

1 THE COMMONWEALTH OF MASSACHUSETTS  
2 MASSACHUSETTS GAMING COMMISSION  
3 PUBLIC MEETING #150  
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6 CHAIRMAN

7 Stephen P. Crosby  
8

9 COMMISSIONERS

10 Gayle Cameron

11 James F. McHugh

12 Bruce W. Stebbins

13 Enrique Zuniga  
14 -----  
15  
16  
17  
18

19 April 30, 2015 10:30 a.m. - 1:16 p.m.

20 HYNES CONVENTION CENTER

21 900 Boylston Street, Room 207

22 Boston, Massachusetts  
23  
24

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

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3 CHAIRMAN CROSBY: I think we are  
4 prepared to call to order the 150th meeting of  
5 the Massachusetts Gaming Commission on  
6 Thursday, April 30 at the Hynes Convention  
7 Center today. Before we start, I want to  
8 welcome -- we have a whole new cohort, flock,  
9 troop, team of state troopers who have just  
10 joined us who are here in the back. I think we  
11 have five new troopers who are going to be  
12 working with Lance, your team. I hope you're  
13 going to get to know these folks well.

14 Lance George is the President of  
15 Plainridge Park Casino. So, welcome to you  
16 all. We are glad to have you be a part of this  
17 operation. You are joining a first-rate group  
18 of troopers.

19 Item on the agenda first is the  
20 approval of the minutes. Commissioner McHugh,  
21 you are reoriented, we'll have you do that.

22 COMMISSIONER MCHUGH: Yes, Sir. The  
23 minutes of the April 16 meeting are in the  
24 packet. And I would, as usual, move that they

1 be approved as they appear with the usual  
2 reservation of rights for ministerial and  
3 technical changes.

4 CHAIRMAN CROSBY: Second?

5 COMMISSIONER STEBBINS: Second.

6 COMMISSIONER CAMERON: Mr. Chair, I  
7 will not vote because I was not at this  
8 meeting.

9 CHAIRMAN CROSBY: Okay. Any further  
10 discussion? All in favor, aye.

11 COMMISSIONER MCHUGH: Aye.

12 COMMISSIONER ZUNIGA: Aye.

13 COMMISSIONER STEBBINS: Aye.

14 CHAIRMAN CROSBY: The ayes have it  
15 with Commissioner Cameron abstaining. The ayes  
16 have it unanimously with Commissioner Cameron  
17 abstaining. Executive Director Rick Day,  
18 administrative update.

19 MR. DAY: Good morning, Chairman  
20 Crosby and members of the Commission. This  
21 morning we're actually going right to the  
22 quarterly report presentation by Penn, which is  
23 your tab 3a. With us this morning we have  
24 Lance George, Jack Rauen, Phil Coleman. And

1 representing Pinck and Company is Dane Wigfall.  
2 Dane is the on-site monitor there as well.  
3 Followed by this report of the quarterly  
4 report, then Shannon Wells and Lance will  
5 provide the Commission a staffing update for  
6 Plainridge Park Casino. Jack?

7 MR. RAUEN: Good morning. I look  
8 forward to the opportunity to update you. By  
9 the time the next one comes up, we'll be open.

10 COMMISSIONER MCHUGH: Right. That's  
11 pretty exciting.

12 MR. RAUEN: Time is flying. We  
13 filed with you on Monday our quarterly report  
14 as of March 31. We think it gives a pretty  
15 good insight of where the project is at.

16 I'd like to do what I've done with  
17 you in the past and that's just touch on some  
18 highlights and then I'd be happy to answer any  
19 questions you might have.

20 So, at this point obviously we are  
21 in high gear on all fronts construction work on  
22 the site, construction work off the site for  
23 the roadways, the owner fit-out and equipment  
24 and all of the operation preparations. So, as

1 you might imagine less than 60 days out,  
2 everything is in high gear now.

3 In appendix two, we comment on  
4 schedule. As you know, we are certainly on  
5 schedule for a June opening. In the past  
6 quarter, we have specified a test date of June  
7 22 and a formal opening date to the public of  
8 June 24.

9 The schedule has always been  
10 captioned as aggressive but achievable and we  
11 think that's our daily existence. And we just  
12 take it one day at a time. And we continue to  
13 execute under our construction schedule and the  
14 fit-out as well.

15 Part of appendix two is a list of  
16 non-construction activities. I don't want to  
17 touch on any of the particular details other  
18 than to say that this is a schedule and a list  
19 of activities that we work very closely with  
20 Lance, with Rick and his staff to monitor those  
21 things that we all know have to get done and  
22 address before in order to help us open. So,  
23 there's many things on there. And it's a high  
24 area of coordination for our whole team.

1           In appendix four, we gave you a  
2 whole series of photos some as of the early  
3 part of April and some were current. From some  
4 of the aerial shots, you get a good sense of a  
5 much more completed casino building.

6           You can see the photovoltaic panels  
7 that are on top of the building. There's some  
8 interior shots as of the end of the month that  
9 show the interior features on the gaming floor  
10 taking shape and then the racing building.

11 Then we included a series of pictures more  
12 recent that are much more colorful and exciting  
13 that show the completed live racing area on the  
14 first floor of the racing building. We have  
15 some more shots of the casino interior with  
16 carpet down and slot bases down, which are  
17 significant milestones for us.

18           And then there's a few pictures far  
19 less colorful but even are just as important  
20 showing the progress we're making in the back  
21 of the house, kitchens, in particular. Then we  
22 start and continuing work on the off-site  
23 roadway improvements.

24           We hope those photos give you a good

1 sense of where we are.

2 COMMISSIONER MCHUGH: Yes, they do.

3 CHAIRMAN CROSBY: What's the design  
4 strategy for the carpet?

5 MR. RAUEN: Something like you would  
6 never have in your house.

7 COMMISSIONER ZUNIGA: Something that  
8 is going to make you look up.

9 CHAIRMAN CROSBY: Make you look  
10 dizzy.

11 COMMISSIONER ZUNIGA: No, look up.

12 MR. RAUEN: As an accountant, I  
13 would never have it in my house. But I think  
14 the fundamental always is give customers  
15 something that they don't normally see. And  
16 something that colorful is not something you  
17 normally see.

18 It's a pattern we use in a lot of  
19 our properties. And customers have always  
20 reacted well to it.

21 CHAIRMAN CROSBY: Really,  
22 interesting. Do you have the carpet up, Amy,  
23 the one with the carpet?

24 MR. RAUEN: It's colorful.

1 CHAIRMAN CROSBY: It's colorful.

2 COMMISSIONER ZUNIGA: Can you just  
3 briefly touch on completion of the outside  
4 roadway improvements, the median, the left turn  
5 into the property?

6 MR. RAUEN: I'll give you the  
7 highlights and then I'll ask Phil to delve a  
8 little more into the details. Right now, there  
9 are several big pieces of the work. The entry  
10 to our property itself, the work on the  
11 southbound 495 off-ramp is quite far along.  
12 And then the actual work in the roadway median,  
13 and we've been digging and tearing that up for  
14 a couple weeks now. So, all three of the big  
15 pieces are in full gear and on track for  
16 somewhere around the 10 June or so, but you may  
17 want to comment a little more.

18 MR. COLEMAN: Sure. Philip Coleman  
19 of Turner Construction Company. The off-site  
20 roadway improvements as Jack mentioned, we're  
21 basically targeting that 98 percent of the work  
22 be in place roughly that first week in June.  
23 We're working very closely with MassDOT who has  
24 been very cooperative with us thus far.

1           Every day there's actually out on  
2 the roadway itself we have not only the private  
3 improvements of the Route 1 roadway but also  
4 NGrid has several crews out there because  
5 they're developing and installing their power  
6 supplies to the casino and to what is known as  
7 the mid-station.

8           So, right now, we're pretty well on  
9 course. We have a lot of activities going on  
10 on a daily basis. We're about to start doing  
11 some nightshift work including grinding and  
12 milling of the pavement. We expect that in  
13 roughly three weeks from now, we'll be starting  
14 the overlay. We're working with MassDOT on the  
15 closure of that southbound off-ramp for  
16 basically a five-day period that we could merge  
17 in the new alignment of the roadway. So,  
18 things are progressing very well.

19           Our intent with MassDOT basically is  
20 somewhere in that first week in June basically  
21 to go through the certification process with  
22 the engineers from MassDOT.

23           CHAIRMAN CROSBY: Great.

24           MR. RAUEN: We've had occasion to

1 talk to you over the tenure of this project  
2 about the struggles in getting to our MassDOT  
3 permit. We did have our struggles, but I want  
4 to echo what Phil said, now that the work is  
5 permitted and the work has started, the  
6 cooperation out of MassDOT's district five has  
7 been exemplary.

8 CHAIRMAN CROSBY: Good.

9 MR. RAUEN: We struggled once, but  
10 we are certainly getting the benefit of their  
11 help right now.

12 CHAIRMAN CROSBY: Great.

13 COMMISSIONER ZUNIGA: And you're  
14 comfortable that rain, for example, won't delay  
15 you?

16 MR. COLEMAN: There will be that  
17 occasional rainfall that will probably lose a  
18 day here, a day there. But for the most part  
19 we've got that in the program for our schedule.

20 MR. RAUEN: Going on to --

21 CHAIRMAN CROSBY: Go ahead.

22 MR. RAUEN: Please.

23 CHAIRMAN CROSBY: Any unexpected  
24 surprises? What keeps you awake at night?

1           MR. RAUEN: I get asked that pretty  
2 much every week. I think we have a good plan.  
3 We've always had a good plan. We're good at  
4 building casinos. We're executing under that  
5 plan. We have a good diverse workforce.  
6 Excellent commitment on the part of subs,  
7 excellent commitment on the part of our key  
8 suppliers. All of those things are working  
9 well. Turner does a good job of being the  
10 field general. Those things are working well.

11           Our challenges, every time you deal  
12 with an existing building there's a challenge.  
13 Every time you open up a wall, that's not  
14 supposed be there. So, that's a challenge.

15           You get out onto the roadways.  
16 We've never worked out there before. You tear  
17 up something and it's not what it's supposed to  
18 be. You see a problem that you didn't foresee.  
19 We just deal with them day-to-day.

20           To answer your question,  
21 Commissioner, it's dealing with the racing  
22 building and with the unknowns and dealing out  
23 on the highways with the unknown. But you just  
24 take them one day at a time.

1           MR. COLEMAN: I think one other  
2 comment I would add to that, and it echoes what  
3 Jack said pretty much, it's the workers in the  
4 field who are making this happen. The  
5 subcontractors and the workers who have to  
6 respond and react quickly and be very flexible  
7 with respect to how do we handle those  
8 situations that come up on a daily basis. So,  
9 we are very fortunate to have some very good  
10 subcontractors on board.

11           MR. RAUEN: Over 300 people every  
12 day. We are now over 300,000 hours on the job  
13 to date. And that's a lot of people a lot of  
14 talents. I hope that answers your question.

15           CHAIRMAN CROSBY: Yes.

16           MR. RAUEN: Going onto appendix  
17 five, I wanted to bring to your attention a  
18 change from the prior quarters. This letter  
19 from Saul Reibstein, our CFO reports project  
20 costs at \$250 million. In the past reports  
21 that number has been \$225 million.

22           In this quarter -- let me back up a  
23 sec. The history of this project has always  
24 envisioned some element of equipment financing

1 that we would buy certain ones, lease certain  
2 ones. So, it was always \$225 million plus some  
3 leased equipment. Based on some advice from  
4 our corporate finance department, they've said  
5 areas where we were planning to lease not the  
6 wisest move. Buy this, buy this, buy this,  
7 essentially buy almost everything in the plant.

8 CHAIRMAN CROSBY: You're talking  
9 about slot machines?

10 MR. RAUEN: Slot machines, HVAC  
11 equipment, kitchen equipment. There's a whole  
12 portfolio of things we contemplated leasing  
13 that now based on the advice from our finance  
14 department, it's better that we buy. So, now  
15 we are putting leasing aside, going forward  
16 purchasing almost everything in the project.  
17 That's why we went from \$225 to \$250 million.

18 COMMISSIONER STEBBINS: Jack,  
19 looking at that sheet still under building and  
20 construction and to a lesser degree gaming and  
21 operations equipment, we still have a pretty  
22 big dollar figure there in terms of stuff left  
23 to be spent.

24 I kind of know where it is obviously

1 for gaming and operations equipment. What is  
2 in that kind of \$50 million figure with respect  
3 to the link in construction?

4 MR. RAUEN: That number is as of  
5 March. So, we've got three more months of  
6 construction. And we are running about \$12  
7 million a month plus retainage and other  
8 things. So, it is the payout of the rest of  
9 the work.

10 COMMISSIONER STEBBINS: Okay.

11 MR. RAUEN: It's right where we saw  
12 ourselves being at this point.

13 COMMISSIONER STEBBINS: Okay.

14 COMMISSIONER CAMERON: So, you're  
15 definitely on-budget for this project. And you  
16 explained why, with buying some additional  
17 equipment. In your experience is that somewhat  
18 unusual?

19 MR. RAUEN: Every project has its  
20 challenges and dynamics. Our long history has  
21 been to be in the ballpark of our budgets. And  
22 that's where we are on this one.

23 COMMISSIONER CAMERON: Just so many  
24 large projects you hear about running over

1 budget. So, I think your -- obviously the team  
2 is working well to keep it on budget.

3 MR. RAUEN: It's been our history,  
4 Commissioner, and on this one we are in the  
5 ballpark of our budget. That's for sure.  
6 Going onto appendix number seven.

7 CHAIRMAN CROSBY: You skipped six?

8 MR. RAUEN: Six was just a list of  
9 design and construction licensing, the  
10 licensing of certain of our key vendors and all  
11 that. So, nothing particular to report there  
12 other than the licenses we need for our  
13 suppliers we have.

14 Number seven is a little bit  
15 lengthier than normal. But it just gives you  
16 the highlights of where construction is at. In  
17 this particular quarter, we're pointing out  
18 certain key milestones. We got the certificate  
19 of occupancy for the garage and related  
20 offices. We got the certificate of occupancy  
21 for the live-racing area. And that live racing  
22 resumed on April 15.

23 We got our permit and started work  
24 for the off-site roadway improvements. And on

1 the second page of that particular appendix,  
2 we've engaged consultants to do the baseline  
3 traffic studies that our host and surrounding  
4 agreements require.

5 So, besides the normal construction,  
6 we had a series of real important milestones in  
7 terms of certificates of occupancy this  
8 quarter.

9 Onto appendix eight, this is the  
10 project construction workforce. We committed  
11 to certain goals for minority, women and  
12 veterans actually working on the site. This is  
13 an update of those goals and where we're at.

14 As of the end of March, we've  
15 exceeded 300,000 direct work hours on the site.  
16 We are currently at 16 percent workforce  
17 participation for minorities, which is right on  
18 our goal. We are at three percent women versus  
19 a goal of seven. There are areas of the  
20 project we continue to struggle on in terms of  
21 female representation. And in the most macro  
22 sense, it boils down to one thing, certain of  
23 the trades just aren't well represented, not  
24 just for our project the area as a whole. And

1 that's the workforce we have to draw from.

2 COMMISSIONER MCHUGH: Is that true  
3 nationally in those trades?

4 MR. RAUEN: I defer that one to  
5 Phil.

6 MR. COLEMAN: I would say that it is  
7 pretty true nationally, yes.

8 COMMISSIONER ZUNIGA: Do you still  
9 have subcontracts to let out that may make a  
10 little bit of a difference?

11 MR. RAUEN: At this point, we are  
12 substantially committed. It's now just  
13 executing. So, my sense is based on where  
14 we're at now, Commissioner, these numbers  
15 probably are a good representation of what  
16 you'll see at the end.

17 COMMISSIONER ZUNIGA: Where we'll  
18 end up.

19 MR. RAUEN: For the whole project.  
20 While we are struggling a little bit on the  
21 female side, when you take a step back and look  
22 at all three minority, women and veterans, we  
23 are pleased with the results. We think we are  
24 taking the best advantage of what the market

1 has to offer.

2           And I think Turner has done a good  
3 job of finding the right subs, keeping an eye  
4 on the participation and doing corrective  
5 action where and how we can. I think the only  
6 limitation has been what the market has to  
7 offer us.

8           We can go on now to appendix nine,  
9 which is the periodic report we give you on  
10 contracting on the construction side. We've  
11 been talking to you about this for several  
12 quarters now. And we have done exceptionally  
13 well here.

14           At this point, we are substantially  
15 all committed and let out. So again, the  
16 number's you're seeing here are really  
17 representative of what the project will be when  
18 we close it out. And that's on the minority  
19 side, we're at 10 percent contracting versus a  
20 goal four. WBE 13 percent versus a goal of  
21 seven and veterans nine percent against a goal  
22 of three.

23           All in all, not much change from the  
24 numbers we've been reporting. This is where

1 they should end up. And we are, as we have  
2 been, very pleased.

3 CHAIRMAN CROSBY: That's great.

4 COMMISSIONER MCHUGH: Great numbers.

5 MR. RAUEN: Probably the only other  
6 comment I would make or to bring to your  
7 attention is appendix number 12. This is  
8 really the first opportunity that we've had to  
9 report against our diversity plan for the fit-  
10 out of furniture, fixtures and equipment.

11 We have a plan that calls for six  
12 percent MBE participation on the fit-out, 12  
13 percent WBE and three percent veterans. At  
14 this point, we are about three-quarters of the  
15 way committed in the procurement involved in  
16 the bids under this program. And right now we  
17 are against a goal of six percent for MBE, we  
18 are at three percent. Against a goal of 12  
19 percent for WBE, we are at 16 percent. And  
20 against a goal of three percent for veterans,  
21 we're at 18 percent.

