surrounding community status
7 because we had prior to the end date signed a
8 nearby community agreement with Stoughton. So,
9 they are off your radar screen and not to be
10 worried about.

11 The only other town with which we've
12 had communication but no agreement and no
13 petition to you is the town of Norton. They
14 haven't been back in touch with us. They had
15 not indicated any interest in meeting with us.
16 So, I have nothing to report with respect to
17 Norton.

18 The summary is there are nine towns
19 who are either designated or have petitioned
20 for designation. We have one agreement signed
21 with one. We hope we are going to have
22 agreements with two or three others. So, we
23 are whittling down the list. I'd be happy to
24 answer any questions that you may have. That's

1 the summary of where we are. We continue to
2 work on it.

3 And knowing your schedule, although
4 November 21 next week is an important date for
5 designation, we then have another 30 days to
6 try to get these deals done in whatever form
7 these towns may present themselves following
8 your actions next week.

9 CHAIRMAN CROSBY: Excuse me. The
10 accessorizing touch with the pen is a nice one.

11 Say again where Rehoboth is. What
12 is the status of Rehoboth?

13 MR. BONNER: With Rehoboth, we have
14 met with Rehoboth and have discussed and
15 submitted to them a proposed nearby community
16 agreement with Rehoboth.

17 CHAIRMAN CROSBY: Which addresses
18 this traffic on 44 issue?

19 MR. BONNER: Yes. Based on
20 discussions we had with Mr. Ritter, he had
21 identified that same concern when we met. And
22 the nearby community agreement that we sent to
23 him addresses that.

24 By the way, the format of the nearby

1 community agreement is this wait-and-see
2 approach. We enter into an agreement now. We
3 agree that a year or so after opening we will
4 agree with the town on what things to study.
5 We will study those items.

6 We will get that report results. We
7 will then meet and agree or if we cannot agree,
8 based on what you said last meeting Mr.
9 Chairman, I believe that disagreement comes
10 back to the Commission for a decision under the
11 arbitration section of the regulation. That is
12 the general format of the nearby community
13 agreement.

14 CHAIRMAN CROSBY: Thank you.

15 COMMISSIONER CAMERON: John is
16 shaking his head no.

17 MR. ZIEMBA: No.

18 MS. BLUE: No. The arbitration
19 provision under our regulations anticipates the
20 arbitration occurring now to get through a
21 surrounding community agreement. So, the
22 applicant is free to agree to that in some form
23 independently in their own agreement but will
24 not be the arbitration under our regs.

1 MS. LEE: Yes, I was going to
2 correct Counsel. What we put into the nearby
3 community agreements is the integration of
4 those provisions to go through the arbitration
5 process.

6 I just wanted to back up so that the
7 Commission understood exactly how we approached
8 this process. We approached this process as
9 the Carneys have always approached the
10 surrounding communities and nearby communities
11 as neighbors, just as neighbors.

12 They've been neighbors with these
13 communities as a facility for over -- almost
14 half a decade. They continue to maintain those
15 great relationships. So, in kind of going
16 forward with that, Tom and I initially even
17 before the application, and we were a little
18 ambitious, before the application was due, we
19 met with every community that reached out to us
20 regardless of whether we thought they were
21 significantly impacted, regardless of the legal
22 analysis. That was subsequently going to have
23 to be applied by this Commission.

24 We wanted to understand exactly what

1 the concern was. We also recognize that they
2 were going to view the applicant's reports with
3 a little bit of skepticism. So, we integrated
4 into these meetings the RPAs, both SRPEDD and
5 Old Colony, to make sure that they had all of
6 the information that we had available. We gave
7 them access to our information. We wanted to
8 make sure everybody had a comfort level that
9 the information was objective.

10 It is our information, It's
11 information that we've submitted to MEPA. It
12 was in our ENF reports. All of that
13 information was made available per the
14 regulations to all of these communities as well
15 as to the RPAs.

16 After listening to all of the
17 communities, one of the consistent themes we
18 heard by everyone around the facility is that
19 they weren't certain what the impacts were
20 going to be. And the anxiety was if they
21 didn't do something then they were going to
22 waive all of their rights, which is completely
23 understandable because I think we all sit here
24 today not certain about what the impacts are

1 going to be significant, insignificant or
2 otherwise.

3 So, we formulated a nearby community
4 agreement, which basically has the wait-and-see
5 provision to actually analyze the impacts at
6 that time. So, that's the approach with that
7 we've been going forward with. That's the
8 approach that we've kind of engaged everyone
9 with. We've relied heavily on the RPAs'
10 assessments to the extent that when SRPEDD
11 finished their analysis and came out with
12 Middleboro being significantly impacted per the
13 regulations, we recognized them as well.

14 So, this continues to be a
15 collaborative process. We hope to wrap this up
16 before the deadlines. And we had hoped that we
17 could get all of this done before today, but we
18 are still optimistic that hopefully we will get
19 it done before the 21st.

20 COMMISSIONER ZUNIGA: I forget if
21 you gave this update, Mr. Bonner, but West
22 Bridgewater. -- I'm sorry. You gave an update
23 of West Bridgewater, what about Bridgewater?

24 MR. BONNER: We met with Bridgewater

1 yesterday. That was the second meeting that we
2 had had with Bridgewater. We agreed to meet
3 again next week to continue our discussion with
4 them.

5 The issue with Bridgewater is will
6 we designate them as a surrounding community.
7 We are still working through some of the data
8 they presented to us. You heard Mr. Dutton's
9 comments today. Taking a little different
10 views on traffic flows and where traffic will
11 come from, we will take that under advisement.
12 We just got that information yesterday.

13 It was that kind of information that
14 we got from West Bridgewater who we originally
15 did not designate that led us to designate
16 them. They gave us some additional traffic
17 information that we didn't have from our
18 studies. So, we have shown we are receptive to
19 that information from the towns. And we have
20 to review what Bridgewater shared with us
21 yesterday.

22 CHAIRMAN CROSBY: In your wait-and-
23 see package, how do you anticipate that
24 suggestion in the statute that there is a

1 weighting of good effects versus negative
2 effects?

3 MS. LEE: I think in the agreement
4 we do take -- there is language in there about
5 the net negative impacts. So, the
6 contemplation of recognizing positive impacts
7 is in there. I can't tell you exactly today
8 how it will be quantified, but there is a
9 consideration for that.

10 CHAIRMAN CROSBY: We are looking for
11 some help on how to quantify.

12 MR. BONNER: So far, we've put the
13 words in the agreement. How we effect them
14 remains to be determined.

15 CHAIRMAN CROSBY: All right. We'll
16 try that too. Anybody else? Thank you.

17 MR. ZIEMBA: That is the conclusion
18 of the first part of the testimony. And I'll
19 ask representatives from Fitchburg and the
20 Cordish representative, Mr. Weinberg, whether
21 not they want to provide additional testimony
22 regarding the disbursement. Fitchburg, can you
23 join us?

24 Commissioners, I will note in your

1 package, we have a very preliminary analysis
2 that was completed by Green International
3 regarding one aspect of the Fitchburg petition,
4 namely traffic. That's included in your
5 packet. They are here today if you have any
6 further questions about that preliminary
7 analysis.

8 CHAIRMAN CROSBY: Did you want to
9 speak?

10 MR. BARRETT: Thank you, Mr.
11 Chairman, Commissioners. Again, I'm John
12 Barrett. I'm the city solicitor for Fitchburg.
13 And I'd like to convey the Mayor's regrets,
14 Mayor Wong's regrets that she was unable to be
15 here today because of other commitments. If
16 she had been here, we probably would have been
17 here a lot longer today, because I know she had
18 a lot to say.

19 Just briefly, I don't want to
20 reiterate what is in our application or
21 petition for recognition. But I'd just like to
22 stress the fact that Fitchburg and Leominster
23 are known as the Twin Cities. We do have a
24 common border of approximately seven miles. We

1 do share a lot of our infrastructure with
2 respect to the regional transit system, the
3 Montachusett Planning Commission and the
4 housing collaboratives that we have.

5 Fitchburg also, I think, has taken a
6 lead or has been a lead community dealing with
7 a lot of social service agencies. Apart from
8 the traffic concerns that we have, we have I
9 think even a greater concern with respect to
10 some of the negative consequences that can come
11 from a gambling facility such as being
12 proposed.

13 We recognize that there have been
14 studies, I believe there is one, a particular
15 one by the University of Buffalo, and correct
16 me if I'm wrong Bill, that denotes or observes
17 the fact that communities that have lower
18 social-economic -- lower income population can
19 be more adversely affected than other the
20 communities.

21 Sadly, Fitchburg has a 19 percent
22 poverty rate which is twice that of
23 Leominster's. I'm sure much greater than the
24 other surrounding towns. So, that's one of

1 those issues that we are concerned about and
2 it's very hard to quantify. It's hard to
3 determine exactly what effect this proposal is
4 going to have.

5 So, with that as something of a
6 background, what I particularly wanted to speak
7 to is our request for an involuntary
8 disbursement. We feel that we needed
9 assistance to deal with this. None of us in
10 the city, particularly myself as the city
11 solicitor or my assistant city solicitor had
12 any experience with this. Of course, this is
13 all a whole bright new world with the Expanded
14 Gaming Act. So, there's a lot of newness to
15 this to this whole process.

16 But I felt that we needed expert
17 assistance in dealing with representing the
18 city and counseling the city. To that end, I
19 was required to ask the Council and the mayor
20 for a special approval to seek the services of
21 Mr. Devereaux and Mr. Feher and their firm to
22 help us with this.

23 With the understanding and quite
24 frankly the belief that we do have -- quite

1 frankly, it was with the expectation that we
2 would be recognized as a surrounding community.
3 We met, quite frankly, once with Mr. Weinberg
4 and I forget the gentleman's name, but from the
5 traffic folks, I believe he was from Whitman
6 and Bingham Engineers.

7 It was a fairly brief meeting of
8 about one hour. In that meeting, Mr. Weinberg
9 basically extolled the fact that this is going
10 to be bringing economic benefits to the city
11 and that there would be no negative
12 consequences. And that they really had no
13 intention of recognizing any surrounding
14 communities. That's my recollection of the
15 extent of our discussion.

16 We were quite frankly taken aback by
17 that. And we responded by making a proposal.
18 They have termed that proposal as being
19 outrageous. If it was, and I'm not saying that
20 it was, but if it's determined to be is in part
21 due to the fact that this is very hard for us
22 to quantify and we needed the assistance of
23 counsel to deal with these issues.

24 I'm just trying to make an analogy,

1 I think the applicant has suggested that
2 they're willing to meet with us and negotiate,
3 but their opposition to recognition as a
4 surrounding community and I guess their
5 opposition to our petition for involuntary
6 disbursement is akin to saying we're willing to
7 play ball with you but you don't get a bat
8 during the game.

9 So, I feel I'm asking the Commission
10 to approve our petition for involuntary
11 disbursement. We, I believe, need this
12 assistance. I guess just to conclude my
13 comments, it's something of a conundrum on my
14 part or a confusion on my part. And I think
15 Chairman Crosby picked up on this. I don't
16 understand how the logic of the applicant in
17 terms of its interpretation of the Act vis-a-
18 vis what constitutes a surrounding community.

19 It seems that what they are saying
20 is if you agree with what we're willing to give
21 you, we will designate you as a surrounding
22 community. But if you don't, you're not, ergo
23 you're not a surrounding community. And the
24 Chairman I think picked up on this, is that the

1 town of Townsend, which is approximately 14
2 miles from the center of Leominster, does not
3 share a border with Leominster, has been
4 designated as a surrounding community, but
5 Fitchburg isn't. There's something about that
6 that just doesn't make sense to me and
7 hopefully doesn't make sense to you.

8 With that I would just ask that the
9 Commission favorably consider our petition for
10 involuntary disbursement and give us the means
11 to deal further with our position that we are a
12 surrounding community and should be designated
13 as such. And I'd like to turn it over to Bill
14 Devereaux, if I could.

15 MR. DEVEREAUX: I would note that
16 and I think the Judge's questions to the
17 applicant focused on this, that essentially
18 there aren't any surrounding communities under
19 the Act as far as the applicant's position is
20 before the Commission.

21 But the law says if an applicant
22 enters into an agreement with a city or town,
23 by law it's designated a surrounding community.
24 The logic then is if you're recognizing these

1 towns as surrounding communities, certainly
2 Fitchburg fits within that definition. And
3 then you can't at the same time use the
4 agreements you made with other towns as sort of
5 a market for negotiations with towns that
6 haven't come to agreements with you. So, I
7 would submit that it is relevant for the
8 Commission to consider.

9 The types of experts, I don't think
10 it's any secret to the Commission, we do need
11 to focus on the traffic impacts. We do need to
12 focus on the issue of problem gaming. The
13 University of Buffalo study, which is fairly
14 current, indicates that any town or city that
15 has a significant number of people that are in
16 the lower socioeconomic strata within a 20-mile
17 radius of a casino tend to get more adverse
18 effects from problem gambling than other
19 similarly situated, geographically situated
20 towns. Fitchburg frankly I think fits right
21 within that definition.

22 The public safety impact I would
23 submit needs to be examined as well. I would
24 probably agree with the applicant that the

1 police part of that is probably going to be
2 adequately addressed if you have a substation.
3 But there's definitely going to be an increase
4 in responses by fire and EMT and then you shift
5 right into the whole mutual aid process. Those
6 things need to be studied and put before the
7 Commission. And that's one of the reasons that
8 we've asked for this disbursement. Thank you.

9 CHAIRMAN CROSBY: Remind me what the
10 request is and where it comes from? How much
11 of a disbursement are you looking for?

12 COMMISSIONER ZUNIGA: \$50,000.

13 MR. BARRETT: \$50,000.

14 CHAIRMAN CROSBY: What is the
15 allocation of that? Where does that budget
16 come from?

17 MR. DEVEREAUX: It's a combination
18 obviously, legal expenses, expert, projected
19 expert fees. Ideally you try to get maybe
20 somebody who can handle the public safety and
21 the traffic study at the same time. If you
22 reach out to the author of the study at the
23 University of Buffalo, there is going to get to
24 be a charge for that.

1 CHAIRMAN CROSBY: What is the makeup
2 of the 50, more or less, in those categories
3 just round numbers?

4 MR. DEVEREAUX: I would say probably
5 60 percent is going to be legal because we are
6 kind of boots on the ground and have been in
7 this for some time now. Then would allocate
8 the remainder to the experts.

9 CHAIRMAN CROSBY: Okay.

10 COMMISSIONER ZUNIGA: I have a
11 couple questions. In the justification request
12 that you present here, you identify the
13 identical population demographically as a
14 factor for requesting this money. Help me
15 understand why that is a factor.

16 MR. DEVEREAUX: That particular part
17 of our presentation indicates a number of
18 factors. One is the population of the two
19 cities is virtually 40,000 I think Fitchburg
20 might have.

21 MR. BARRETT: In number.

22 MR. DEVEREAUX: In number, but we
23 might be 200 people more. However, the poverty
24 rate in Fitchburg is substantially higher.

1 COMMISSIONER ZUNIGA: That's under
2 factor number three. I'm talking about just
3 the similarities.

4 MR. DEVEREAUX: Well, it shows
5 because of the nature of how close these two
6 cities are and the demographics, it certainly
7 speaks number one to the issue of the problem
8 gaming, because if you look at a study such as
9 the one that came from the University of
10 Buffalo, the negative impacts are probably
11 going to be felt more in Fitchburg because of
12 the lower socioeconomic strata. That's one of
13 the pieces of information that we put before
14 the Commission.

15 The other is concerning the roadways
16 that traverse Fitchburg to get to the facility.
17 Because on the one hand when I hear Cordish
18 indicate they're going to do some cross-
19 marketing and they're going to do some
20 advertising in the area, I would assume into
21 New Hampshire. One of the ways to get to the
22 casino is through Fitchburg.

23 So, there's going to be potentially
24 negative -- when I say negative, it's going to

1 be more use of the roadways which leads to the
2 depreciation of the roadways.

3 We certainly don't sit here and say
4 gee, Cordish somehow is responsible for the
5 problems that Fitchburg has. That frankly is
6 an absurd notion.

7 No, the question is is this type of
8 gambling going to exacerbate the situation
9 Fitchburg is now in. And we would need to
10 disbursement to adequately address those
11 concerns.

12 COMMISSIONER ZUNIGA: I want to
13 understand what is going to stay with the issue
14 of problem gambling for a minute. It's
15 something that we've thought a lot about. We
16 are doing a big study, as you may know, that
17 will have a baseline measure and eventually
18 have a real impact measurement, state level and
19 regional as well.

20 How do you propose that this factor
21 could be studied with the \$50,000 that you are
22 requesting?

23 MR. DEVEREAUX: I would hope what we
24 would do is we would reach out to Dr. Welte who

1 wrote the study. I'm aware, I believe, the
2 Commission has consulted Fr. McGowan from
3 Boston College who frankly is a well-respected
4 expert in this area, not only the economics but
5 he's also studied the issues of the negatives,
6 the problem gambling aspect of it.

7 Why the Buffalo study stood out to
8 us and why we would want to explore that is
9 because Fitchburg seemed to fit right within
10 the demographics that that study was talking
11 about. We are going to be within 20 miles of
12 this casino. It's an entertainment venue.
13 People go there to gamble. They go there to
14 eat, drink or whatever.

15 But the fact is there is going to be
16 increased population flow into that facility.
17 And based on the studies that we see, the one
18 from the University of Buffalo the negative
19 aspects of that could certainly adversely
20 affect Fitchburg perhaps more than others in
21 the region.

22 COMMISSIONER ZUNIGA: That may be
23 the case, but there's a lot of money that goes
24 to this particular issue already earmarked in

1 our legislation.

2 CHAIRMAN CROSBY: I would just add
3 too. I'd put an even finer point on it. To
4 preview where I'm coming from, my guess is we
5 may not be deciding this at the moment. But
6 for you to look at the problem -- for the
7 community to look at the problem gambling issue
8 is akin to the surrounding communities trying
9 to do than our background checks. It makes no
10 sense.

11 The amount of money that's being
12 done to attend to both host community, regional
13 and statewide baseline conditions, impacts of
14 expanded gaming, treatment, programmatic
15 responses thereto, it's utterly superfluous in
16 my opinion for an individual community to think
17 that you'll be able to enhance that. Traffic I
18 can't speak to, but that one I would very much
19 reinforce Commissioner Zuniga's point.

20 COMMISSIONER MCHUGH: Perhaps you're
21 not aware of the dimensions of that, but we
22 could certainly send you the link to the
23 website for the study. And you can see what's
24 there and what's being done.

1 MR. DEVEREAUX: We would appreciate
2 that. Let me emphasize, we're not trying to
3 reinvent the wheel. But when you have a city,
4 in essence, we're trying to justify first that
5 we're a surrounding community. And secondly,
6 if we have to engage -- if we can't come to an
7 agreement, we would hope we could with Cordish,
8 but if we can't and we have to go to an
9 arbitration, we do have to have a bat and ball
10 to play the game. We have to project as best
11 as we can. In some ways, we're shooting in the
12 dark in terms of what types of expert evidence
13 we would have to give and why Fitchburg is
14 different.

15 CHAIRMAN CROSBY: I don't think
16 we're disagreeing with that. We're just saying
17 this particular one, you might be barking up
18 the wrong tree. But that's for you --

19 MR. BARRETT: One thing, and I hear
20 what the Commission is saying as far as the
21 other provisions for problem gambling
22 individually. But I think what we are
23 concerned about too is somewhat the residual
24 effects.

1 If someone who has a problem with
2 gambling, spends their paycheck, can't pay
3 their rent, applies for fuel assistance. Those
4 are some of the needs just briefly that they're
5 going to fall back on some of the services that
6 the city will particularly have to try to
7 respond to. So, it's very difficult to try to
8 quantify that again, but it goes beyond just a
9 person that's got problems with gambling.

10 I'm not sure and I really don't know
11 if the funds that are available through the Act
12 would address those. But we are concerned that
13 that is going to fall back to the city with
14 lack of housing, people losing their housing,
15 getting evicted because they didn't pay their
16 rent. Those kinds of social societal impacts
17 that could, we feel, have a bearing on our
18 ability to deal with those problems.

19 CHAIRMAN CROSBY: One last, it might
20 be relevant as to whether you're a surrounding
21 community or not. I was bringing it up in the
22 context of your \$50,000. If you get your
23 \$50,000, you could think of better ways to
24 spend it. It may be relevant to whether or not

1 it would have a negative impact on you. But I
2 was speaking to how you were going to spend
3 your money.

4 MR. BARRETT: Thank you, Mr.
5 Chairman.

6 COMMISSIONER ZUNIGA: I had a
7 question, but it would be the same thing.
8 Another factor that you list here, you say that
9 there would be potential stress to the city's
10 housing stock particularly as it comes to
11 inspectional services or to ensure proper code
12 enforcement. Do you have your petition in
13 front of you?

14 MR. BARRETT: I left it over there,
15 Commissioner. I think that the issue there --
16 And again, we're at a baseline where our
17 resources for dealing with housing problems and
18 state sanity code is less than what we really
19 need to have. So, we're not laying blame to
20 the applicant for that.

21 But where our concern is one
22 scenario is quite frankly that the employees
23 that may work for the applicant, they are not
24 all people that are going to be making \$50- and

1 \$60,000. They are going to have some folks
2 there that are going to be in the lower
3 economic income levels. And there is a great
4 likelihood that I think a lot of those people
5 are going to gravitate to Fitchburg for their
6 housing.

7 We have a fairly high vacancy rate.
8 We have a housing stock that is generally old
9 and dilapidated. So, we're going to have more
10 people that are going to be, I think, working
11 at the applicant's facility that will likely
12 come to Fitchburg for housing.

13 I don't know Bill if you can -- I
14 guess that's borne out by the information we
15 received from the Massachusetts Opportunity
16 Council. That is one of the social service
17 agencies that we have in the area. They
18 expressed to us a concern that this is a
19 potential problem and that would put a stress
20 on our ability to inspect and follow-up with
21 code enforcement to protect the housing for
22 people who will work at the facility.

23 COMMISSIONER ZUNIGA: But you
24 already have those resources existing, don't

1 you?

2 MR. BARRETT: They are inadequate.
3 They are inadequate. The fact that we believe
4 that there's going to be more stress put on
5 that because and I forget the number of people
6 that are expected to work at the facility --

7 COMMISSIONER ZUNIGA: 400 or 500
8 people and you are a city of 45,000.

9 MR. BARRETT: There is going to be
10 -- I think a significant proportion of them
11 will look for housing in Fitchburg. A lot of
12 our housing stock is older three-decker
13 tenement housing. They're pretty old. The
14 code needs to be enforced and they need to be
15 upgraded. We don't have the resources with our
16 inspectional services to go out there and sort
17 of get people to bring the properties up to
18 code so that people are living in safer homes.

19 COMMISSIONER MCHUGH: I don't want
20 to resolve this now, but there's a commitment
21 to hire local people. That's part of the host
22 community agreement. That's part of the pitch
23 that's been made. That's part of the things
24 that the Commission is looking for.

1 So, part of what the Commission is
2 going to be looking for, part of what it's
3 going to be expecting of the applicants, part
4 of what is in this host community agreement is
5 to hire local people. Those people already
6 have homes. So, they're going to be upgrading.

7 CHAIRMAN CROSBY: You could always
8 ask people not to move to Fitchburg. If you
9 think that's a net negative having people move
10 to Fitchburg, you could try to discourage that.

11 MR. BARRETT: I don't think we're
12 suggesting that, Mr. Chairman and Mr.
13 Commissioner, but I think that is something
14 that we perceive that there is going to be a
15 need with respect to housing resulting from the
16 facility. And ideally, they will live in
17 Fitchburg.

