

1 COMMONWEALTH OF MASSACHUSETTS
2 MASSACHUSETTS GAMING COMMISSION
3 PUBLIC MEETING #196
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6 CHAIRMAN

7 Stephen P. Crosby
8

9 COMMISSIONERS

10 Lloyd Macdonald

11 Gayle Cameron

12 Bruce W. Stebbins

13 Enrique Zuniga
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19 August 1, 2016 10:00 a.m.

20 MASSACHUSETTS GAMING COMMISSION
21 101 Federal Street, 23rd Floor
22 Boston, Massachusetts 02110
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P R O C E E D I N G S

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3 CHAIRMAN CROSBY: We'll call to
4 order the 196th meeting of the Massachusetts
5 Gaming Commission at about 10 o'clock on
6 August 1, 2016 at our offices in Boston. And
7 the first item on the agenda is the racing
8 division. We're following up on our meeting
9 last week, which we were not able to complete,
10 and we now have Commissioner Cameron here with
11 us, which is important for that topic.

12 I think the main place we left it
13 last time, Alex, unless you have some
14 introductory remarks, was to ask the
15 applicants if they had the opportunity to
16 address the legal issues, which is what we
17 were concerned about last time and didn't have
18 a chance to tell us whatever they're thinking
19 about how we might interpret this statute. Is
20 that --

21 MS. LIGHTBOWN: That's correct.

22 CHAIRMAN CROSBY: -- the right place
23 to start?

24 MS. LIGHTBOWN: We don't have

1 anything to add to the packet from -- that
2 they put in. So we got Mike Morizio is here
3 today --

4 MR. MORIZIO: Yes. Good morning,
5 Mr. Chairman, members of the commission.

6 CHAIRMAN CROSBY: Good morning.

7 COMMISSIONER MACDONALD: Good
8 morning.

9 COMMISSIONER CAMERON: Good morning.

10 COMMISSIONER ZUNIGA: Good morning.

11 COMMISSIONER STEBBINS: Good
12 morning.

13 MR. MORIZIO: My name is
14 Michael Morizio, and as the commissioners
15 know, I represent Middleboro Agricultural
16 Society, the proposed licensee. At the last
17 hearing, I believe the commissioner -- the
18 chairman commented that Mr. Carney had made a
19 phone call to the chairman, expressing that he
20 was very interested in continuing with the
21 racing program, but only if the commissioners
22 so wished. That he had heard, through the
23 people at the statehouse, that our request was
24 going to be denied. And the chairman was very

1 clear in saying that there had been no
2 discussion amongst the commissioners, but,
3 nonetheless, it had gotten back to us there
4 was there idea that -- or notion that our
5 request would be denied. And Mr. Carney said
6 that he had no interest in trying to go in a
7 direction that the Commission was not wanting
8 and willing to go. And that is still the
9 premise under which we're operating here
10 today.

11 If it is the Commission's pleasure
12 that we conduct racing in Brockton, we're more
13 than pleased to do so. As I think the
14 commissioners know, Mr. Carney has been in the
15 racing business since he was a very young man,
16 and he's just celebrated his 88th birthday, so
17 it's been a very long time. He did start in
18 the horseracing industry. He was involved in
19 Suffolk Downs for many, many years,
20 Foxborough, and, of course, the Brockton
21 Fairgrounds.

22 So this is something that's really a
23 passion, an activity of joy and love that he
24 loves -- he very much loves to engage in. And

1 when Bill Lagorio, the president of the Mass
2 THA approached him several times over a period
3 of a year, or more than a year, he was more
4 than willing to get back into the racing
5 business to help the industry, and, as I said,
6 because it's a joy of his. We delayed a
7 little bit because the casino decision had to,
8 you know, come first. But now that that
9 decision has been made, we certainly have the
10 opportunity, this year, to conduct racing.

11 When we came in at the last hearing,
12 it was a complete surprise to us that the
13 staff was going to say that, to some extent,
14 or to their belief, that the law did not
15 authorize the Commission to fund the expenses
16 that we would have to go through in order to
17 bring back racing. We were surprised by that,
18 and the Commission was very gracious in
19 allowing us to go back, look it over and come
20 back and now address the issue again.

21 We still don't know, as we're
22 sitting here today, exactly what the reasoning
23 is of staff. It wasn't shared with us why
24 they think what they do, but we decided,

1 again, with the philosophy of not wanting to
2 be adversarial or confrontational, or go in a
3 direction that the Commission doesn't want to
4 go, we simply said, fine. If that's what the
5 Commission believes, or the staff believes,
6 that we don't have the authority -- the
7 Commission doesn't have the discretion, I
8 should say, to fund these expenses, then, we
9 won't ask the Commission to directly fund the
10 expenses.