22 Again, a mixed bag but all in all as  
23 a whole we are substantially ahead of the goal.  
24 And at this point not only have we committed

1 about three-quarters but we've paid about over  
2 50 percent of those commitments at this point.

3 CHAIRMAN CROSBY: Is this a subset  
4 of the earlier number?

5 MR. RAUEN: It's a different  
6 program. One, Commissioner, is purely  
7 construction. And this one is furniture,  
8 fixtures, equipment, anything from signage to  
9 the surveillance equipment, to front of house  
10 furniture, back of house furniture, pretty much  
11 everything but slot machines and the slot  
12 system which are very unique purchases that you  
13 can't buy on any type of minority basis. But  
14 it's the rest of the program. It's roughly \$20  
15 million worth of procurement.

16 CHAIRMAN CROSBY: Great.

17 MR. RAUEN: That was it in terms of  
18 formal comments. I'd be happy to address any  
19 questions.

20 CHAIRMAN CROSBY: Any other  
21 questions or thoughts?

22 COMMISSIONER CAMERON: Excellent  
23 numbers. It's apparent that you are committed  
24 to this and make very good -- really getting

1 the numbers you're looking for.

2 MR. RAUEN: We are pleased.

3 COMMISSIONER STEBBINS: We certainly  
4 want to help you in the remaining months try to  
5 maybe bump up some of that MBE participation  
6 see if we can get closer to the six percent.

7 CHAIRMAN CROSBY: The MBE or the  
8 minority?

9 COMMISSIONER STEBBINS: The MBE.

10 CHAIRMAN CROSBY: Equipment side,  
11 the fit-out, yes.

12 MR. RAUEN: Any thoughts would be  
13 appreciated.

14 COMMISSIONER STEBBINS: Okay. As  
15 we've gone through this, we've gotten a couple  
16 of calls from Lance where he's like I've got  
17 great veteran business lined up to do business  
18 with us but for whatever reason they don't want  
19 to go through the licensing process or what  
20 have you but the best we can do to help you  
21 kind of look under every rock and stone to find  
22 the participation, we'll want to do that.

23 MR. RAUEN: The time has moved very  
24 fast on this project. And now that we look

1 back a little bit and say we've had remarkably  
2 little pushback from subs and suppliers about  
3 the whole licensing process.

4 COMMISSIONER STEBBINS: Okay, good.

5 MR. RAUEN: That's a good thing.

6 CHAIRMAN CROSBY: Permitting in  
7 Massachusetts has always been known to be  
8 pretty efficient.

9 MR. RAUEN: Okay.

10 COMMISSIONER STEBBINS: With a heavy  
11 dose of sarcasm.

12 COMMISSIONER MCHUGH: This is very  
13 exciting to see this come together. It was an  
14 aggressive schedule. It continues to be one,  
15 but pieces are falling into place and that's  
16 not by accident.

17 MR. RAUEN: Always been looked at by  
18 us as aggressive but achievable that's the way  
19 you're supposed to set standards. I think your  
20 consultants had drawn the same conclusion  
21 pretty consistently. Time is flying and we're  
22 getting this close. And every day is  
23 aggressive but achievable.

24 COMMISSIONER MCHUGH: Right. It's

1 great to see.

2 MR. RAUEN: Okay. Thank you.

3 CHAIRMAN CROSBY: There are a lot of  
4 things that are good. The big one is being on  
5 schedule and more or less on budget. But  
6 diversity as you well know are often more of a  
7 reach than a mutation. It's been noted that  
8 you guys have really set this out as an  
9 important priority and worked hard on it.

10 We know it takes work. It's  
11 important to us. It's important to the  
12 statute. You did get some press, some coverage  
13 which is great. The press did acknowledge the  
14 fact that you had really exceeded your  
15 diversity objectives on the procurement side.  
16 That's great. You deserve that. We want to  
17 make note of that not just to get lost in the  
18 shuffle. But you actually put your shoulder to  
19 this wheel and we really appreciate that.

20 MR. RAUEN: On the development side,  
21 you get one chance to do it right. You don't  
22 have 10 years to develop and multiply. You get  
23 one chance. We are pleased with the way it  
24 came together. So, thank you.

1                   COMMISSIONER ZUNIGA: Just curious  
2 Jack, what is your involvement after opening,  
3 your development department?

4                   MR. RAUEN: There's always several  
5 months of working very closely with Lance and  
6 his team on often times those things that you  
7 planned and thought would work don't. Where  
8 customers' response have been different and  
9 changes are necessary.

10                  So, for us there's always two to  
11 three months of very close coordination after  
12 we open with Lance and his team and with  
13 Turner's help to correct things that either we  
14 planned that didn't work out well or need  
15 change for some other reason.

16                  And during that same period of time,  
17 we wrap up all of the financial affairs of the  
18 subcontractors and suppliers. So, there's a  
19 90-day pretty intense continuation.

20                  COMMISSIONER ZUNIGA: Thank you.

21                  CHAIRMAN CROSBY: Lance?

22                  MR. RAUEN: Thank you.

23                  MR. GEORGE: Good morning. With me  
24 today I have Shannon Wells, Vice President of

1 Human Resources to talk a little bit about  
2 staffing. I would say in general delighted to  
3 suggest that we remain on schedule, no major  
4 setbacks as it relates to staffing.

5 Commencing next week and then  
6 through about the first 10 days of June we'll  
7 see a significant ramp-up. Interview schedules  
8 are full, no doubt about that. And we continue  
9 to be delighted and amazed at the quality and  
10 the quantity of the talent pool and the  
11 applications that we've receive. So, with that  
12 I'll turn to Shannon to walk through the slides

13 MS. WELLS: Good morning. Thank you  
14 for allowing me to speak to you today. So,  
15 we'll go through a quick overview. The first  
16 thing I'll talk a little bit about is our  
17 community outreach and communication that we've  
18 done.

19 Starting back in February, we were  
20 able to go speak at the Brockton Chamber of  
21 Commerce. We have several partnerships, I'm  
22 sure, as most of you know with workforce  
23 development career centers. We participate  
24 with them in job fairs, working with them to

1 hire great slot techs. And I was able to go to  
2 the beautiful State House and speak to that  
3 group in March. So, that was a wonderful  
4 experience.

5           Also working with Massasoit and  
6 Bristol Community Colleges. Here, we are  
7 really looking into some training opportunities  
8 as we get into the mass hiring mostly on the  
9 culinary and F and B side with Serve Safe and  
10 Tips.

11           Also working with Veterans Inc. The  
12 wonderful thing there is some of our  
13 partnerships with the career centers have  
14 afforded us the opportunities to hire veterans.  
15 We've actually hired two that were referred to  
16 from the career centers.

17           Also working with the New England  
18 Area Conference NAACP. And then some people in  
19 this room were at a meeting in March with the  
20 career centers, community colleges and the  
21 Secretary of Labor and Workforce Development.

22           So, the next slide will kind of walk  
23 through some of our job fairs that we've done.  
24 It started early on in October. Actually, I

1 came out to these prior to even being employed.

2 CHAIRMAN CROSBY: Just for the fun  
3 of it?

4 MS. WELLS: Yes. It actually was  
5 beautiful then. It was the fall and gorgeous.  
6 And I thought, I want to move here. And then I  
7 got here in December.

8 COMMISSIONER MCHUGH: A quick change  
9 of mind.

10 MS. WELLS: Yes, too late. So, we  
11 started our ramp-up really in March and April  
12 and most of our job fairs to get to where we  
13 are now, which is our mass hiring.

14 The next slide, wanted to just kind  
15 of give you a visual of our applicant pool.  
16 Looking at mostly just the Eastern Mass.,  
17 Southern Mass. area and a little bit of Rhode  
18 Island is where our applicants are coming from.

19 The next slide, we kind of gave you  
20 our top 10. Out of the over 4000 applicants,  
21 these are the communities that are in our top  
22 10. Most of our host and surrounding  
23 communities are in that applicant pool and the  
24 highest level of applicants.

1                   COMMISSIONER MCHUGH: These are not  
2 typically applicants with gaming experience,  
3 right?

4                   MS. WELLS: Correct.

5                   COMMISSIONER MCHUGH: So, it's food,  
6 beverage, what else?

7                   MS. WELLS: Slot operations.

8                   MR. GEORGE: IT, accounting, human  
9 resources comes to mind. So, a lot of back of  
10 house administrative jobs that we've hired for  
11 out of the gates.

12                   COMMISSIONER MCHUGH: That you've  
13 hired for?

14                   MR. GEORGE: Early that we've  
15 brought on board.

16                   COMMISSIONER MCHUGH: Then they go  
17 through a training program to acclimate  
18 themselves with the specific needs that you  
19 have; is that right?

20                   MR. GEORGE: Yes. Certainly, I  
21 think less training needed maybe in the areas  
22 of accounting and IT, more training needed for  
23 front of house positions gaming specific. Not  
24 surprising, a little bit of a learning curve

1 with the language and the vernacular but they  
2 pick it up quickly.

3 COMMISSIONER MCHUGH: Are the  
4 community colleges -- You mentioned them a  
5 minute ago. Are they supplying a significant  
6 number of applicants?

7 MS. WELLS: We went to sit with them  
8 in Brockton and do a job fair. We had a lot of  
9 interest, mostly on the culinary side. So, it  
10 still remains to be seen who we will actually  
11 get from that group.

12 COMMISSIONER MCHUGH: Right, right.  
13 Okay, thanks.

14 MS. WELLS: Just to take a look on  
15 the next slide is our hiring goals to date. We  
16 are exceeding on the diversity side of 17  
17 percent. And our local new hires we're at 37  
18 percent.

19 CHAIRMAN CROSBY: What are the two  
20 objectives.

21 MS. WELLS: Objectives are 90  
22 percent local, which is the host and  
23 surrounding communities, and 10 percent  
24 diversity.

1           MR. GEORGE: We've got some work to  
2 do. With that being said, I think as of  
3 yesterday, we had 77 folks on board. And as  
4 you guys know, we'll be hiring 500. So, early  
5 numbers, we're obviously encouraged with the  
6 diversity numbers, plenty of work to do on the  
7 local side.

8           With that we end up with folks who  
9 are in Walpole for instance or Norfolk who fall  
10 just outside of our local communities.

11          MS. WELLS: We do expect an uptick  
12 in the local goal. First indications of our  
13 invites to our group interviews which is what  
14 we're doing now for mass hiring, lots of local  
15 host and surrounding community folks.

16          COMMISSIONER STEBBINS: Surrounding  
17 community agreements all had some -- a promise  
18 of at least going to each surrounding community  
19 and staging a day. Does that translate back  
20 into the dates and the meeting schedules that  
21 you had aligned before?

22          MS. WELLS: Yes.

23          CHAIRMAN CROSBY: The 90 percent, is  
24 that a best efforts? How is that

1 characterized?

2 MR. GEORGE: It is a best efforts,  
3 correct. Certainly, these numbers are top of  
4 mind on every hire we make. Again, feeling  
5 good about where we started with diversity. We  
6 recognize and we've had several meetings with  
7 our local constituents, we've got some work to  
8 do on the local side.

9 MS. WELLS: So, the next slide this  
10 is where we are in our hiring timeline. I'd  
11 like to say a picture is worth 1000 words here.  
12 We are sitting in April at approximately 81  
13 employees. And you'll see we have to get to  
14 500 in June.

15 So, the purple bar there suggests  
16 that we have a lot going on in the next seven  
17 weeks. We have begun. We are on target.  
18 We've begun our mass hiring. This is what I'm  
19 dreaming about every night. We are excited.

20 By May we should have 300 on staff  
21 and then June, which is really the first few  
22 weeks of June up to the first three weeks of  
23 June, we'll have the 500 new hires.

24 COMMISSIONER ZUNIGA: Are you

1 keeping track of the pool of applicants that  
2 you have who may be unemployed or is currently  
3 employed? Are you getting any of those  
4 statistics?

5 MS. WELLS: I have not yet.

6 CHAIRMAN CROSBY: I thought we were.  
7 I thought we saw those numbers yesterday?  
8 Didn't they show that the number of people in  
9 Plainville that were unemployed, part-timers or  
10 otherwise?

11 COMMISSIONER ZUNIGA: You may be  
12 right.

13 CHAIRMAN CROSBY: Maybe we're doing  
14 that. Is MGC to collecting that?

15 COMMISSIONER STEBBINS: We're  
16 collecting that for the data project with  
17 UMass. Everybody who gets licensed or  
18 registered, fills out a quick questionnaire as  
19 to where they're coming from.

20 COMMISSIONER ZUNIGA: We are keeping  
21 track of who's hired. My question was as on  
22 the applicants.

23 MS. WELLS: I don't think our system  
24 has it, actual tracking.

1           CHAIRMAN CROSBY: It is interesting.  
2 We didn't even know. Elaine and I talked about  
3 this. We didn't realize that MGC is keeping  
4 track. When you eventually hire someone, they  
5 go through our licensing and registration  
6 process. We know how many unemployed people,  
7 part-time and fully employed we're hiring.

8           COMMISSIONER ZUNIGA: Because that's  
9 a form that we have them complete when they  
10 come, part of the license.

11          CHAIRMAN CROSBY: It's great.

12          MS. WELLS: The next slide, we'll go  
13 through our licensing submittal. This is  
14 obviously a big challenge on both sides. We  
15 are definitely excited about how much the  
16 licensing team is working with us. We realize  
17 it's a huge, huge undertaking. So, our goal is  
18 by May 27 to have all of the GEL licenses and  
19 temp. requests that we submit with those.

20          CHAIRMAN CROSBY: Tell the audience  
21 what GEL means.

22          MS. WELLS: I'm sorry. Gaming  
23 employee licenses, so there's three. There's  
24 the key license. And there's a gaming license.

1 And there's also a registrant license.

2 The registrant licenses are approved  
3 the day they are submitted provided they're  
4 submitted properly. The gaming licenses go  
5 through a bit more scrutiny, and of course the  
6 keys a lot of scrutiny. And then by June 10,  
7 our goal are to have all of the registrant  
8 applications submitted. And then June 17 all  
9 positions hired and trained and ready to roll.

10 CHAIRMAN CROSBY: I know you all  
11 have been coordinating on this. But how are we  
12 feeling now about our ability to match our side  
13 of this?

14 MR. DAY: As Shannon was speaking, I  
15 started from the place, the first number she  
16 had with the 81 by the end of May. We  
17 reconciled that. And we're in agreement in  
18 that position. And we've established four  
19 licensing days to go down -- for our staff to  
20 go down to Penn to actually do some mass  
21 licensing on site.

22 So, I think we're basically we kind  
23 of got a process where we're checking in twice  
24 a week. I believe that we are on track with

1       them as well.

2                   CHAIRMAN CROSBY: Great. A lot of  
3 credit to the IEB and all of the troopers  
4 sitting in the back who are doing all of the  
5 background checks. It's inevitable that  
6 they're going to come in in a crush. And it's  
7 hard for you but it's also hard for us.

8                   MR. DAY: Chairman Crosby, I should  
9 mention also our two have been permanent  
10 licensing folks Bill Curtis and Kathy Barch,  
11 they are pulling a lot of weight here as we get  
12 moving forward, and have been working real hard  
13 to make sure those license applications get  
14 processed.

15                   CHAIRMAN CROSBY: Great.

16                   MR. GEORGE: Would agree with that.  
17 We've had tremendous communication on both  
18 sides. They're working a lot of hours. We're  
19 hearing from them on Saturdays, on Sundays,  
20 late at night. So, they're certainly helping  
21 us out.

22                   CHAIRMAN CROSBY: Good.

23                   MS. WELLS: Troopers come to  
24 property and do fingerprinting which is a huge

1 advantage for us as well.

2 CHAIRMAN CROSBY: Great.

3 COMMISSIONER ZUNIGA: Could you give  
4 us an order of magnitude of where you are on  
5 the key gaming licenses in terms of percentage?

6 MS. WELLS: We have about 25, 27 to  
7 submit. And we have submitted approximately  
8 18, 16 to 18 I think we're at right now.

9 COMMISSIONER ZUNIGA: What about the  
10 GELs?

11 MS. WELLS: Submitted approximately  
12 50, so that leaves us about 140 more to go.  
13 Then in the next few weeks, we are working very  
14 hard to have another 50. So, by the time we  
15 have the licensing events, we'll have two  
16 licensing events we'll have 100 more to go by  
17 then.

18 COMMISSIONER ZUNIGA: I didn't  
19 realize there were so many GELs.

20 CHAIRMAN CROSBY: She's including  
21 the service employees in the GELs.

22 MS. WELLS: No. There's about 185  
23 gaming total.

24 CHAIRMAN CROSBY: Okay. When you

1 say GELs, I thought your description of it  
2 included the registered?

3 MS. WELLS: No, separate. Our  
4 registrants are approximately 260, 270  
5 registrants on top of that.

6 CHAIRMAN CROSBY: Okay. Is that it?

7 MS. WELLS: Next slide, just a quick  
8 overview on training. We will start our mass  
9 orientation the first two weeks of June.

10 Those will consist of meetings and  
11 trainings of about 30 team members per session.  
12 We'll have some sister property come in and  
13 help us because we know there will be a lot  
14 going on at that time, not just with training  
15 but getting everything to come together at  
16 once.

17 We train on our culture. We train  
18 on core values, red carpet customer service  
19 which is our customer service program that we  
20 use at all Penn properties. Safety, LEED gold,  
21 anti-harassment, policies and procedures and  
22 also responsible gaming will be included.  
23 They're about a six- to eight-hour training.  
24 And they're held on-site. Then once we get

1 done with their orientation, they go directly  
2 into the department specific training.