18 Quite frankly, Commissioner, as to
19 your point about there's going to be hiring
20 from the area, we really don't know
21 specifically -- I can't remember quite frankly
22 what commitments to Leominster preclude the
23 hiring that would go out beyond that. I am
24 sure there is going to -- What we perceive is

1 there are going to be people that will live in
2 Fitchburg that will work there and that will be
3 a good thing. I agree with you.

4 But because of what we perceive at
5 least as the economic situation, where they are
6 going to be living is in some of the housing
7 that needs code enforcement, needs work. We
8 feel that we are going to have more -- need
9 more assistance with that.

10 MR. DEVEREAUX: I also assure the
11 Commission, we're not looking for some sort of
12 a blank check to go out and candy-select
13 different experts. There is certainly going to
14 be some issues that are going to have in the
15 city's judgment more potential for a negative
16 impact. Those certainly are where we would
17 advise the client to spend their resources.

18 But as it is now, we have a city
19 that comes into a situation like this, and
20 really does not know what they're facing. They
21 have to be properly advised especially if
22 they're going to be in an adversarial situation
23 where the applicant is saying first, you are
24 not a surrounding community and if you are, you

1 should take what we give you pretty much
2 without question.

3 We would certainly, and I'll assure
4 you again, we'd like to talk to them and have a
5 two-way dialogue to see if we can get somewhere
6 in the meantime. But we have to prepare for
7 the worst case scenario. And that in essence
8 is why we are before you and looking for what
9 we projected to be a fair enough number to
10 accomplish what we need to do.

11 We're not going to reinvent the
12 wheel and have a huge gambling addiction study.
13 I'm aware it is a minority percentage of the
14 people that go to these facilities where all of
15 the studies show. The question is is it going
16 to affect a certain type of a population more
17 than another. That's sort of a narrow analysis
18 of the issue. And those are the kinds of
19 things that we would focus on.

20 In terms of the housing, we would
21 have obviously take a cursory look at that
22 first. There's going to be more jobs if this
23 happens, which is a good thing. But it's not
24 going to be a panacea.

1 You're going to have some high-
2 paying jobs in the tech. area and some of the
3 business managers. But after that, it pretty
4 well drops off. Those are going to be service
5 jobs. It's going to be people that watch the
6 VLT machines. It's going to be retired police
7 officers that are hired to be security that go
8 around the facility make sure that things are
9 on the up and up.

10 And then there are going to be
11 service people at the restaurants. Most of
12 these places a fairly self-contained. It would
13 be great if there is this networking idea that
14 has been touted, but I submit that that is
15 probably not that likely. I think what you're
16 going to see is a fairly self-contained entity.
17 It's good that they're going to have the
18 police, but there is going to be a number of
19 EMT calls that are made. And the statistics
20 show that.

21 So, those are the kinds of things
22 Fitchburg -- We have got to be able to come
23 before you or whatever arbitration panel if it
24 gets to that point and be able to put some of

1 the kinds of statistics that Cordish was able
2 to put up on the screen today. That's
3 essentially why we are here.

4 COMMISSIONER ZUNIGA: I've got to
5 ask one last question. This is the last factor
6 that you cite in your justification, and that
7 is the potential impacts to the city school
8 because of -- including bilingual education.

9 I am familiar from two jobs ago that
10 Fitchburg already educates about twice on a
11 percentage basis compared to statewide average
12 non-English speakers. So, you already have
13 effectively those programs. You already are
14 required to have those programs; is that not
15 the case?

16 MR. DEVEREAUX: Yes. The question
17 really is what is the extra strain on those
18 programs. That's what we want to look at. But
19 we already have those programs.

20 CHAIRMAN CROSBY: Anybody else?
21 Just for the record, I did raise the issue if
22 Townsend is a surrounding community maybe that
23 says something. And the applicant raised a
24 nuance to that, which I think reasonable men

1 could understand. So, don't conclude from what
2 I said that that's the end of the conversation.

3 Anybody else? I think there is
4 enough issues here, particularly on the traffic
5 side. I think we have some data on the other
6 side where we can be kind of commonsensical
7 about. But I think we would want to hear the
8 traffic one is the big one. And our own
9 studies, our own peer-review are not
10 dispositive yet. And they don't feel like they
11 really had a chance to do the job.

12 So, my suggestion would be wait on
13 this, get the staff report and decide on this
14 on the 21st. Does everybody agree with that?

15 To be sure, I think it would be
16 safer for everybody if you guys could figure
17 this out. And I understand that's easier said
18 than done but the arbitration process probably
19 is too, if that's what you end up involved in.
20 Okay.

21 MR. BARRETT: Thank you.

22 MR. DEVEREAUX: Thank you.

23 MR. DAY: Mr. Chairman, if Catherine
24 and I could make a few comments after the live

1 entertainment venue.

2 CHAIRMAN CROSBY: To be fair, I
3 spoke too quickly. If the applicant wanted to
4 respond as well, feel free.

5 MR. WEINBERG: I will be brief. For
6 the record, we have opposed the petition from
7 Fitchburg for a number of reasons. One, if the
8 application - First, from my prior discussion
9 earlier today, we believe that they don't meet
10 the definition of a surrounding under the
11 statute. Again, the statute has -- there is
12 several ways to become a surrounding community,
13 one is through an agreement with the applicant.
14 The other is to petition and show you meet
15 those tests. And we believe they don't meet
16 those tests and therefore to disburse money
17 when they should not be found a surrounding
18 community, that's why we oppose it.

19 Secondly, the application has no
20 specificity and I think you all just kind of
21 zeroed in on that on the use of the monies.
22 So, the city has clearly had enough time to
23 define exactly what it needs to study, to have
24 a scope of those studies, to have gone out and

1 gotten bids to conduct those studies. So, the
2 specificity they could've come forward and
3 given us definition as to exactly what they're
4 trying to achieve.

5 Having done a lot of market research
6 in my day, typically, you don't spend money
7 unless the answers you can get from those
8 studies rationalize the expenditure of money.

9 The Commission is doing the traffic
10 studies. To spend more money on traffic
11 studies when the Commission will be looking at
12 that issue, I think is not a reasonable
13 expenditure of funds. You talked about the
14 problem gaming issues. And I'm not quite sure
15 where else but the legal fees that the money is
16 going to go to. So, those are the reasons why
17 we oppose the application.

18 Just to air some of the comments,
19 some of the issues that were outlined as things
20 to study such as the housing stock. Clearly,
21 we can either hire people from Fitchburg or not
22 hire people from Fitchburg. We can encourage
23 or discourage people from living in Fitchburg.

24 I think we all realize that having

1 people move into an area is a net benefit.
2 That's how you get housing upgraded and you get
3 income flowing into a community. So, we can
4 work with the community in one way of
5 positively trying to encourage those types of
6 working with the community or to discourage it.

7 But I also want to give you our
8 commitment that we will try as hard as we can
9 to work with the city Fitchburg. Hopefully, we
10 can spend some time after this meeting. I will
11 also make a commitment for the three
12 communities that we are opposing their
13 petitions for surrounding communities that we
14 will keep open our offer for the cooperative
15 agreements that we have notwithstanding the
16 Commission finding that they don't meet the
17 test of surrounding communities.

18 And we're happy to -- We're making
19 the commitment right now. But we're prepared
20 to do that because at the end of the day we
21 want to have this cooperation with all of our
22 neighboring communities.

23 COMMISSIONER CAMERON: That's an
24 important point. In other words, if we don't

1 deem them to be a surrounding community based
2 on the definition or the factors, you will
3 still be willing to work in a cooperative
4 manner.

5 MR. WEINBERG: Absolutely. In fact,
6 we're happy to put the agreement that we've
7 done with others in escrow.

8 CHAIRMAN CROSBY: We'll take that on
9 faith. When you had the opportunity to work
10 with an RPA for a region wide deal, what was
11 your reaction to that?

12 MR. WEINBERG: In terms of the
13 Wachusett regional?

14 CHAIRMAN CROSBY: I forget which
15 agency it is.

16 MR. WEINBERG: They took a look --
17 They attended the MEPA gathering, gave their
18 comments to that I believe. They did issue I
19 think a report.

20 CHAIRMAN CROSBY: But I meant the
21 process that we offered -- that we would fund
22 or eventually you would fund the RPA sort of
23 being the honest broker for many if not all of
24 the surrounding communities.

1 MR. WEINBERG: There's really been
2 no discussion on that direction. The RPA did
3 look at certain things.

4 MR. ZIEMBA: We've had numerous
5 conversations about the availability of the RPA
6 program and it's a voluntary program by
7 applicants and communities. It was up to the
8 applicant to take advantage of that program.

9 CHAIRMAN CROSBY: And the applicant
10 elected not to? In this case, the applicant
11 elected not use that resource, right?

12 MR. ZIEMBA: In fairness to Mr.
13 Weinberg, it wasn't clear that the RPA wanted
14 to pursue that given where it was in the
15 process at that moment.

16 CHAIRMAN CROSBY: Okay. Just one
17 thing, I take some of your points. But there
18 is a catch-22 in our process. The poorer and
19 smaller a community is, the less resources it
20 has to make the case to us that either it
21 should have an involuntary disbursement or
22 become a bidder (SIC).

23 And we've done everything we can do
24 to accommodate that. This is a very poor town.

1 On the one hand the offer of free legal
2 services, we'll try to get it out of the
3 applicant is a little obnoxious. On the other
4 hand, fortunately somebody is willing to step
5 up and help a town that's a real poor town.
6 So, it's not a one-sided matter.

7 And I think this is a weakness. I'm
8 not sure it's a weakness that could have been
9 fixed but it is an inherent weakness in our
10 process that the poorer and smaller you are,
11 the less you've got a chance to come to the
12 table with some kind of tools to have serious
13 negotiations.

14 MR. WEINBERG: The city has had the
15 benefit of the representation of counsel.
16 They've had significant time to prepare their
17 arguments and to identify what it is that is
18 critical in terms of potential impacts and what
19 they needed to study. And I think they failed
20 to do that.

21 Just the minimum of coming in with
22 we need to do this study, here's the scope,
23 here's the cost, here's the bids that we've
24 accepted. That doesn't cost anything to go out

1 and solicit those bids.

2 Unfortunately, it leads to a lot of,
3 for want of better words, throwing everything
4 up against the wall to try to make a case. And
5 it's very difficult for us as an applicant or
6 any applicant to try to deal with everything in
7 the world that could potentially be a problem
8 without trying to define the specificity
9 something that you can try to sink your teeth
10 in and try to address.

11 CHAIRMAN CROSBY: Anybody else?

12 MR. WEINBERG: Thank you.

13 CHAIRMAN CROSBY: If that doesn't
14 change what we talked about before then I think
15 we will sit on this and get the advice of our
16 staff and consultants and talk about this next
17 week.

18 COMMISSIONER MCHUGH: We really are
19 committed, as I understand the process to next
20 week decide on who the surrounding communities
21 are. So, this is simply a request for a
22 payment in advance of the designation, which
23 our regulations permit. Once a community is
24 designated a surrounding community, certain

1 rights flow with that designation.

2 By not deciding an advanced payment
3 today, I think we are basically taking the
4 advance payment issue off the table. We're not
5 taking the payment issue off the table, we're
6 taking --

7 CHAIRMAN CROSBY: And thereby
8 costing Fitchburg a week's worth of time
9 potentially.

10 COMMISSIONER MCHUGH: Potentially,
11 that's right.

12 CHAIRMAN CROSBY: That's a fair
13 point. But I don't feel like I -- The primary
14 criteria is a reasonable likelihood that the
15 community would be designated a surrounding
16 community. And I don't have an opinion about
17 that.

18 COMMISSIONER MCHUGH: I don't have
19 an opinion on that one way or the other.

20 CHAIRMAN CROSBY: But your helpful,
21 clarifying the impact here is helpful. And I
22 didn't note that. General Counsel?

23 MS. BLUE: We have one more matter.
24 It's an impacted live entertainment venue

1 matter. We have received two, perhaps three
2 petitions. We've monitored them and all but
3 one have resolved over time.

4 The process for designation of an
5 impacted live entertainment venue is very
6 similar to a surrounding community. And as of
7 late in the day on Tuesday, we understood that
8 there was one venue. It is the South Shore
9 Music Circus that remains unresolved.

10 So, they will put a petition before
11 us to be considered as an impacted live
12 entertainment venue. We weren't sure whether a
13 representative would be here today to just
14 brief the Commission on that. We do in fact
15 have a representative.

16 So, we'd like to give them a few
17 minutes to explain their petition. We will put
18 their formal petition in the book for you next
19 week. And you could decide on that at that
20 point just as you would with the surrounding
21 communities to accept or deny their petition.
22 We do have a representative who would like to
23 say a few words.

24 CHAIRMAN CROSBY: Is there any

1 technicality that this came in just two days
2 ago and we didn't have a chance to get it on
3 the agenda? Or is it all right under the item
4 you're bringing it up as opposed to the
5 unanticipated?

6 MS. BLUE: We think it's the same
7 process, essentially it's a different item.
8 But we think it's a very similar process. So,
9 we'll just let folks speak to it. But we will
10 put it on the agenda specifically next week.

11 CHAIRMAN CROSBY: And we won't
12 decide.

13 MS. BLUE: We won't decide today.

14 CHAIRMAN CROSBY: Okay, good.

15 MR. MARTIN: My name is Peter
16 Martin. I'm an attorney at Bowditch and Dewey,
17 Commissioner. What I'd like to do, if Mr.
18 Chairman and the Commissioners are agreeable is
19 to begin me giving a short statement and then
20 turning the podium over to Mr. Siebels and Mr.
21 Longo will also deliver brief statements. Copy
22 of their statements have already been made
23 available to the Commission. And then we'll be
24 happy to take any questions you have for us.

1 As I say, I'm Peter Martin. I'm
2 partner in the law firm of Bowditch and Dewey
3 in Worcester. I represent the Massachusetts
4 Performing Arts Coalition, Incorporated, a
5 Massachusetts nonprofit organization created in
6 August of 2012. MPAC is organized as an
7 association of not-for-profit or municipally
8 owned performance venues located in
9 Springfield, Worcester, Lowell, Hyannis,
10 Cohasset, Lynn and New Bedford.

11 MPAC was created to promote the
12 general welfare of member theaters and of the
13 touring entertainment industry in Massachusetts
14 to facilitate collaboration and cooperation
15 between and among its members. And to
16 facilitate equitable and transparent agreements
17 between its member theaters and Massachusetts
18 casino licensees as contemplated in
19 Massachusetts expanding gaming legislation.

20 MPAC has six members with theaters
21 -- one of the members is South Shore Playhouse
22 Associates which operates the Cape Cod Melody
23 Tent in Hyannis and the South Shore Music
24 Circus in Cohasset. When I refer to South

1 Shore Playhouse Associates or SSPA, I will be
2 referring to both venues.

3 The South Shore Playhouse Associates
4 is a nonprofit Massachusetts Corporation
5 created in 1948 and is tax exempt under section
6 501(c)(3). As I said, I'm sitting here with
7 Troy Siebels, the president of MPAC and Vincent
8 Longo, the chief operating officer of South
9 Shore Playhouse Associates.

10 We'd like to give you some
11 background information about MPAC and South
12 Shore Playhouse Associates, describe our
13 interactions to date with Raynham Park, LLC and
14 explain why we believe SSPA's two sites are
15 both an impacted live entertainment venue under
16 the Expanded Gaming statute and its associated
17 regulations.

18 As you know, under section 2 of the
19 statute, an impacted live entertainment venue
20 is a not-for-profit or municipally owned
21 performance venue that is designed in whole or
22 in part for the presentation of live concerts,
23 comedy or theatrical performances which the
24 Commission determines experiences or is likely

1 to experience a negative impact from the
2 development or operation of a gaming
3 establishment.

4 Regulations promulgated under that
5 statute state that an impacted live
6 entertainment venue shall be a venue located in
7 the Commonwealth that has executed an impacted
8 live entertainment venue agreement with the
9 gaming licensee applicant or one that has been
10 designated an impacted live entertainment venue
11 by the Commission.

12 Under the first prong of the
13 regulatory definition, in order for an executed
14 impacted live entertainment venue agreement to
15 establish that it was an impacted live
16 entertainment venue, that agreement must be
17 submitted with the RFA-2 application, be in
18 compliance with section 15 sub 10 of the
19 Expanded Gaming statute.

20 If such an agreement has not been
21 finalized and submitted as part of the
22 application, the parties have 30 days after the
23 impacted live entertainment venue designation
24 by the Commission to include such an agreement.

1 The statute requires an impacted live
2 entertainment venue agreement to provide at a
3 minimum terms related to cross-marketing,
4 coordination of performance schedules,
5 promotions and ticket prices.

6 Under the second prong of the
7 regulatory definition, the Commission is to
8 consider certain factors in making a
9 determination that a venue is an impacted live
10 entertainment venue. The regulation provides a
11 nonexclusive list of factors such as: the
12 distance the venue from the gaming
13 establishment, the venue's capacity, the type
14 of performances offered by that venue and
15 whether the applicant includes a geographic
16 exclusivity clause in its contracts with
17 entertainers or otherwise intends to limit the
18 performance of entertainers in Massachusetts.

19 Mr. Siebels will describe to you the
20 efforts of MPAC and South Shore Playhouse
21 Associates to enter into an impacted live
22 entertainment venue agreement with Raynham
23 Park.

24 Mr. Longo will describe to you the

1 characteristics of South Shore Playhouse
2 Associates that qualify it as an impacted live
3 entertainment venue.

4 The preference of MPCAC and South
5 Shore Playhouse Associates is to enter into an
6 impacted live entertainment venue agreement
7 with Raynham Park. And I believe we are close
8 to concluding such an agreement that meets the
9 statutory requirements.

10 However, because we had not
11 concluded an agreement with Raynham Park within
12 the 10-day period after the Commission's notice
13 of receiving Raynham Park's application, we
14 filed a petition for impacted live
15 entertainment venue recognition that is the
16 subject of today's discussion.

17 I will note that the following
18 characteristics of South Shore Playhouse
19 Associates entitle it to an impacted live
20 entertainment venue determination from the
21 Commission. There are two venues in question
22 owned and operated by a tax-exempt nonprofit
23 Massachusetts Corporation that presents
24 exclusively musical performances at South Shore

1 Music Circus and Cape Cod Melody Tent.

2 For the specific reasons that Mr.
3 Longo will describe to you, as a result of the
4 operation of a live entertainment venue by
5 Raynham Park 24 and a half miles away in the
6 case of the Cohasset venue and 45 miles away
7 Hyannis, which are likely to offer performances
8 similar to those presented at SSPA's two
9 venues, it's almost certain that South Shore
10 Playhouse Associates will experience a decrease
11 in attendance and other negative impacts due to
12 the proximity of competing performances at the
13 Raynham Park site. These negative impacts will
14 likely be felt by South Shore Playhouse
15 Associates even in the absence of an
16 exclusivity clause by the entertainers at the
17 Raynham Park site.

18 As I stated earlier, MAPC and South
19 Shore Playhouse Associate have over the last
20 weeks discussed the terms of a proposed
21 impacted live entertainment venue agreement
22 with Raynham Park. And I believe that we are
23 close to concluding a mutually satisfactory
24 impacted live entertainment venue agreement

1 with Raynham Park.

2 The current draft proposed impacted
3 live entertainment venue agreement contains all
4 of the minimum terms set forth in the statute.
5 The Commission's designation of South Shore
6 Playhouse Associates' two sites as impacted
7 live entertainment venues will permit those
8 discussions to continue and hopefully conclude
9 successfully within the 30-day period called
10 for in the regulation. Thank you.

11 CHAIRMAN CROSBY: You lost me with
12 that last sentence. I thought you were saying
13 that you feel confident, quite confident that
14 there will be a resolution to this, but then
15 you said we would need -- which I thought you
16 meant maybe in the next few days. So, maybe we
17 don't have to decide this on the 21st.

18 MR. MARTIN: It's my deepest hope
19 that that would be the case, but I can't
20 guarantee that's going to be the case.

21 MR. SIEBELS: To be respectful of
22 your time, I'll paraphrase a little bit and I'm
23 prone to speaking quickly. So, that will work
24 to our benefit.

1 Good afternoon. Thank you for the
2 opportunity to speak with you again today. The
3 elements of the Expanded Gaming Act that were
4 created to protect existing performing arts
5 centers included, as you know, the opportunity
6 to sign these letters of agreement. That
7 process is working as it was intended.

8 Our group of performing art centers
9 throughout the Commonwealth has been in contact
10 with every single gaming applicant. We have
11 signed agreements with three of those
12 applicants. We are in friendly conversations
13 and close to finalizing two others.

14 As we recognize that the deadlines
15 for the slot parlor applicants were sooner than
16 the others, we prioritized those and we have
17 signed agreements with both Penn National and
18 with Cordish. We did reach out to Raynham Park
19 with a letter on June 6 asking to meet to
20 discuss their plans. Then we followed up with
21 a letter on September 9 with which we included
22 a draft copy of an agreement identical to the
23 one we signed with Penn National.

24 With no response to that and with

1 the Category 2 deadline looming, we contacted
2 the Commission with a letter on September 27 to
3 let you know we've been working to contact and
4 engage them. And followed it with an email to
5 the Commission on October 8.

6 Mr. Grossman in Ombudsman Ziemba's
7 office was very helpful in forwarding that
8 email to Attorney Lee and offering Raynham Park
9 an opportunity to respond. We didn't hear a
10 response. And we followed that up with an
11 email on October 31 to which we did get a
12 response and were able to schedule a call for
13 that afternoon.

14 And it's at that time we first
15 learned that Raynham Park, LLC did in fact plan
16 to present live entertainment. So, it sort of
17 took on a new importance for us. We sent some
18 suggested language that we had developed in
19 conversations with some of the other license
20 applicants.

21 And we understand Raynham Park had a
22 great many things on its plate, clearly. And
23 it would have been great for the opportunity to
24 speak and deal with this back in June, but

1 we're happy to be in discussions with them now.
2 But simply have not had time to finalize an
3 agreement in the past week and a half.

4 I concur with Peter. We have no
5 doubt we'll be able to successfully finalize an
6 agreement. But not having done so yet left us
7 with no option but to sit before you today.

8 We've appeared here several times
9 and presented a lot of evidence that our venues
10 are at risk of impact. Our experience in
11 operating in conflict with the Connecticut and
12 Rhode Island casinos gives us new evidence
13 every day. We have down to pages and pages of
14 detail four years of performances at our venue
15 and the two Connecticut casinos. And which
16 performers specifically were lost to those
17 casinos and which will likely be lost to
18 Massachusetts casinos.

19 We understand the question before
20 you today is a narrower one, whether South
21 Shore Playhouse Associates qualifies as
22 impacted under the statute as it relates
23 specifically to Raynham Park. I'll let Vince
24 speak to that.

1 But I take a brief opportunity to
2 comment on Attorney Lee's letter yesterday
3 stating that the Cohasset facility is 36 miles
4 from Raynham Park and not in close proximity.
5 And that it appears unlikely that patrons will
6 forgo events in Cohasset specifically to go to
7 events at Raynham Park.

8 Ironically, Raynham Park's
9 application identifies its primary market area
10 as a 90-minute drive. And it makes the case
11 that potential gamblers from that area in close
12 proximity. So, I think it's fair to say that
13 the venue is. It really misses the point.

14 Our chief concern is that we have
15 opportunity to continue to present headline
16 performers at our venues. If all of those
17 performers appear at Raynham Park then the
18 patron doesn't have the opportunity to make a
19 decision whether to go to Cohasset or to
20 Raynham to see it. Our goal continues to be
21 have the opportunity to engage in these
22 productive conversations with the licensees to
23 create a level field. Vince?