3 COMMISSIONER STEBBINS: If myself or  
4 any of my colleagues or staff were interested  
5 in just coming down and witnessing your  
6 training, would you be amenable to having us  
7 sit in the back of the room and not make any  
8 noise?

9 MS. WELLS: Of course.

10 COMMISSIONER MCHUGH: Thrilled,  
11 right?

12 MS. WELLS: Just no heckling the  
13 trainer, if it's me.

14 COMMISSIONER CAMERON: You're the  
15 trainer?

16 MS. WELLS: In some of them, yes.  
17 I'll be doing some. We'll be splitting up with  
18 my team.

19 COMMISSIONER ZUNIGA: You will just  
20 have to reschedule the part about the  
21 Commission.

22 MS. WELLS: Yes, that's secret.

23 CHAIRMAN CROSBY: Is that it?

24 MS. WELLS: That's all I have for

1 you. If you have any more questions.

2 COMMISSIONER ZUNIGA: Thank you very  
3 much.

4 CHAIRMAN CROSBY: Next up  
5 information technology, Director Glennon.

6 MR. GLENNON: Mr. Chairman,  
7 Commissioners, good morning. I'm here --  
8 First, I want to make a correction, the third  
9 slide in your deck should be titled central  
10 management system project update not gaming  
11 laboratory. It's my oversight.

12 I'm here today to give you an update  
13 on the CMS project. Very pleased to inform you  
14 that the contract between IGT and the  
15 Commission was executed on April 22. That  
16 allowed a lot of the activities that need to  
17 take place, especially in the procurement are  
18 for IGT, formerly GTECH, to move forward. They  
19 had some infrastructure they need to procure,  
20 parts, etc. That's a good thing.

21 I want to call out Edward Jordan who  
22 is the project manager out of Moncton for IGT.  
23 The project plan here in the executive summary,  
24 which we'll be going over were provided by

1 Edward. I think he's watching. He and his  
2 team have been great.

3 And we had a kickoff in April. And  
4 we've had several meetings since with members  
5 of our team. So, the finance group, Derek  
6 Lennon and Maria Botari for the revenue folks  
7 and Bruce Band and Vanessa Barone on the IEB  
8 side.

9 So, we have looked at requirements.  
10 We have, I believe, a baseline for the initial  
11 installation of the software and a detailed  
12 project plan, which is attached.

13 My idea would be to report out to  
14 you in the format of the executive summary  
15 that's attached here. I think it is  
16 traditional project management reporting. It's  
17 a dashboard type of an approach. Calling out  
18 high-level milestones along with the status of  
19 those milestones and any risks or issues that  
20 we're dealing with related to those.

21 The detailed project plan, which is  
22 in the form of a Gantt chart is available. We  
23 have integrated the critical path and the  
24 activities of the CMS project with the gaming

1 floor opening for Penn.

2           So, as they move through the gaming  
3 floor and configure the slot machines, there  
4 are some activities which we'll be able to do  
5 that will eliminate the need for work after  
6 opening. There's some preparation that needs  
7 to be done in the slot base for the central  
8 management system, equipment that needs to be  
9 put in. And Penn had asked that we do this  
10 concurrently with their buildout of the slot  
11 floor so that it's not disruptive after  
12 opening. You don't have the bases opened up,  
13 etc.

14           So, that's the way the project plan  
15 has been developed. We've had a meeting with  
16 the Penn folks Mike Thoma, slot operations,  
17 Albert DeLagarzo their slot manager and their  
18 IT folks. So, I think everybody is pretty much  
19 -- We're all on the same page. There's good  
20 communication and collaboration and things are  
21 moving forward.

22           I think I'm pretty comfortable that  
23 where we are right now is in good shape. So,  
24 everything is -- I'll entertain any questions

1 on any of the material, either the detailed  
2 Gantt charts or the executive overview.

3 But I would ask that you approve the  
4 overview as a format for us to report out up to  
5 you relative to the status of the project.

6 CHAIRMAN CROSBY: Anybody?

7 COMMISSIONER MCHUGH: I think the  
8 overview is clear. It is helpful. It helps us  
9 keep track of the essentials without getting  
10 into a morass of detail. I think it's a good  
11 way to proceed with the reporting and tracking  
12 from our standpoint.

13 CHAIRMAN CROSBY: In the Gantt chart  
14 there are a number of red lines. I assume red  
15 lines on the Gantt chart mean the same thing as  
16 they do on the executive summary? Those are  
17 at-risk items.

18 MR. GLENNON: Yes. I think they are  
19 calling out some critical path items that we  
20 need to be responsible for. The network  
21 operations center and the buildout, we're going  
22 to need to put a temporary location into place  
23 because the permanent NOC is going to be on the  
24 floors that we're building out. So, we need to

1 figure that out.

2 And up until this week, the question  
3 of who the lab was going to be that handled the  
4 certification -- Actually, we haven't made that  
5 decision yet. I take that back.

6 We've selected labs to do the  
7 certification of the gaming floor, the slot  
8 machines and the house system. We are getting  
9 further clarification on the statement of work  
10 to certify the central management system.

11 So, of three tasks that we had put  
12 out to bid for the certified independent  
13 laboratories, we've awarded three of those  
14 tasks. Two of them to GLI and that's the  
15 validation of the slot machines and the slot  
16 floor. And then the third task is the tote  
17 system at Plainridge, and we had awarded that  
18 to BMM. We still have some work to do on the  
19 CMS system.

20 We'll get that done in the next  
21 couple weeks. And IGT is going to provide us  
22 some additional granularity on the requirements  
23 for testing and certification of the CMS.

24 COMMISSIONER MCHUGH: But more

1 broadly, the color scheme on the Gantt chart is  
2 not the same as the color scheme on the  
3 executive overview; is that right?

4 MR. GLENNON: I believe that is  
5 correct. And if we need to harmonize those, I  
6 can certainly -- I wasn't actually planning on  
7 making this Gantt chart a part of my update for  
8 you, because I think it tends to be in the  
9 weeds a bit in terms of the details. Do we  
10 have any issues with the activities on this  
11 chart will be called out in the executive  
12 summary.

13 COMMISSIONER MCHUGH: I wasn't  
14 making a suggestion. I was just making an  
15 observation.

16 CHAIRMAN CROSBY: The only question  
17 on the executive summary is whether there is  
18 sufficient granularity there. Presumably  
19 behind this you and Rick and others will know  
20 what's going on. You don't need us to catch  
21 highlights. But we do want to know about  
22 issues and whether -- Execution is a huge  
23 category that basically covers two-thirds or  
24 more of the whole thing.

1           And to have one big chunk there, I'm  
2 a little bit concerned. And that's why I was  
3 wondering about these things that are red.  
4 These things that are red on the Gantt chart  
5 don't mean there's an issue or a problem with  
6 them, then the specific example of my concern  
7 goes away.

8           But there's just not very much  
9 granularity in this chart. And you need to be  
10 really hard-nosed -- For our purposes, you need  
11 to be really hard-nosed about reflecting what  
12 are potential risks in these huge categories  
13 like execution.

14           MR. GLENNON: So, I'll call your  
15 attention to the last page of the summary,  
16 which is the risk chart. I think there are  
17 three items on that, four that are called out.

18           We will expand this to identify any  
19 things that would tend to indicate that we are  
20 going to deviate from the plan or that there  
21 are issues that we need to work through either  
22 with Penn or with IGT or with our own staff.

23           CHAIRMAN CROSBY: So, red on this  
24 chart means what?

1 MR. GLENNON: Red on this chart  
2 means critical.

3 CHAIRMAN CROSBY: Critical but not  
4 at-risk?

5 MR. GLENNON: Mr. Chairman, are you  
6 talking about the Gantt chart?

7 CHAIRMAN CROSBY: No. I'm on your  
8 milestones chart.

9 COMMISSIONER ZUNIGA: The risks  
10 chart.

11 CHAIRMAN CROSBY: What you referred  
12 to as the risks.

13 MR. GLENNON: On the executive  
14 report, if it's green it's good. If it's  
15 yellow, it's caution. If it's red it's a  
16 problem.

17 COMMISSIONER CAMERON: This chart  
18 would say high if there was a real issue,  
19 right?

20 CHAIRMAN CROSBY: I was on the wrong  
21 chart. I'm sorry. Okay.

22 COMMISSIONER ZUNIGA: I had a  
23 question on the risks.

24 COMMISSIONER MCHUGH: Could I stick

1 with format for just a second, because I do  
2 think this is helpful and does contain -- The  
3 reporting that you plan to continue to do  
4 begins with the executive overview slide, this  
5 one.

6 MR. GLENNON: Correct.

7 COMMISSOINER MCHUGH: And includes  
8 the successive slides, right? The next one  
9 with the milestones. The next one with the  
10 very brief one-line chart and the risk chart.  
11 That's all a package of this reporting that you  
12 plan to do, right?

13 MR. GLENNON: That would be senior  
14 leadership on Rick's team and you, the  
15 Commission, would get that report.

16 COMMISSIONER MCHUGH: Okay.

17 MR. GLENNON: And you can certainly  
18 have the Gantt chart, which may change here and  
19 there as we tweak it. That's available at a  
20 different level of granularity.

21 COMMISSIONER MCHUGH: Well, it's  
22 that kind of high-level review that it seemed  
23 to me was really helpful and can trigger a  
24 need to take a look at the Gantt chart if you

1 want.

2 CHAIRMAN CROSBY: Commissioner  
3 McHugh's clarification helped me on this. I  
4 thought it was just that one first bar chart,  
5 but you're talking about more. So, that's  
6 fine.

7 COMMISSIONER ZUNIGA: I had a  
8 question on the risks. What does the date mean  
9 in the column, in that column when you're  
10 logging it or when it's due?

11 MR. GLENNON: I think that's the  
12 date that the risk was logged. This is an  
13 issues log. It was the date that the issue was  
14 put into the log.

15 COMMISSIONER ZUNIGA: Right. It be  
16 helpful at least to me if some of these risks  
17 were identified with an end date, I guess or a  
18 due date.

19 MR. GLENNON: Okay. If the risk is  
20 associated with a stream that has a due date,  
21 We will put that in.

22 CHAIRMAN CROSBY: Which this one  
23 does, for example. Is that what you're talking  
24 about?

1                   COMMISSIONER ZUNIGA: That's the log  
2 date.

3                   CHAIRMAN CROSBY: It says it needs  
4 to be completed by June 22.

5                   COMMISSIONER ZUNIGA: The one, yes,  
6 but the others might not.

7                   MR. GLENNON: We can certainly add a  
8 column, Commissioner.

9                   CHAIRMAN CROSBY: Probability means  
10 what? Low probability of a problem?

11                  MR. GLENNON: I think you're  
12 basically ranking it. And if you were  
13 assigning a number value to high, medium and  
14 low, you could essentially get a number for the  
15 level of the risk. So, the probability and the  
16 impact are two factors.

17                  The probability of it happening and  
18 then the impact. In some cases, it may be a  
19 high probability of something happening, but a  
20 low impact, right.

21                  CHAIRMAN CROSBY: I didn't know  
22 whether low meant low probability of being a  
23 problem or low probability of getting done on  
24 time.

1 MR. GLENNON: Low probability of  
2 being an issue and the impact I think is self-  
3 explanatory.

4 CHAIRMAN CROSBY: Okay.

5 COMMISSIONER CAMERON: Edward is  
6 who?

7 MR. GLENNON: Edward Jordan is the  
8 project manager for IGT. Basically, all of  
9 these artifacts and materials he has generated  
10 and will continue to generate for us. So, he  
11 maintains the project plan. He's integrated  
12 their project plan with what was provided by  
13 Penn. He's doing an excellent job of managing  
14 the project.

15 CHAIRMAN CROSBY: What does the  
16 fourth one mean, John? It sounds like casino  
17 interruption during go live. Sounds like a  
18 pretty big deal.

19 MR. GLENNON: We had talked about  
20 concurrently going live with the start-up of  
21 the casino. One of the things that is going to  
22 have to happen as we put the central management  
23 system online is to take down banks and  
24 machines, to plug those machines into a fiber

1 connection that will be pre-laid out. And to  
2 put those online with the central management  
3 system, it will involve zeroing the meters on  
4 the machines. And it will have to be a  
5 coordinated effort with the folks at Penn.

6 I think it's an issue we wanted to  
7 call out early, but it's something that can be  
8 worked around with a good plan. It's a reset  
9 of the meters, essentially on each machine.

10 COMMISSIONER ZUNIGA: You do it in  
11 stages so that the casino continues to operate.

12 MR. GLENNON: I think all of this  
13 done, both the preplanning of the installation  
14 of equipment during their buildout of the floor  
15 and the way we bring the machines online is to  
16 be minimally disruptive to casino operations.  
17 That's the way we're working it.

18 CHAIRMAN CROSBY: Anything else,  
19 questions? Great.

20 MR. GLENNON: Thank you very much.

21 COMMISSIONER MCHUGH: It's very  
22 helpful.

23 COMMISSIONER ZUNIGA: Thank you.

24 CHAIRMAN CROSBY: We're a couple of

1 minutes ahead of schedule. I'm going to take  
2 just a quick break. We'll be back in five  
3 minutes or so.

4

5 (A recess was taken)

6

7

8 CHAIRMAN CROSBY: We are reconvening  
9 at about a little after 11:30. We are at item  
10 five, the ombudsman report, Ombudsman Ziemba.

11 MR. ZIEMBA: Good morning,  
12 Commissioners. First on my agenda are two  
13 items related to Brockton's May 12 casino  
14 referendum. Notice to Brockton residents  
15 regarding the Commission's suitability process  
16 and a waiver of one of the Commission's  
17 regulations that governs the timing of certain  
18 local votes.

19 At our last Commission meeting, we  
20 discussed the Commission requirements related  
21 to suitability and the holding of a referendum.  
22 To briefly summarize, the Commission's  
23 regulations prohibit the holding of a host  
24 community referendum prior to the Commission

1 determining that an applicant is suitable.  
2 However, a community can move forward in  
3 advance of a suitability determination if a  
4 community's governing body votes to do so.

5 In addition to that vote, a  
6 community must engage in a public education  
7 campaign to inform its citizens that despite a  
8 local vote, an applicant can only apply for a  
9 casino license if it has been deemed suitable  
10 by the Commission.

11 As part of the education campaign  
12 that is required, a community must send a  
13 notice describing the Commission's suitability  
14 and application process to registered voters.  
15 And then finally, pursuant to the Commission's  
16 regulations, the governing body must first vote  
17 to move forward with the referendum before  
18 suitability and only then can actually schedule  
19 the referendum. So, there's a sequencing in  
20 our regulation that's very specific.

21 So, first in regard to the notice  
22 requirement, Counsel Blue, Deputy Counsel  
23 Grossman and I have reviewed the proposed  
24 citizen notice that's in our packet. And we've

1 determined that it is consistent with our  
2 regulation that it is substantially similar to  
3 notices that have been approved in the past.  
4 There have been a number of different notices  
5 that have been already done in other parts of  
6 the Commonwealth. And that it adequately  
7 describes the current situation with this  
8 applicant.

9 I highlight just one aspect of the  
10 notice. It states the historical fact that  
11 this applicant, Mass. Gaming and Entertainment,  
12 has previously been deemed suitable by the  
13 Commission. However, the notice also informs  
14 Brockton voters that the Commission is  
15 currently reviewing any changes, new members  
16 and new circumstances since the date of this  
17 first prior determination of suitability. This  
18 language was shared with IEB Director Wells who  
19 was okay with this new language.

20 Before the Commission considers this  
21 notice, I would just like to provide a little  
22 bit more context. After discussions with IEB,  
23 we propose that the Commission hold a meeting  
24 on MG&E's suitability next Wednesday, May 6.

1 The IEB is currently wrapping up its background  
2 investigation and should be prepared by that  
3 date.

4           So, if the Commission determines  
5 MG&E suitable on that date, the city of  
6 Brockton under our regulation would not need to  
7 mail this citizen notice to the voters because  
8 the proposal would comply with our suitability  
9 requirements. Sending such a notice despite  
10 our positive suitability determination could  
11 only cause voter confusion.

12           Although Brockton would not need to  
13 mail the notice until after next week,  
14 approving the notice now would enable Brockton  
15 to both print the notices and to prepare them  
16 for mailing if it is indeed necessary.

17           CHAIRMAN CROSBY: Meaning if we  
18 don't conclude the suitability on May 6.

19           MR. ZIEMBA: So, there's basically  
20 three different categories and I'm sure there's  
21 a million other permutations, but if they're  
22 deemed suitable then there's no need for a  
23 notice. If they're deemed not suitable that's  
24 another kettle of fish.

1           And then the third group would be if  
2 there's other additional information that's  
3 necessary and the Commission cannot make that  
4 determination next Wednesday and we'd have to  
5 have a subsequent vote then the notice would  
6 need to be sent.

7           CHAIRMAN CROSBY: Those are three  
8 points that's it's important for the public to  
9 understand.

10          MR. ZIEMBA: That's right. The  
11 second item is a waiver from the sequencing in  
12 the Commission's regulations. Brockton  
13 scheduled its election before it voted to move  
14 forward with the election in advance of  
15 suitability.

16           This is partly due to the  
17 community's efforts to meet the Commission's  
18 then existing deadlines regarding the RFA-2  
19 deadline, which obviously requires that a  
20 referendum be completed prior to submitting the  
21 RFA-2. As we've noted that deadline that  
22 existed at that time has now since been moved.

23           The Commission has previously  
24 entertained and granted a similar waiver in a

1 different community. Pursuant to the  
2 Commission's waiver regulations, in order to  
3 grant a waiver the Commission must make certain  
4 findings.