24 MR. LONGO: Vince Longo, chief

1 operating officer for South Shore Playhouse
2 Associates. We are the last two continuously
3 operated theater tents in the United States.
4 Started out with 14 of them, we are the last
5 two. The Music Circus and the Melody Tent are
6 owned by South Shore Playhouse Associates. And
7 we started doing business in 1932.

8 We are interwoven with the fabric of
9 our communities. And we have a great amount of
10 history that brings us to where we are today
11 and how we want to maintain and keep ourselves
12 in business, in light of the fact that casinos
13 are going to be challenging us with the buying
14 of talent.

15 The Music Circus and the Melody tent
16 take revenue generated from our ticket sales
17 and reinvest that money into our community. We
18 are a very different 501(c)(3). We do this to
19 help keep our communities stronger in the arts.

20 SSPA venues are 2300 seats each. We
21 consider ourselves as an impacted live
22 entertainment venue for the following reasons:
23 we have been working on our cultural identity
24 for over 60 years. We are very concerned that

1 new casino business does not drum out any of
2 the non-profit and municipally owned live
3 entertainment venues in our communities.

4 We live and die by the ticket sale.
5 We're very different than other 501(c)(3)'s.
6 We don't accept money from any government
7 agencies. And ticket sales is our core
8 business. The major problem with this
9 situation is the supply side of the equation.
10 If we can't get the talent at a reasonable
11 rate, we can't operate.

12 It's very clear that casinos and any
13 major agent will tell you that casinos always
14 pay more than theaters. They have all of the
15 money that's why they can pay more. And with
16 that some of the loyalties that are usually
17 built up for venues like SSPA around the
18 country kind of go away with the money being
19 put in front of these artists.

20 Without changing some of this
21 attitude with how we can get our talent, it's
22 going to be difficult to stay in business. We
23 already have somewhat of a level playing field
24 with competitors like the guy sitting next to

1 me and all of the other people in the coalition
2 to go out and get this talent within certain
3 periods of 18 to 24 months, because 95 percent
4 of all managers do not go back into the same
5 community within a year. So, a radius clause
6 is nice but it's not everything that it's
7 cracked up to be from the casino side.

8 We've put \$3.7 million back into our
9 communities and we reinvested this in other
10 501(c)(3) arts organizations. If we weren't
11 around that wouldn't happen. SSPA is unique in
12 that it is an impacted live entertainment venue
13 because it's seasonal. We are the only
14 seasonal live entertainment venue that will
15 come before you. Our performances run from
16 Memorial Day through Labor Day. We start
17 advertising our shows at the beginning of
18 January.

19 The distance from Raynham Park to
20 Cohasset 24.5 miles, and from Hyannis is 45
21 miles. I'm just going to skip to some of the
22 examples. It's just easier. You have a letter
23 from a guy named Larry Barnoff who ran the
24 Warwick Musical Theater. Larry Barnoff states

1 in his letter what it was like to gradually go
2 out of business because Foxwoods and Mohegan
3 Sun opened up.

4 First off, 25 percent of his talent
5 was taken, it was pilfered right off the top.
6 I can give you some examples now of similar
7 situations that have happened to me at South
8 Shore Playhouse Associates. In 1994, Harbor
9 Lights opened up right down the street here.
10 Now it's the Bank of America Pavilion. That
11 first year in 1994 certain acts such as Tom
12 Jones, Steve Lawrence and Eydie Gorme, Diana
13 Krall, Moody Blues, Crosby, Stills and Nash,
14 all left my venue in one year. They all were
15 gone.

16 We struggled to stay afloat because
17 of that one action. In 2013, Live Nation took
18 over Newport Yachting Center. Due to the
19 company's strength in the market and the
20 ability to book and pay more than nonprofit
21 theaters can pay SSPA lost acts such as Styx,
22 Tony Bennett and it resulted in a down year.

23 Most acts limit the amount of plays
24 that they will take in Massachusetts. So,

1 middle-of-the-road acts play where the money
2 is. SSPA has lost performances to Foxwoods and
3 Mohegan Sun from the day they opened. I hope I
4 just kind of give you a balance of where we are
5 within the nonprofit organization theaters
6 Massachusetts and what could be affecting us.

7 COMMISSIONER MCHUGH: You've looked
8 now at the Raynham proposal. And you know the
9 size of the multipurpose center that's there,
10 right?

11 MR. LONGO: Yes.

12 COMMISSIONER MCHUGH: And you know
13 there is a donut hole in what they can do.
14 They can't do between 1000 and 3500. And you
15 know in all likelihood by looking at the
16 facility, it's probable they'll be 1000 or
17 under if they do use that for performances,
18 right?

19 MR. LONGO: Yes.

20 COMMISSIONER MCHUGH: That's your
21 plan. So, how does that kind of a venue
22 compete with a 2300 seat venue and the kinds of
23 acts that you were booking in either of the two
24 venues you're talking about?

1 MR. SIEBELS: If I may,
2 Commissioner. The same acts play for a fee.
3 If you book Aretha Franklin \$100,000, she'll
4 play a 2300-seat venue or a 999-seat venue. I
5 would not as a nonprofit operator be able to
6 put a pro forma together that would make that
7 work in 999 seats. But if it is not my core
8 business, if I'm using that to draw people to
9 the facility to game at slot machines, the
10 equation might be different.

11 And we have found that it is
12 different at casinos elsewhere. The same acts
13 do play both places. And that donut hole was a
14 compromise legislatively, certainly not where
15 we started.

16 COMMISSIONER MCHUGH: And do you
17 have studies that show your loss or experience
18 that shows your loss, your member's loss of
19 business to 999-seat venues?

20 MR. SIEBELS: I have a study that
21 shows my venues loss of business to the
22 Connecticut casinos venues including the 400-
23 seat space at one of those two venues. And I
24 could separate that from the experience that

1 we've lost to the larger venues as well, yes.

2 MR. LONGO: I can do the same thing.
3 They're paying sometimes double, most of the
4 time one and a half times the going rate for
5 the act. The casinos will put it in any size
6 room.

7 COMMISSIONER MCHUGH: Thank you.

8 CHAIRMAN CROSBY: They don't charge
9 a flat fee no matter the size of the venue. If
10 you go to Gillette, you're going to get a
11 bigger fee. How does that --

12 MR. SIEBELS: Sure. You can book an
13 act for a flat fee, which would be a healthy
14 flat fee. But normally they look at your gross
15 potential ticket sales and they'll say I want a
16 guarantee of \$75,000 versus 80 percent of the
17 gross ticket sales, whichever is greater. So,
18 it makes a difference to them what your
19 capacity is and what your ticket prices are.

20 However, a casino venue will often
21 give away a disproportionate number of those
22 tickets as comp. tickets to gamers. And often
23 will lean toward a flat fee and pay extra to
24 get the artist to accept that flat fee in order

1 to have the ability to do that.

2 MR. LONGO: I think the difference
3 is that with SSPA, our core businesses is put
4 in arts and entertainment up front first.
5 That's what we're about. The difference is
6 with some casinos, and we're going to actually
7 talk about this later on too when the casinos
8 come other than the slot parlors is that it's
9 not their core business. This is money that
10 just goes for marketing.

11 MR. SIEBELS: And if I may,
12 hopefully we won't talk about this later. We
13 are in the process with all of the licensees,
14 potential licensees and working with everyone.

15 COMMISSIONER CAMERON: When you
16 mentioned that you were close with two, you
17 mentioned the ones you already have agreements
18 and that you were close with two, was Raynham
19 Park one of those two?

20 MR. SIEBELS: I did not include it
21 as one of those two, but I believe that we are
22 also close with Raynham Park.

23 MR. LONGO: Keeping in mind that we
24 didn't know until October 28 that they were

1 going to have live entertainment.

2 MR. SIEBELS: October 31.

3 MR. LONGO: -- 31. We tried to get
4 in touch with them June 6. They just didn't
5 respond.

6 CHAIRMAN CROSBY: Anybody else?
7 Thank you. Does the applicant get a chance to
8 say their two-cents worth, one to two-cents
9 worth?

10 MR. ZIEMBA: Yes.

11 MS. LEE: Good afternoon now. I did
12 get those correspondence and I think I was
13 confused initially. We were busy, so I don't
14 want to misrepresent. When we initially got
15 the correspondence, I was responding to other
16 things. I do have to say it was under the
17 Hanover Theater. So, there was a disconnect
18 for me as to which theater we were talking
19 about. Because I automatically associated that
20 with Worcester.

21 With that being said we are very
22 optimistic. We are very close I think. Since
23 the time we have focused on this, this might be
24 a prime example of over lawyering. I think

1 we're working on terms that's all we need to
2 get out. I am very optimistic. Spoke to
3 Counsel, he is also optimistic. I can't
4 imagine it's going to be a problem. Tom?

5 MR. BONNER: I think the most
6 important part of the venue's presentation was
7 the statement that we are very close to an
8 agreement and we are. In that agreement, we
9 designate South Shore as an impacted community.
10 As Grace said, we are just down to working out
11 the details and some of the terms. We've been
12 back and forth with a couple of drafts. I'm
13 optimistic that when we sit here before you a
14 week from today, we'll have a signed agreement.

15 CHAIRMAN CROSBY: In which case, you
16 won't be sitting before us.

17 MR. BONNER: On other issues we may
18 be.

19 COMMISSIONER STEBBINS: Just a
20 clarification, you're talking with them about
21 South Shore but not the Cape Cod Melody Tent or
22 you're talking about both venues?

23 MR. BONNER: In all of our
24 discussions thus far, prior to their petition,

1 we had focused on the South Shore location
2 because of its proximity. And I believe that
3 their petition is limited to South Shore. So,
4 our agreement had addressed only South Shore.
5 Am I missing something on that?

6 COMMISSIONER STEBBINS: Is that
7 accurate? There's something in front of us
8 that says Cape Cod is also.

9 COMMISSIONER CAMERON: They just did
10 say both of them. They were considering both.

11 MR. BONNER: We will address that.
12 To date though, our focus was on South Shore.
13 If they want us to include the other location,
14 we certainly will and we'll try to come to an
15 agreement as well.

16 CHAIRMAN CROSBY: It's confusing
17 because of the name too.

18 MS. LEE: There's a lot of names.

19 CHAIRMAN CROSBY: Thank you.

20 MR. ZIEMBA: We have one final
21 matter.

22 MS. BLUE: At our last meeting, we
23 were grappling with the motion that we needed
24 to make in order to grant a variance under

1 section I believe it's 125. With some
2 assistance from Mr. Ziemba and Commissioner
3 McHugh, we do have a motion for the Commission
4 to entertain.

5 This will allow the waiver of the
6 timeframe between designation of the
7 surrounding communities and the hearing in the
8 host community and also allow the Commission to
9 take executed surrounding community agreements
10 after the filing of the RFA-2 application.

11 COMMISSIONER MCHUGH: So, the first
12 of the two motions that I'm about to make deals
13 with the provision of our regulations that says
14 a surrounding community exists if there is a
15 surrounding community agreement signed between
16 the community and the applicant and by the date
17 that the RFA-2 application is filed. There
18 were some that were signed after that. And I
19 presume is why as we discussed in our last
20 meeting we shouldn't consider those communities
21 surrounding communities.

22 So, this motion that I'm about to
23 make is designed to deal with that. And I move
24 therefore that the Commission grant a variance

1 from the provisions of 205 CMR 125.01 to
2 provide that a community which has executed a
3 surrounding community agreement with an
4 applicant is determined to be a surrounding
5 community although the agreement is submitted
6 after the filing of an RFA-2 application.

7 COMMISSIONER STEBBINS: Second.

8 CHAIRMAN CROSBY: Any discussion?

9 All in favor, aye.

10 COMMISSIONER STEBBINS: Aye.

11 COMMISSIONER ZUNIGA: Aye.

12 COMMISSIONER MCHUGH: Aye.

13 COMMISSIONER CAMERON: Aye.

14 CHAIRMAN CROSBY: Opposed? Ayes
15 have it unanimously.

16 COMMISSIONER MCHUGH: The second one
17 is designed -- This is the one we sort of
18 struggled with on-the-fly at the last meeting.
19 And this is designed to not be on-the-fly. But
20 it's designed to deal with the timing of the
21 hearing in the host communities, the statutory
22 hearing in the host communities and allow that
23 variance from our regulations to accomplish
24 that on the schedule that we've set out.

1 So, I'd move that the Commission
2 grant a variance from 205 CMR 125.01(2) to
3 provide that the Commission may hold a public
4 hearing required by general laws 23K section
5 17C less than 30 days after the designation of
6 surrounding communities so long as all
7 designated and petitioning surrounding
8 communities have received at least 30 days'
9 notice of the hearing as required by 23K
10 section 17C and provided further that the
11 hearing will not close until all surrounding
12 community agreements in the region have been
13 created and the surrounding communities have
14 had an opportunity to be heard.

15 CHAIRMAN CROSBY: All surrounding
16 community agreements have been created?

17 COMMISSIONER MCHUGH: Yes. And that
18 is take into account either that they come into
19 existence by a mutual agreement or as the
20 product of an arbitration process.

21 COMMISSIONER CAMERON: Second.

22 CHAIRMAN CROSBY: Discussion? Ayes?
23 Aye.

24 COMMISSIONER STEBBINS: Aye.

1 COMMISSIONER ZUNIGA: Aye.

2 COMMISSIONER MCHUGH: Aye.

3 COMMISSIONER CAMERON: Aye.

4 CHAIRMAN CROSBY: Opposed? The ayes
5 have it unanimously. We need to make a policy
6 decision. It's basically one o'clock. I think
7 maybe we ought to take a break. And we can go
8 next door to the restaurant or something and
9 get a sandwich. I don't want to feel like we
10 just have to rush through these things. If we
11 can do it quickly, fine. But I don't want to
12 feel like we're all sitting here under the gun.
13 Is that okay with everybody?

14 Let's take a break until 2:00.

15

16 (A recess was taken)

17

18 CHAIRMAN CROSBY: We will reconvene
19 Mass. Gaming public meeting number 90 at 2:15
20 PM. And we'll go to agenda item number five,
21 Rick Day.

22 MR. DAY: Thank you, Mr. Chairman.
23 Most of what we have today is widely carried
24 over from last week. One item I do need -- It

1 won't be a general update, but it's item 3B.

2 There is a summary memo already in the packet.

3 CHAIRMAN CROSBY: 3B? The Racing
4 license?

5 MR. DAY: 5B and it concerns our
6 contract with Pinck and Company and their
7 contract. As our project coordinator, Pinck
8 and Company has now had about two months
9 working with the Commission or they are working
10 closely with the Commission and staff to
11 evaluate the pending slots parlor applications.
12 They are finding there are some specialties
13 that require subcontractors to fill that
14 specific need. That potential need was
15 anticipated in the RFR but not included in
16 their original contract.

17 In order to address the problem, I'd
18 recommend that you authorize me essentially to
19 initiate a technical amendment to the contract
20 at section 2.8 to allow Pinck and Company with
21 approval from me to enter into agreements with
22 subcontractors for specialized services the
23 consultant cannot provide with Pinck and
24 Company staff.

1 CHAIRMAN CROSBY: Do you know what
2 order of magnitude we are talking about, what
3 kind of money we're talking about?

4 MR. DAY: We don't have a specific
5 estimates on what those monies are, at least
6 I'm not aware. I know perhaps Jennifer can
7 help with that. I know the rates would be the
8 same as otherwise specified in the Pinck and
9 company contract.

10 MS. PINCK: There's only been thus
11 far one kind of service that's been identified
12 as additional and needed which relates to
13 analysis of the housing issue in the Twin City
14 area with respect to Fitchburg's claim of
15 impact on it.

16 MR. ZIEMBA: There's a couple for
17 the Raynham application.

18 MS. PINCK: And also for Raynham.
19 This I believe will be less than \$10,000 for
20 services more likely four to six. It depends
21 really on how much of a controversy this
22 becomes. That's what I see so far.

23 COMMISSIONER ZUNIGA: I think it's
24 great. It gives us flexibility. The RFR

1 anticipated that, so I think it's a sound
2 practice.

3 I would just remind ourselves that
4 we assess our applicants for these costs. And
5 we just made an assessment on what we projected
6 for all of our consultants. And this
7 technically was not included. So, as new costs
8 surface, we need to make sure that we are
9 assessing our applicants for these.

10 MR. DAY: I think the clarification
11 that the rates which I didn't initially put the
12 recommendation was supposed to be part of it at
13 the same rate as otherwise specified in the
14 Pinck contract. Then these recommendations, I
15 mean, they actually come from the evaluation
16 teams, which the Commissioners chair
17 themselves, would come through Jennifer and
18 essentially to me and we'd end up authorizing
19 that way. So, we should have some advance
20 notice of that.

21 MR. ZIEMBA: At the recommendation
22 of Mr. Lennon, these are going to be separately
23 invoiced from just the general reviews of the
24 application.

1 COMMISSIONER ZUNIGA: So, they will
2 be applicant specific?

3 MR. ZIEMBA: Applicant specific,
4 yes.

5 COMMISSIONER ZUNIGA: They could be
6 separately identified to them so they could
7 also react to it.

8 MR. ZIEMBA: Exactly.

9 CHAIRMAN CROSBY: Great. Do I have
10 a motion?

11 COMMISSIONER ZUNIGA: I can move
12 that we delegate to Director Day the authority
13 to enter into subcontracting agreements
14 relative to the evaluation of the Category 2
15 applications that we are currently undertaking.

16 CHAIRMAN CROSBY: I don't think we
17 really need to nit at this, but I think sort of
18 not to exceed 10,000 is what we're talking
19 about. I wouldn't be in favor spending very
20 much money to assess the impact of housing on
21 Fitchburg. I don't think we need to spend
22 money to do that. But if we're talking single
23 digit dollars, I'm fine with it. Second?

24 COMMISSIONER CAMERON: Second.

1 CHAIRMAN CROSBY: Any other
2 discussion? All in favor say aye. Aye.

3 COMMISSIONER STEBBINS: Aye.

4 COMMISSIONER ZUNIGA: Aye.

5 COMMISSIONER MCHUGH: Aye.

6 COMMISSIONER CAMERON: Aye.

7 CHAIRMAN CROSBY: Opposed? The ayes
8 have it unanimously.

9 MR. DAY: The next item was just an
10 item that the Commission had requested that we
11 revisit with a discussion. And it's a couple
12 of questions and has mostly with the evaluation
13 process. I was going to pose the questions and
14 then ask for at least from Commissioner McHugh
15 and Commissioner Zuniga to weigh in on those
16 questions and their thoughts in particular.

17 Essentially, it is how does the
18 Commission evaluation team handle instances
19 where the evaluation teams identify, and there
20 are two specific areas at least that I'm aware
21 of, information that is not part of the host
22 community agreement but is included in the
23 application. And information that was stated
24 in the applicant presentations or otherwise

1 publicly addressed by the applicant but is not
2 in the application as well?

3 COMMISSIONER STEBBINS: Could you
4 repeat the first one?

5 MR. DAY: Yes, Sir. I would be glad
6 to do that. Information that is not part of
7 the host community agreement but is included in
8 the application. And information that was
9 stated in the applicant presentations or
10 otherwise publicly discussed by the applicant
11 but is not in the application.

12 CHAIRMAN CROSBY: What is an example
13 of the former?

14 COMMISSIONER MCHUGH: An example of
15 the former is the 16 acres as opposed to 26
16 acres issue with respect to Cordish.

17 CHAIRMAN CROSBY: That is part of
18 the application?

19 COMMISSIONER MCHUGH: It is
20 discussed in the application, yes, in terms of
21 the phasing.

22 CHAIRMAN CROSBY: Because I wrote
23 somebody back saying what I thought you had
24 said, all we are dealing with is the issue of

1 the first 16.

2 COMMISSIONER MCHUGH: All we are
3 considering at the moment, all the building and
4 site design group is considering is the 16-acre
5 piece. But doing that, pending resolution of
6 this question, because there is some alternate
7 plans that are in their application that make
8 use of the other piece of property.

9 For the moment we have put them to
10 the side. We are just looking at the 16-acre
11 parcel that was mentioned in the host community
12 agreement.

13 CHAIRMAN CROSBY: I might have
14 mischaracterized that.

15 COMMISSIONER MCHUGH: I thought I
16 saw the email and I think it was right, because
17 that's all we are considering now. The
18 question is how do we deal with it.

19 COMMISSIONER CAMERON: And their
20 presentation included the new parcel of land,
21 their 90-minute presentation.

22 COMMISSIONER MCHUGH: I don't recall
23 that. It may have.

24 CHAIRMAN CROSBY: It did absolutely.

1 COMMISSIONER CAMERON: It changed
2 the timeframe for the project.

3 COMMISSIONER MCHUGH: Remember,
4 they've actually got three pieces. They've got
5 the initial. Then they've got a secondary
6 phase that has a hotel on that 16-acre
7 property. And then they have a proposal that
8 has the casino next door on the 10-acre parcel.

9 COMMISSIONER ZUNIGA: Can I put a
10 finer point to that?

11 CHAIRMAN CROSBY: Sure.

12 COMMISSIONER ZUNIGA: There's two
13 alternatives and there is a master plan. And I
14 forget if there is a master plan for both
15 alternatives. But you refer to the hotel is a
16 later phase of the master plan.

17 COMMISSIONER MCHUGH: But it's on
18 the original 16 acres, the hotel is.

19 COMMISSIONER ZUNIGA: Correct, but
20 the alternative include additional acreage,
21 which would then change the project.

22 COMMISSIONER CAMERON: Move it from
23 18 months to 12 months because they'd be using
24 the existing building, correct?

1 COMMISSIONER MCHUGH: I think the
2 existing building is on the 16-acre parcel. I
3 think they could use that building there.
4 There may be one on the 10-acre parcel too.

5 Then an example of the other one is
6 that in the Penn National proposal -- in the
7 Penn National public presentation there was a
8 flyover. They've got a traffic issue down
9 there, a road issue down there. And there's a
10 flyover that was in that presentation that's
11 not in the application. So, that is
12 significant.

13 CHAIRMAN CROSBY: Let's take them
14 one at a time. Let's start it with the first
15 case. Just to give Elaine hives, doesn't the
16 question about if it's not in the HCA but comes
17 about afterwards, wouldn't that apply for
18 example to the Suffolk Downs situation? The
19 HCA and referendum at best marginally -- Would
20 that fit in this question?

21 COMMISSIONER MCHUGH: They haven't
22 filed their RFA-2.

23 CHAIRMAN CROSBY: I see what you are
24 saying.

1 COMMISSIONER MCHUGH: But it may
2 impact that.

3 CHAIRMAN CROSBY: We're sort of
4 setting a precedent here that would arguably
5 impact that.

6 COMMISSIONER MCHUGH: Although who
7 knows how plastic the HCA is.

8 CHAIRMAN CROSBY: That's the
9 threshold question. But in the hypothetical
10 we're dealing with or the case of the 16 acres,
11 it was clearly not discussed at all, I think.
12 I guess that's really what the question is.

13 MS. BLUE: There is potentially a
14 better example to deal with the HCA issue. And
15 that is in the Leominster proposal where the
16 HCA requires the building of a police
17 substation on the property. But when you look
18 at the plan, it's not clear where the police
19 substation is in terms of what's required for
20 the State Police and for the Commission.

21 So today, the applicant was very
22 clear that they were going to build something
23 in addition to that. But I think before the
24 applicant discussed that today that would have

1 been an example of something provided in the
2 HCA but not necessarily clear in application
3 and how is that addressed?

4 CHAIRMAN CROSBY: That's a different
5 case. That's a third case. In the HCA and not
6 in the application. But the question was
7 something not in the HCA but in the
8 application.

9 COMMISSIONER ZUNIGA: I think
10 there's two points here that apply that I think
11 we should discuss. On the one hand these
12 designs we knew that they are conceptual --
13 advanced conceptual designs by necessity. Like
14 any construction, the design will evolve and
15 there will be a lot more refinement along the
16 way. These topics will come up, not just now
17 but even considerably after the award of a
18 license.