5 And the city of Brockton put forward  
6 its arguments on why this waiver request meets  
7 those requirements. Number one, granting the  
8 variance is consistent with the purposes of MGL  
9 Chapter 23K. Brockton argues that the  
10 Commission's measures to protect the integrity  
11 of the gaming license process are met albeit in  
12 a different sequence. This is similar to what  
13 we previously ordered and found.

14 Granting the variance will not  
15 interfere with the ability of the Commission or  
16 the IEB to fulfill its duties because a gaming  
17 license remains subject to a positive  
18 determination of suitability despite the  
19 sequencing.

20 Number three, granting the variance  
21 will not adversely affect the public interest  
22 because the city council does in fact approve  
23 holding the election in advance of the final  
24 determination of suitability.

1                   And finally, not granting the  
2                   variance would cause substantial hardship to  
3                   the city because it would not be able to  
4                   proceed with the May 12, 2015 referendum if no  
5                   suitability decision is reached by the  
6                   Commission next week.

7                   With this, I welcome any questions  
8                   the Commission may have. And I think both  
9                   items would require a vote.

10                  CHAIRMAN CROSBY: Okay. Comments?

11                  COMMISSIONER ZUNIGA: So, we're  
12                  thinking about two waivers, essentially or it's  
13                  one in the same?

14                  MR. ZIEMBA: One is not a waiver but  
15                  it's an exception that is built into our  
16                  regulations. And what the Commission would be  
17                  approving is the notice that has been reviewed  
18                  by Counsel, myself and Director Wells.

19                  COMMISSIONER ZUNIGA: That may or  
20                  may not go out depending on what happens next  
21                  week.

22                  MR. ZIEMBA: That's exactly right.  
23                  Then the second matter is a waiver to our  
24                  regulation regarding how the sequencing

1 occurred whereby they voted first to schedule  
2 the election and then move forward on the vote  
3 to move forward in advance of suitability.

4 COMMISSIONER MCHUGH: The need for  
5 both of those is mooted if we find MGE  
6 suitable.

7 MR. ZIEMBA: That is correct.

8 COMMISSIONER MCHUGH: And the first  
9 one, the approval of the notice, is today say  
10 is designed to allow the printing and  
11 contingency planning that's necessary to go  
12 forward if there's a problem next Wednesday.

13 MR. ZIEMBA: Exactly right.

14 COMMISSIONER MCHUGH: Why is that  
15 also true of the second one? In other words,  
16 why couldn't if we find either the need to get  
17 more information or find that there is a lack  
18 of suitability, why couldn't we decide on the  
19 variance then?

20 MR. ZIEMBA: We could definitely do  
21 that. The city has raised no objection to  
22 that. They didn't know about this request, but  
23 in thinking about it over the last day, I don't  
24 believe that that I would be an obstacle.

1                   COMMISSIONER MCHUGH: I raise that  
2 because it seems to me that the -- I know it  
3 makes the timeline shorter and makes the heart  
4 palpitations greater I suppose by making it  
5 shorter, but it also seems to me that at least  
6 some of the four conditions might be affected  
7 by what we do next Wednesday if we were to  
8 determine that there is not suitability that we  
9 couldn't make the suitability determination on  
10 Wednesday.

11                   For example, if we determine that  
12 there is a lack of suitability, the conditions  
13 that we have to find in order to grant a waiver  
14 would be different from our assessment of the  
15 conditions if we said we needed more  
16 information, I think.

17                   MR. ZIEMBA: Right.

18                   COMMISSIONER MCHUGH: So, it would  
19 be very hard today to say that the four  
20 conditions -- I think to say that the four  
21 conditions are met when we know we're going to  
22 have this hearing next Wednesday. So, I guess  
23 I would be in favor of voting today on the  
24 first one but not on the second one.

1 MR. ZIEMBA: I would think on the  
2 sequencing, if we're just talking about the  
3 sequencing, it's a little bit of a different  
4 matter of the general consideration we take a  
5 look at from suitability in that if we're  
6 specific to the sequencing, the waiver request  
7 is in order.

8 But one benefit of potentially not  
9 doing it until next week is that if no waiver  
10 is otherwise required then there would be no --  
11 no one could point to the fact that a waiver  
12 was necessary to move forward with the  
13 election.

14 COMMISSIONER MCHUGH: Right.

15 COMMISSIONER CAMERON: So, it sounds  
16 like you're agreeing with Commissioner McHugh.

17 MR. ZIEMBA: I think either way we  
18 could probably, if indeed there is positive  
19 suitability next week, this could be a non-  
20 issue. Otherwise, we could probably deal with  
21 it quickly on next Wednesday if Counsel has any  
22 objections to that --

23 CHAIRMAN CROSBY: Is there any  
24 downside to doing it next Wednesday?

1 MR. ZIEMBA: This provides a lot  
2 more certainty to the community that what they  
3 have done pursuant to our regulations is in  
4 order and it lessens some of the anxiety as  
5 Commissioner McHugh noted.

6 CHAIRMAN CROSBY: Right.

7 COMMISSIONER STEBBINS: Just a small  
8 technical question to protect the city of  
9 Brockton. Would their printing costs be  
10 covered by the applicant as part of the overall  
11 cost of the election?

12 MR. ZIEMBA: Yes, pursuant to our  
13 regulations those costs are borne by the  
14 applicant.

15 CHAIRMAN CROSBY: Give me an example  
16 of the two, the benefit of postponing until the  
17 next week. What are the different conditions  
18 that might make us not grant the waiver under  
19 one set and maybe grant it under another?

20 COMMISSIONER MCHUGH: Condition  
21 number three is whether granting the waiver  
22 would adversely affect the public interest. If  
23 we found a lack of suitability, perhaps a  
24 curable lack of suitability but a lack of

1     suitability, it seems to me that factor might  
2     be decided differently than if we found that  
3     more information was necessary in order to make  
4     a suitability determination.

5             MR. ZIEMBA: But they would still  
6     need to go forward with the referendum in  
7     either situation.

8             COMMISSIONER MCHUGH: I understand  
9     that but we might -- I think this is entirely  
10    hypothetical, but we might not be so willing to  
11    grant the waiver if we found a lack of  
12    suitability as we would be if we found that  
13    simply more information were necessary in order  
14    to make the suitability determination.

15            CHAIRMAN CROSBY: If it was a lack  
16    of suitability, then it's over, right? The  
17    ballgame's over.

18            COMMISSIONER MCHUGH: Not  
19    necessarily. We could find the lack of  
20    suitability somehow you have to remove somebody  
21    or you have to do something or you could cure  
22    the lack of suitability, but until you've done  
23    it we're not prepared to make the final  
24    suitability determination.

1           CHAIRMAN CROSBY: They wouldn't be  
2 found unsuitable. We would have said you are  
3 suitable conditional on something or other  
4 probably.

5           COMMISSIONER MCHUGH: Right, what it  
6 is that you have to do may affect how we look  
7 at the overall suitability determination -- I  
8 mean the waiver determination.

9           CHAIRMAN CROSBY: If we were giving  
10 them what would in effect be a conditional  
11 suitability, you can be suitable if you do A, B  
12 and C, we would presumably not do that. We  
13 would want the referendum to go forward.

14          COMMISSIONER MCHUGH: I realize that  
15 this is hypothetical and I'm raising it (A) for  
16 purposes of discussion and (B) to ensure that  
17 we take this waiver decision carefully as we  
18 have the past.

19          We could say you have to get a new  
20 somebody or something to perform a function in  
21 this organization before we will find you -- be  
22 able to find you suitable. And until you know  
23 who this entity is, it seems to me you might  
24 not be able to find that the waiver is in the

1 public interest.

2 COMMISSIONER ZUNIGA: I realize this  
3 is a hypothetical now on hypothetical, but  
4 isn't that possibility lessened by the fact  
5 that we already found suitable the two parties  
6 that have come into partnership?

7 COMMISSIONER MCHUGH: It probably  
8 is.

9 CHAIRMAN CROSBY: Just a weighing  
10 against whatever the likelihood of that  
11 possibility versus the uncertainty for the  
12 participants at this point. I don't feel  
13 terribly strongly about either one of them, but  
14 it sort of feels like it is a hypothetical and  
15 it's sufficiently a hypothetical that maybe  
16 it's not worth worrying about.

17 It's certainly worth talking about  
18 because I hadn't thought about this consequence  
19 but I'm not sure that it's worth not giving  
20 them the certainty of the right to go forward.

21 COMMISSIONER ZUNIGA: I am thinking  
22 that. I didn't let you finish on that.

23 CHAIRMAN CROSBY: If they're found  
24 unsuitable this whole thing is moot but if

1 they're found unsuitable this whole thing is  
2 moot but assuming that they aren't, I'm not  
3 sure that we don't want to give them the  
4 comfort that they'll be able to go forward with  
5 the referendum.

6 COMMISSIONER ZUNIGA: Yes, I agree  
7 with that. Plus the waiver, as I understand  
8 it, is on sequence part of which has already  
9 happened, isn't it? They already scheduled the  
10 referendum.

11 MR. ZIEMBA: That's correct.

12 MS. BLUE: Yes. The sequence has  
13 been reversed but they have already scheduled a  
14 referendum prior to voting to go ahead without  
15 suitability. So, they're asking for the waiver  
16 on the sequence.

17 COMMISSIONER ZUNIGA: Right. And  
18 that's information that we could act on.

19 COMMISSIONER MCHUGH: That's sort of  
20 a self-wielding sword though, right?

21 COMMISSIONER ZUNIGA: I'm sorry?

22 COMMISSIONER MCHUGH: That's a  
23 condition that they created themselves.

24 COMMISSIONER ZUNIGA: Correct.

1 Hence a waiver request.

2 COMMISSIONER CAMERON: I'm just  
3 trying to understand better the uncertainty.  
4 We'll have great certainty after the  
5 suitability next Wednesday after the hearing.

6 CHAIRMAN CROSBY: We've got to get  
7 our State Troopers to figure out -- Mr. Carney,  
8 wake up.

9 COMMISSIONER CAMERON: Is it his  
10 phone?

11 MR. CARNEY: I'm sorry. I was  
12 looking at him.

13 COMMISSIONER CAMERON: I think  
14 there's always uncertainty until the hearing,  
15 right, for any suitability hearing. So, I'm  
16 just trying to understand this additional  
17 uncertainty.

18 CHAIRMAN CROSBY: The uncertainty is  
19 whether or not they'll be permitted to go ahead  
20 with the referendum if we don't find them  
21 unsuitable.

22 COMMISSIONER CAMERON: But I think  
23 what we're saying is with suitability they'll  
24 be able to do that. I guess I'm not

1 understanding the uncertainty.

2 CHAIRMAN CROSBY: Because  
3 Commissioner McHugh is hypothesizing that there  
4 could be a situation, I don't quite see it, but  
5 there could be a situation where they are  
6 conditionally suitable but that we might choose  
7 to want to say to them we're not going to let  
8 you have the referendum until this is resolved.  
9 I guess that's what we would have to be saying.  
10 We're going to have to say you're going to have  
11 to cancel the referendum until you become  
12 suitable. That's the only hypothetical I can  
13 actually play out.

14 MR. ZIEMBA: One thing I will note  
15 is the point of the sequencing in our  
16 regulation was designed to avoid a conflict  
17 between election law, which states that once an  
18 election has been called it is at least very  
19 difficult if not prohibited to stop that  
20 election, and our regulation which says that  
21 you cannot move forward in advance without the  
22 prior vote. That's why we have that sequencing  
23 in our regulation.

24 So, in any regard potentially the

1 election would need to go forward regardless of  
2 whether or not it satisfies the requirements of  
3 our license. So, the election should be  
4 basically a nullity for the purposes of meeting  
5 our requirements.

6 CHAIRMAN CROSBY: So, you'd have the  
7 election but it wouldn't be binding on us.

8 MR. ZIEMBA: Potentially.

9 MS. BLUE: Potentially, that's  
10 correct.

11 COMMISSIONER MCHUGH: You'd have to  
12 have the election?

13 MR. ZIEMBA: In our conversations  
14 with the Secretary of State's office in the  
15 past, they said that there is no authority to  
16 recall an election once it has been scheduled,  
17 which is the purpose of our sequencing  
18 regulation.

19 COMMISSIONER ZUNIGA: On that note,  
20 I am more inclined to agree on the waiver today  
21 because the waiver -- a part of it, an  
22 important part of is on that sequence again  
23 that has already taken place and provide  
24 whatever certainty that may additionally to the

1 public interest.

2 COMMISSIONER MCHUGH: I am too. If  
3 we can't stop the election, then my  
4 hypothetical is a risk avoidance kind of  
5 problem but I don't think the risk is highly  
6 probable. It just seemed to me that it was  
7 better to wait to see if the risk disappeared  
8 entirely before we made this decision.

9 In the past, did the applicant come  
10 to us before they scheduled the election,  
11 didn't they?

12 MR. ZIEMBA: Yes.

13 COMMISSIONER MCHUGH: They asked for  
14 the waiver and then they scheduled the election  
15 instead of scheduling the election --

16 MR. ZIEMBA: No. In the past  
17 incident, the waiver that was previously  
18 granted in the city of Boston, there was a  
19 scheduling of the referendum prior to the vote.

20 COMMISSIONER MCHUGH: There was. It  
21 was the same thing as this.

22 MR. ZIEMBA: It was the same thing  
23 as this. And we granted that waiver in the  
24 past.

1                   COMMISSIONER MCHUGH: I'm not  
2 unhappy that we had the discussion, but I don't  
3 agree with my suggestion.

4                   CHAIRMAN CROSBY: As usual, you got  
5 us to think about things that none of us have  
6 thought about before, but not as usual we're  
7 going to ignore it.

8                   COMMISSIONER MCHUGH: Me too.

9                   CHAIRMAN CROSBY: I just wanted to  
10 say for the record that I think everybody,  
11 including the city of Brockton and the  
12 applicant owe Director Wells and the IEB a vote  
13 of appreciation. Because although we did not  
14 have to have the suitability background check  
15 completed or the decision made prior to the  
16 election, they felt strongly that it's in the  
17 public interest to do that.

18                   So, they have moved heaven and earth  
19 to try to get this suitability check. Moving  
20 heaven and earth meaning it's a lot of people  
21 staying at the office on the weekends and  
22 working late at nights and so forth. And they  
23 really refused -- If it's possible to get this  
24 done in advance of the referendum, the IEB said

1 we will make this happen. So, for the record I  
2 think we owe them an appreciation.

3 COMMISSIONER ZUNIGA: Not just the  
4 IEB but others like John here as well.

5 CHAIRMAN CROSBY: Right. Okay. Any  
6 more discussion? Do we have a motion on one or  
7 more -- Do we have to do them in sequence?

8 MS. BLUE: Yes. I would do the  
9 waiver first and then the notice.

10 MR. ZIEMBA: Because the notice  
11 requires specific findings -- I'm sorry, the  
12 waiver requires specific findings.

13 MS. BLUE: The waiver requires  
14 specific findings.

15 CHAIRMAN CROSBY: Does somebody want  
16 to move the waiver?

17 COMMISSIONER ZUNIGA: Sure. I'd be  
18 happy to move that this Commission approve the  
19 waiver request from the city of Brockton as  
20 presented here in the packet and discussed here  
21 today.

22 CHAIRMAN CROSBY: Second?

23 COMMISSIONER CAMERON: Second.

24 CHAIRMAN CROSBY: Further

1 discussion? All in favor, aye.

2 COMMISSIONER MCHUGH: Aye.

3 COMMISSIONER CAMERON: Aye.

4 COMMISSIONER ZUNIGA: Aye.

5 COMMISSIONER STEBBINS: Aye.

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

8 COMMISSIONER ZUNIGA: I would  
9 further move, Mr. Chairman that this Commission  
10 approve the citizens notice from the city of  
11 Brockton as presented here in the packets  
12 today.

13 CHAIRMAN CROSBY: Second?

14 COMMISSIONER STEBBINS: Second.

15 CHAIRMAN CROSBY: Further  
16 discussion? All in favor, aye.

17 COMMISSIONER MCHUGH: Aye.

18 COMMISSIONER CAMERON: Aye.

19 COMMISSIONER ZUNIGA: Aye.

20 COMMISSIONER STEBBINS: Aye.

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

23 COMMISSIONER MCHUGH: And I take it  
24 that the first vote that we took, implicit in

1 our approval of that first vote is a finding  
2 that all four conditions necessary for the  
3 granting of the waiver have been undertaken.  
4 I'm just observing that I take it that that's  
5 implicit in that vote.

6 COMMISSIONER ZUNIGA: Yes, that is.  
7 Thank you.

8 CHAIRMAN CROSBY: Okay. Next up?

9 MR. ZIEMBA: All right. Great.

10 Next item, next week we begin the Local  
11 Community Mitigation Advisory Committee  
12 meetings for both Region A. They will have  
13 their first meetings next week.

14 These meetings will primarily be  
15 operational in focus establishing how and when  
16 the members of these committees will meet.  
17 Over the last month, month and a half, Gordon  
18 Car and I met with the local designees who will  
19 be attending this meeting in order to discuss  
20 the role of the committees and our timetable  
21 and what we're hoping to get out of these  
22 committees.

23 What we discussed is one of the  
24 primary roles of these committees would be to

1 help the Commission establish its Community  
2 Mitigation Fund policies in 2016 and  
3 thereafter. We noted that pursuant to the  
4 Gaming Act, these local committees are designed  
5 to be in existence for basically the next 17  
6 years or so, the next couple of years of the  
7 construction period and the entire term of the  
8 Category 1 licenses.

9           As they say, every great journey  
10 begins with a first step. And next week, we  
11 begin this very innovative process that the  
12 Legislature has designed to help communities  
13 achieve and the Commission achieve the goals of  
14 the Expanded Gaming Act. Namely to reach the  
15 benefits, the economic and other benefits of  
16 the Act while mitigating or minimizing negative  
17 circumstances. So, we are very excited about  
18 this next beginning.

19           Given this context, I recommend that  
20 the Commission over the next several months and  
21 certainly in the near future discuss questions  
22 that it may have regarding how the Community  
23 Mitigation Fund in future years should be  
24 constructed.

1           As you know, we issued guidelines in  
2           December for this year's program. And what we  
3           have told these local committee members is that  
4           we very much want to receive their advice as we  
5           go forward into next year program. In many  
6           ways, the first year Community Mitigation Fund  
7           program will just set the table for future  
8           programs which will undoubtedly be much more  
9           expansive.

10           As everyone knows, this year no  
11           facility was in operation at the time that we  
12           started the Community Mitigation Fund program  
13           for 2015. And there was no significant  
14           construction going on regarding the two  
15           Category 1 facilities. But that is not likely  
16           the case for this next upcoming season and  
17           thereafter.

18           In that context in some of those  
19           one-on-one discussions, we discussed a lot of  
20           questions that perhaps the Commission could get  
21           some advice these committees on. I'll just  
22           give you some of the examples as we promised  
23           when we established the Community Mitigation  
24           Fund guidelines.

1           One of the discussions that we had  
2 was when should the fund be available for  
3 operational impacts? Our first licensee, Penn,  
4 will be operational come June 24. But our full  
5 casino licenses still are at least a couple of  
6 years away. So, when we begin looking at the  
7 2016 fund, what do we do about operational  
8 impacts?

9           One other question would be should  
10 funds be used to address known impacts that are  
11 occurring or should we consider predicted  
12 impacts, impacts that may occur in the future?

13           During the whole surrounding  
14 community negotiations, communities and the  
15 Commission and applicants were making a range  
16 of predictions about potential impacts. And  
17 those were memorialized in the surrounding  
18 community agreements. The 2015 Community  
19 Mitigation Fund program is predicated upon  
20 actual impacts that are being experienced or  
21 were experienced.

22           But some communities have made the  
23 case that the Community Mitigation Fund should  
24 be expanded to include predicted impacts

1 because some things, namely transportation  
2 projects take many years to plan. And by the  
3 time that you would be experiencing the impacts  
4 or a more severe impact, you might be years  
5 behind if you wait until that date.

6           However, the other side of that coin  
7 there are issues such as the surrounding  
8 community agreements made a number of  
9 predictions. Should we be utilizing funds for  
10 impacts that are just not knowable with any  
11 certainty? If you require certainty, how  
12 certain does one need to be before you fund a  
13 particular project?

14           These are all thorny issues that can  
15 be discussed at these committees. One of the  
16 other issues that this Commission has taken a  
17 look at in the past would be how do we  
18 construct the fund? Currently, the fund is for  
19 Region A, Region B and also for slots impacts.

20           In the future after the full casinos  
21 are in operation, each of them will contribute  
22 annually as a portion of their gaming taxes to  
23 this fund. And should there be an allocation  
24 by region of how these funds should be

1 allocated with a certain set-off for the slots  
2 related impacts? Or should it just be one  
3 general fund for all communities?

4 So, these are some of the issues  
5 that I think that we'll ask these advisory  
6 committees, the local committees and then in  
7 the future, there's another it's called the  
8 Community Mitigation subcommittee to the Gaming  
9 Policy Advisory Committee. That will also help  
10 us analyze some of these policy issues that  
11 when we come around to making our choices for  
12 2016 and thereafter we'll make good decisions.

13 One thing that we've noted in these  
14 one-on-one meetings is that we have the benefit  
15 of the fact that our full casinos are not going  
16 to be operational for a couple of years because  
17 any predicted impacts on operational, we'll at  
18 least have a couple of years to think about  
19 them in their applicability to the fund at  
20 these committee discussions. So, by the time  
21 they are operational, we can hopefully have a  
22 little bit more debate.

23 CHAIRMAN CROSBY: Questions,  
24 thoughts?

1                   COMMISSIONER ZUNIGA: Those are all  
2 excellent policy questions, I look forward to  
3 the discussion of those committees which is the  
4 intention of the legislation.

5                   CHAIRMAN CROSBY: Right. I think  
6 you and Gordon Car have done a great job on  
7 getting substantive stuff in front of these  
8 committees. So, they're not just going to be  
9 show committees. They'll actually have an  
10 opportunity to be substantive and help us,  
11 which is great.

12                  MR. ZIEMBA: They should be. Thank  
13 you.

14                  CHAIRMAN CROSBY: Thank you.

15                  COMMISSIONER MCHUGH: Thank you.

16                  COMMISSIONER ZUNIGA: Thank you.

17                  COMMISSIONER CAMERON: Thank you, a  
18 thoughtful analysis.

19                  CHAIRMAN CROSBY: Next up, General  
20 Counsel Blue.

21                  MS. BLUE: Good afternoon,  
22 Commissioners. First on your agenda is  
23 internal control regulations. And we have  
24 Deputy General Counsel Grossman and Mr. Band to

1 discuss those with you.

2 MR. GROSSMAN: Good afternoon. You  
3 have before you once again a copy of the  
4 internal controls draft. We've incorporated a  
5 number of the changes discussed at your last  
6 meeting, which were largely derived from the  
7 MGM comment letter.

8 Happy to go through some of those  
9 with you. They are all the changes in the  
10 draft that are in purple to reflect just the  
11 changes from the last meeting.

12 COMMISSIONER MCHUGH: It seems to me  
13 that you've captured the things that were in  
14 the MGM letter and the things that we talked  
15 about, particularly at least to my memory the  
16 138.02(6)(b) insertion of a carve out for the  
17 credit regulations, making them not susceptible  
18 to the waiver process that's there. That as  
19 usual is well done and thoughtfully crafted.  
20 So, I think all of the other purples are things  
21 we discussed and things that came out of the  
22 letter.

23 MR. GROSSMAN: The only thing we  
24 didn't change that was recommended by MGM were

1 some of the staffing levels for some of the  
2 table games. Those we left as they were. It  
3 was our judgment that those numbers would  
4 result in adequate staffing. So, that was the  
5 only thing we didn't change.

6 COMMISSIONER MCHUGH: In the main,  
7 MGM was requesting fewer.

8 MR. GROSSMAN: Fewer, yes.

9 COMMISSIONER MCHUGH: I think  
10 particularly as a startup, it's always easier  
11 to decrease when things are running smoothly.  
12 As a startup, as we have been warned many  
13 times, there are more things to be looked at  
14 and more people to watch than might be so later  
15 on when everybody is up to speed. So, that's  
16 something we can always revisit later.

17 CHAIRMAN CROSBY: Does anybody want  
18 highlights on any of this?

19 COMMISSIONER ZUNIGA: I've had the  
20 highlight before and I've read through these.  
21 So, not on my account.

22 CHAIRMAN CROSBY: Anybody else? Are  
23 we ready to go ahead? All right, do we want to  
24 have a motion?

1           COMMISSIONER ZUNIGA: Sure. I'd be  
2 happy to move -- What stage are we in here to  
3 make them --

4           MS. BLUE: This is the final  
5 approval. We've had a hearing. So, we would  
6 ask that you approve them for final  
7 promulgation. I think we brought the amended  
8 small business impact statement to you before.  
9 So, I think a vote that includes both the  
10 amended small business impact statement, which  
11 I notice we don't have in the package but I  
12 think had in a prior package, unless its  
13 farther down.

14           MR. GROSSMAN: I think it was last  
15 week. I think it was approved.

16           MS. BLUE: I think it was already  
17 approved on this one. So, if you would just  
18 vote to approve the regulations for final  
19 promulgation, we will take them and file them.

20           MR. GROSSMAN: We just ask with the  
21 flexibility to make any citation and  
22 grammatical type adjustments needed as we go  
23 through it one final time.

24           COMMISSIONER ZUNIGA: Duly noted. I

1 would then move that this Commission approve  
2 the regulations 205 CMR 138 for final  
3 promulgation. Those are the regulations for  
4 uniform standards of accounting procedures and  
5 internal controls as submitted here in the  
6 packet with the caveats for typographical  
7 corrections and citations.

8 CHAIRMAN CROSBY: Second?

9 COMMISSIONER CAMERON: Second.

10 CHAIRMAN CROSBY: Any further  
11 discussion? All in favor, aye.

12 COMMISSIONER MCHUGH: Aye.

13 COMMISSIONER CAMERON: Aye.

14 COMMISSIONER ZUNIGA: Aye.

15 COMMISSIONER STEBBINS: Aye.

16 CHAIRMAN CROSBY: Opposed? The ayes  
17 have it unanimously.

18 COMMISSIONER MCHUGH: I think it's  
19 appropriate to observe that this set of  
20 regulations really is highly detailed and very  
21 well executed. And I also think that the  
22 promulgation process that the legal department  
23 under Mr. Grossman and Mr. Band's supervision  
24 did a terrific job of soliciting both

1 informally before we started the formal  
2 promulgation process and then throughout the  
3 formal promulgation process comments from all  
4 interested stakeholders, explaining those  
5 comments, thinking about those comments,  
6 incorporating the fruits of those comments in  
7 the regulations.

8           And as a consequence, we have a set  
9 of regulations that I think really has been  
10 thoroughly vetted. Not everybody is going to  
11 agree with every detail in them, but that's the  
12 way things are. But the process I think was  
13 exemplary, particularly in this highly  
14 technical but critically important area that  
15 gets us a firm foundation for our regulatory  
16 regime.

17           So, I thank you both and I thank  
18 everybody who participated in this for the  
19 thoughtful work you put in to getting us here.

20           MR. GROSSMAN: Thank you. We  
21 appreciate that.

22           COMMISSIONER ZUNIGA: I couldn't  
23 agree more and that includes our licensees and  
24 a lot of their thoughtful read, but certainly

1 the Attorney General's office and all of the  
2 staff here. So, I echo that.

3 CHAIRMAN CROSBY: Great.

4 COMMISSIONER CAMERON: Thank you.

5 MS. BLUE: Next before you is a  
6 briefing I want to give you on some litigation  
7 that we have. And then I would like to ask for  
8 a delegation of authority to address some of  
9 the claims in that litigation.

10 So, in December 2014 the group known  
11 as Protection of Working Animals and Handlers,  
12 which I will refer to as POWAAH, filed a suit  
13 against the Commission. The suit alleged that  
14 the Commission in its role as the Racing  
15 Commission should have paid certain monies from  
16 the Racing Stabilization Fund to POWAAH  
17 members, and that certain out payments  
18 collected by the Commission should be deposited  
19 into the Racing Stabilization Fund.

20 POWAAH as a group represents  
21 greyhound owners, lessees and kennel owners.  
22 And the Racing Stabilization Fund is the fund  
23 that was created by statute to provide monies  
24 to the owners of greyhounds once the greyhound

1 racing was prohibited in the Commonwealth.

2 So, the complaint has two main  
3 claims. The first was that payments for the  
4 period April 1, 2011 through April 1, 2012  
5 should have been made and were not made. And  
6 that the outs payments for the years 2013 and  
7 the first half of 2014 should be deposited in  
8 the Racing Stabilization Fund now.

9 And the reason that that's a  
10 question is because the Racing Stabilization  
11 Fund also has a finite end, which was June 30,  
12 2014. No payments should be made out of the  
13 fund after that date.

14 Payments for the 2011 and 2012  
15 period were not made because the Office of  
16 Consumer Affairs, which was the agency at the  
17 time that was overseeing the racing matters  
18 believe that the change in the statute that  
19 said the payment should not be made for that  
20 period meant that the payments could never be  
21 made as opposed to viewing that as a moratorium  
22 on payments. This was going on at the time  
23 when the Legislature was considering the  
24 Expanded Gaming Act and was working on the 2011

1 Act that was ultimately passed.

2 The 2013 and 2014 outs payments were  
3 not scheduled to be deposited into the Racing  
4 Stabilization Fund. We now are just receiving  
5 the 2013 outs payments because we receive those  
6 90 days after one year after the year in which  
7 they occur. Outs from 2014 will be received by  
8 the Commission in the first quarter 2016. We  
9 have just sent out the invoice for the outs for  
10 2013.

11 I met with the counsel for POWAAH to  
12 discuss these claims. I asked for a legal  
13 memorandum from her describing her view on the  
14 issue of the moratorium of the 2011, 2012  
15 payments. I also further reviewed the decision  
16 issued by the court in prior litigation filed  
17 by POWAAH regarding the 2009 outs payments.

18 And you may recall in 2009, POWAAH  
19 filed a suit trying to collect the 2009 outs  
20 payments. And the court decided that the  
21 Commission did in fact -- they should be in the  
22 Racing Stabilization Fund and we did in fact  
23 make those payments.

24 After review and discussion, it is

1 my recommendation that the Commission with the  
2 assistance of the Attorney General's office  
3 enter into settlement discussions with POWAAH  
4 to resolve these claims.

5 The statute that discussed the  
6 payments in 2011 and 2012 is not clear as to  
7 whether the payment should never be paid at all  
8 or whether this was just a moratorium for that  
9 period. When you review that statutory  
10 language in the context of the Legislature's  
11 intention to provide support to greyhound  
12 owners, kennel owners and lessees, the  
13 Legislature's actions at the time in passing  
14 and implementing the Expanded Gaming Act, the  
15 requirements that the Commission deposit out  
16 collected during that period into the Racing  
17 Stabilization Fund and then the finite period  
18 of payments out of that fund, it makes more  
19 sense to read the statute to require that the  
20 payments be suspended during that period and  
21 that payments be made once the Commission was  
22 up and running, the Gaming Commission was up  
23 and running and could take over the Racing  
24 Stabilization Fund.

1 I think it's important to note that  
2 the collection of those payments during that  
3 period continued. So, there was no legislative  
4 action to stop the collection of the payments.

5 Further, the judge's decision in the  
6 POWAAH litigation on the 2009 outs payment was  
7 clear that the outs payments become outs  
8 payments in the year that they occur, it's not  
9 the year in which they are collected. So,  
10 that's the timing that determines whether they  
11 are deposited in the Racing Stabilization Fund.

12 Based on that decision, outs  
13 payments collected in 2013 should be deposited  
14 into the fund. And outs payments collected in  
15 the first half of 2014 should be deposited into  
16 the fund and used to calculate the payments due  
17 out to POWAAH.

18 Outs payments for the balance of  
19 2014 and beyond will also be deposited into the  
20 fund but the Commission's obligations to make  
21 payments out of the fund ceases as of June 30,  
22 2014.

23 Just by way of background, the money  
24 that is collected and the payments, the way the

1 payments are calculated use two different  
2 formulas. The outs and the breaks are  
3 collected and put into the fund, but the  
4 payments out of the fund are based upon a  
5 percentage of the total wager on greyhound  
6 simulcasting.

7 Thus the deposits in and the  
8 payments out don't necessarily match, but the  
9 Commission is never required to pay out more  
10 than what they have collected. So, it makes  
11 for kind of an interesting fund to manage.

12 I am asking the Commission to  
13 delegate to me and the Executive Director the  
14 authority to work with the Attorney General's  
15 office to enter into an agreement to resolve  
16 these claims by making the payments that were  
17 due out of the 2011 and 2012 period. And  
18 depositing the 2013 and the outs for the first  
19 half of 2014 into the stabilization fund and to  
20 use those to calculate the payments due to  
21 POWAAH.

22 Once these payments are made, they  
23 will be the final payments due to greyhound  
24 owners, kennel owners and lessees. I will ask

1 the Attorney General's office to have the court  
2 approve any settlement agreement and enter an  
3 order dismissing the case with prejudice once  
4 the payments have been made. So, if there are  
5 any questions.

6 COMMISSIONER ZUNIGA: The fund is  
7 still in existence and receiving funding, right  
8 -- the Racing Stabilization Fund?

9 MS. BLUE: Right.

10 COMMISSIONER ZUNIGA: What went away  
11 on July 2014 was the mandate for this  
12 Commission to make those payments.

13 MS. BLUE: Yes, that's right. The  
14 money will still be deposited in there but the  
15 payments out of the fund ended on June 30, '14.

16 COMMISSIONER ZUNIGA: But that fund  
17 itself will not expire unless there's some  
18 legislative action.

19 MS. BLUE: That's correct. And the  
20 legislation says that the fund cannot be used  
21 for any other purposes. So, the fund will  
22 continue to collect those payments and it will  
23 stay in place.

24 COMMISSIONER ZUNIGA: Until the

1 Legislature decides to do something with it.

2 MS. BLUE: That's right.

3 COMMISSIONER CAMERON: General  
4 Counsel Blue, do you feel -- First of all, I've  
5 had a chance to discuss this and I agree with  
6 your recommendation. It makes sense. But the  
7 monies coming in, is that something we should  
8 make the Legislature aware of that this is  
9 still collecting although there is no  
10 obligation to get the monies out? Have we  
11 thought about that?

12 MS. BLUE: We have. As you may  
13 recall, we will be due to provide the  
14 Legislature with recommendations on the racing  
15 statute in general. So, I think the best way  
16 is to probably fold that into that potential  
17 redraft of the racing statute. The racing  
18 statute will sun set again in 2016.

19 CHAIRMAN CROSBY: How much money is  
20 it a year, more or less?

21 MS. BLUE: A year I can't tell. The  
22 balance in the fund now is about \$693,000, and  
23 it includes the money collected for that period  
24 between 2011 and 2012. The last out payment

1 that you approved was I want to say about  
2 \$170,000, somewhere in there.