19 When we discussed -- I remember
20 having a policy discussion relative to ensuring
21 that we had a design review process that
22 allowed us to look at how detail evolves
23 between versions of design elements. I think
24 this is the first time that we are seeing that.

1 This question will remain.

2 And when we had that discussion
3 about the design review process, which is by
4 the way an impetus towards thinking about
5 having an owner's project manager to help us
6 throughout this design and construction, we
7 anticipate that there will be periodic reviews.
8 And ultimately, sometimes it may be within what
9 we all understood to be the design intent. And
10 sometimes it's almost kind of like you'll have
11 to see and then make a judgment call.
12 Sometimes that may be outside of what the
13 original design and intent was, including what
14 was represented publicly or what was in the
15 host community agreement or what was not in the
16 host community agreement.

17 That's one point I wanted to make.

18 COMMISSIONER MCHUGH: I don't
19 disagree with that but I do think that given
20 the legislation and given the heavy emphasis
21 that the statute places on the summary of the
22 host community agreement that's been drafted
23 and put out for the voters to consider, the
24 length of time that it has to be there, a plan

1 that is materially different from the plan
2 described in the host community agreement,
3 materially different of course being a term
4 that needs work every time you encounter it.
5 But a term that we conclude is materially
6 different from the plan summarized in the host
7 community agreement, is something that
8 shouldn't be permitted without at least an
9 amendment of the host community agreement so
10 that the local authorities have an opportunity
11 to go back and take a look at it, and take into
12 account changed impacts that this may have on
13 the city and on the community.

14 So, I think that there shouldn't be
15 -- And until that is done, I don't think that
16 we should consider it as part of the
17 application. A number of these host community
18 agreements do have a clause that permits
19 renegotiation for changed circumstances and the
20 like. And there's not going to be another
21 vote, but at least the elected leaders of the
22 city, town get a chance to weigh in on whether
23 to permit this. So, that's the dividing line I
24 would recommend we draw.

1 COMMISSIONER ZUNIGA: We would be
2 then always considering what constitutes a
3 material difference.

4 COMMISSIONER MCHUGH: Yes, we will.
5 For my part, I would interpret that not to have
6 different color on the building, but I would
7 consider that to be a substantially greater
8 overall footprint, for example. Or instead of
9 a race track, we're going to have a baseball
10 park. Those kinds of fundamentally different
11 things. There's going to be interpretative
12 problems. There's no question about that.

13 The alternative is this is all part
14 of the game. And whatever you come up with, no
15 matter what you said to the folks, we'll just
16 make sure that you do what you say you're going
17 to do now. And I don't think --

18 COMMISSIONER ZUNIGA: That's not an
19 alternative I was alluding to, by the way.
20 Another point that I was going to make and we
21 did contemplate and eventually we have to talk
22 about it now, the notion that these
23 applications as per our regs. could in fact be
24 improved during the process of review. We have

1 that flexibility.

2 I know that's one directive that
3 when you came and said there's questions that
4 we are going to be careful to ask that could
5 come in at any time that don't improve the
6 application. But there's a milestone relative
7 to when we ask questions that may improve the
8 application.

9 And I'm not going to get the section
10 right, but our regulations contemplate that the
11 application could be improved throughout the
12 process. Because every time when we were
13 writing these regulations, more often than not
14 we erred on the side of being flexible. Having
15 the flexibility of if we get to that point, we
16 will consider it then. This is yet another
17 flavor of the question before us.

18 COMMISSIONER CAMERON: Is a change
19 in design substantially different than a change
20 operator? I know there are questions about a
21 temporary facility, using that and being able
22 to open in a more timely manner. These are all
23 changes. And I know the first two examples I
24 think are directly related to the host

1 agreement.

2 COMMISSIONER STEBBINS: Clarification,
3 the Leominster host community agreement does
4 not specify the number of acres? The host
5 community agreement in Leominster doesn't stake
6 out 16 acres?

7 COMMISSIONER MCHUGH: I thought that
8 the summary did.

9 COMMISSIONER STEBBINS: Okay, the
10 referendum question clearly says 16 acres.

11 COMMISSIONER MCHUGH: Right, that's
12 what I thought. We need to check that out.

13 CHAIRMAN CROSBY: That's the
14 question about would we permit it. It's not
15 the abstract question about what would we do if
16 there is something in the application which is
17 not in the host community agreement.

18 I would echo Jim up to a point. I
19 think it seems to me pretty straightforward
20 that if there is something materially different
21 from the host community agreement, and the host
22 community agreement hasn't anticipated the
23 possibility of change and accommodate that,
24 then I don't think it should be permitted in an

1 application.

2 The whole point of this is that the
3 host Community gets to understand what's going
4 to go on in their community and say yay or nay.
5 Where it gets complicated is if it says here's
6 what we're planning now, but there is a clause
7 that says the parties may change anything they
8 want to within this with mutual consent. Let's
9 say the words are more or less clear like that.

10 So, let's say take the Leominster
11 example and I'm just making this at a
12 hypothetical, I'm not actually literally
13 talking about Leominster, say the HCA does not
14 anticipate -- it's clear about the present plan
15 is 16 acres, but it does have a clause that
16 says the parties can negotiate on major
17 changes. The referendum goes forward on that.

18 Then the applicant and the host
19 community go from 16 to 26 and a different
20 physical layout. Is that okay, if there's a
21 clause in the HCA that permits that kind of
22 change of the material factors?

23 COMMISSIONER MCHUGH: I would say
24 yes, for two reasons. One it's in there, but

1 more important that's the HCA the voters
2 approved. And by their approval, they in
3 effect delegated it to their elected officials,
4 the power to make changes and whether that was
5 wise or unwise that's theirs. And they still
6 are the elected officials. And there is a
7 remedy for their malfeasance.

8 COMMISSIONER CAMERON: So, if the
9 public officials agree, that the changes --
10 they're in agreement that the changes are for
11 the best, is that what we're saying? That as
12 long as the public officials agree with the
13 changes?

14 COMMISSIONER MCHUGH: And as long as
15 the host community agreement that the voters
16 approved says that the parties can change any
17 of these terms by mutual agreement.

18 CHAIRMAN CROSBY: This is precisely
19 on point for Suffolk Downs, I think, assuming
20 that there is a clause in the HCA.

21 COMMISSIONER CAMERON: I don't think
22 we know enough about that.

23 COMMISSIONER MCHUGH: I'd like to
24 stay away from that.

1 CHAIRMAN CROSBY: You can't stay
2 away. Whatever we say here, we're going to
3 live with. How can we not?

4 COMMISSIONER MCHUGH: Why, because I
5 for one don't know what the ballot question in
6 Revere looked like. I haven't read recently
7 that Revere host community agreement. I don't
8 know a lot of stuff.

9 CHAIRMAN CROSBY: I don't either.

10 COMMISSIONER MCHUGH: Or what the
11 application says.

12 COMMISSIONER ZUNIGA: We don't have
13 the application.

14 COMMISSIONER MCHUGH: We don't even
15 have the application. So, I think what we do
16 here, people who are watching can take into
17 account as they plan their future actions, but
18 I would hate to say what we are doing here
19 affects something that we haven't got in force.

20 CHAIRMAN CROSBY: Let's talk about
21 it. Tell me as if we can't do this, but this
22 came up with a case in point. We are now
23 wrestling with how do we deal with this issue
24 in Leominster?

1 We were presented one thing in the
2 90-minute presentation, which was I thought,
3 because of the way it was presented, I assumed
4 that was what the plan had always been. As it
5 turns out, that's not the case. It was if it
6 was anticipated at all, it was minimally in the
7 HCA. Although apparently, there is a clause
8 that says you can make major changes.

9 So, is it fair in a hypothetical
10 community like that even though the HCA said
11 the parties can agree to major changes, is it
12 fair for within six months for the governing
13 body to make a dramatic change like that from
14 the 16 to the 26 acres? And that is not a
15 rhetorical question. That is a question.

16 COMMISSIONER ZUNIGA: I think it is
17 under the premise that parties would agree.
18 Let's not forget that a material impact or a
19 material difference could be very well in the
20 interest of the host community. Case in point,
21 if there is additional parcel of land that can
22 be purchased and wasn't originally under option
23 or agreement and can relieve parking let's say,
24 parking concerns that could be exactly in line

1 with what the spirit of the HCA may have been
2 relative to parking problems for example.

3 And subject to the agreement of that
4 party, I would venture to say if it's positive,
5 they would agree if the HCA contemplated it,
6 it's fine. If the community perceives this to
7 be a negative impact, then they would have to
8 figure out.

9 CHAIRMAN CROSBY: It's not the
10 community. It's the governing --

11 COMMISSIONER STEBBINS: The
12 governing body.

13 CHAIRMAN CROSBY: If they disagree
14 -- Clearly, if they disagree, if the majority
15 disagrees it isn't going to happen. But if it
16 splits, like it is in many communities you've
17 got splits and what we're talking about here is
18 authorizing -- this is the way most laws work,
19 so it's not what we're talking about isn't so
20 dramatic. But if there is the clear ability in
21 the HCA to make two changes with mutual consent
22 of the parties then almost anything can happen,
23 as long as the governing body is in support,
24 whatever people voted for in their referendum.

1 Although that seems to me to be sort
2 of consistent with the literal reading of the
3 law and not inherently unreasonable, in context
4 I think it's not probably what people were
5 thinking about even though it's technically
6 anticipated in the document.

7 I don't think anybody went to vote
8 in a hypothetical city X or town X that has a
9 site laid out in the plan, all kinds of
10 drawings, it's on 14 acres, and it turns around
11 much later than the application is actually 28
12 acres and a completely different configuration
13 of the property.

14 COMMISSIONER ZUNIGA: Thereby is a
15 question about what is material.

16 CHAIRMAN CROSBY: That would be
17 material.

18 COMMISSIONER ZUNIGA: What you just
19 described is seemingly material.

20 CHAIRMAN CROSBY: And we're saying
21 it would be okay if the local governing body
22 approved it.

23 COMMISSIONER CAMERON: And that's if
24 it was not in the host community but it was in

1 the application. What about a --

2 CHAIRMAN CROSBY: If it was not in
3 the host community except for a clause saying
4 you have the right to make these changes.

5 COMMISSIONER CAMERON: I understand.
6 How about a situation where a change is
7 contemplated and agreed-upon by both parties
8 it's not in the application?

9 CHAIRMAN CROSBY: Let's do one at a
10 time. We'll get to that. It's a different
11 case. I'm just not sure. Anytime you sign a
12 contract and if it's got an agreement in there
13 that the parties can change the contract, so
14 they can change the contract. That seems
15 pretty straightforward.

16 But in this case, that sort of
17 obscures what we're really talking about here.

18 COMMISSIONER ZUNIGA: I think it's
19 so hard to talk about hypotheticals that could
20 apply to more than a few instances. I think
21 this is the ultimate case-by-case.

22 We really have to look at the merits
23 of what was drawn out, represented or submitted
24 or described. What is now to be perceived the

1 new submission, representation or drawing. And
2 have a discussion like this that is on
3 specifics. And then hear from the two sides.

4 Somebody perhaps arguing that this
5 represents an immaterial change in my opinion
6 and someone else saying no. And look at all of
7 those specifics. If we try to come up with a
8 framework that will apply to many instances, I
9 would venture to say it would be very
10 difficult.

11 COMMISSIONER MCHUGH: But isn't it
12 helpful for people's planning and for the
13 community peace of mind to know a general
14 framework, i.e., that if it's a material
15 change, it's okay but only if the host
16 community agreement contain a modification by
17 agreement clause and the governing body -- and
18 the host community agreement has been modified
19 to take into account the material change.

20 That still leaves a lot of questions
21 and a lot of room for the process that you've
22 talked about. And that process is one we ought
23 to follow. But at least we have parameters and
24 a framework for considering it, if that's the

1 way we choose to go.

2 COMMISSIONER ZUNIGA: I am in full
3 agreement.

4 MS. PINCK: I have a little comment
5 to add here. And I would ask rhetorically a
6 change to what. Because I've looked for
7 example, I believe Leominster describes a
8 development on a certain parcel, but it doesn't
9 reference renderings. It doesn't reference a
10 site plan. It doesn't reference blueprints.
11 We don't know what the community saw at the
12 community meetings that they liked and they
13 decided to vote on. Were they voting on the
14 concept of the casino? Were they voting on the
15 location or did they really like the way it
16 looked?

17 COMMISSIONER MCHUGH: I am not
18 prepared today to vote on a Leominster
19 proposal.

20 MS. PINCK: I'm using it as an
21 example.

22 COMMISSIONER MCHUGH: But it seems
23 to me that if the host community agreement or
24 the summary describes a parcel of X-size and

1 the application is built on a parcel of double
2 X-size that is an issue of the type that may
3 qualify as a material change. That is
4 fundamentally different in my view from a
5 rendering that had yellow walls and now it's
6 going to be pink walls, even if it's the
7 building facade.

8 MS. PINCK: In my opinion, I would
9 agree it's a substantial change. I was just
10 questioning -- trying to define would be a
11 change that you would want the applicant and
12 the host community to agree to other than
13 something like that which I think is really
14 material.

15 COMMISSIONER MCHUGH: I'm just
16 talking about material changes.

17 MS. PINCK: But what if they moved
18 to instead of a parking garage they did site
19 parking? Or what if they put the parking
20 garage on this side and then they moved to that
21 side?

22 CHAIRMAN CROSBY: We would have to
23 decide whether we thought it was material or
24 not. And those kinds of decisions get made all

1 the time by bodies like this. If there is
2 imprecision in a host community agreement, then
3 what you're suggesting in this particular case
4 there might be, then the questions change from
5 what. That's an interesting question.

6 MS. PINCK: That's the question.

7 CHAIRMAN CROSBY: But what
8 Commissioner McHugh is talking about is a
9 general principle. None of us has read the HCA
10 for Leominster at all, certainly in my case.
11 And I doubt any of us can remember the summary.
12 So, we're not talking about Leominster here.
13 And we are certainly not talking about Suffolk
14 Downs.

15 We are trying to figure out
16 generalized reasonable principles that can
17 guide our applicants and host communities as
18 well as ourselves, because right now we are in
19 the midst of evaluation of programs -- of
20 applications which raise some of these
21 questions.

22 So, let's just say this again. On
23 the issue of an application which comes to us
24 which is materially different from what was

1 envisioned in a host community agreement and
2 therefore a referendum, that we will consider
3 that application so long as the host community
4 agreement had a clause which permitted material
5 changes with the consent of the community -- of
6 the governing body of the community and the
7 governing body has in fact executed an
8 amendment to the HCA to that effect. That's
9 the proposition on the table, Jim; is that
10 correct?

11 COMMISSIONER MCHUGH: Yes. That is
12 perfectly stated. Thank you.

13 COMMISSIONER ZUNIGA: I agree with
14 that principle. It is very broad and yet
15 simple. I just hope that everybody has
16 anticipated in their host communities that this
17 could be an eventuality and they have a
18 reopener clause.

19 CHAIRMAN CROSBY: Well, if they
20 haven't, they haven't.

21 COMMISSIONER ZUNIGA: Well, if they
22 haven't, maybe it's a moot point because
23 everybody does.

24 MR. ZIEMBA: No, they do not. I

1 would note that our regs. do have provisions
2 regarding modifications of mitigation
3 agreements and a process that is laid out in
4 that regulation.

5 CHAIRMAN CROSBY: What did you say?
6 Say that again, John.

7 MR. ZIEMBA: Our regulations have
8 provisions included in them for reasons of
9 reopening a mitigation agreement, negotiations
10 to reopen a mitigation agreement.

11 CHAIRMAN CROSBY: Which would
12 include an HCA?

13 MR. ZIEMBA: Yes.

14 COMMISSIONER CAMERON: So, even if
15 it doesn't state it, they could still reopen.

16 MS. BLUE: But it is limited to
17 certain circumstances in that regulation. And
18 I would also raise the question as the
19 Commission is evaluating applications, at what
20 point will the Commission be able to determine
21 whether the host community is going to amend
22 its HCA.

23 The Commission to make a decision on
24 the applications. So, as it goes through to

1 evaluate it, would you raised that as an issue
2 at the host community agreements? Would it be
3 an expectation that if there was a change and
4 there was a reopener in the host community
5 agreement would the expectation be that the
6 amendment was done before an award was made?

7 When I looked at these questions, I
8 thought of them more terms of how the
9 Commission would evaluate the applications
10 before them in light of some of these
11 differences. So, I think it's important to
12 focus on what the HCA provides, but I do wonder
13 how we would know what the governing body
14 thought at such time as before the award was
15 made.

16 CHAIRMAN CROSBY: And the way I
17 framed it, what I had said was and I think
18 Commissioner McHugh said the same thing is that
19 the HCA had been executed to that effect -- had
20 been amended to that effect. So, if there
21 weren't an amendment to the HCA for that
22 portion of the application which is a material
23 change from that which was envisioned in the
24 HCA originally, we wouldn't consider it because

1 there hadn't been an executed amendment to the
2 HCA.

3 COMMISSIONER MCHUGH: I think that
4 in fairness we could, as an operating principle
5 flag that as soon as it appeared to us and then
6 have a hearing as to whether -- use
7 Commissioner Zuniga's format to have both sides
8 in and decide whether it's a material change.
9 And in the process flag that so that if we
10 decided that it was people would have a chance
11 to go back and amend the agreement or not.

12 CHAIRMAN CROSBY: Right.

13 MR. ZIEMBA: For example, I received
14 an email while this conversation was going on
15 from Joe Weinberg relative to his property.
16 And a case-by-case example might be the best
17 way to approach these things. For example, he
18 stated that the property that we acquired was
19 identified in the referendum and our zoning.
20 And they asked me to convey that to the
21 Commission.

22 COMMISSIONER MCHUGH: This is a
23 hypothetical.

24 CHAIRMAN CROSBY: We have to keep

1 remembering, we have to keep saying this not
2 about Leominster.

3 MR. ZIEMBA: This started as a
4 general conversation.

5 CHAIRMAN CROSBY: Right. And I've
6 contributed this and I take it back anybody who
7 is watching, we are not talking about
8 Leominster. We are not talking about Suffolk
9 Downs. We are trying to identify a generalized
10 principle that we can operate with when
11 circumstances arise on a case-by-case basis.

12 COMMISSIONER ZUNIGA: I would only
13 like to mention a couple of things, which
14 hopefully will not happen very soon or that
15 very many times. But there are instances where
16 a significant change may be required by no
17 fault of the developer but by an unanticipated
18 condition or an outside agency.

19 We hear the stories that maybe there
20 is an ancient burial ground that was discovered
21 and never anticipated or a turtle that is in
22 extinction and that requires that the project
23 be flipped over entirely or that requires
24 another kind of access road. And it was never

1 foreseeable. But those things happen from time
2 to time.

3 So, as we talk about a material
4 change, I would at least insert the notion of a
5 necessary or an unanticipated. And I don't
6 know exactly how that goes. But if there is an
7 outside agency an unforeseen condition that
8 necessitates a material change, I'm not saying
9 that the parties should just accept it, but the
10 solutions that may be required should be really
11 the point of the discussions.

12 CHAIRMAN CROSBY: Whether it's a
13 change because of an outside circumstance or a
14 change because the parties want to change, the
15 process is exactly the same. We're saying yes,
16 you could make a change from what's in the HCA.

17 What we're talking about now is it's
18 in the application. So, if DOT has stepped in
19 between HCA and application -- referendum and
20 application and says you've got to make a
21 change, it falls under the parameters outlined
22 that Jim gave.

23 COMMISSIONER MCHUGH: Could I just
24 add a footnote to that, because our regulations

1 talk about the snail darter kind of problem
2 even if there is no clause, I think. Am I
3 right?

4 MR. ZIEMBA: That's correct.

5 COMMISSIONER MCHUGH: And it permits
6 an amendment and has a procedure for a reopener
7 in that kind of situation. That's really a
8 different kind of situation than a voluntary
9 change by one side, a material change by one
10 side of the agreement.

11 COMMISSIONER CAMERON: Is the
12 regulation that specific?

13 MR. ZIEMBA: It is.

14 COMMISSIONER CAMERON: So, it is not
15 anticipated that it be used for a mutually
16 agreed-upon change?

17 MR. ZIEMBA: Unless a provision is
18 included in a host community agreement. So, if
19 there's a provision in the host community
20 agreement that allows for changes to be made,
21 it can be guided by the host community
22 agreement.

23 Otherwise, if changes are made, our
24 regulations provide for changes upon a

1 significant and adverse material impact which
2 can then lead to a petitioning of the
3 Commission to be allowed to change the host
4 community agreement.

5 COMMISSIONER CAMERON: Some of the
6 agreements have this reopener clause and some
7 do not.

8 MR. ZIEMBA: That is correct.

9 COMMISSIONER CAMERON: Most do?

10 MR. ZIEMBA: I haven't done a
11 survey, but my sentiment is most do.

12 MR. DAY: Just from what I heard was
13 the Commission would or would not consider. I
14 guess what I'd be trying to get to is what
15 consider means. Does that mean poor rating?
16 Does it mean the application gets rejected?
17 How would the Commission actually process that
18 decision? Would it go into a question for the
19 host community meeting?

20 COMMISSIONER MCHUGH: It seems to me
21 that Commissioner Zuniga's framework, I just
22 throw this out for discussion, is the
23 appropriate way. As soon as that is
24 discovered, i.e., as soon as what somebody

1 believes, probably one of these reviewing
2 committees that we have, believes that there is
3 a material difference between what was in the
4 host community agreement or the summary and
5 what the application says, then we start a
6 process that flags that and invites both sides
7 to come in, the applicant and the host
8 community to come in, and explain to us what
9 the difference is and whether they agree.

10 And if in the meantime after we flag
11 it, they agree then we don't have any issue to
12 decide. But we simply try to get at that as
13 early and as quickly as we can and have a
14 hearing to decide whether it's material. And
15 then give them the opportunity to address it.

16 COMMISSIONER STEBBINS: When you
17 refer to the summary, you're talking about the
18 referendum?

19 COMMISSIONER MCHUGH: The referendum
20 summary. Because in some cases, the site is
21 described with more particularity than in
22 others.

23 CHAIRMAN CROSBY: So, this is a
24 process that would only happen after

1 applications are in.

2 COMMISSIONER MCHUGH: Right.

3 CHAIRMAN CROSBY: Then almost as
4 part of the completeness check, the
5 administrative completeness check, we could be
6 trying to find out whether there are major
7 apparent disconnects between what was
8 anticipated in the HCA and then surface those
9 problems right away, those issues right away.

10 COMMISSIONER MCHUGH: Right.

11 CHAIRMAN CROSBY: Okay. Do we have
12 a consensus on this one? I don't think we need
13 a vote on this, right? It's a very meaningful
14 point however.

15 Now the second case something which
16 is --

17 COMMISSIONER ZUNIGA: Publicly
18 discussed but not in the application.

19 CHAIRMAN CROSBY: Or in the HCA --
20 Sorry, not in the application, right.

21 MR. DAY: Either in a presentation
22 or publicly discussed.

23 COMMISSIONER MCHUGH: We are going
24 to have X-amenity that's presented in the

1 unveiling. It's presented in community
2 discussions. It's not in the application.

3 CHAIRMAN CROSBY: Is this
4 independent of whether it's in the HCA or not,
5 I guess?

6 COMMISSIONER MCHUGH: Yes.

7 CHAIRMAN CROSBY: So, the issue is
8 it's publicly discussed as if it's a reality
9 but it's not in the application.

10 COMMISSIONER MCHUGH: Right. So, we
11 have no idea really in any formal sense what it
12 looks like, what its dimensions are. We've got
13 schematics or something but it's not anything
14 that's in there for us to get our hooks into.
15 And it's not rose bushes as opposed to azaleas.