3 CHAIRMAN CROSBY: Okay. It's not  
4 going to fix the MBTA.

5 MS. BLUE: No, no.

6 CHAIRMAN CROSBY: Questions? Do we  
7 need a vote on this to authorize you and  
8 Director Day?

9 MS. BLUE: To delegate the authority  
10 to us to enter into settlement discussions and  
11 settle the matter.

12 COMMISSIONER STEBBINS: Mr. Chair, I  
13 move that the Commission delegate the authority  
14 to Executive Director and General Counsel to  
15 move forward with settlement of this agreement  
16 with -- Do we call them POW --

17 MS. BLUE: I call them POWAAH.

18 CHAIRMAN CROSBY: I thought it was a  
19 new branch of the Wampanoags we were looking at  
20 here. Second?

21 COMMISSIONER CAMERON: Second.

22 CHAIRMAN CROSBY: Any further  
23 discussion? All in favor, aye.

24 COMMISSIONER MCHUGH: Aye.

1 COMMISSIONER CAMERON: Aye.

2 COMMISSIONER ZUNIGA: Aye.

3 COMMISSIONER STEBBINS: Aye.

4 CHAIRMAN CROSBY: Opposed? The ayes  
5 have it unanimously.

6 MS. BLUE: Thank you. Next on our  
7 agenda, we have two regulations 205 CMR 139 and  
8 205 CMR 140. Both of these regulations were  
9 before you at the last meeting. We have the  
10 amended small business impact statements with  
11 them as well.

12 Deputy General Counsel Grossman will  
13 speak to you about some potential changes to  
14 139. We didn't receive any comments on 140,  
15 but we did get some comments on 139. And there  
16 are some potential matters that we would like  
17 you to consider and provide us with guidance.

18 MR. GROSSMAN: On 139, as you are  
19 aware, governs largely the financial and  
20 compliance type reporting by the gaming  
21 licensees to the Commission on a regular basis  
22 whether it's monthly, quarterly, annual or  
23 anywhere in that range.

24 By and large, we have laid out in

1 these regulations a number of the statutory  
2 reporting requirements contained in Chapter 23K  
3 for ease of reference so everyone is aware of  
4 what the reports are.

5           There are certainly some elements of  
6 this that we included on our own, a number of  
7 which are fairly common in the gaming industry.  
8 Things like the reporting of audit and  
9 compliance committee minutes and things of that  
10 nature, tax returns.

11           There are a couple of minor --  
12 They're not minor, but there are a couple of  
13 small changes that as the staff we would  
14 recommend to reflect some of the Commission's  
15 ongoing concerns with the minority, women and  
16 veteran businesses and make sure that we more  
17 thoroughly account for those statistics.

18           And I don't think this is in the  
19 draft that we circulated. This came about more  
20 recently, but there are just the two changes.  
21 On page two of the draft and going on to page  
22 three, it's (a), (b) -- We're in section 139.03  
23 (a), (b) and (c). We would recommend including  
24 language to expand those reports to include

1 race, gender and veteran status in (a).

2 To expand (b) to include that the  
3 annual report be submitted at other times  
4 directed by the Commission in the event you  
5 have an interest in seeing those details on a  
6 more regular basis. And on (c) to include  
7 veteran status as well. So, that's a quarterly  
8 report. It already includes gender and race.  
9 And we'd recommend you include veteran status  
10 in that one as well. So, those are some of the  
11 more technical changes that we would recommend  
12 to this draft.

13 There was a comment submitted on  
14 behalf of MGM by Brown Rudnick that gets into  
15 more overarching concerns with this reporting  
16 section. And by and large it deals with the  
17 confidentiality and sensitive nature of some of  
18 this information. And again, much of it is  
19 mandated to be transmitted to the Commission by  
20 statute.

21 But they have raised what appeared  
22 to be some legitimate concerns with some of  
23 this information. And it's important I think  
24 that we think about this now, of course, before

1 we go down the road of taking in the  
2 information or having licensees tell us they  
3 are not comfortable giving it to us.

4           So, here we are. It's kind of come  
5 to a head with this even though a lot of this  
6 again is statutory. And I think it warrants a  
7 discussion about the Commission's views. And  
8 this might not be for today, necessarily since  
9 this came about fairly recently, but the  
10 Commission's general views on the sensitivity  
11 of some of this information. And a lot of  
12 again is laid out in the letter.

13           And to the extent that you determine  
14 that some of this is sensitive information,  
15 what tools we have to address that under the  
16 public records law and otherwise.

17           And there are a couple of tools  
18 potentially at your disposal. There's the  
19 general public records law that applies to all  
20 records that we receive. And it has 20 some  
21 odd exemptions. And there are a number of  
22 exemptions that may apply on a case-by-case  
23 basis to some of this information.

24           There is an investigatory exemption.

1 There is an exemption that covers things like  
2 blueprints and public safety type concerns.  
3 But a lot of this stuff wouldn't necessarily  
4 fit into any -- neatly anyway into any  
5 exemption to the general public records law.

6 There is a statutory exemption to  
7 the public records law. It's exemption (A)  
8 that basically says if there is any statute  
9 outside of the public records law that  
10 addresses certain documents and allows them to  
11 be exempted from public disclosure that they  
12 are also exempt from disclosure under the  
13 public records law.

14 And as MGM raises in their letter,  
15 there is language in Chapter 23K section 21,  
16 it's in paragraph (a)(7) that talks about  
17 documents received by the Commission as part of  
18 gaming related investigations. So, the first  
19 question is what you would consider to be a  
20 gaming related investigation. And there are a  
21 number of different ways of looking at that.

22 It could be looked at narrowly as  
23 investigations that are initiated about a  
24 specific incident and any documents or

1 information that's gleaned as a result of that  
2 specific information would be all that would be  
3 covered by this particular section.

4 Or it could be looked at a little  
5 more broadly in which we consider suitability  
6 and compliance and things like that to be an  
7 ongoing investigatory matter that the IEB is  
8 engaged in that the Commission is interested  
9 in.

10 So, that's I think one of the  
11 threshold questions before you as far as this  
12 particular exemption would be concerned is how  
13 broadly or narrowly you would define what a  
14 gaming related investigation to be.

15 Once that decision is made, there is  
16 authority in this section of Chapter 23K that  
17 would allow the Commission to enter into  
18 nondisclosure agreements for certain  
19 information. And that's one tool that may be  
20 potentially at your disposal to address some of  
21 these financial and compliance type reports  
22 that we discuss in section 139 of these  
23 regulations before you.

24 And I should add that I think a lot

1 of this discussion here actually overlaps with  
2 some of the internal control documents that are  
3 required under the regulations you just  
4 approved. With that, I think maybe I should  
5 take a pause and just say that I think this is  
6 an issue that we should address before these  
7 regulations are adopted.

8           And as General Counsel Blue pointed  
9 out, these regulations are fully teed up for  
10 adoption. They've been through the whole  
11 process. They've gone through a public  
12 hearing. I believe Commissioner Stebbins  
13 presided over that last week. So, they are  
14 ready to go whenever you are comfortable with  
15 their content.

16           COMMISSIONER ZUNIGA: Well, I for  
17 one would like to understand perhaps a few more  
18 examples of what MGM would consider sensitive  
19 information that we are now requiring as a  
20 matter of course under these draft regulations.

21           CHAIRMAN CROSBY: They list a whole  
22 bunch of them.

23           COMMISSIONER MCHUGH: Audit  
24 committee meetings minutes, there are minutes

1 of the directors where they discuss future  
2 plans. There are financial reports,  
3 projections that may change that are not part  
4 of the material the SEC requires to be  
5 released.

6           It seems to me there is a host of  
7 stuff in there that falls under this category  
8 that they do have. And all these entities have  
9 a significant interest in not being made  
10 public.

11           COMMISSIONER ZUNIGA: Yes. And I  
12 guess part of what I was trying to articulate  
13 is I think that the way we drafted these  
14 regulation was very exhaustive to include all  
15 of those items that we may need to think about  
16 a second time.

17           And think about the purpose for  
18 those, ultimately what are we gaining  
19 marginally on these reports as a matter of  
20 course. I think access to this information may  
21 be crucial but ultimately receiving a lot of  
22 this information as a matter of course may not  
23 be necessary. I'm purely speculating here, but  
24 I'd like to think that it might not be --

1                   COMMISSIONER MCHUGH: Is another  
2 potential tool the requirement that reports be  
3 prepared and maintained by the licensee in a  
4 form that we prescribe and made available to us  
5 on demand?

6                   So, that we could for example  
7 periodically have a team go to the licensee's  
8 premises, review the materials. Summarize them  
9 for compliance with our reporting requirements  
10 to the Legislature but not physically take  
11 custody of them unless and until the  
12 information in them was made public such as in  
13 the annual reports or quarterly reports, 10-Ks  
14 that the companies file with the SEC or  
15 otherwise distribute to the public.

16                  MR. GROSSMAN: I think that's right.  
17 I think that is an option for some things. I  
18 think the Commission though would have to make  
19 a finding that that type of process would  
20 satisfy what the statute in a number places  
21 refers to as providing the Commission with  
22 certain reports.

23                  So, we would have to determine that  
24 access to the information is the same as being

1 provided with the information essentially. The  
2 statute uses different terminology in different  
3 places. But I think that could be one way to  
4 address some of these issues.

5 To do that, I think would require us  
6 to go through all of the reports and make a  
7 determination as to which reports needed to be  
8 just made accessible to us and which ones we  
9 actually want submitted to us, unless you  
10 decide just all of them should be made  
11 available. So, that's I think a more complex  
12 exercise, but I think absolutely that is an  
13 option on the table.

14 Although I would just say that the  
15 public records law says that any documents that  
16 are received by an agency are presumptively  
17 public records. And I didn't find any case law  
18 or otherwise on the question as to whether  
19 looking at documents on a portal or something  
20 like that would be considered receiving  
21 documents.

22 So, that might be an area of the law  
23 that is somewhat unsettled although it appears  
24 as though if we don't actually receive

1 something then we wouldn't have the documents.  
2 But that could be a concern.

3 MS. BLUE: We have looked a little  
4 bit at that issue. Mr. Grossman is correct.  
5 It is unsettled to some degree whether if you  
6 have access to something, easy access to  
7 something whether that constitutes receiving a  
8 document.

9 I think the question of going out to  
10 visit the licensee and looking at something  
11 works. We would have to be careful with how we  
12 brought that information back, because once we  
13 summarize that information that could  
14 potentially then be a public record in our  
15 possession. But we have control over how that  
16 is summarized.

17 Some of these things could be dealt  
18 with in terms of timing. For example,  
19 documents that do become public from the  
20 licensee at a certain point in time we may be  
21 able to receive those and they're fine. And  
22 that addresses the licensee's concern, but  
23 gives us information that we want.

24 There are some things that are in

1 fact covered by statute. So, one of the issues  
2 raised here was about tax returns. Tax returns  
3 are kept out of the public records by federal  
4 statute. So, there are some things that  
5 statutory exemption and our Commonwealth public  
6 records law do apply.

7 The other groups of documents are  
8 much as Mr. Grossman has described. Whether it  
9 would be sufficient to have them available to  
10 go out, create some kind of summary and bring  
11 it back, or whether we determine we really need  
12 to have that provided to us.

13 If it is provided to us, it is very  
14 likely to be a public record. We have some  
15 confidentiality nondisclosure language in our  
16 regs. that's possible to work on that. But we  
17 would have to consider then individual request  
18 as they came in. And if we're getting a lot of  
19 documents over time that could be a somewhat  
20 cumbersome process.

21 COMMISSIONER MCHUGH: That also is a  
22 process that's not -- I mean, none of our  
23 regulations can override the statute.

24 MS. BLUE: That's correct.

1                   COMMISSIONER MCHUGH: So, the public  
2 records law is an interpretation of that is in  
3 the hands of others. So, we can make judgments  
4 but that is pretty broad and the exemptions --  
5 legitimately the exemptions are construed  
6 narrowly.

7                   Have we made any effort to match  
8 what our statutory requirements provide with  
9 the routine reporting that the licensees --  
10 They're all public companies. -- with what  
11 they're required to do? In other words, have  
12 we tried to see how much of our reporting could  
13 piggyback on reporting that they are already  
14 required to do?

15                  MR. GROSSMAN: Not that I'm aware.

16                  COMMISSIONER MCHUGH: You would be  
17 the one to know.

18                  MR. GROSSMAN: Then the answer is  
19 no.

20                  MS. BLUE: I have looked at it a  
21 little bit. I don't think that what's publicly  
22 required is as broad as what we're asking for.  
23 So, in terms of publicly available financials  
24 that covers a chunk of what we're looking for.

1 But when you're looking for things like  
2 minutes, particularly things like audit reports  
3 and audit responses --

4 COMMISSIONER MCHUGH: Are they  
5 statutorily required audit reports, minutes?

6 MS. BLUE: Well, we require them in  
7 the regulations the minutes, yes.

8 MR. GROSSMAN: They're not  
9 statutorily required. There are other things  
10 like complimentary reports that are statutorily  
11 required.

12 COMMISSIONER MCHUGH: When you look  
13 at categories, it seems to me that there are  
14 things that they're statutorily required to  
15 provide to us. Then there are things that we  
16 are independently requiring.

17 And then we have the public records  
18 law, and we have some of the things that we are  
19 requiring from them that are statutorily secret  
20 like the tax returns. And there are other  
21 things that we might be able to satisfy our  
22 needs and the statutory needs by relying on  
23 reports that they make elsewhere.

24 So, it seems to me that this is

1 important enough to take the time necessary to  
2 perform a more finely grained analysis.

3 Because I really do think that if we got  
4 information provided to us that affected the  
5 plans of the company in a way that was not  
6 disclosed elsewhere, there could be immediate  
7 and dramatic impacts on the stock that we  
8 wouldn't want to precipitate.

9 COMMISSIONER CAMERON: We haven't  
10 discussed the investigative exemption here.  
11 All of these reports or at least the majority  
12 would be headed to IEB, right? It's very  
13 similar to the suitability. And it would be  
14 part of ongoing suitability. And much of that  
15 data was redacted because of the investigation.  
16 Why would that be different now?

17 MR. GROSSMAN: Well, there is a  
18 blanket exemption in the statute for  
19 information we received as part of  
20 applications, the RFA-2 application. So, we  
21 were able to utilize that.

22 That doesn't apply now because we  
23 are through the application process. So, this  
24 information is a little bit different.

1                   COMMISSIONER ZUNIGA: But  
2 Commissioner Cameron is bringing a point more  
3 on the Phase 1 of the suitability.

4                   MR. GROSSMAN: There you had a lot  
5 of personal information which there's a  
6 specific exemption for. There's the  
7 investigatory exemption.

8                   COMMISSIONER CAMERON: That's what  
9 I'm talking about.

10                  MR. GROSSMAN: I think that is  
11 right. If you agree that some or all of this  
12 is part of an ongoing investigation, then it  
13 gives us more flexibility to utilize some  
14 exemptions.

15                  And I think to pick up Commissioner  
16 McHugh's comment about others making judgments.  
17 I think the exemptions are narrowly defined and  
18 have been litigated to some degree when it  
19 comes to the expressed statutory exemptions.

20                  When it comes to the statutory  
21 exemptions, so we would be looking at our own  
22 statute Chapter 23K, I think you probably have  
23 a little more discretion. And there'd be more  
24 deference when it comes to you interpreting

1 Chapter 23K section 21(a) (7) what that means  
2 and how you are going to apply it.

3 And at the end of the day, it's  
4 still true that others would have the final say  
5 on what that means, but I think in that regard  
6 you would have more discretion.

7 So, if you are inclined to go down  
8 that road, we could devise a system under which  
9 perhaps the gaming licensees come to you and  
10 say here are these reports -- And we should  
11 preface everything by saying at no point in  
12 here do they say they will not provide anything  
13 to us. It's not us looking at it that there's  
14 any concern with. It's them becoming public.  
15 -- that they provide the reports subject to a  
16 nondisclosure agreement.

17 Under that approach, we don't at the  
18 moment need to go through and figure out  
19 exactly which reports are likely to contain  
20 confidential or sensitive information. That  
21 would be left to each of the gaming licensees  
22 to approach you and say here's this report. It  
23 has this information in it. We believe that  
24 it's a trade secret or it's release would be

1 detrimental to our interest under this  
2 exemption. We'd like to enter into a  
3 nondisclosure agreement with you. So, that's  
4 one approach.

5 But I think the threshold question  
6 is whether you consider this all to be part of  
7 an ongoing gaming investigation.

8 COMMISSIONER ZUNIGA: I think it  
9 depends. We've taken the approach that  
10 suitability in general included financial  
11 suitability. And there's a number of documents  
12 that we request here that would fall in the  
13 financial suitability category. There's others  
14 that may not, right?

15 CHAIRMAN CROSBY: I think  
16 Commissioner Cameron and Commissioner Zuniga  
17 are on the right track here. First of all, I  
18 don't think we want all this stuff being  
19 routinely filed with us. It's just way  
20 overreaching. It's a ton of stuff that we'll  
21 never look at.

22 COMMISSIONER ZUNIGA: That was my  
23 other point.

24 CHAIRMAN CROSBY: I think we should

1 require that we want the availability to access  
2 these, almost all of the stuff that's limited  
3 here on an exception basis when we find the  
4 need, which would only occur under a  
5 suitability investigation.

6 We wouldn't be looking just out of  
7 curiosity how much taxes did you paid. We  
8 would only want any of this information if we  
9 were concerned about something that was going  
10 on whether they were financially stable,  
11 whether there was money laundering, whatever.

12 So, if we both say we don't want  
13 this. We want it available to us on reasonable  
14 notice. And when we take it, it will be  
15 protected in this confidentiality because it  
16 will be part of a suitability investigation.  
17 That covers it.