16 COMMISSIONER ZUNIGA: Prior to the
17 award, right? Because if we're talking about
18 scenarios after the award --

19 COMMISSIONER MCHUGH: Then it's
20 material

21 CHAIRMAN CROSBY: While we're
22 evaluating.

23 COMMISSIONER ZUNIGA: While we're
24 evaluating.

1 COMMISSIONER CAMERON: And would
2 this include a change that the agreed upon
3 parties would like to make but maybe it hasn't
4 been publicly discussed?

5 COMMISSIONER MCHUGH: Yes. It would
6 include anything that has a life outside the
7 application.

8 COMMISSIONER ZUNIGA: Let me venture
9 this, something that is publicly discussed or
10 represented, either in a presentation to us or
11 to the host community is likely something that
12 could be cross-referenced across more than one
13 part of the application.

14 For example, it could be not in a
15 drawing but in the budget or vice versa. Or it
16 could be part of a mitigation plan but not in
17 the budget.

18 CHAIRMAN CROSBY: This is a
19 different issue, right?

20 COMMISSIONER ZUNIGA: The point is,
21 if we are only think about this one area where
22 we are evaluating, I would just remind
23 ourselves that there are places that some of
24 these issues could be cross-referenced.

1 COMMISSIONER MCHUGH: Yes.

2 COMMISSIONER ZUNIGA: And assuming
3 that it is nowhere that's the assumption.

4 CHAIRMAN CROSBY: If it's in one
5 place and not in another, then we have to ask
6 for clarification. We've had those issues.
7 This is if it's nowhere.

8 COMMISSIONER ZUNIGA: If it's
9 nowhere. If it's really something that they
10 have no way of showing --

11 CHAIRMAN CROSBY: If all of a sudden
12 an applicant starts saying we are going to pay
13 half a million dollars a year to the five
14 surrounding communities, but it's not in their
15 application, can we take that into
16 consideration?

17 COMMISSIONER ZUNIGA: That actually
18 may be not a good example, because there are
19 still some of these surrounding communities --

20 CHAIRMAN CROSBY: Right, amenity-X.

21 COMMISSIONER MCHUGH: We have that
22 one. And hypothetically, we have an
23 interchange at a highway and that's been
24 discussed. It's in the PowerPoints, it's in

1 everything. But you go to the application and
2 you can't find any interchange. That is
3 entirely a hypothetical.

4 CHAIRMAN CROSBY: I'll go first. It
5 seems to me that we can't do that. We cannot
6 consider things which are significant that are
7 not in the application. Among other things
8 that goes against the principle that we talked
9 about earlier, which is you don't get to dress
10 up your application ipso facto which now you
11 found out what somebody else did. You couldn't
12 make a distinction between those two.

13 COMMISSIONER STEBBINS: Add an
14 additional point. I would keep our focus
15 limited to the public presentations made before
16 the Commission after the applications. I mean
17 to go back --

18 COMMISSIONER MCHUGH: I'm sorry?

19 COMMISSIONER STEBBINS: We're
20 talking about it's not in the application, but
21 publicly presented. I would keep the public
22 presentation to what we require after the
23 applications were due. There have been
24 hundreds of public presentations back in the

1 community. I'm assuming we only want to see
2 what the difference is between the public
3 presentation after the application is due and
4 what's in the application.

5 COMMISSIONER MCHUGH: We might want
6 to make that comparison, but it would be
7 simpler if the rule were if it's not in the
8 application, it's not part of the application.
9 Then we wouldn't have to worry about --

10 CHAIRMAN CROSBY: It shouldn't be
11 part of the public presentation either.

12 COMMISSIONER MCHUGH: It shouldn't
13 be, but we wouldn't have to worry about whether
14 there was a difference between the public
15 presentation and the application. If it's not
16 in the application, it's just not part of the
17 application. It could have been part of the
18 public presentation. It could have been part
19 of every presentation. It's not in the
20 application, it's not in the application.
21 That's a simpler rule, I think.

22 COMMISSIONER STEBBINS: Yes.

23 CHAIRMAN CROSBY: Does anybody have
24 a different view? What would be the argument

1 on the other side?

2 COMMISSIONER ZUNIGA: Well, the
3 argument on the other side is that there could
4 be and our regs. anticipated this possibility,
5 eventualities in which they could improve their
6 application while it's being reviewed, because
7 they came up with -- Now is this material or
8 immaterial, we can talk about that.

9 But because there has been a
10 refinement, an additional understanding of MEPA
11 requirements, an additional understanding of
12 certain permitting or we're working really hard
13 towards one deadline, but now we know a little
14 bit more. And I know we're only talking about
15 a short timeframe from receipt of the
16 application to award of the license, but it's
17 not an inconsequential timeframe and there
18 could be legitimately good reasons to improve
19 that application.

20 CHAIRMAN CROSBY: The hardest case
21 would be if a state agency, a regulatory agency
22 forced a change on somebody which made the
23 project much better and that happened during
24 this window of time. Could we not consider

1 that? I think that's the hardest case.

2 COMMISSIONER ZUNIGA: We should
3 consider it, in other words.

4 CHAIRMAN CROSBY: Well, it's the
5 hardest case to say no to. If our principle is
6 you can't consider things which are not in the
7 application, what about something like that,
8 which it has nothing to do with the action of
9 the applicant. For the moment set that aside.

10 I do want to explore this point.
11 You said several times that our regs.
12 anticipate people improving their offers after
13 the applications are in. Could you explain
14 that?

15 MS. BLUE: This is what our
16 regulations said. And it's regulation 118.04
17 and it will be one 1(h). It talks about the
18 applications coming in. And then it says in
19 doing so, the Commission may at such times and
20 in such order as the Commission deems
21 appropriate take some or all of the following
22 actions.

23 Then under section (h) it says
24 require or permit the applicant to supplement

1 or amend its application as the Commission
2 determines to be in the best interest of the
3 host community, one or more surrounding
4 communities or impacted live entertainment
5 venues, the region or the Commonwealth.

6 So, our regulations do present the
7 concept of an amendment. And I know some
8 applicants have come forward and asked what
9 does that mean, but our regulations don't say
10 any more than that.

11 CHAIRMAN CROSBY: Read (h).

12 MS. BLUE: (h) is require or permit
13 the applicant.

14 CHAIRMAN CROSBY: Require or permit,
15 okay.

16 COMMISSIONER ZUNIGA: The operative
17 word here, in the best interest of the
18 community, the Commonwealth and the
19 application.

20 CHAIRMAN CROSBY: But if we let that
21 stand, then after applications are in,
22 applicants would practically as a practical
23 matter, be encouraged to come forward with
24 enhancements that will make this better for the

1 region, better for the Commonwealth, better for
2 a host community whatever. Because there's a
3 window there that says right up until the
4 moment we decide, you can keep upping the ante,
5 in effect.

6 And it says may. My instinct is
7 with the rest, this an important thing to talk
8 about, everything else we've talked about has
9 been the door closes at the application except
10 for clarifications and so forth.

11 And if we don't mean the door closes
12 with applications, then I think we have a whole
13 different kettle of fish here. And maybe it's
14 a kettle of fish we want but to encourage
15 applicants to keep upping the ante after
16 they've seen what the competitor has done,
17 right up until the last minute, I don't think
18 that's where we've been coming from. And I
19 don't think that's right way to go. But I
20 think we need to get this resolved one way or
21 the other.

22 COMMISSIONER MCHUGH: Maybe the best
23 way to deal -- I'm in favor. That's the
24 principle.

1 CHAIRMAN CROSBY: Closing the door.

2 COMMISSIONER MCHUGH: Closing the
3 door is the default. I think that ought to be
4 the default, because otherwise it's just the
5 Wild West.

6 But perhaps the rule ought to be
7 what's in the application is all we are going
8 to consider unless and until the application is
9 amended with the Commission's approval. Then
10 we have the opportunity to apply that
11 regulation and also to find out why that wasn't
12 in the original application. If it wasn't in
13 the original application, there may be an
14 oversight. And that may happen. Some of these
15 people are working under tight deadlines. That
16 may be one thing. If it wasn't in the original
17 application because saw it in someone else's
18 application and wanted to one better then --

19 CHAIRMAN CROSBY: Would that mean,
20 Jim, that we would be inviting people to submit
21 things and we might let them amend it? It
22 would just be on a case-by-case basis? Send us
23 your ideas and we'll take a look at each one of
24 them?

1 COMMISSIONER ZUNIGA: Whether we
2 approve or disapprove.

3 COMMISSIONER MCHUGH: I think that
4 would be the logical implication of having that
5 discretionary power, retaining that
6 discretionary power. That's what the existing
7 reg., as Catherine read it, says we have
8 already.

9 CHAIRMAN CROSBY: But it's a may.

10 COMMISSIONER MCHUGH: I wouldn't
11 change that.

12 CHAIRMAN CROSBY: What I was
13 thinking is structuring it a little bit
14 differently. That what we say as a matter of
15 policy even though we have other authority is
16 that what's in the application is the
17 application, period.

18 And if there are other things, the
19 media talked about other things that come up
20 later on, it was talked about earlier,
21 whatever, it doesn't matter. If it's not in
22 the application, it's not there.

23 We do reserve the right, I would
24 say, when we make a selection to go back to the

1 selectee and say you're it, but here's what we
2 want you to do.

3 Or take another case, say we only
4 have one applicant. And the only negotiator is
5 us, is we. Then we would clearly use that
6 clause to go back and say just because you're
7 the only application doesn't mean you're going
8 to win this. Here's what you've got to do.
9 Then we would have the option to require, in
10 this case require, but require or permit.

11 So that we have a pretty clear break
12 here that the door closes at the application.
13 If you forgot about it that's too bad. If you
14 talked about it earlier and changed your mind,
15 it doesn't matter. It comes up late, it
16 doesn't matter. If it isn't in the
17 application, we don't consider it.

18 However, we do reserve the right
19 when we are negotiating a license with somebody
20 to use that clause.

21 COMMISSIONER ZUNIGA: Negotiating a
22 license up to award?

23 CHAIRMAN CROSBY: After selection.

24 COMMISSIONER ZUNIGA: Selection?

1 CHAIRMAN CROSBY: After our internal
2 -- If we sit here and decide, okay, we like
3 applicant one but we don't like this piece of
4 it. We want to go with applicant one, but we
5 don't like this piece of it or we don't like --
6 we like applicant two, but we want them to do a
7 little more on the something or other, the
8 community mitigation. That is the point at
9 which we would exercise the right assured us
10 under that reg.

11 COMMISSIONER STEBBINS: You'd want
12 the ability to negotiate as opposed to just
13 laboring things into conditions of the license.

14 MS. BLUE: There's another section
15 of that particular regulation, the section
16 before it (g). And that says require or permit
17 the Executive Director with the assistance of
18 the Commission's agents and employees to
19 negotiate with the applicant its agents and
20 employees concerning potential improvements to
21 the applicant's proposed gaming establishment,
22 its mitigation plans and its proposals to
23 ensure economic and other benefits to the
24 region and to the Commonwealth.

1 So, it might be what you're
2 discussing in terms of after a selection may be
3 more applicable under the provision before,
4 (g), as opposed to under (h).

5 I know in the legal department the
6 example that we come up with most often under
7 (h) is a situation where an application is
8 submitted. The Commission goes out to the host
9 community meeting and it hears from the
10 community something along the lines of we think
11 this project is great but we're concerned
12 because we think there should be an additional
13 left turn lane off this road. So, we think
14 that should happen.

15 Then the Commission comes back from
16 that meeting and perhaps says to the applicant,
17 we've got this input. We think you should make
18 this change. That was the more common example
19 under (h).

20 CHAIRMAN CROSBY: While the
21 competition is still going on.

22 MS. BLUE: Is still going on, yes.

23 MS. PINCK: I wanted to ask a
24 question of you. Take an example like a

1 flyover or something that has become publicly
2 known or was part of those presentations and it
3 doesn't seem to be in the application anywhere,
4 would that be the kind of question that you
5 would want to direct to the applicant at the
6 host community meetings?

7 COMMISSIONER ZUNIGA: Absolutely.

8 CHAIRMAN CROSBY: If it's not in the
9 application?

10 MS. PINCK: I'm asking a question.

11 CHAIRMAN CROSBY: Not with what's on
12 the table at the moment, we're not.

13 MS. PINCK: Or if we had heard about
14 a new left turn and it wasn't in the
15 application, would that be a way or a means or
16 a time to have that discussion with the
17 applicant? That's the question.

18 COMMISSIONER ZUNIGA: I would
19 venture yes. That's a big reason of the host
20 community hearing in my opinion. We are going
21 to listen to genuine concerns. And if there is
22 a reasonable way to make that happen, why could
23 the applicant not improve that?

24 COMMISSIONER MCHUGH: I think the

1 applicant would have to improve it, if for
2 example it was material -- It could be that the
3 applicant would have to make the change. And
4 we could ask about it. How are you going to
5 get left here or something during the
6 discussion.

7 But it seems to me that's the kind
8 of thing that goes as a license condition when
9 we decide at the end, rather than having
10 questions arise, supplements to the application
11 being made and then those supplements to the
12 application breeding other supplements. It has
13 the potential to turn into a cascade around
14 which we will never get our hands, unless we
15 hold it until the end, accumulate a bunch of
16 things.

17 And in part, some of our evaluation
18 process is already accumulating those lists.
19 Places where people are getting an
20 unsatisfactory or insufficient are not knockout
21 blows, but they begin to form a checklist of
22 things that have to be fixed if they get the
23 license.

24 COMMISSIONER STEBBINS: The

1 scenario, if we wind up with one applicant,
2 would you rather have that opportunity to
3 negotiate as opposed to impose those all as
4 license conditions and the applicant says, I
5 don't want to do all of those and walks away?
6 Highly unlikely scenario but --

7 CHAIRMAN CROSBY: Then we go to the
8 next one.

9 COMMISSIONER STEBBINS: Only one
10 applicant.

11 COMMISSIONER MCHUGH: I think you
12 could ask the staff to go and negotiate and
13 talk to them about it.

14 CHAIRMAN CROSBY: Even if there is
15 only one.

16 COMMISSIONER MCHUGH: If there's
17 only one and go talk to them about it and see
18 if they're willing to do it.

19 COMMISSIONER CAMERON: When you say
20 if there is only one that means we're
21 contemplating making a selection?

22 CHAIRMAN CROSBY: No, only one
23 applicant.

24 COMMISSIONER CAMERON: There's only

1 one in the region?

2 COMMISSIONER STEBBINS:

3 Hypothetically, one applicant left.

4 COMMISSIONER CAMERON: What I'm

5 hearing here is that we could ask for

6 improvements but they can't do them on their

7 own.

8 CHAIRMAN CROSBY: Right, can't

9 offer.

10 COMMISSIONER STEBBINS: I see this

11 question and even those regulations as all

12 Commission initiated as opposed to do you take

13 my little new file that I slip under the door

14 or if I want to send it. What do we want to

15 consider?

16 CHAIRMAN CROSBY: I agree with that

17 except that I think I'm with Jim. There are

18 two different ways to go. I don't think there

19 is anything wrong with either one. We talk for

20 example about whether we want to have a best

21 and final process. And we decided not to have

22 a formal best and final.

23 COMMISSIONER ZUNIGA: For the slots

24 parlor, by the way.

1 CHAIRMAN CROSBY: We do have a best
2 and final for the casinos?

3 COMMISSIONER ZUNIGA: No, we have
4 not made that decision. But our decision was
5 for the slots parlor.

6 COMMISSIONER CAMERON: Not to have
7 that process.

8 COMMISSIONER MCHUGH: I didn't know
9 that either.

10 CHAIRMAN CROSBY: It's totally the
11 way to go. We couldn't be going back and forth
12 with all of the applicants right now and trying
13 to up the ante. Fix this, do that, get them to
14 bid against each other. There's nothing wrong
15 with that. Lots of people have bidding
16 processes like that.

17 I don't particularly favor that for
18 the reasons that we've talked about before.
19 But it's a different way to skin this cat. I
20 think it's pretty hard to be half pregnant
21 here. Either you can't enhance your
22 application after it's in until either you're
23 the only one standing, if there is only one
24 applicant or we're about to pick you and we put

1 it in terms of license agreements or conditions
2 or whatever. Either it's that or you can
3 enhance it and it's sort of caddied by the
4 door.

5 COMMISSIONER ZUNIGA: In your first
6 scenario, you cannot enhance your application
7 on your own, but if you're directly asked by us
8 which is a right we have, could that still be a
9 possibility?

10 COMMISSIONER MCHUGH: If what?

11 COMMISSIONER ZUNIGA: If it was
12 directed or initiated by the Commission.

13 CHAIRMAN CROSBY: Could we go to
14 Catherine's point, even this good idea about an
15 off-ramp. What I am saying and this is
16 something we have to figure out, what I am
17 saying is no, because I don't think that's fair
18 to the other applicants.

19 If some good idea comes up or
20 there's a resistance and we permit a solution
21 to, what about the other guy that's got a good
22 idea or a resistance that they could come up
23 with a solution to? That's what I mean by I
24 think it's very hard to find a limited basis,

1 outside of a public agency forcing a change,
2 which I think is a separable case, I think it's
3 hard to create a scenario where there's room
4 for some enhancements but not others, even if
5 it comes from us because we'd have to say to
6 everybody you all get a chance.

7 MS. STACK: I don't want to
8 complicate things further, but --

9 COMMISSIONER MCHUGH: You can't
10 possibly.

11 MS. STACK: -- but I do recall that
12 in earlier discussions around this very concern
13 about applicants being able to unequally
14 improve their applications, one of the things
15 that was discussed is an opportunity to kind of
16 equalize that opportunity was to use the very
17 public host community hearings.

18 Among other things, as I understand
19 the way they are currently envisioned, the
20 applicants will have an opportunity to make
21 another public presentation. It's possible
22 that some of these things that we've talked
23 about that have been perhaps in the public
24 presentation but not in the application may

1 become part of that presentation as well.

2 Or for instance, some of the issues
3 they've heard from surrounding communities in
4 the interim negotiations might be a reason that
5 they wanted to respond to a condition that they
6 would present and it would at least be in a
7 public forum. So, that we had tried to
8 encourage questions that would allow for that
9 improvement to happen in that public forum.

10 And I believe it was Commissioner
11 McHugh who had suggested that we kind of mimic
12 the Phase 1 hearing process to make sure that
13 the applicants had a list of what those would
14 be and would be prepared to respond to them at
15 that time.

16 This could get muddied if again they
17 present a few things that would be somewhere
18 along the spectrum towards a material change
19 perhaps in that very public forum.

20 COMMISSIONER MCHUGH: I did suggest
21 the pre-hearing conference with those
22 questions. And frankly, I had more in mind
23 explaining ambiguities and community concerns
24 and the like rather than enhancements.

1 MS. STACK: But their response to
2 that concern could be the enhancements.

3 COMMISSIONER MCHUGH: I hear you.

4 CHAIRMAN CROSBY: But I think that's
5 exactly what we're dealing with. That's the
6 question. What you're talking about is a
7 medium of getting enhancements to the table,
8 which I don't think is the question.

9 The question is are we going to
10 permit that in any medium? The case about the
11 left-hand turn land, to go to a host community
12 meeting where there is a problem access point
13 and say to the applicant how do you think
14 traffic is going to get from there to there?
15 They can say within the four corners of their
16 application, we looked at this. We think it's
17 enough. It's not 2000 cars. It's only 200
18 cars. Or there's that back road you didn't
19 notice or whatever.

20 But they don't get to say you're
21 right. We forgot that. We're going to add a
22 new left-hand turn lane. They can explain
23 their position. They can clarify it. They can
24 argue in favor of it, but they can't change it.

1 MS. PINCK: As a means to improve
2 their application, but they may change it later
3 which goes to the place that we started half an
4 hour ago, which is what happens as the design
5 evolves after the license is awarded, which we
6 can take up later.

7 CHAIRMAN CROSBY: Yes, that's just a
8 different situation.

9 MS. PINCK: But I do think it's an
10 opportunity to appear to improve the
11 application.

12 CHAIRMAN CROSBY: There's plenty of
13 ones. I think we have a consensus that there
14 is no problem once you've made the decision,
15 you can negotiate with those folks, you can add
16 things. What we're talking about is pre-
17 license decision.

18 So, let's see where we are on this
19 point. Do we agree or not that we want to
20 limit the features in the application that we
21 can evaluate to those features which are
22 actually in the application with the only
23 modification of that being possibly
24 regulatorily enforced changes and changes which

1 come at the license negotiation phase.

2 COMMISSIONER MCHUGH: I'm in favor
3 of that, but I am not sure that I'm in favor
4 entirely of your coda, which I think it is that
5 at a host community meeting we say how do you
6 think the people are going to turn left. And
7 they say, oh, my god. We forgot a left-hand
8 turn. And we'll have to fix that. That
9 doesn't change the application.

10 But it is something we can listen to
11 and think about as a condition for negotiation
12 once we make the award.

13 CHAIRMAN CROSBY: True. Yes.
14 That's a real subtlety but I think it's legit.
15 We would have to save ourselves, on balance we
16 like that applicant best. And we hope they can
17 fix that problem.

18 COMMISSIONER MCHUGH: Right. With
19 that then I am in favor of that hard and fast.

20 CHAIRMAN CROSBY: I want to see
21 General Counsel write this one up.

22 COMMISSIONER CAMERON: John, you get
23 all of these questions off-line. Are we
24 missing anything in this conversation?

1 MR. ZIEMBA: I was just wondering
2 whether you actually want to hear publicly on
3 these issues, not any specifics but hear what
4 our applicants have to say about it sort of on
5 a uniform basis. It might be instructive as
6 long as we say to them please don't include
7 your specific improvements that you want to add
8 in response to the --

9 CHAIRMAN CROSBY: Right. Leave it
10 at this generic abstract level that we've been
11 talking about.

12 COMMISSIONER ZUNIGA: I'm wrestling
13 a little bit because I think this left-turn
14 example it's a very good case in point because
15 it's also very site-specific.

16 When we say to somebody no, you
17 cannot make a left-turn improvement here
18 because others would be at a disadvantage, I
19 don't think it really applies, because the
20 others don't have that site. I think it begins
21 to tell how prepared they were in an
22 application. And I think when we add all of
23 those instances that and however many more, I
24 think that is very much an important

1 consideration when it comes to making the final
2 judgment.

3 This one was buttoned up versus this
4 one had all of these questions. But I think
5 and I appreciate the way you characterized the
6 Chairman decision. Having a very hard nothing
7 is a little too limiting. And I understand
8 that we have still the right of our regulation
9 to wait and see a particular instance, but I am
10 also not prepared to say you are locked between
11 the submission of the application and the
12 award. Because there is enough time in between
13 including some of those answers to the
14 subtleties or clarification questions that
15 could start to add up in the venue of either
16 improving or clarifying the application.

17 MR. ZIEMBA: There is such a fine
18 line, Commissioner, to your question. I'll use
19 an example of one that I may or may not have
20 heard.

21 For example, say a particular
22 applicant says when we were doing our initial
23 projections for purposes of the application, we
24 perhaps didn't see something. Now when we

1 review our estimate of revenues, our revenues
2 are actually far in excess of what they
3 currently are. We are going to rely on our
4 advisers to review all of the revenue of that
5 forecast of each one of the different
6 applicants.

7 But potentially some of the
8 assumptions that they are using, they might
9 miss it because they aren't reacting to
10 something that is in front of them. So, we
11 could otherwise be making an award to one
12 particular applicant based on our idea of
13 revenues that in actuality there's information
14 out there that the revenues are going to be
15 greater than that.

16 So, there are some risk. There's
17 such a fine line of clarifying, improving. I
18 agree with the sentiments that for fairness
19 reasons it's very difficult to try to make that
20 distinction. But there are policy arguments on
21 the other side that in order to make the best
22 decision, you might need the best information
23 in front of you.

24 COMMISSIONER MCHUGH: This almost

1 gets metaphysical, because I don't disagree
2 with that. But another example would be that
3 the applicant looks at a traffic study and says
4 that's a better traffic study than mine. And
5 I've got to do something about that
6 interchange.

7 So, it is something one can listen
8 to. But it seems to me that the time -- and
9 understand that that's a possibility for this.
10 But the time for really inserting it into the
11 application and the way you are overall judging
12 the application is at the end when the other
13 factors lead you to want to award the license
14 to that person. And then we've got the staff
15 to negotiate with it.

16 That's sort of is -- You've got a
17 list of things that need improvement, including
18 the things that we've already found are
19 insufficient. And we that some stuff is
20 possible. And we know that the applicant isn't
21 is going to do some stuff.

22 So, at the end you make the award
23 and instruct the people that are negotiating
24 and the staff to negotiate and you put that

1 into the license conditions.

2 COMMISSIONER ZUNIGA: I'm fine with
3 that. I think we are getting close to
4 metaphysical, but as long as we are not
5 constraining ourselves. We already have the
6 regulation that allows us the flexibility. I
7 know what the general principle is here. You
8 don't get just to a do a do-over, because you
9 have the benefit of hindsight or the benefit of
10 others.

11 However, there's site-specific
12 issues that could and should be listened to.
13 If we can say put that on hold. We'll take it
14 up at the point of award, if you get awarded
15 the license, but we are only looking at what
16 you presented, I am fine with that. As long as
17 don't lose sight of the fact that something
18 could and legitimately be improved after the
19 fact.

20 COMMISSIONER MCHUGH: Maintaining
21 flexibility without opening --

22 COMMISSIONER ZUNIGA: -- a can of
23 worms.

24 COMMISISONER MCHUGH: -- opening a

1 can of worms.

2 MR. DAY: For the evaluation process
3 and part of what we consider, it seems like
4 what we're talking about is we're talking about
5 the information supplied by the applicant in
6 the application. We're talking about the
7 clarifications requested by the teams and the
8 responses to Commission questions at the host
9 community agreement.

10 For the evaluation process, it seems
11 to like those are the -- the application,
12 clarifications and the responses to the
13 Commission questions at the host community
14 hearing, all of which are really started by the
15 Commission. Through application, if the
16 Commission asks it, then it's part of -- If the
17 Commission has not solicited that answer then
18 it would not be.

19 COMMISSIONER MCHUGH: Certainly, the
20 clarifications that came in because that's
21 stuff that's in the application. It's just
22 hard to figure out what it means.

23 COMMISSIONER STEBBINS: But it's
24 easy to suggest that some of the answers we

1 might get at the host community hearings are
2 one not only going to lend themselves to our
3 evaluative process but they could lend
4 ourselves to the end-stage process as well.

5 COMMISSIONER MCHUGH: To the what?

6 COMMISSIONER STEBBINS: You could
7 wind up asking questions at the host community
8 hearing which is going to lend itself to a
9 better evaluation of the application and there
10 also may lead you to that the checklist of
11 items that you use at the end of the selection
12 process as well.

13 MR. DAY: The Commission could use
14 it somewhere else, but that would at least keep
15 a fence around it.

16 COMMISSIONER STEBBINS: It's all
17 under an umbrella of Commission initiated
18 requests as opposed to an onslaught coming in
19 our direction.

20 COMMISSIONER MCHUGH: The reason
21 that I think the discussion isn't entirely
22 metaphysical is that we are dealing with
23 sophisticated people. And you can ask a
24 question of one of the --

1 COMMISSIONER STEBBINS: Our
2 applicants not us.

3 COMMISSIONER MCHUGH: Both.

4 CHAIRMAN CROSBY: At least some of
5 us, the Eastern, Mass. ones.

6 COMMISSIONER MCHUGH: This is what
7 happens at these long meetings. You can ask a
8 question at that host community meeting and
9 have a long answer that brings in a lot of
10 supporting stuff that is in the last analysis
11 nothing more or nothing less than an
12 enhancement that wasn't sought.

13 So, I think to say that whatever we
14 get in response to the host community hearing
15 questions we ask is something we consider as
16 part of the application. I think that
17 distinction between things we'll think about
18 and things that are part of the application
19 does make a difference. We file it away, but
20 just because it was said there, it's not a part
21 of the application I think. Does that make
22 sense sort of?

23 COMMISSIONER CAMERON: Does that
24 include the initial 90-minute presentations as

1 well?

2 COMMISSIONER MCHUGH: The initial
3 90-minute presentations, if they're in the
4 application, they're in the application. If
5 they're not, they're not.

6 CHAIRMAN CROSBY: I do think, maybe
7 this was spoken to, the idea of people who are
8 watching and listening comment. I'd be
9 interested in hearing what they have to say.

10 COMMISSIONER MCHUGH: I would too.
11 I'm not sure I'd like to have a hearing on
12 that, but certainly written comments I think
13 would be very good.

14 MR. ZIEMBA: That fits within the
15 Pinck and Co. folks have been taking a look at
16 how conditions should work. What conditions we
17 should include within the overall license. And
18 I've been approached that different
19 jurisdictions do it in different ways, but part
20 of the same question. Potentially people could
21 opine on that as well.

22 COMMISSIONER MCHUGH: Right.

23 CHAIRMAN CROSBY: We had a third
24 case which you brought up. Did you really mean

1 to put that one the table, if it's in the HCA
2 but not in the application?

3 MS. BLUE: That is a third
4 situation.

5 CHAIRMAN CROSBY: That would be
6 pretty hard to do, wouldn't it, since the HCAs
7 are all incorporated into the applications?

8 MS. PINCK: that was the third one.

9 MS. BLUE: I think if we were to
10 take that position, we actually never thought
11 about it. But if we were to take the position
12 that everything that's in HCAs is incorporated
13 into the application, whether it shows up
14 physically or not, then we would assume that
15 that was a requirement. And we would evaluate
16 it based upon how they address that
17 requirement. So, we could do that.

18 CHAIRMAN CROSBY: That's part of the
19 application. It's in the application, as far
20 as I'm concerned.

21 COMMISSIONER ZUNIGA: I think that
22 is, since we would be in the realm of what I
23 was alluding to before. It may be in the HCA,
24 but if we don't see it in the project --

1 CHAIRMAN CROSBY: That's a
2 clarification probably.

3 COMMISSIONER ZUNIGA: It's an
4 important clarification.

5 CHAIRMAN CROSBY: No question,
6 absolutely.

7 COMMISSIONER ZUNIGA: And we would
8 hope that they you would correct that.

9 MR. DAY: I know that Commissioner
10 Zuniga had --

11 MS. BLUE: Yes, has an additional
12 question. And the regulations for this
13 question are in section 5c of your materials.

14 COMMISSIONER ZUNIGA: This is a
15 question that came up in the finance section.
16 And that is relative to the calculation of
17 minimum capital investment, which I have
18 included here in the packets, there is perhaps
19 205 CMR 122.03 is a better starting point.

20 And particularly, I'm referring to
21 at least one applicant of the Category 2 that
22 we have before us has included the build-out of
23 temporary space and eventual demolition of that
24 space. Those costs can be generally identified

1 in their project.

2 The question from our consultants
3 was does that count towards the minimum capital
4 investment? It is an issue if the rest of the
5 costs do not amount to \$125 million, which is
6 the minimum capital investment. And I am not
7 exactly sure where that would leave this
8 applicant. It cuts close. It may be a moot
9 point, but just in case it is not I wanted to
10 bring that up because that was not anticipated
11 in this regulation necessarily.

12 I can speak to the particular
13 sections if you have questions. We talk about
14 on the one hand we talk about demolition costs
15 in item number two. But we don't talk about
16 temporary space necessarily or the build-out of
17 temporary space or the demolition of temporary
18 space.

19 The general thrust of the capital
20 investment in my view, but this is only my view
21 was having to do with permanency, something
22 that would be long-lasting. That's not really
23 reflected in any one of these sections, but
24 that's where the conundrum, if you will, comes

1 in.

2 CHAIRMAN CROSBY: Give us an
3 example. Give us a hypothetical case of
4 something that would take place where you're
5 not sure whether we should count it or not.

6 COMMISSIONER ZUNIGA: Building
7 something and demolishing it.

8 CHAIRMAN CROSBY: Building a
9 temporary facility and then demolishing it down
10 the road.

11 COMMISSIONER ZUNIGA: Demolishing it
12 six months later.

13 CHAIRMAN CROSBY: Or outfitting a
14 temporary facility.

15 COMMISSIONER ZUNIGA: Outfitting a
16 temporary facility and then doing away with
17 that space by demolishing it. All of those
18 costs are construction costs, which are part of
19 -- have design costs, which are all part that
20 could be included but are not permanent and by
21 nature temporary.

22 COMMISSIONER CAMERON: So, it would
23 be improving the infrastructure that's already
24 there rather than building something new,

1 correct?

2 COMMISSIONER ZUNIGA: In one
3 instance, yes. And demolishing that space
4 later thus making it a temporary facility.

5 COMMISSIONER MCHUGH: The temporary
6 facility would have the effect of helping the
7 revenue stream come online earlier.

8 COMMISSIONER ZUNIGA: Fundamentally.

9 COMMISSIONER ZUNIGA: And that would
10 be the reason for doing it. So, it would be a
11 capital investment that would yield revenue to
12 the Commonwealth.

13 COMMISSIONER ZUNIGA: It would be.

14 CHAIRMAN CROSBY: As well as jobs.

15 COMMISSIONER MCHUGH: As well as
16 jobs. And it might mean that if two applicants
17 committed an equal capital investment, but one
18 had one of these temporary buildings that the
19 permanent building would not be as elegant --

20 COMMISSIONER ZUNIGA: Precisely.

21 COMMISSIONER MCHUGH: -- as the
22 other.

23 COMMISSIONER ZUNIGA: In that
24 scenario, we would be then evaluating a short-

1 term benefit, because of the earlier revenue
2 with a long-term benefit because of the long-
3 lasting structure. And we could use a discount
4 rate and make those be the same or equivalent
5 or depending what that discount rate would
6 mean. But that's really not the point here.

7 COMMISSIONER CAMERON: Spending less
8 money on a structure doesn't necessarily mean
9 it won't last as long. It may mean it's not as
10 elegant, but I don't know that you could say
11 that it wouldn't last as long.

12 COMMISSIONER ZUNIGA: I'm not
13 talking about what remains, I'm talking about
14 the one that's gone. Because it's temporary in
15 nature, whatever you spend there is now gone.
16 It's not permanent, if you take the viewpoint
17 that the whole point of the capital investment
18 was to have a long-lasting structure.

19 CHAIRMAN CROSBY: High-quality,
20 long-lasting structure.

21 COMMISSIONER ZUNIGA: Both, there is
22 high-quality and there is long-lasting.

23 COMMISSIONER MCHUGH: That's really
24 interesting. You could also take the position

1 that the reason for the capital investment was
2 to produce income and jobs.

3 COMMISSIONER ZUNIGA: Precisely. I
4 frankly could go either way. I'm the one that
5 denoted this first, I guess, with myself with
6 it was first highlighted by our consultants and
7 decided to really bring it up, because after
8 reading the regulations that Todd and I
9 drafted, we never anticipated that.

10 CHAIRMAN CROSBY: Are the costs
11 excluded, is that our doing or is that the
12 Legislature?

13 COMMISSIONER ZUNIGA: No, it's our
14 doing. It's our clarification of what's in the
15 legislation. There is a general guideline,
16 there is specific language in the Category 2
17 from the statute that says that infrastructure
18 improvements outside of the property,
19 especially as it relates to roadways will not
20 be part of the capital investment. We took
21 that general guideline and extrapolated that to
22 a lot of costs. And we had many discussions
23 you'll remember about investment outside of the
24 property confines.

1 But there's also the very general
2 language in the reservation as to we get to
3 determine and we did by virtue of this
4 regulation what constitutes the capital
5 investment or the minimum capital investment.

6 CHAIRMAN CROSBY: I'll take a crack
7 at it. I remember those conversations. I
8 never was very comfortable with the idea of
9 leaving stuff out. I never could understand
10 the distinction between inside the site and
11 outside the site. That's never made sense to
12 me.

13 I guess I lean the same way here
14 that I don't see -- I wouldn't see precluding
15 that. We may not want to permit a temporary
16 facility for whatever our own reasons are, but
17 I think that's where we should determine
18 whether we like the idea of having a temporary
19 facility or not, rather than by doing it sort
20 of through the backdoor by saying you can't
21 count that towards your capital expense.

22 For what it's worth, my instinct
23 would be to say we should not exclude it,
24 period. Incidentally, we'll deal with

1 temporary facilities in another context.

2 COMMISSIONER MCHUGH: Right. Or we
3 will lay the temporary facility applicant
4 alongside the permanent facility applicant and
5 choose the permanent facility, but that's
6 saying the same thing. I think that's the way
7 to go too.

8 COMMISSIONER CAMERON: I missed your
9 last point. Put them side-by-side and choose
10 one or the other?

11 COMMISSIONER ZUNIGA: Yes. It would
12 be a key differentiator between applications
13 not a prerequisite of meeting the minimum
14 capital investment. Is that a fair statement?

15 CHAIRMAN CROSBY: If we decided to
16 permit the temporary then you'd be looking at a
17 temporary versus without a temporary and you
18 get to pick which one you prefer. We might say
19 we don't permit temporaries, so they're all off
20 the table. But we haven't crossed that bridge
21 yet.

22 COMMISSIONER CAMERON: When do we
23 intend to cross that bridge? Because I think
24 we're evaluating that now. What are the

1 numbers? Because you can open a facility
2 within six months or 12 months or 18 months,
3 that's all part of our evaluation process going
4 on right now.

5 So, if we're going to consider
6 saying no, I would think we would have to have
7 that the discussion soon because our evaluation
8 is based on those numbers.

9 COMMISSIONER ZUNIGA: I would
10 actually go further and say how could we say no
11 to a temporary facility that we're going to
12 allow and count towards the minimum capital
13 investment?

14 COMMISSIONER MCHUGH: Well, if we
15 said no to temporary facilities then the
16 allowance towards its capital investment
17 becomes moot. It's either/or.

18 COMMISSIONER ZUNIGA: Yes.

19 COMMISSIONER CAMERON: I think there
20 is a very big difference between a temporary
21 facility that someone builds haphazardly and an
22 existing facility that someone upgrades.

23 COMMISSIONER MCHUGH: I haven't
24 thought - I think we're pretty late in the game

1 to say we're not going to consider temporary
2 facilities. We didn't say that before.

3 COMMISSIONER CAMERON: Correct.

4 CHAIRMAN CROSBY: There's something
5 in the statute about temporary facilities,
6 right? What is that?

7 MR. DAY: It's not temporary
8 facility is not the term of art.

9 COMMISSIONER ZUNIGA: There's
10 language to a phasing plan.

11 MS. BLUE: Yes, you can have a
12 phasing plan. It's not technically a temporary
13 facility. But the Commission could decide to
14 allow a part of it to be built in phases.

15 COMMISSIONER MCHUGH: And we have to
16 approve the phase 1 thing and issue some kind
17 of a certificate before it can open.

18 MS. BLUE: Yes.

19 CHAIRMAN CROSBY: What you're sort
20 of suggesting relative to at least the Category
21 2 is as a practical matter, it's too late to
22 say we're not going to consider them. So,
23 we'll just weigh them pro or con as part of an
24 application versus other applications.

1 COMMISSIONER CAMERON: You spent
2 less money but then you bring in revenue
3 sooner.

4 CHAIRMAN CROSBY: I'm fine with
5 that.

6 COMMISSIONER ZUNIGA: That is a
7 weighting mechanism. There is a way to
8 quantify that with the discount rate.

9 CHAIRMAN CROSBY: The bottom line is
10 we will not preclude those costs from the
11 minimum capitalization. And we will consider
12 them as part of the application as one fair way
13 to go. Okay, it's 8:15 at night.

14 MS. PINCK: I have one more really
15 quick thing. Am I up next?

16 MR. DAY: If we are done with the
17 questions, I have the critical path check-in,
18 but I know we have been trying to get to the
19 evaluation questions for the Category 1
20 applications.

21 CHAIRMAN CROSBY: I'm being
22 facetious we're here for a reason.

23 MS. PINCK: It would be good to take
24 a little time on this. I think as all of you

1 know, there are some recommended changes to the
2 RFA-2 for the Category 1 application. And
3 you'll see in our packet two things. One is a
4 spreadsheet and a PowerPoint. They're
5 identical in content just different format
6 partly because if this were going to be before
7 a large audience, I thought it might be useful
8 to have the PowerPoint visible.

9 Do you have this also?

10 CHAIRMAN CROSBY: I don't think we
11 have the PowerPoint.

12 MS. PINCK: Then I will refer you to
13 -- Let me start off by saying this that the
14 changes that we are recommending I think fall
15 into three categories.

16 They're to clarify the intent of the
17 question or to request new information that is
18 related to that question. Number two, to
19 obtain data in a standard format to facilitate
20 our collective review and comparisons. And/or,
21 the last one is to obtain sufficient
22 information to assess the applicant's response
23 and approach.

24 What we have before you today are

1 about six questions that I would propose need
2 some of your input, because they may touch on
3 policy. I think the latter two categories
4 which are just requesting information in the
5 standard format are things that we've already
6 actually in some cases asked the applicants for
7 which are job creation templates and revenue
8 and income and expense templates.

9 COMMISSIONER MCHUGH: Before you get
10 to that could I just ask a question about this
11 format? In some cases, it looks to me like the
12 proposed revisions are substitutions for the
13 existing questions. And in some cases, they
14 are additions. Is my reading correct?

15 MS. PINCK: Mostly they are
16 additions. They're not substitutions. There
17 is no place where we are saying don't ask this
18 question, ask it completely differently.

19 COMMISSIONER MCHUGH: And the second
20 thing is there are some of the additions as to
21 which I would like to offer comments, but I
22 don't think they are of a material nature that
23 needs to occupy us today.

24 MS. PINCK: I agree.

1 COMMISSIONER MCHUGH: Is there time
2 to do that?

3 MS. PINCK: I agree. So, that's why
4 if you look up here and go down one more side,
5 please. There are six or so categories that I
6 think are before you today for discussion that
7 we'd like to get your input on. I think the
8 rest and there are about 35 questions in all or
9 in total, most of which are just slight
10 revisions or requesting information in a
11 particular manner.

12 These are 1.9, which is post-
13 licensing. In the WOW group, it was notable
14 that none of the applicants had addressed for
15 example Internet gaming. If you go down one
16 slide, please, Artem. We are proposing that
17 the RFA-2 make it quite clear that the
18 Commission would like the applicants' views and
19 expectations on how the Commonwealth would
20 handle Internet gaming and other issues of
21 potential competition for their facility.

22 COMMISSIONER MCHUGH: I think we
23 need to tease that out. But why wouldn't it go
24 better in question 1.4, which talks about how

1 are you going to handle competition or maybe
2 both places. And the in particular part it
3 strikes me is a limitation. That's my only
4 two-cents worth.

5 CHAIRMAN CROSBY: You mean drop the
6 words in particular?

7 COMMISSIONER MCHUGH: Yes. But
8 included or something so it didn't look like we
9 were focusing exclusively on that because there
10 may be a lot of other things.

11 MS. PINCK: We can do that.

12 CHAIRMAN CROSBY: The competitive
13 environment, it could fit either place.

14 MS. PINCK: It could fit either
15 place.

16 COMMISSIONER MCHUGH: Maybe both.

17 MS. PINCK: I understand now that
18 questions 1.9 was intended to try to get the
19 applicants to address that, but they didn't.

20 CHAIRMAN CROSBY: That's what I was
21 looking for.

22 MS. PINCK: Way back when before we
23 were on. So, that's why it's there. So,
24 that's, I think, pretty straightforward. The

1 next one has got to do with schematic design.
2 Question 4.5 requests a schematic design as
3 defined and understood by the AIA, which I
4 think we all agree is a sketchy definition.

5 The proposed revision is to ask them
6 for a basis of design, which is a narrative
7 that includes at a minimum these following
8 items: a discussion of the design intent;
9 major site and building features; proposed
10 exterior, interior materials; tabular program
11 allocation including space types and proposed
12 square footage; phasing and an approach to
13 sustainability.

14 So, it's a narrative that talks
15 about what they're proposing to do. We've
16 gotten kind of chockablock information in
17 category four. So, this is intended to give
18 the reviewers a bigger picture sense of what it
19 is they're proposing to do, which I think will
20 actually help that discussion we had a little
21 bit earlier.

22 Because if the picture is not
23 detailed enough to give you the basis of
24 design, then we're trying to determine if

1 something has been changed, we may not have the
2 starting point. So, it could help. In my
3 mind, I put this question up, because I wanted
4 to make sure you are clear. Do I really think
5 it's a policy issue, not really. It's really
6 borderline. But we think that particularly
7 team four that this would be of a benefit.

8 COMMISSIONER MCHUGH: I think it
9 would be of benefit. I just wonder if 250
10 words --

11 MS. PINCK: I agree. I just caught
12 that.

13 MS. STACK: We're definitely going
14 to be crossing that out. We can't do that.

15 MS. PINCK: Especially because if
16 you look at the bottom of this box, we also
17 want a basis of design for the MEP that could
18 also be 250 words. So, we'll modify that,
19 because it's definitely too skimpy.

20 Question 4.9 is about transportation
21 infrastructure. And I think for the casino
22 resorts it would be a very important question
23 to also ask them for a regional plan showing
24 features and locations of other attractions

1 that the proposer is relating to or
2 collaborating with including transportation
3 facilities within one mile of site.

4 Then also a site plan to illustrate
5 the movement of pedestrian and vehicular
6 traffic. This is just a little bit more
7 information. It's a little bit new to get some
8 better information.

9 CHAIRMAN CROSBY: Jennifer, could I?

10 COMMISSIONER ZUNIGA: Why the one
11 mile, I'm curious? Does that deem to be the
12 walkable?

13 MS. PINCK: I think it was partly
14 walkable. Do you have a sense of why?

15 MS. STACK: Primarily thinking of
16 that.

17 MS. PINCK: I think now that we
18 think about it, depending on where the Category
19 1 that might be too narrow a range.

20 COMMISSIONER ZUNIGA: If you shuttle
21 buses.

22 MS. PINCK: So, let's increase that
23 to five.

24 MS. STACK: We'll check with our

1 transportation consultants.

2 MS. PINCK: More than one, probably
3 not more than five, because then for example an
4 urban one could be just so complicated visually
5 and information wise it wouldn't be useful.

6 CHAIRMAN CROSBY: Something came up,
7 as Jennifer knows, in our meeting last week or
8 this week, whenever it was, about whether or
9 not these plans were compatible with the host
10 communities' master plans. And apparently
11 every community is supposed to have a master
12 plan.

13 And this one person in our group who
14 was a little obsessive on this point, but kept
15 saying if they haven't dealt with the
16 community's master plan, they're subject to
17 legal problems, and have they? I said I really
18 didn't know anything about that.

19 Two things, one, is there anything
20 in our process where we do check for
21 compatibility with master plan (1). And (2) do
22 we need to add anything more about this?
23 Particularly, John, you might have some sense
24 of this. Is there anything significant about a

1 host community map out a development being
2 compatible with the parameters laid out in a
3 master plan that we need to be attentive to?

4 MR. ZIEMBA: I think that not all
5 applicants obviously will be through the entire
6 plan versus at the local level at the end of
7 our application process. It's anticipated that
8 there will be significant approvals over the
9 next couple of years.