18 COMMISSIONER MCHUGH: It doesn't  
19 cover all of the statutory problems but I fully  
20 agree with the approach. I was glad we jumped  
21 there because I don't know either why we need  
22 all the stuff.

23 But I do think that the  
24 investigation -- We do have the power to

1     construe our own statute. In 21(a)(7) we can  
2     construe it. But I think we have to be careful  
3     about making the term investigation so broad  
4     that it's not credible. And this approach  
5     would solve that problem.

6             CHAIRMAN CROSBY: Yes. And I don't  
7     mean to be glib about it. I think that in good  
8     faith, the only time most of the stuff, I don't  
9     remember every single point, but virtually  
10    everything in here is only something that we  
11    would want if there was a reason to want it.

12            And the reason could only be some  
13    concern about the condition or the activities  
14    of our licensee which is ipso facto related to  
15    a suitability, a perfectly legitimately  
16    construed to be under a suitability  
17    investigation.

18            COMMISSIONER CAMERON: Or sometimes  
19    information leads to an investigation. Or the  
20    option to periodically go out and review,  
21    because then you may find something.

22            CHAIRMAN CROSBY: But you don't just  
23    go out on fishing expeditions.

24            COMMISSIONER CAMERON: No, no. But

1 as a regulatory body to periodically review is  
2 I would think part of our responsibility.

3 COMMISSIONER ZUNIGA: I think we are  
4 saying a lot of the same thing. Most or  
5 however much of that information, it depends on  
6 the information.

7 I do want to pick up on your earlier  
8 point, Commissioner, on this matrix, this match  
9 as to if we could come up with -- maybe a lot  
10 of it is already here in the comments that MGM  
11 has provided. If we could match what's  
12 statutorily required and how we've taken that  
13 and written in regulation what information may  
14 be sensitive.

15 COMMISSIONER MCHUGH: An example of  
16 that and that applies to a number of statutory  
17 requirements, but we're required to do an  
18 annual audit, for example. And I wonder if we  
19 couldn't take a hard look at what the SEC  
20 requirements are and see if we couldn't  
21 piggyback on that and have our own auditors  
22 check in some fashion what the company's  
23 auditors are doing rather than creating an  
24 audit that was different. So, it's those kinds

1 of things that I think would be really helpful  
2 to take a look at.

3 COMMISSIONER ZUNIGA: Absolutely,  
4 much like we did with the Massachusetts  
5 supplemental form. We could take what they do  
6 and then enhance or whatever else.

7 COMMISSIONER MCHUGH: Right.

8 CHAIRMAN CROSBY: And I think  
9 Commissioner Cameron what you're talking about,  
10 we might sort of on a selective basis feel like  
11 from time to time, that too could come under  
12 the suitability because it's a random check to  
13 make sure that suitability is okay. That still  
14 would fall under the suitability investigation  
15 exemption.

16 COMMISSIONER CAMERON: Yes. That's  
17 exactly what I was thinking. Sometimes you say  
18 you have to have something, but unless you  
19 check once in a while, they may not be in the  
20 habit of doing it properly.

21 And I guess I wouldn't want to -- I  
22 know a lot of work went into this. And I  
23 wouldn't want to just across the board say we  
24 don't need any of it. I think a further review

1 and this matrix should cover that and reasons  
2 why we think we would need it would be as part  
3 of that.

4 CHAIRMAN CROSBY: Right. From my  
5 standpoint at least with a presumption of  
6 paring back as aggressively as we can subject  
7 to the law and commonsense. But in general, we  
8 don't want a lot of extra stuff sitting on our  
9 shelves that nobody ever looks at.

10 COMMISSIONER ZUNIGA: I would agree  
11 with that too. Is it fair to say that we'll  
12 come back to this after further analysis?

13 MR. GROSSMAN: Yes. Why don't we  
14 try to rework some of the framework really, not  
15 necessarily the substance, but the framework of  
16 it and report back to you at your next -- maybe  
17 not at your next meeting, the meeting after,  
18 two weeks.

19 COMMISSIONER ZUNIGA: I guess my  
20 question was you did get a sense of course of  
21 where we are which was your question.

22 MR. GROSSMAN: A very clear sense,  
23 yes.

24 CHAIRMAN CROSBY: Anything else on

1 this one?

2 MS. BLUE: We would ask then that  
3 you look at 205 CMR 140, which is the revenue  
4 reporting regulation. That has gone through  
5 the process. It is ready for promulgation. We  
6 did not receive any comments on 140, did we?

7 MR. GROSSMAN: There were no public  
8 comments but we did review this with some of  
9 our consultants. And I went through this with  
10 Derek Lennon as well.

11 As I mentioned to you, at a late  
12 hour, there were a few adjustments that we'll  
13 recommend to you. I sent these to you by  
14 email. They're not in the packet.

15 By and large, they're not  
16 substantive changes. They are just some tweaks  
17 that will help clarify exactly what we are  
18 looking at and some of the terminology. And I  
19 can go through those. I don't know if you've  
20 had a chance to look at any of that or how  
21 you'd like to proceed. By and large, no major  
22 comments or adjustments to this.

23 COMMISSIONER CAMERON: I looked at  
24 the email, but it might be nice for you to just

1 point them out. That might be helpful.

2 COMMISSIONER MCHUGH: Where is the  
3 email?

4 COMMISSIONER CAMERON: You sent that  
5 out yesterday.

6 MS. BLUE: It's not in the packet.  
7 It came out late last night.

8 MR. GROSSMAN: I can just go through  
9 the changes really quickly. So, starting with  
10 140.05, we use the term certification of gross  
11 gaming revenues. It was suggested that instead  
12 of using the term certification, which we do in  
13 probably five or six places that we use the  
14 word verification. So, we are verifying the  
15 revenue. We're not certifying it.

16 COMMISSIONER ZUNIGA; We are not  
17 them?

18 MR. GROSSMAN: That's right. It's  
19 what our function is. And that we are looking  
20 at it but we are just verifying that it's  
21 accurate not certifying.

22 COMMISSIONER MCHUGH: Okay.

23 COMMISSIONER ZUNIGA: That's good.

24 MR. GROSSMAN: Next one is 140.02

1 paragraph (c). Again, this is really just a  
2 language adjustment. It doesn't change at all.  
3 This has to do with being able to or the  
4 requirement that any uncollectible amounts as a  
5 result of credit that was issued count towards  
6 your gross gaming revenue and may not be able  
7 to offset it.

8           So, we just reworked the language  
9 taking out the first part from in calculating  
10 gross gaming revenue, no adjustment shall be  
11 allowed for, strike that. And instead have it  
12 read any amounts that a gaming licensee is  
13 unable to collect pursuant to any credit issued  
14 to a patron to take part in gaming activity in  
15 accordance with 205 CMR 138.40 through 46 --  
16 Here's the new language. -- shall be deemed as  
17 amounts actually received by a gaming licensee  
18 from gaming operations for purposes of  
19 calculating gross gaming revenue.

20           So, all we're saying is that the  
21 amount, even if it's uncollectible is an amount  
22 that's actually received and it counts towards  
23 your gross gaming revenue. As opposed to  
24 saying it the flip way which is that you can't

1 offset it.

2 COMMISSIONER ZUNIGA: That's fine.

3 MR. GROSSMAN: The next one is in  
4 paragraph (e). Again, this was just kind of  
5 just streamlining the language. It doesn't  
6 reflect it there in the draft, but it's the  
7 same exact theory. This one is a little  
8 trickier. If you don't have it in front of  
9 you, it's a little trickier to kind of read  
10 through.

11 COMMISSIONER ZUNIGA: What paragraph  
12 did you mention?

13 MR. GROSSMAN: It's paragraph (e).  
14 So, it's on page two at the top.

15 CHAIRMAN CROSBY: Treatment of  
16 promotional credits.

17 COMMISSIONER ZUNIGA: Oh, this one.

18 MR. GROSSMAN: This one, yes. This  
19 is promotional gaming credits and how that is  
20 handled. So, I'll read to you what it would  
21 actually say. For purposes of calculating  
22 gross gaming revenue, the total of all sums  
23 actually received shall not include amounts  
24 that the gaming licensee can demonstrate were

1 -- Now here's the new adjustment. -- were one,  
2 issued by the gaming licensee as promotional  
3 gaming credit as defined by Chapter 23K section  
4 2 to enable the patron to wager at the gaming  
5 licensee's gaming establishment.

6 So, the first part is that it has to  
7 be issued by the gaming licensee for use at the  
8 gaming establishment. That's part one.

9 And then part two, we are striking  
10 no such credit. We are striking from no such  
11 credit all of the way down two lines. And  
12 we're picking it up with the word received,  
13 which there is the next-to-last line.

14 So, it would read and received from  
15 a patron as a wager at slot machine or table  
16 game in the gaming licensee's gaming  
17 establishment. So, it has to be issued by the  
18 gaming licensee and received by the gaming  
19 licensee to be considered a promotional gaming  
20 credit.

21 COMMISSIONER ZUNIGA: And received  
22 by the gaming patron.

23 MR. GROSSMAN: Received from the  
24 patron, yes. They can't not count it upon

1 issuance, it has to be received back.

2 COMMISSIONER ZUNIGA: And wagered.

3 MR. GROSSMAN: And wagered.

4 COMMISSIONER ZUNIGA: Yes, that's  
5 fine.

6 MR. GROSSMAN: And it can't be  
7 issued at a different property elsewhere. It  
8 has to be at the gaming establishment.

9 COMMISSIONER ZUNIGA: That's a  
10 statutory requirement.

11 MR. GROSSMAN: That's what we're  
12 saying. That's what it said before. We're  
13 just making it a little clearer although it  
14 doesn't seem that way at the moment.

15 COMMISSIONER CAMERON: The one and  
16 two clarify.

17 MR. GROSSMAN: Yes.

18 CHAIRMAN CROSBY: Anything else?

19 MR. GROSSMAN: That's just on (e).

20 COMMISSIONER MCHUGH: There's no  
21 limit on that?

22 COMMISSIONER ZUNIGA: There isn't.  
23 We could put it but there isn't. We haven't  
24 limited it.

1                   COMMISSIONER MCHUGH: I don't know  
2 what the norm is, but 20 percent of the amount  
3 wagered is promotional credits. None of that  
4 is taxable.

5                   COMMISSIONER ZUNIGA: No, but that  
6 would be a business decision of the licensee.

7                   COMMISSIONER MCHUGH: Okay.

8                   MR. GROSSMAN: At least in a  
9 theoretical sense, they're not getting any  
10 money. So, that's why we're not taxing. At  
11 some point, if the landscape shifts they might  
12 start issuing --

13                   COMMISSIONER ZUNIGA: My  
14 understanding of free play is that some  
15 licensees use it to differentiate their  
16 business strategy. Some may offer more at  
17 different times, maybe initially to get more  
18 patrons more recurring patrons. They may  
19 adjust it. So, I think for us to try put a  
20 number around it might be a little bit  
21 misguided.

22                   MR. GROSSMAN: It may be worth  
23 revisiting in the future.

24                   COMMISSIONER ZUNIGA: That's right.

1 MR. GROSSMAN: We haven't done any  
2 analysis on what the number should be, if there  
3 should be a number or anything along those  
4 lines.

5 COMMISSIONER MCHUGH: And there's no  
6 limitation on that in the statute?

7 COMMISSIONER ZUNIGA: There isn't,  
8 no.

9 MR. GROSSMAN: There is language, I  
10 believe, in each of the gaming licenses that  
11 says that they have to follow whatever the  
12 number is but we haven't set any number at the  
13 moment.

14 COMMISSIONER MCHUGH: Okay.

15 MR. GROSSMAN: The next adjustment  
16 is just in paragraph two right here on the same  
17 page at the bottom in section (c). This deals  
18 with contests and tournaments and buy-ins.

19 Essentially, we talk about the fact  
20 that they can't use the value of a prize they  
21 pay out -- Let me back up for a second. When  
22 it comes to a contest or tournament people buy  
23 in to the tournament for a set fee. And then  
24 there's a prize at the end. So, the chips

1 don't really have necessarily value per se.

2           So, in order to prevent the  
3 situation where the buy-in is \$25 and there's  
4 only 100 people and the grand prize is \$1  
5 million and then they offset their gross gaming  
6 revenue by \$950,000, we say that you can't --  
7 The result of the tournament can't negatively  
8 impact your gross gaming revenue. It has to  
9 zero when it comes to that. Because it's not  
10 really a true reflection of your tax  
11 calculation when it comes -- as compared to  
12 slot machines or regular table game play.

13           So, we're talking about the last  
14 sentence here when we say that it shall in no  
15 way negatively impact the gross gaming revenue.  
16 It was suggested to us that it does negatively  
17 impact gross gaming revenue. So, we should  
18 kind of just reword that. It's the same  
19 concept.

20           And instead of saying negatively  
21 impact gross gaming revenue, we would add in  
22 the language, it shall in no way result in a  
23 negative number being reported for purposes of  
24 the calculation of gross gaming revenue. So,

1 it's the same exact --

2 COMMISSIONER ZUNIGA: Negative  
3 number being reported from that tournament.

4 MR. GROSSMAN: From that tournament.  
5 It still has to zero out at the worse. Or at  
6 the best they have income and they pay tax on  
7 it. That's the ideal, of course.

8 COMMISSIONER MCHUGH: Why don't you  
9 achieve the same result more economically by  
10 just putting a period next to the tournament in  
11 the next-to-last line?

12 MR. GROSSMAN: You could. I think  
13 this just clarifies the point.

14 COMMISSIONER MCHUGH: You put a  
15 period in there, it says offset gross gaming  
16 revenue results in a loss you can only  
17 recognize the loss to the extent of the  
18 payments.

19 MR. GROSSMAN: That's absolutely  
20 right. You could leave it there.

21 COMMISSIONER MCHUGH: I don't care.  
22 I just offer that as a suggestion.

23 COMMISSIONER ZUNIGA: Whatever  
24 clarifies for people.

1 COMMISSIONER MCHUGH: Pardon me?

2 COMMISSIONER ZUNIGA: Whatever  
3 clarifies it for people.

4 MR. GROSSMAN: It might be the belt  
5 and suspenders route just clarifying that you  
6 can't have a negative number. You don't have  
7 to say it because we do tell you how to  
8 calculate it.

9 COMMISSIONER ZUNIGA: Either way.

10 CHAIRMAN CROSBY: Either way.

11 MR. GROSSMAN: Okay. I won't spend  
12 too much more time on that. On the next page,  
13 page three, 3(a) we added in that when  
14 calculating the drop from slot machines that it  
15 also should include electronic credits  
16 withdrawn from a patron's account. That's the  
17 so-called cashless wagering, which as we  
18 generally understand it they may not do. But  
19 that would be part of your drop as a general  
20 matter if you do it.

21 I think the rest were all just the  
22 verification versus certification. That's all  
23 I had on that one.

24 CHAIRMAN CROSBY: Is that it on that

1 one?

2 MS. BLUE: So, we just need a vote  
3 to move this forward, a vote to approve this  
4 regulation.

5 COMMISSIONER ZUNIGA: I have one  
6 more. I thought in a prior meeting in  
7 paragraph three, slot machines and electronic  
8 gaming devices where we say central monitoring  
9 system vendor, didn't we leave that general as  
10 determined by the Commission?

11 MR. GROSSMAN: I'm sorry?

12 COMMISSIONER ZUNIGA: Do you recall  
13 that?

14 MR. GROSSMAN: Leaving it general?

15 COMMISSIONER ZUNIGA: I believe I  
16 made a point about not codifying in regulation  
17 the central monitoring system's vendor as we  
18 might one day be the ones making that  
19 calculation using whatever tool, including the  
20 central monitoring system.

21 MR. GROSSMAN: So, just calculated  
22 by the Commission, period?

23 COMMISSIONER ZUNIGA: Yes. That  
24 would be my preference.

1 MR. GROSSMAN: I think that's the  
2 same effect.

3 COMMISSIONER ZUNIGA: It's the same  
4 effect.

5 MR. GROSSMAN: But we would  
6 effectively at least at first being do it by  
7 way of the central monitoring system.

8 COMMISSIONER ZUNIGA: We can use  
9 whatever we want including the central  
10 monitoring system that we are installing.

11 MR. GROSSMAN: That should work.  
12 I'll make that adjustment

13 COMMISSIONER MCHUGH: Is there any  
14 reason why we have to do this today as opposed  
15 next week?

16 MS. BLUE: This one, no.

17 COMMISSIONER MCHUGH: I would really  
18 prefer to see -- These are not just, and I  
19 think I understand them all, but I would really  
20 like to take a look at what comes out of this  
21 good discussion before we approving it.

22 COMMISSIONER CAMERON: See them in  
23 red.

24 COMMISSIONER MCHUGH: See them in

1 red, right.

2 CHAIRMAN CROSBY: We're only talking  
3 about 140 not 139.

4 COMMISSIONER MCHUGH: 139 is a much  
5 bigger issue. We can put this on the agenda  
6 for next week at the tail end of that special  
7 meeting. It wouldn't take us five minutes.  
8 And I'd prefer to do it that way.

9 CHAIRMAN CROSBY: Fine.

10 COMMISSIONER ZUNIGA: Fine by me.

11 COMMISSIONER CAMERON: Yes.

12 CHAIRMAN CROSBY: I'll give  
13 Commissioner McHugh my proxy. So, we are down  
14 to item (d), mechanical correction.

15 MS. BLUE: Item (d) is truly a  
16 mechanical correction. It is a correction to  
17 our regulation 102.03. We talked about it's  
18 the granting of a variance or a waiver section.