10 So, to the degree -- I'm not
11 tremendously -- I have a vague memory of the
12 master plan requirement, but to the degree that
13 we're just requiring a consistency with zoning,
14 there will still be numerous other local
15 approvals that will be necessary over the
16 permitting timeline.

17 MS. BLUE: As they go through the
18 zoning process that issue will be flushed out.

19 CHAIRMAN CROSBY: Is zoning the
20 principle tool for managing the master plan?

21 MS. BLUE: It will get raised there.
22 There are some communities who don't update
23 their master plan as often perhaps. But as
24 they go through the zoning process, they will

1 have to show that they're compatible with the
2 use that that parcel is encompassing. And the
3 master plan issue should come up there.

4 So, I think John is right. As they
5 go through the process that plan will get
6 raised and flagged.

7 CHAIRMAN CROSBY: Is there enough
8 substance there that it's something that we at
9 least going forward is it something that we
10 should have in our parameters somewhere
11 demonstrate compatibility with the master plan
12 or does that seem unnecessary?

13 MS. BLUE: I think because we've
14 asked for permits that they have to get all
15 appropriate permits and approvals, I think
16 we're covered in terms of that issue.

17 COMMISSIONER ZUNIGA: I would agree.
18 I remember also the presentation from the MEPA
19 principal talking about how each one of these
20 projects was the fact that they're going to
21 resuscitate an environmental impact review, the
22 MEPA process.

23 CHAIRMAN CROSBY: I'm fine with
24 that.

1 MS. PINCK: Next one. Could you go
2 down a couple of more. We've got something out
3 of order. One more after that. Questions 4.71
4 to 4.75 have to do with environmental
5 permitting and EOEEA certificates, EIR
6 certificates, assessments, findings and
7 impacts.

8 And your ombudsman, John Ziemba,
9 suggested I believe that it would be good to
10 ask them, the applicants, to provide a summary
11 of any changes to their project from the date
12 of their last environmental certificate.

13 MR. ZIEMBA: I think that is sort of
14 significant and material changes rather than
15 just any changes. And what we're hoping to
16 achieve here is that we don't force our sister
17 agencies at Environmental Affairs and
18 Transportation to have to try to cull it out
19 themselves. That it's provided in an easier
20 format for them when they are reviewing the
21 applications versus the last time that they
22 opined on them during the review process.

23 So, it'd be a help. Many of these
24 applicants have very ongoing relationships with

1 DOT for example. So, DOT is pretty familiar
2 with whatever changes they've made since the
3 last one. But it would help.

4 MS. PINCK: And those conversations
5 are ongoing. There's meeting after meeting
6 after meeting whereas we've got a point in time
7 when we get the application.

8 COMMISSIONER MCHUGH: Right. that
9 would speed up the application review by the
10 other agencies too.

11 MR. ZIEMBA: Correct.

12 MS. PINCK: Yes. Because they don't
13 know if they're looking at something they
14 haven't seen or saw it two revisions ago. So,
15 that's that one.

16 The next two are -- one is 5.28, a
17 code of ethics where the question is not to
18 just provide the code of ethics but to also
19 describe the process by which it was
20 promulgated and a policy to assure adherence.
21 That was Mark Vander Linden's recommendation
22 that we add that.

23 The last question is 5.9, which is
24 the metrics for problem gambling. And he

1 requested that we separate this question which
2 has to do with the metrics that applicant used
3 to measure whether it was succeeding in its
4 efforts to reduce gambling in its gaming
5 establishment by those with gambling-related
6 problems. We want to separate this into two
7 areas of inquiry, one regarding past efforts
8 and another for future efforts.

9 All of the rest of the questions
10 which are on this stick and in front of me are
11 things that really are -- we've asked for
12 example, for the total investment outside the
13 property. And the question was originally show
14 the total investment in infrastructure outside
15 the property boundaries.

16 And it would be preferable to get it
17 broken out by these traditional categories of
18 water, sewer, local roads, state roads, traffic
19 signalization and on and on.

20 And all of the rest of these
21 questions, I would suggest, if you want to look
22 through them are requesting data in a different
23 format or more consistent or I think a lot of
24 times they've answered exactly what you asked

1 for but they didn't really scratch the surface.

2 CHAIRMAN CROSBY: I think they're
3 great. I'm glad we're doing this.

4 MS. STACK: It's mostly make the
5 reviews go more quickly so that the reviewers
6 don't have to hunt for things.

7 CHAIRMAN CROSBY: I've got some
8 things which I'll give to you on my first
9 introduction. I'll get back to you.

10 MS. PINCK: That will be good.
11 Everything is here. A lot of it is calculating
12 things differently or breaking it out. I
13 believe every one of the Commissioners who has
14 seen all of these changes from each of your
15 teams.

16 COMMISSIONER CAMERON: We need to
17 move fairly quickly on this, don't we? They
18 may be filling out their Phase 2 applications
19 now.

20 MS. BLUE: We do. John and Todd and
21 I will talk about how best to disseminate the
22 information. We probably should get it
23 directly to our Category 1's and then post it
24 on the website that these are sort of an

1 addendum with rephrased questions.

2 MS. PINCK: And we'll work with you
3 to make sure the questions are clear. So that
4 we're not making an unclear question less
5 unclear.

6 MS. STACK: And it may make sense,
7 although I know they've come in for the initial
8 pre-application, but certainly to invite them
9 in to sort of talk that through. Particularly,
10 if they bring kind of the right people to the
11 meeting in terms of understanding --

12 MS. PINCK: The Category 1.

13 MS. STACK: -- for the Category 1
14 applicants and we'd be happy to help you with
15 that. They don't always read instructions as
16 clearly as we'd like them to. And I think
17 face-to-face is a good way to convey some of
18 it.

19 COMMISSIONER MCHUGH: Good.

20 CHAIRMAN CROSBY: Thank you.

21 MR. DAY: Mr. Chairman, do you want
22 me to touch on --

23 CHAIRMAN CROSBY: I do.

24 MR. DAY: -- the critical path a

1 little bit?

2 CHAIRMAN CROSBY: Yes. This is
3 actually very important. So, yes, by all
4 means.

5 MR. DAY: I will just start at the
6 beginning and see if you want to go on past
7 that. But I think there is at least one
8 important point. If you could refer to, I
9 think if you have it in your packet, it's the
10 chart basically that has at the top of it has a
11 series of timelines right at the beginning of
12 it. Then it has the construction timelines
13 right below it.

14 What I'd like to do is start just to
15 ensure that I'm on the same page with the
16 Commission here with any new information we've
17 had. At a previous meeting, the Commission
18 directed me to begin the process of planning
19 and to do that based on a schedule that
20 incorporated a possibility of an early opening
21 of a facility.

22 We had a little discussion about
23 what that timeline would be. The discussion
24 was around seven months, 10 months, something

1 like that or six months, 10 months, something
2 in that area. We went back. I did start and
3 that's what this reflects is a schedule based
4 on a facility that would open in six months.

5 So, it's incorporated, if you look
6 at this particular version of the construction
7 cost, the green line you will see a new mark at
8 about 7/10, right in the middle. If the award
9 is on 1/10, six months out would be about 7/10.
10 From there, we've extended that line down
11 through the rest of this chart. And we can go
12 on through to take a look at that or we could
13 hold off depending on this initial discussion.

14 What I thought was important is
15 based on new information I think that has
16 either come into the Commission or information
17 that we've all had over the process is to
18 reemphasize where it was in the initial
19 planning.

20 The initial planning, if you look at
21 it had projected for a slots parlor about 11
22 months total. And we're trying to key on the
23 construction complete, because that's really
24 then as a process that would go in place yet to

1 be defined that would be a preopening cycle to
2 get basically their compliance staff, equipment
3 and everything ready to go for public
4 operation. So, that actual construction is
5 important.

6 It is a little bit different in the
7 slot parlors as opposed to the resorts because
8 in the resort it is pretty clear that the
9 casino construction has to be complete and then
10 there are some other provisions before they
11 could be opening that have to take place as
12 well.

13 So, the timing, the basic timing is
14 looking at about 11 months for the
15 construction, as the shortest time for the
16 construction of a slot parlor. Part of that
17 relates to information collected, I think, in
18 this process is I was able to identify probably
19 10 months as the shortest one at least in my
20 brief survey that was apparent. But also we
21 had our other applicants have described the
22 process in their public presentation around 18
23 months.

24 So, that's why I wanted to check

1 back in to see where the Commission is on that
2 factor.

3 We also have taken in the Category 1
4 applications projected about a 24- to 27-month
5 construction completion for the casino in those
6 two cases. I think this is fairly consistent.
7 24 months is something it looked like to me
8 that was fairly common. Obviously, when it's a
9 resort, the resort and the rest of the
10 infrastructure and those things are liable to
11 take a lot -- some months longer. But 24, 27
12 months is fairly consistent relative to other
13 examples that we're seeing around the country
14 for a casino construction.

15 I think the big question really
16 comes down to me checking back in with the
17 Commissioners. Because as we move forward with
18 this, an advanced schedule, what we also do is
19 move forward with advanced -- we incur costs
20 much faster than we would be if we were doing
21 more a year's schedule out.

22 Particularly, if you're thinking in
23 the way of regulatory costs, we would have to
24 have staff. Start training staff fairly

1 quickly. Have them hired, ready to go and in
2 place so they could monitor this slots parlor
3 that might be operational in July as opposed to
4 planning for something pretty close to the end
5 of the year.

6 So, I wanted to just check back in
7 with the Commission, gauge how you were
8 thinking, if you wanted me to continue with
9 this shorter planning period. Or maybe go back
10 to a process that incorporates something more
11 like 11 or 12 months which is still ahead of
12 most of the proposals and most of the
13 construction I've seen, a little ahead of or
14 equal to but it is longer than a six-month
15 process.

16 COMMISSIONER CAMERON: I don't think
17 we can make a decision to go longer since we
18 are evaluating now one applicant that says they
19 can do it in six months. And part of that
20 evaluation are revenues that will be generated
21 early.

22 So, I don't think we can say let's
23 make it 11 months because that would throw
24 their whole application. We couldn't evaluate

1 it the same way.

2 CHAIRMAN CROSBY: The thing we're
3 wrestling with and we've been wrestling with
4 this now -- This is a hard one. As you know I
5 took a very hardline myself saying at one point
6 if they say they can start, we've got to be
7 ready for that because we can't be in a
8 position of not being ready. And I think
9 there's a lot to be said for that.

10 There's couple of things that have
11 come to our attention. One is that will force
12 us to get ready to do stuff -- There's two
13 things. It will force us to get ready to do
14 stuff quickly. It's going to force us in to
15 some spending decisions which are going to be
16 somewhat inefficient because we're rushing to
17 get ready for July.

18 But the other thing that continues
19 to surface is incredulity from anybody that six
20 months is really doable. So, if we put
21 ourselves upside down and sideways to try to
22 accommodate a schedule which everything as we
23 checked around in other jurisdictions and other
24 places, we hear it's not viable.

1 So, even I who started out taking a
2 very strong position, I'm saying to ramrod
3 through our systems, the ability to accommodate
4 six months when that's only one of three
5 applicants is claiming it, so there's a 33
6 percent chance maybe that it would happen,
7 number one. And number two most people are
8 telling us they don't think that's viable
9 anyway. So, that's where I'm troubled.

10 COMMISSIONER ZUNIGA: I want to
11 speak to that, because the six months that are
12 included in that notion, which I believe to be
13 aggressive includes, if I'm not mistaken, two
14 months for permitting and four for
15 construction.

16 And the permitting as we will soon
17 see in a lot more detail with everything that
18 goes in terms of traffic in host and
19 surrounding communities just to name one, in my
20 experience is that that tends to take a lot
21 longer than two months. I generally believe
22 that that is an aggressive notion. I could be
23 surprised.

24 Now after the two months, there is a

1 very aggressive build-out period as well of
2 four months. So, we need to break that down a
3 little bit. Having said that I have not been
4 in the building and site design or mitigation,
5 which I know some of our consultants and
6 colleagues are getting a lot more into the
7 weeds, but that's the genesis of that concern.

8 COMMISSIONER CAMERON: I was just
9 going to say, I am hearing mixed opinions on
10 this. I think we are doing a disservice if
11 we're just going to say we don't think you can
12 do it, so we're not going to be ready. And
13 when I say we're going to be ready, I think
14 it's important to maybe have that aggressive
15 timeline and then we'll know in January where
16 we really are. And then it would mean -- then
17 we could adjust accordingly.

18 But for us to right now say let's
19 make it 11 months I think is doing a real
20 disservice to one of the three applicants. It
21 really throws their -- what they consider --

22 CHAIRMAN CROSBY: -- their
23 advantage.

24 COMMISSIONER CAMERON: Yes, yes.

1 And that would be on us. And I just wouldn't
2 want to be in that position where it's on us to
3 say hey, we're not ready.

4 Again, I understand. And I know
5 what you're saying as far as what that means
6 projection wise, number wise, but it's not like
7 we get to the six-month period and say we're
8 ready and they're not. We will know in January
9 what the status is of the direction we're going
10 in. And maybe if we have to make an adjustment
11 then, we will.

12 COMMISSIONER ZUNIGA: I think the
13 complicating factor here is just what we mean
14 by being ready. Because there are ways to be
15 ready for one eventuality and another to build
16 the agency and systems assuming that that will
17 happen.

18 There's paper systems that could
19 work temporarily just like a temporary facility
20 could work for an applicant. And there's
21 electronic systems that could work for us
22 permanently, just like a permanent facility
23 will work.

24 So, when we assume that we have to

1 be permanent ready for the earliest, that has
2 significant impacts into our cash flow, for
3 one, which is where we're coming from, if we
4 assume that we have to be permanent ready.
5 That's a complicating factor here.

6 COMMISSIONER MCHUGH: That's what I
7 was going to raise. It doesn't strike me that
8 this is an on/off switch. For example, I saw
9 on one of the charts, maybe it was how many
10 seats we're going to need for the licensing
11 system. And that was 75 or something
12 ultimately. It doesn't strike me that we're
13 going to need anything near 75 to get the slots
14 parlor up and running. We have to be ready for
15 the construction licenses and registrations
16 fairly early after the license is awarded but
17 we don't have to have the floor personnel
18 trained for a while after that.

19 It seems to me we can hedge our --
20 there's some ways to hedge our bets a little
21 bit or am I not --

22 COMMISSIONER ZUNIGA: I think it's
23 always a trade-off and it's a bit of an art,
24 but to the extent that we can rely on temporary

1 costs, for example, by necessity -- a great
2 case in point is a lab or the use of
3 consultant's services versus hiring permanent
4 employees. I am generally of the view that our
5 mix and use of consultants should flip.

6 We by necessity have to rely on
7 consultants too much I would venture initially
8 because we had almost no staff. And that
9 relationship eventually has to flip. But it
10 doesn't have to flip entirely let's say because
11 we are looking at something six months from
12 now.

13 The same is true for the systems
14 that we have or that we build. Do we have to
15 have the licensing system and the document
16 management system on which the licensing system
17 is built on be casino ready, let alone slots
18 parlor ready, if we can. The answer is not as
19 straightforward.

20 CHAIRMAN CROSBY: Let me take a shot
21 at this one. What we and I in particular have
22 been guilty of is putting tremendous mixed
23 message pressure on our team here. The real
24 world is and we can all look at the Affordable

1 Care Act, every installation of everything is
2 really hard. It takes longer than you think
3 it's going to take. And we want to be smart
4 managers here. We need to give our Director
5 and his staff some kind of a clear presumption
6 under which they can operate.

7 Originally, my position was let's go
8 with the presumption that we are going to have
9 to be ready to do a high-quality job in the
10 middle of July. If it turns out we get wind
11 later on that we don't need to that, it's going
12 to be quite a bit later we can adapt at that
13 point.

14 I think I've come to the reverse
15 position because we're going to go through a
16 hell of a process trying to get ready for this.
17 And if we have to do it in short order, we'll
18 figure out a way to do it in short audit. But
19 I think my view at this point would be to
20 change that.

21 My presumption would be to say let's
22 pick a number, if it's 11 months but for this
23 one oddball circumstance, if 11 months is a
24 good solid number, and it's one we think we can

1 do and our CIO and our CFAO, who have only been
2 with us for three weeks can buy into it, and
3 feel like they can do it. And we can do it
4 without killing ourselves where we're at too
5 high risk of error and failure, let's make that
6 the presumption.

7 And if come mid-January something
8 strange happens and it means we've got to
9 figure out a way to deal with something in July
10 or August or September, then we turn our
11 attention to what's a short-term fix. Maybe
12 it'll be inefficient or cost us some money we
13 wouldn't have to spend otherwise, but that's an
14 unlikely outcome. Statistically, it's an
15 unlikely outcome. And if happens, we figure
16 out how to deal with it. But we give our
17 people the chance now to get ready to do this
18 right, to do this properly.

19 COMMISSIONER CAMERON: I think
20 statements like it's an unlikely outcome is --
21 We're looking at a one of three possibility.

22 CHAIRMAN CROSBY: It's one of three
23 if we have our surrounding community agreements
24 done in time. There's lots of other variables.

1 COMMISSIONER ZUNIGA: There's lots
2 of other things.

3 CHAIRMAN CROSBY: I'm not prejudice.
4 Let's say it's one in three. I'm not
5 prejudice. I'm not. I don't have any. But
6 Raynham as a one in three chance of getting it.
7 Let's put it that way. There's a one in three
8 chance. So, we're weighing two against one.

9 And given everything else, given how
10 much we have to go through I think discretion
11 would be the better part of valor here. I
12 think I'd rather have the inefficiencies forced
13 on us in the middle of January to try to figure
14 out how do we accommodate this circumstance
15 rather than force these inefficiencies
16 throughout our entire growth process at this
17 really critical juncture where we're trying to
18 get ourselves organized with all of these
19 critical initial steps.

20 COMMISSIONER CAMERON: I would think
21 it's much harder to plan like you have this
22 amount of time and then say oh, no, now you
23 have this amount. The opposite is much easier
24 to plan for. Kind of full steam ahead and

1 then, oh, okay. It's not that long from now
2 that we'll know. And then I think it's easier
3 to say, okay, let's be more thoughtful about
4 this.

5 CHAIRMAN CROSBY: That's what I've
6 been saying. I totally get it. And in many
7 cases, I would agree with that. Let's hear
8 what other people think. And let's also hear
9 what you think, Rick. This is going to weigh
10 heavily on you and Derek and John in particular
11 and David.

12 MR. DAY: Part of what I need to do
13 -- I don't want to leave the Commission with
14 the thought that your staff is looking at the
15 expenses and how they can be spread out. I
16 think even when I've been talking, I've been
17 trying to talk about going forward with the
18 regulations in a phased process trying to
19 anticipate when the casinos are going to be
20 open.

21 Definitely that's the backbone of
22 the planning process is trying to guess as best
23 as possible when we may have to be online and
24 phase it and actually commit to our costs as we

1 move forward whether they're in the field or
2 whether they're computer.

3 I think the hard part becomes even
4 if it's a number of licenses, even as we look
5 at number of licenses for facilities, it really
6 comes down to a lot. That's kind of how
7 they're priced and sold. If you get a small
8 amount of licenses, you actually end up paying
9 in some cases I think as our projection, a
10 higher fee than if you get the larger amount of
11 licenses because that's when the provider
12 discounts them. So, we took that into
13 consideration as well.

14 But I think an example that might be
15 pretty fair is how we want to monitor and
16 collect taxes. At least I think we've had
17 discussions that we want to do that automated.
18 That we don't want to do that through some kind
19 of a manual process where we got a fleet of
20 auditors and we're going back and forth and
21 checking those accounts and daily records.

22 If we're going to do that and we're
23 going to be ready by July, we've got to start
24 planning fairly quickly and most likely be able

1 to start planning and having that equipment
2 tested and in operation obviously by when these
3 people come online, which is an extremely
4 different situation than if we were looking at
5 actually having that equipment purchased and
6 online in the next fiscal year.

7 CHAIRMAN CROSBY: What would you do?
8 Take that example. What would you do if you
9 made the decision to do it in the next fiscal
10 year and it turned out we needed it in July and
11 we found that out in January. What would you
12 do?

13 COMMISSIONER ZUNIGA: We would
14 probably do what they currently do at the
15 tracks, which is a paper-based, highly manual
16 process.

17 MR. DAY: In essence we would have
18 to go to a manual process. And I think if the
19 Commission were to take a step to -- if that
20 did happen, then we would have to pick up
21 systems from there and go forward. If that
22 took us some kind of a paper system, I guess
23 we'd just have to come up with it, right?

24 CHAIRMAN CROSBY: That's what I'm

1 asking you. You're in favor of extending it
2 out. I know Commissioner Cameron is asking --
3 making really good points. What do you do if
4 all of a sudden we have to be ready in July?
5 It's a legitimate question.

6 MR. DAY: It is a legitimate
7 question. But those larger systems planning --
8 It's part of what I'm asking too is there are
9 costs to get involved in those kind of things
10 sooner. So, part of my question is if we were
11 going to have it ready, I'd say we begin to
12 assess and establish that kind of equipment and
13 that kind of a system basically now.

14 Then we plan it, we get our
15 consultants and we have it have a ready to
16 operate by July. So, my solution would be we
17 wouldn't get to that point. We would start it
18 now and we would be ready with a new monitoring
19 system when we came online.

20 COMMISSIONER MCHUGH: Is there any
21 way -- I know how much you've got to do
22 already. But is there any way to take an
23 actual cost comparison of two options? For
24 example, I understand that licenses -- if you

1 buy 100 licenses for one of these systems, the
2 cost per license is X. If we buy 40 licenses,
3 the cost per license will be X plus Y. Under
4 ordinary circumstances you would say we
5 ultimately are going to need 100 licenses.
6 Let's pay X per license.

7 That might not be the best solution
8 given our cash flow even though it's the most
9 prudent overall fiscally. There may be other
10 things that are like that. Using a paper
11 system, how feasible is a paper system and
12 what's the cost of it if we have to use that
13 temporarily? So, that we could take a look at
14 two different options and have some idea of
15 what the cost was and what its impact on our on
16 overall cash flow is.

17 COMMISSIONER ZUNIGA: By the way the
18 paper system I should clarify does not have to
19 be literally somebody writing.

20 COMMISSIONER MCHUGH: I understand.

21 CHAIRMAN CROSBY: It could be an
22 Excel spreadsheet.

23 COMMISSIONER ZUNIGA: It could be
24 Excel spreadsheets. It could be a scanned

1 document. It could be safeguarded. It would
2 be a simple version of what we're building.
3 But it doesn't have to be the final automobile
4 here that we will be driving ultimately. I
5 think that's an important distinction, options
6 that we need to --

7 COMMISSIONER MCHUGH: I am finding
8 it hard to get my hands around a solution in
9 the abstract without seeing a couple of things
10 that show the order of magnitude in cost
11 differential or time differential.

12 MR. DAY: The only thing I'd like to
13 put with that is that you end up then creating
14 two systems. Essentially, if you are creating
15 a manual system, which requires more labor than
16 your plan is to go to an automated system at
17 least to me you are sort of paying for it
18 twice.

19 You're doing all of this work to
20 make sure you can track it manually and at the
21 same time you want to go -- You're also doing
22 that for your licensees. Because from a
23 licensee's perspective, they're dealing with an
24 automated system and they're dealing with a

1 manual system, they're going to have to set up
2 their operations differently.

3 I understand what we're talking
4 about. We can try to come up with some cost
5 comparisons. I prefer to go ahead with the
6 more aggressive task and invest the time that
7 way than -- We did do some of that cost
8 comparisons with the licensing software that we
9 just went through.

10 CHAIRMAN CROSBY: It's also not just
11 dollars. This is one of the places where we've
12 got five cooks baking a cake. And this may be
13 one place where our Commission doesn't work
14 very well.