19 Our language said that we could  
20 grant variance or waivers to regulations 205  
21 CMR 101 through 131. We now have gone way past  
22 131. So, we would just like to amend that to  
23 delete the reference to 101 through 131 and  
24 just leave it in 205 CMR. That way we don't

1 have to come back and amend it.

2 So, we need your approval to make  
3 that technical amendment.

4 COMMISSIONER MCHUGH: It is truly a  
5 technical amendment. But we now have another  
6 provision in regulations we just talked about  
7 that there is no waiver or variance from the  
8 credit regulations.

9 MS. BLUE: Yes.

10 COMMISSIONER MCHUGH: Does this set  
11 up a conflict between that provision and this  
12 one?

13 MS. BLUE: What we could do here is  
14 say except as otherwise provided and then put  
15 that with the 205 CMR because we may have other  
16 sections in the future where we don't allow for  
17 waivers.

18 COMMISSIONER MCHUGH: Right.

19 CHAIRMAN CROSBY: But don't we allow  
20 a waiver -- Don't we prohibit waivers unless we  
21 don't prohibit waivers? Can't we waive that  
22 prohibition?

23 MR. GROSSMAN: I think this section  
24 just gives you the flexibility to grant a

1 waiver. So, in theory, if someone came to you  
2 and said I want a variance from the credit  
3 regulations, you as a Commission, could grant  
4 that waiver. You don't necessarily need to box  
5 yourselves in.

6 The reason we put that restriction  
7 in the other set of regulations was because it  
8 wouldn't be coming to you for review. It would  
9 up to the Executive Director to make that call.

10 CHAIRMAN CROSBY: That's right.  
11 That's right. If it came to us, it would come  
12 to us in a public hearing and be vetted.  
13 That's right. Okay. And we would want to  
14 apply these criteria to that if it did come to  
15 us. That's right. Okay. Got it.

16 CHAIRMAN CROSBY: Further discussion  
17 on this? Do I have a motion?

18 COMMISSIONER ZUNIGA: Sure. I can  
19 move -- Is this by emergency or is this to get  
20 into regular promulgation?

21 MS. BLUE: This will go through the  
22 regular process, I believe. Do we need to do  
23 this by emergency? I don't think so. We'll  
24 take it through the regular process.

1 CHAIRMAN CROSBY: Maybe we should  
2 just so we have the authority to grant waivers.

3 MS. BLUE: Yes. Let's do it by  
4 emergency and then we'll run it through after  
5 that.

6 COMMISSIONER ZUNIGA: So, I would  
7 move that this Commission approve the  
8 mechanical correction to regulation 205 CMR  
9 102.03 as presented here in the packet and  
10 promulgate that by emergency and at the same  
11 time start the normal promulgation process.

12 CHAIRMAN CROSBY: Second?

13 COMMISSIONER CAMERON: Second.

14 CHAIRMAN CROSBY: Further  
15 discussion? All in favor, aye.

16 COMMISSIONER MCHUGH: Aye.

17 COMMISSIONER CAMERON: Aye.

18 COMMISSIONER ZUNIGA: Aye.

19 COMMISSIONER STEBBINS: Aye.

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

22 MS. BLUE: Thank you.

23 MR. GROSSMAN: Thank you.

24 CHAIRMAN CROSBY: Thank you.

1 COMMISSIONER MCHUGH: Thank you.

2 CHAIRMAN CROSBY: Director Wells.

3 MR. WELLS: Good afternoon. I will  
4 be actually quite brief this afternoon. The  
5 first item on the agenda, we have a key gaming  
6 executive license application for Jeremy  
7 Howland. You see the IEB investigatory report  
8 is completed.

9 In December 2014, Mr. Howland was  
10 promoted to Vice President of Finance. He's  
11 the Chief Financial Officer for Plainridge Park  
12 Casino in Plainridge, (SIC) Mass. Prior to  
13 this promotion, he was the Director of Finance  
14 at Hollywood Casino located in Columbus, Ohio.  
15 Mr. Howland submitted all of the required forms  
16 and supplemental documents to the licensing  
17 division and the IEB.

18 Investigators conducted rigorous  
19 background check for this license. The areas  
20 covered as you've been informed previously for  
21 other individuals who have been subject to a  
22 background check, we look at the employment  
23 history, the criminal record, education,  
24 political contributions, references, media

1 coverage, directorships and shareholder  
2 interests, civil litigation, bankruptcies and  
3 property ownerships.

4 Mr. Howland was also interviewed in  
5 person by the IEB state police and financial  
6 investigators as part of the key gaming  
7 employee investigation protocol. They also  
8 conducted a financial responsibility evaluation  
9 with positive results for Mr. Howland.

10 Mr. Howland attended Missouri  
11 Southern State University where he was awarded  
12 a BA in business administration and accounting  
13 with a minor in computer information graduating  
14 in 2001. Prior to that he also attended  
15 Crowder College where he was awarded an  
16 associate of arts degree in business  
17 administration, graduating in 1999.

18 As I previously stated, he's  
19 currently the Vice President and Chief  
20 Financial Officer at Plainridge Park Casino.  
21 Prior to that he had worked as Director of  
22 Finance for Penn National Gaming in Ohio.  
23 Prior to that he had been a financial  
24 controller for a Penn National Gaming facility

1 in Missouri and an accounting manager at a  
2 casino and resort in Oklahoma. And prior to  
3 that a controller for Sitton Motor Lines in  
4 Missouri.

5 Mr. Howland disclosed he's been  
6 licensed or registered to participate in some  
7 sort of gaming activity in three jurisdictions  
8 in the United States. A check with Kansas,  
9 Ohio and Missouri confirmed that his license in  
10 Ohio was active and in good standing. Missouri  
11 Gaming Commission was active and in good  
12 standing and the Quapaw Tribal Gaming Agency  
13 that was inactive. But there were no issues to  
14 report. All of his licenses were in good  
15 standing in all of jurisdictions contacted  
16 reported no derogatory information relating to  
17 his licensure.

18 As you'll note in the report, there  
19 was one matter which the investigators noted  
20 about in June 2014 after a hearing held at the  
21 request of Mr. Howland, the Missouri Gaming  
22 Commission adopted its preliminary order dated  
23 September 20, 2013 to impose a one-day calendar  
24 suspension from conducting casino business

1 against Mr. Howland.

2           The discipline stemmed from actions  
3 of Mr. Howland when he was the financial  
4 controller at the Argosy Riverside Casino in  
5 Riverside, Missouri which is owned and operated  
6 by Penn National Gaming. According to the  
7 Commission's order, Mr. Howland in conjunction  
8 with the slot machine manufacturer timely  
9 investigated several variances between slot  
10 machine meters and the computer management  
11 system that occurred over the course of two  
12 gaming days in December 2012.

13           Mr. Howland concluded an adjustment  
14 should be made to the game meter and the  
15 correction resulted in a difference in the  
16 adjusted gross gaming revenue and gaming tax.

17           Later the investigator for Missouri  
18 Gaming Commission determined the variance was  
19 attributable not to the incorrect meter  
20 readings as Mr. Howland had concluded but  
21 rather incorrect postings to the system. As a  
22 result, they determined he had not met his  
23 burden of proving by clear and convincing  
24 evidence the investigation of the variance was

1 sufficient.

2           Ultimately, he did not serve the  
3 one-day suspension because at the time of the  
4 commission's order, he had been promoted to  
5 Director of Finance at Hollywood Casino located  
6 in Columbus, Ohio also owned and operated by  
7 Penn National Gaming. That was the one minor  
8 incident that was discovered during the  
9 investigation. He remains licensed in good  
10 standing in Missouri.

11           Overall, there were no significant  
12 investigative issues uncovered related to Mr.  
13 Howland's application for licensure. Overall,  
14 he demonstrated by clear and convincing  
15 evidence he is suitable for licensure in  
16 Massachusetts. And therefore the IEB is  
17 recommending that the Commission find him  
18 suitable.

19           CHAIRMAN CROSBY: Thank you.  
20 Questions, comments?

21           COMMISSIONER MCHUGH: Very  
22 comprehensive and well done report.

23           MS. WELLS: Thank you.

24           COMMISSIONER CAMERON: I would agree

1 the one issue is minor in nature.

2 CHAIRMAN CROSBY: Anything else?

3 MS. WELLS: No, just looking for a  
4 vote, Sir.

5 CHAIRMAN CROSBY: Commissioner  
6 Cameron?

7 COMMISSIONER CAMERON: Mr. Chair, I  
8 move that we approve the license for Mr. Jeremy  
9 Howland as a qualifier.

10 CHAIRMAN CROSBY: Second?

11 COMMISSIONER ZUNIGA: Second.

12 CHAIRMAN CROSBY: Further  
13 discussion? All in favor, aye.

14 COMMISSIONER MCHUGH: Aye.

15 COMMISSIONER CAMERON: Aye.

16 COMMISSIONER ZUNIGA: Aye.

17 COMMISSIONER STEBBINS: Aye.

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

20 MS. WELLS: Thank you. I'll defer  
21 to General Counsel Blue on agenda item (b)  
22 under the Investigations and Enforcement  
23 Bureau.

24 MS. BLUE: Under our regulations for

1 vendor licensing, 205 CMR 134.04 there are  
2 exemptions that detail vendors that need not be  
3 licensed. It's section 6(a) through (n).  
4 Section 6(a) to (m) are very specific. They  
5 talk about doctors, lawyers, advertising  
6 services, things like that.

7           There is a catchall exemption. It's  
8 section 6(n). And it provides an exemption for  
9 any other person that by submission of a  
10 written petition can demonstrate to the  
11 Commission that regulation as a nongaming  
12 vendor is not necessary to protect the public  
13 interest.

14           The way the regulation is currently  
15 drafted that would require all of those  
16 petitions to come before the Commission. And  
17 in some cases maybe that would make sense. But  
18 most of them that we're seeing now are things  
19 that we can work with the IEB and legal and  
20 their enforcement counsel to kind of review  
21 that and determine whether that makes sense.

22           So, I would ask that the Commission  
23 consider delegation of authority to the  
24 Director of IEB to work with the legal

1 department to make those decisions and then  
2 come back and report to the Commission when an  
3 exemption under that section is granted.

4 I think ultimately what we would  
5 like to see is to see under that section  
6 whether we see any patterns of certain types of  
7 exemptions that are made all the time. Then we  
8 could consider going back to amending our  
9 regulation to create a more specific exemption  
10 for that. But we have come across several  
11 types of services or types of entities that  
12 would benefit from that exemption.

13 CHAIRMAN CROSBY: What's an example?

14 MS. BLUE: The one that we've been  
15 talking for example is lobbying services  
16 because in that situation it's highly regulated  
17 by another agency of the Commonwealth. We  
18 think that that is sufficient in most cases to  
19 protect the public interest.

20 So, we would want to do that under  
21 this catchall at the moment but then look to  
22 see how many of those perhaps we get and see if  
23 that warrants an exemption on its own.

24 COMMISSIONER STEBBINS: We also had

1 the question of the advertisers I think for the  
2 racing program fall into this category as well.

3 MS. BLUE: Yes. Our regulation the  
4 way it is constructed deals with services that  
5 the licensee buys but there are also people who  
6 buy services from the licensee. So, a good  
7 example of that is someone who wants to put an  
8 ad in a racing program or someone who wants to  
9 hang a banner from the ceiling of a casino.

10 In those cases, we might be able to  
11 determine that that's where the licensee is  
12 selling a service to a particular vendor. And  
13 having that vendor really registered doesn't  
14 make sense particularly. So, that would be  
15 something that right now would come under this  
16 catchall exemption.

17 COMMISSIONER ZUNIGA: I would agree  
18 with that. I know that Director Wells is under  
19 crunch time on a number of fronts here. And if  
20 this provides a little bit of the ability to  
21 make a judgment call for the time being that  
22 might go a long way to help. And report back  
23 to see if you see trends if you're truly using  
24 it as an exception. I would be fine with that.

1 CHAIRMAN CROSBY: As with some of  
2 these other things just let us know. Maybe  
3 some kind of each month or week or something.

4 MS. BLUE: Similar to the temporary  
5 licenses, yes, we would do a report.

6 CHAIRMAN CROSBY: Right. I'm fine  
7 with that. Is everybody else? Commissioner  
8 McHugh?

9 COMMISSIONER MCHUGH: I'm fine with  
10 it in principle. I would really like to see it  
11 in writing so that everybody is sure of what we  
12 are doing here. Maybe I'm the only one that's  
13 confused and I'm still on vacation.

14 MS. BLUE: The delegation in writing  
15 or the decision?

16 COMMISSIONER MCHUGH: What it is  
17 that we are delegating to whom for what.

18 MS. BLUE: Okay. We can make a  
19 written delegation, yes. And we could bring  
20 that back too at the next meeting it that would  
21 make you more comfortable.

22 COMMISSIONER MCHUGH: Yes. It seems  
23 to me in principle that this makes sense. But  
24 it seems to me that everybody ought to

1 understand exactly what's happening here, the  
2 public included.

3 AUDIENCE MEMBER: Do you take any  
4 public comments at this meeting?

5 CHAIRMAN CROSBY: No. But we  
6 certainly welcome to take them. It could be on  
7 our website or call somebody or whatever.

8 MS. BLUE: We'll bring it back for  
9 our next meeting.

10 CHAIRMAN CROSBY: It's basically  
11 fine, but it ought to be clear on a piece of  
12 paper so we are formal about what we're  
13 delegating.

14 MS. BLUE: We can do that.

15 MS. WELLS: Then the final item on  
16 the agenda is under section (c). It's just the  
17 notice to the Commission. The IEB, we did  
18 grant one key gaming license to Jason Gittle,  
19 the IT Director of Plainfield Gaming and  
20 Redevelopment. We did that on April 27 of this  
21 year.

22 The application was deemed complete  
23 by the division of licensing and the petitioner  
24 certified and the IEB found after reviewing the

1 proposed operational plan for the facility that  
2 the temporary license is necessary for the  
3 operation of the gaming establishment given  
4 their planned opening at the end of June and is  
5 not designed to circumvent normal licensing  
6 procedures.

7           The IEB also found that it is  
8 reasonably likely that the license would be  
9 granted upon the completion of the  
10 investigation. So, that's just a notice for  
11 the Commission. You need to take no action.

12           CHAIRMAN CROSBY: Okay. Thank you.

13           COMMISSIONER MCHUGH: That's great.  
14 Thank you very much.

15           MS. WELLS: That's it for today.

16           COMMISSIONER CAMERON: Thank you,  
17 Director.

18           CHAIRMAN CROSBY: Director Day,  
19 that's everything?

20           MR. DAY: I have nothing further.

21           CHAIRMAN CROSBY: Just a couple of  
22 scheduling matters. It's already mentioned  
23 that we have called an extraordinary meeting  
24 for next Wednesday at 10:30 at the BCEC at the

1 Convention Center not here, Wednesday 10:30,  
2 mostly to do with the suitability background  
3 check but a couple of other random items, the  
4 suitability check for the Brockton applicant.  
5 Then we will be back on the 14th to our regular  
6 scheduled meeting on Thursday and the meeting  
7 on the 14th will be here at the Hynes. Motion  
8 to adjourn?

9 COMMISSIONER ZUNIGA: So moved.

10 CHAIRMAN CROSBY: All in favor, aye.

11 COMMISSIONER MCHUGH: Aye.

12 COMMISSIONER CAMERON: Aye.

13 COMMISSIONER ZUNIGA: Aye.

14 COMMISSIONER STEBBINS: Aye.

15 CHAIRMAN CROSBY: Thank you all.

16

17 (Meeting adjourned at 1:16 p.m.)

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1 ATTACHMENTS:

- 2 1. Massachusetts Gaming Commission April  
3 30, 2015 Notice of Meeting and Agenda
- 4 2. Massachusetts Gaming Commission April  
5 16, 2015 Meeting Minutes
- 6 3. March 31, 2015 Penn National Gaming  
7 Quarterly Report
- 8 4. Plainridge Park Casino April 30, 2015 MGC  
9 Hiring Update
- 10 5. April 30, 2015 Massachusetts Gaming  
11 Commission Central Management System  
12 Update
- 13 6. Citizens Voter Referendum Notice - City of  
14 Brockton
- 15 7. 205 CMR 138 Uniform Standards of  
16 Accounting Procedures and Internal  
17 Controls - DRAFT
- 18 8. 205 CMR 139 Continuing Disclosure and  
19 Reporting Obligations of Gaming Licensees
- 20 9. 205 CMR 140 Amended Small Business Impact  
21 statement
- 22 10. 205 CMR 140 Gross Gaming Revenue Tax  
23 Remittance and Reporting

24

- 1 11. 205 CMR 102 Construction and Application  
2 (amendment)  
3 12. Massachusetts Gaming Commission  
4 Investigations and Enforcement Bureau  
5 April 6, 2015 Investigation Report -  
6 Individual Qualifier Jeremy Howland  
7 13. Massachusetts Gaming Commission  
8 Investigations and Enforcement Bureau  
9 April 30, 2015 Memorandum Regarding  
10 Temporary Key Gaming Employee License  
11 Issued

12 GUEST SPEAKERS:

- 13 Philip Coleman, Turner Construction  
14 Lance George, Penn National  
15 Jack Rauen, Penn National  
16 Shannon Wells, Penn National

17  
18 MASSACHUSETTS GAMING COMMISSION STAFF:

- 19 Catherine Blue, General Counsel  
20 Richard Day, Executive Director  
21 John Glennon, CIO  
22 Todd Grossman, Deputy General Counsel  
23 John Ziemba, Ombudsman  
24 Karen Wells, Director IEB

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C E R T I F I C A T E

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

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

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

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

WITNESS MY HAND this 2nd day of May, 2015.



LAURIE J. JORDAN  
Notary Public

My Commission expires:  
May 11, 2018