15 I feel like a very experienced CEO.
16 And I know a lot about starting things up. And
17 we are pushing too hard. Could we do it, yes.
18 Would it over the long run be more or less
19 money, I don't know. To me that's not really
20 the issue.

21 To me the issue is being thoughtful,
22 prudent, careful doing this right, not breaking
23 anybody's back. We're pushing too hard. And I
24 don't know what the percent likelihood is that

1 we would have to accommodate something, but I
2 lean now towards taking the prudent view.

3 If you guys felt like you could do
4 it -- The other thing that this gets us into is
5 another whole issue, which is this cash flow
6 issue where Enrique and I have dramatically
7 different senses of where we are at.

8 And we're trying to work our way
9 around this until we know a little bit more
10 about where we're at. And I want very much not
11 to screw up the design and implementation of
12 our systems out of what I think is an
13 exaggerated fear of a cash problem. But I'm
14 only one Commissioner. And another
15 Commissioner has a different view. And he's
16 entitled to his as much as I am.

17 So, I'm trying to find a way to wind
18 our way around all this and still give our
19 Director a direction which he and his team can
20 operate under.

21 COMMISSIONER CAMERON: Two things,
22 Director Day. First of all, you started this
23 conversation around cash. And I think the
24 Chair is speaking about something different

1 altogether which is a sense that we're pushing
2 too hard. In your opinion, were you suggesting
3 a longer timeline just so we could push costs
4 to the next fiscal year? Or do you have the
5 same concern that maybe we are pushing too
6 hard?

7 The way you started this
8 conversation was really based on fiscal issues.
9 Maybe that's the point too which is I know in
10 speaking to Derek he believes there are some
11 ways that we can ask for -- He knows the
12 system, the state system. And there are ways
13 we can manage that so that we will have what we
14 need to move forward.

15 So, I think there are two different
16 issues. The first is really yours which is my
17 thought is I just want to be ready for any
18 scenario, because not knowing at all which
19 direction we're going. None of us know that.
20 None of us know what the other teams are
21 working on and where we are in this process.

22 But just trying to be prepared for
23 everything I think is really important. I
24 think it's really important that we're not the

1 ones that say sorry, that's a great plan but
2 we're not ready for you. I think that's not a
3 scenario I personally would like to be in.

4 CHAIRMAN CROSBY: End up with your
5 question, which is a good question.

6 COMMISSIONER CAMERON: My question
7 to you is the way I heard you today was
8 fiscally it would be better if we could push
9 this off 10 or 11 months. And I just want to
10 know your thoughts. And then you said we could
11 do it and you'd prefer to go the aggressive
12 route if in fact we had to be ready.

13 MR. DAY: I might be accused of
14 running away from the question, but I'll try
15 anyways. Actually, I would say both I think
16 because the cost issue is directly relevant
17 because incurring those costs in order to staff
18 up, get the automation ready, get ready to
19 actually go into operation on July 1.

20 The second question as well is how
21 fast we push. That is a problem in the long
22 term, not just from possible mistakes, but of
23 course as we move forward as the Chairman
24 noticed we are going to be relying on other

1 contractors to get things done.

2 CHAIRMAN CROSBY: Could you answer
3 this question, Rick, I know this is hard. But
4 if there weren't the concern about the money,
5 if that weren't really an issue, but we had a
6 little bit of flexibility here about should we
7 target -- should we be the most conservative
8 case and target July or be a little bit more
9 risky as to whether we are ready or not and do
10 11 or 12 months out. Can you separate the two?
11 Do you think in pend of the money issue, can we
12 do pretty well as good a job on balance to get
13 ready by July as the end of the year?

14 MR. DAY: I think I may have lost
15 you. If we took away the money issue --

16 CHAIRMAN CROSBY: Take away the
17 money issue for the moment, for the sake of
18 discussion. And by putting as much money
19 needed to do it, putting the pedal to metal to
20 do it, can we do the job right by July or not?
21 Would you say that if we don't desperately have
22 to, I think we're crazy to do July.

23 I'm getting a little bit of a sense
24 that I'm now exaggerating that you don't

1 particularly agree with what I said, which is
2 that fundamentally we're pushing too hard. And
3 I think Commissioner Cameron's question is
4 really good. If what's really motivating you
5 is concern about the cash flow then we probably
6 ought to be having that discussion. I tried to
7 change it and say that's not in my view that's
8 not really the central issue here.

9 MR. DAY: I think we are pushing too
10 hard to come up with that time period that
11 short of a time period in July with that
12 expectation. So, I am not disagreeing at all
13 that I think we are pushing too hard.

14 If the money is not the issue, and
15 we seem to be going kind of back and forth
16 whether to go or not to go, I think we can,
17 probably not perfect, but I think we can come
18 up with what we needed to do to run the
19 business, but it would take more meetings with
20 staff and it'd take more meetings with moving
21 forward in the right in the right
22 combination --

23 CHAIRMAN CROSBY: The cost of
24 accommodating Commissioner Cameron's position

1 is mostly money. We are going to be in pretty
2 decent shape. It might be a little bit ragged
3 but we'll be fine. We can take pride in what
4 we do come middle of July if the money was not
5 the problem.

6 MR. DAY: Yes.

7 COMMISSIONER ZUNIGA: I just thought
8 you said that we are pushing too hard in terms
9 of time if we put the money aside.

10 MR. DAY: I did say that I believe,
11 yes, we are pushing too hard to meet that
12 schedule. But if the question is can we do it
13 and can we have a good product, yes, I think we
14 can. The key to that would be the money. We
15 ought to be able get done the staff, the
16 automation to get ready to go.

17 COMMISSIONER ZUNIGA: And that's
18 fine, because then we eventually have to
19 introduce the money and I'll wait for that in a
20 minute.

21 COMMISSIONER MCHUGH: It's both more
22 expensive in total outlay and more difficult in
23 a cash flow sense to meet that July objective.
24 Am I understanding what you're saying?

1 MR. DAY: Could you try that one
2 more?

3 COMMISSIONER MCHUGH: It's both more
4 expensive on a total cost basis ultimately and
5 more detrimental on a cash flow basis to meet
6 that July target than it would be to stretch it
7 out for 11 months.

8 MR. DAY: Yes, I think it would be.
9 Because we would have a longer period with
10 contractors and those demands and what that
11 requires to invest so much time, so many hours
12 immediately and spread that over. It would
13 reduce the cost, the total cost.

14 COMMISSIONER MCHUGH: We could take
15 advantage of volume discounts.

16 MR. DAY: Yes.

17 CHAIRMAN CROSBY: Okay.

18 COMMISSIONER MCHUGH: Is it possible
19 to say that if we target the longer rollout as
20 the optimum, but at the same time we put
21 together Plan B that shows how we're going to
22 meet a July opening with paper and the like if
23 by February, January or February it looks like
24 we are going to have to do that so that we get

1 to test that now and make sure we can do it.

2 MR. DAY: Chairman Crosby, I think
3 you mentioned this. I think if what I
4 understand we will take the target that is, and
5 I'll use the term standard for lack of a better
6 word, it's probably more likely construction
7 wise that is longer, but we will do an
8 assessment, emergency preparedness I'd call it,
9 because we would look at what we would have to
10 do if that schedule tightened up.

11 COMMISSIONER MCHUGH: In concrete
12 terms, if we have to shift gears over a space
13 of a couple of weeks based on a decision we can
14 then switch to that plan.

15 CHAIRMAN CROSBY: Which plan would
16 you be starting on?

17 COMMISSIONER MCHUGH: Start with the
18 longer plan, you start to implement the longer
19 plan. But you'd have the Plan B mapped out so
20 that if we needed to implement it, we could
21 implement it quickly.

22 MR. DAY: We're starting with a
23 little bit of both right now.

24 COMMISSIONER MCHUGH: I understand,

1 but we're talking about getting farther down.
2 It seems to me that Gayle's concern is a
3 realistic one. And it is realistic both in
4 terms of the actuality of having to do it and
5 in terms of the message we may implicitly but
6 accidentally be sending.

7 So, if we have a longer-term rollout
8 plan that is the one we're going to go with,
9 the most fiscally prudent one, the most prudent
10 in terms of error reduction, but at the same
11 time we've got Plan B, which is the emergency
12 plan and we've tested it and we are convinced
13 it can work and we proved it, so it's ready to
14 go if we have to do it that would be a process
15 that would be good.

16 COMMISSIONER CAMERON: I did hear
17 you say you would prefer not to be working
18 paper automation. You would want to go full-
19 steam ahead now with automation. I did hear
20 you say that, correct?

21 MR. DAY: Yes, I did. From the
22 perspective, at least that's the part of the
23 message that I got even as I come on board is
24 the Commission wants to be an online agency

1 essentially, an automated agency. That is the
2 foundation of the operation not starting out as
3 a paper agency trying to convert later. So,
4 that's kind of the direction that I've been
5 trying to move forward with my planning. So it
6 is more consistent. I think it's less
7 expensive for us to steadily move forward in
8 that direction. That would be me ideal world.
9 Can we plan for an emergency to make sure we've
10 allowed for a decision, I think that's yes.

11 COMMISSIONER MCHUGH: Let me just
12 pick up on that point because maybe I'm wrong,
13 but it seems to me that if we use the paper
14 system as Plan B, there are ways of structuring
15 the paper so that it can be uploaded into the
16 system that we ultimately get in an automated
17 fashion. That happens. If we looked at the
18 vendor and talked to the vendor and implement
19 it or whatever it's called, I'll bet we could
20 find a way that we could structure the
21 spreadsheets to most easily do that, for
22 example.

23 So, I recognize your reluctance and
24 I share it to do both, to start with paper and

1 then to move toward automation. But again, I
2 don't think that's necessarily an on/off
3 switch. It's not we're going to have to do the
4 paper and then sit down and have somebody
5 manually upload each data point into the
6 system.

7 CHAIRMAN CROSBY: That's only one
8 part of it.

9 COMMISSIONER MCHUGH: I know but
10 those are just examples.

11 CHAIRMAN CROSBY: There are a lot
12 but I think we have to bite the bullet and say
13 one thing or the other, either yes we can say
14 one and then change it, whichever way it is.
15 What you're saying now is let's say right now,
16 operate on the assumption that it's going to be
17 -- What is it in your new target?

18 MR. DAY: 11 months.

19 CHAIRMAN CROSBY: 11 months, assume
20 it's going to be 11 months. That spending plan
21 is the one that you will adhere to.

22 However, if we find out that you
23 have to be ready way sooner than that --
24 Actually, the way to deal with it would be to

1 say when it happens, it happens. And you stop
2 everything and say where are? What do we have
3 to jury-rig, and we jury-rig it.

4 And we don't worry about that until
5 we make the decision and find out whether we
6 really do have to move the date back. Is that
7 what you are proposing, Jim?

8 COMMISSIONER MCHUGH: Yes, no. It's
9 either one or the other.

10 CHAIRMAN CROSBY: I am going to look
11 at the statute and see what authority I have
12 here.

13 COMMISSIONER MCHUGH: It's not
14 statutory. I'm proposing that we adhere to the
15 longer term plan, but at the same time from a
16 planning standpoint, we spend some time
17 thinking about what we would have to do if it
18 turns out in February we have to shift gears.

19 Is it possible to shift gears and
20 meet a July date? I would really hate to get
21 to February, the middle or the end of February
22 while we're going ahead on the default plan and
23 find out stop everything, we've got to be ready
24 is not possible. We just can't be ready

1 because we are now three months down.

2 CHAIRMAN CROSBY: So, you are saying
3 go down two paths.

4 COMMISSIONER MCHUGH: No, I'm not.

5 CHAIRMAN CROSBY: You said go down
6 one and be ready to go down the other.

7 COMMISSIONER MCHUGH: No, I am
8 saying spend some time now thinking about
9 what --

10 CHAIRMAN CROSBY: That's semantics,
11 Jim. You're saying to him you've got to be
12 ready to do either.

13 COMMISSIONER MCHUGH: I am saying to
14 Rick, you've got to have some idea that going
15 down path A, the default and stopping and
16 shifting to go down path B, if we have to, is
17 realistic as opposed to pie-in-the-sky. That's
18 what I'm trying to say. That may be semantics,
19 it may not be semantics. I don't think it is.

20 CHAIRMAN CROSBY: I think if the
21 people in the firing line who are trying -- How
22 much time do you want? Do you want two hours'
23 worth of work? Do you want two weeks' worth of
24 work? Do you want two months' worth of work?

1 How much of a plan do you want? If you are
2 trying to retain the option to do both, then
3 let's say we're trying to retain the option to
4 do both. Or let's pick one or the other. I
5 think we've gone back and forth. We have to
6 talk about one. He get signals from different
7 Commissioners at different times.

8 COMMISSIONER MCHUGH: Oh, I know.

9 CHAIRMAN CROSBY: One says go like
10 gang busters, get ready. One says don't spend
11 a nickel more than you possibly have to.
12 That's a tough situation under which to
13 operate.

14 And what we have all agreed, the
15 Commissioners who are concerned about money, is
16 there are three different scenarios. We issue
17 our licenses on the schedule we've always
18 anticipated, basically January and August. I'm
19 sorry and April. If that happens, cash is not
20 an issue. Talk to our licensees, make sure
21 they know what's coming, be careful but there's
22 no cash issue.

23 Second, is we don't issue them when
24 we are planning to but we issue them within two

1 or three months, given the sort of everyday
2 run-of-the-mill delays. That probably we can
3 also manage, not an issue. That's not a cash
4 issue. It might be an issue that the
5 Commonwealth doesn't get its \$175 million but
6 we can deal with it.

7 The third is that with all of the
8 changes that have happened with referendums
9 failing and background checks being
10 problematic, then all of a sudden we don't
11 issue licenses for the foreseeable future.
12 That concerns some Commissioners that that
13 might be. We don't have an A license or a B
14 license or we don't have either an A license or
15 a B license, because of the effects of
16 referenda and background checks. That does
17 cause a lot of problems including major cash
18 problems.

19 We will pretty much know that by
20 mid-December. So, one thing we've talked about
21 is let's make some assumption, and I would
22 argue we have to decide some assumption between
23 now and mid-December because by mid-December
24 we'll know about background checks and

1 referenda. That's one solution we have come
2 to. We can take cash off the table once we
3 know we're going to issues these licenses more
4 or less when we've been talking about issuing
5 these licenses.

6 COMMISSIONER CAMERON: Right now, we
7 have three applicants for a slots license that
8 have successfully completed Phase 1.

9 CHAIRMAN CROSBY: We're going to
10 have that license.

11 COMMISSIONER CAMERON: Correct.
12 That's my point and that's what I think we're
13 dealing with right now. And it really is just
14 the best way to move forward with that. I'm
15 just making the point that we have the ability
16 to be fair to all three applicants and not be
17 saying we better not consider this because
18 we're not ready.

19 I think we have to be able to and it
20 has to be fair to all of them that we are
21 evaluating it all right now. And they each
22 have brought advantages to the table
23 economically that we are evaluating one against
24 the other. And the only way to do that fairly

1 is to be ready if one of the three -- they each
2 have distinctly different timeframes for when
3 they could be ready. And that's part of our
4 evaluation process.

5 I think we have a real equity issue
6 if we're saying we're not ready even though you
7 are and that's your economic advantage. That's
8 where this all started. And I know it's not
9 that easy. It's just the best way to move
10 forward, Director. And I think you'll -- And
11 it does seem to me to try to plan it out and
12 then all of a sudden go short is much more
13 difficult than the opposite.

14 CHAIRMAN CROSBY: To say that is to
15 say therefore you have to say to Director Day
16 and be prudent about it, be careful, don't be
17 crazy, but spend whatever money you have to
18 spend in order to make that possible.

19 COMMISSIONER CAMERON: When you say
20 spend whatever money, it really is technology
21 moving ahead with automation and that will cost
22 some money up front. Then when January comes,
23 it may be, okay, now we have a clear picture.
24 To me that's the better time to make an

1 adjustment than to try to do the opposite.

2 CHAIRMAN CROSBY: Between now and
3 then he would do what?

4 COMMISSIONER CAMERON: Plan for the
5 shorter time and that means some additional
6 hours on the automation piece, which will have
7 to be used. It's just those hours would be
8 spread out or not and hiring, planning now.
9 Again, that could be adjusted.

10 I just thinking of emergency
11 planning as well, it's just much easier to go
12 from short to longer than it is from longer to
13 shorter. That's difficult. And I understand
14 that there are two ways to do it. And you may
15 tell us that is okay to do it that way.

16 CHAIRMAN CROSBY: He did say it is
17 okay. He just needs to be able to spend the
18 money to do it. That's all. He said yes, if I
19 had the money I could do it. You're saying
20 give him the money.

21 COMMISSIONER MCHUGH: I've already
22 made my point, but I don't think you start
23 thinking about lifeboat capacity when you've
24 got a hole in the hull. It seems to me that

1 all I am asking, all I'm suggesting is that we
2 take a look at what Plan B is going to look
3 like to make sure it's realistic. And that we
4 work from A, the longer plan. We just assure
5 ourselves that we can shift gears and get to
6 July. If we have to get to July what would
7 that do? Is that realistic to go down that
8 path or not. Not with fine-grained detail but
9 just to make sure that the lifeboats have
10 enough capacity.

11 CHAIRMAN CROSBY: Are you prepared
12 to say, is that in your mind clear enough to
13 Rick where you can say okay, Rick, you don't
14 have to come to the Commission to get your
15 expenditures approved. You understand what the
16 rules are. Whatever it was that Jim said, do
17 that and pay for it.

18 COMMISSIONER CAMERON: Do we have a
19 consensus that that's the best way to go? I'm
20 not sure that we do. I know that's one
21 suggestion but I am not sure. Even the
22 Executive Director, I'd like hear if he thinks
23 it's easier to plan long and then go short
24 rather than be prepared.

1 COMMISSIONER ZUNIGA: If it isn't
2 obvious, the Chair was referring to me when I
3 was talking about the one concerned about the
4 money.

5 And I think it's been a very long
6 meeting and we ought to think about adjourning,
7 but what was contemplated in terms of cash
8 flows are only options at this point. I
9 personally don't know how feasible it is each
10 of these options are. We need to talk to
11 people outside of this Commission to effectuate
12 them.

13 And because of that uncertainty, in
14 addition to the possibility that some of these
15 deadlines might have to be extended against our
16 wishes because of surrounding community issue.
17 We get surrounding communities telling us
18 extend the deadline. There is not enough time.
19 That has a direct cash flow implication because
20 our plan is predicated on the award of the
21 license, of all licenses not just one.

22 The good news is the Category 2 is
23 looking very positive in my opinion. They are
24 very advanced. Today is a great testament to

1 surrounding community discussions for one. And
2 there is three eager applicants working real
3 hard and reimbursing costs, I might add, which
4 is great. That is not necessarily the
5 landscape in the other two regions.

6 I was also remembering just a year
7 ago we were forecasting the award of the
8 licenses earlier than we are now. We have also
9 gotten closer to that time and at least for me,
10 the degree of confidence in terms of making
11 that timeframe has diminished a little bit, not
12 a whole lot but it has diminished. It hasn't
13 gone up and we've gotten close. Those are the
14 factors that factor in when I am thinking about
15 everything that is being said here.

16 So, I could take, and maybe I should
17 take the approach of Director Day you tell us
18 how you're going to do it and how you're going
19 to pay for it because from my perspective it is
20 not clear to me how were going to do it.

21 MR. ZIEMBA: I'm not going to add
22 something that will delay things but hopefully
23 move things along.

24 CHAIRMAN CROSBY: Unfortunately,

1 this is important.

2 MR. ZIEMBA: Just in talking to the
3 Director, it may become clearer in the next
4 couple of weeks the actual timetable for the
5 step-up of that temporary facility as the
6 mitigation team and the building and design
7 team take a look at the permitting issues.

8 As Commissioner mentioned perhaps
9 those permitting issues might put the
10 construction timetable at a later time or may
11 be exactly right. But it's an unknown right
12 now that might become more well-known in the
13 next few weeks as we get to the December
14 hearings.

15 In terms of whether or not something
16 is immediately necessary in the next week, I
17 think, the Director just said that it's not
18 necessary for these major expenditures in the
19 next week or so.

20 MR. DAY: Right. We'll be moving
21 forward with -- We'll go ahead and hold the
22 system here. We can do that anyway. It'd slow
23 down the hiring a week or so. If the
24 Commission wanted to think about it until the

1 next meeting and see what happens with the
2 surrounding communities and those kind of
3 things and come back.

4 CHAIRMAN CROSBY: If you're okay
5 with that I am. I got the impression that
6 there were decision points that we were coming
7 to where you were getting mixed signals and you
8 felt you needed answers. If you don't think
9 you do, then let's kick this can down the road.
10 I'm all in favor.

11 MR. DAY: I am normally comfortable
12 with kicking it down a little ways, but I just
13 wouldn't want it to go too far.

14 CHAIRMAN CROSBY: You've got to put
15 a stake in the ground and tell us what you need
16 and when and stick to it. I now don't know for
17 sure what you think you need when. I need to
18 know that so I can figure out which side of
19 this ball I want to argue on.

20 I'm saying literally I don't know
21 for sure what you think you need in order to
22 get to wherever it is you think we want you to
23 go. Maybe you and John and Derek and David
24 have got to put your heads together and figure

1 out what do you need to satisfy this hydra-
2 headed monster that's giving you direction.

3 MR. DAY: The idea and when John
4 asked me is there anything like next week or
5 within this week that I'm going to miss that's
6 critical and I'll continue to go ahead with a
7 seven-month plan until I hear something
8 different is basically from my perspective what
9 I would be doing. If that's another week from
10 now, it's nothing that's going to derail the
11 railroad, so to speak.

12 As we move forward, we then have got
13 to go hiring, we've got to move rules ahead.
14 We've got to start acquiring equipment, get the
15 licensing system. We need to be able to plan
16 the long-term to move forward. A week isn't
17 going to be the end of it.

18 CHAIRMAN CROSBY: Okay, what else?
19 Was that the last one?

20 MR. DAY: I thought maybe that was
21 the last one.

22 CHAIRMAN CROSBY: Are you sure you
23 don't have anything else?

24 Do we have a motion to adjourn? Or

1 does anybody want to stay? An acclamation vote
2 to adjourn is accepted.

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4 (Meeting adjourned at 4:55 p.m.)

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1 GUEST SPEAKERS:
2 Town of Bolton
3 Larry Delaney, Selectman
4 Don Lowe, Town Administrator
5 Town of Sterling
6 Stanley Weinberg, Town Counsel
7 City of Fitchburg
8 John Barrett, City Solicitor
9 William P. Devereaux, Special Counsel
10 Matthew Feher, Special Counsel
11 The Cordish Companies
12 Joseph Weinberg, President, Gaming and Lodging
13 Town of Bridgewater
14 Michael Dutton, Town Manager
15 Town of Lakeville
16 Jonathan Silverstein, Town Counsel
17 Town of Rehoboth
18 Jeff Ritter, Town Administrator
19 Raynham Park, LLC
20 George Carney, The Carney Group
21 Thomas Bonner, Attorney
22 Grace Lee, Attorney
23
24

1 Massachusetts Performing Arts Coalition
2 Vince Longo, Executive Producer South
3 Shore Music Circus
4 Peter Martin, Attorney
5 Troy Siebels, President MPAC

6

7 Pinck and Company
8 Jennifer Pinck, Consultant
9 Nancy Stack, Consultant

10

11 MASSACHUSETTS GAMING COMMISSION STAFF:

12 Catherine Blue, General Counsel
13 Richard Day, Executive Director
14 Dr. Jennifer Durenberger, Director of Racing
15 John Ziemba, Ombudsman

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C E R T I F I C A T E

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

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

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

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

WITNESS MY HAND this 18th day of November, 2013.

LAURIE J. JORDAN	My Commission expires:
Notary Public	May 11, 2018