11 What we will do, is we'll enter into
12 private agreements directly with the horsemen
13 for the horsemen to fund, or pay for those
14 expenses that we've identified. That, of
15 course, would be a private transaction, where
16 horsemen are using horsemen's funds to pay for
17 these expenses that we've identified.

18 The purse account, of course, or the
19 total purse money that the horsemen would be
20 requesting, would still be the total of a
21 little over \$3.9 million. And that amount
22 would go into the purse account. That amount
23 would be paid to the horsemen. Roughly,
24 \$265,000 a day. And then the horsemen,

1 themselves, using horsemen money, would
2 contribute to the cost of running the track.
3 We believe that -- you know, that, that's one
4 of the ways in which the Commission can
5 exercise its discretion, knowing what's going
6 to happen, to bring back horseracing.

7 But without halving -- having to
8 establish the direct statutory authority to
9 allow the horsemen to use horsemen's money to
10 pay for the track expenses, I would further
11 say, that the 128A is an old statute. It's
12 been around for decades. And our suggested
13 approach has been consistent with how that
14 statute has been administered for decades.
15 The old racing commission doesn't regulate,
16 never did regulate what the horsemen did with
17 the funds, once it's paid to them. This
18 Commission's regulations don't look to what
19 happens to the money after it's paid to the
20 horsemen because it's horsemen's funds.

21 And so, I think that strikes a
22 balance between all concerns. We don't have
23 to worry about the 2015 legislation, or what
24 the legal arguments are because we're not

1 asking to proceed under that authority. The
2 horsemen are able to bring back horseracing,
3 at least in Brockton. We're going to have
4 four months of stabling and training to
5 support the industry to bring them back on
6 board, and the unique startup expenses that a
7 track needs to go through will be shared
8 between the track and the horsemen in the same
9 manner that's been going on for decades. So
10 that's our suggested approach.

11 Mr. Lagorio is here to talk about
12 the dollars, the expenses, the horsemen
13 that'll be available, the concept, in general.
14 And, of course, I'll answer any questions the
15 Commission may have about the legal issues.

16 CHAIRMAN CROSBY: Let me clarify two
17 things. First of all, no matter what anybody
18 heard anywhere, at the statehouse or anyplace
19 else, no one knows or knew, or could know what
20 we were thinking about because each of us only
21 knew what one of us was thinking about. So
22 please disregard any such rumors that are
23 floating around. These decisions are made by
24 us in public, and that's the only source of

1 data out there. So I want that to be
2 absolutely, totally clear.

3 Secondly, you talked at the
4 beginning about how, you know, you wanted to
5 do what we wanted to do, and Mr. Carney wanted
6 to do what we wanted to do. This isn't about
7 what we want to do. It's what -- first of
8 all, it's what the law permits us to do. And
9 then, within that, we will exercise our
10 discretion. But this isn't about, you know,
11 whether we want to do something for
12 horseracing, or don't want racing in Brockton,
13 or don't want racing in Brockton. It's what
14 the law will permit us do and then we'll
15 exercise discretion. It's not a willful
16 option on our part.

17 So if I understand what you're
18 saying, is, you don't have an opinion,
19 apparently, about whether or not, under the
20 statute as it presently exists, we could
21 accomplish your original objective, which was
22 to provide the -- I guess was -- whatever it
23 was, 1.4 million for the administration and
24 operations of the track, as enumerated on that

1 list. I gather, you don't have an opinion on
2 that?

3 MR. MORIZIO: No. I do have an
4 opinion. It's what I expressed last week. As
5 I understood staff's opinion, that law did not
6 allow the funding of horsemen's association,
7 reimbursement of operational administrative
8 expenses for horseracing that are incurred by
9 a horsemen's association, but not by a
10 racetrack. I don't see that distinction.

11 But we're here today to say we don't
12 need to debate that particular issue. We're
13 not interested in pursuing that line of
14 reasoning. The Commission, of course, can if
15 it wishes to. We're simply here with a simple
16 solution, which is to fall back on what is
17 clearly within the law. And that is that the
18 law ends -- the Commission's jurisdiction, if
19 you will, ends when the purse account says,
20 you know, horse number whatever is being paid.
21 What that horseman, the owner of that horse
22 does with his funds, is something that's
23 private. It's after the Commission's
24 jurisdiction. It's the way it's been for

1 decades. That doesn't mean that the
2 Commission isn't aware of the whole chain of
3 events that takes place, but I don't think the
4 Commission has to find the authority to allow
5 that to take private transaction to take
6 place.

7 COMMISSIONER MACDONALD: But, in
8 practical terms, are you suggesting that that
9 1.4 million that was being requested by -- by
10 the track, this now be designated, instead,
11 for the horsemen?

12 CHAIRMAN CROSBY: It would be added
13 into the purse.

14 MR. MORIZIO: Yes. It would be --
15 it would be added into the purse account.

16 CHAIRMAN CROSBY: Added in -- so
17 instead of 2.5 to the purse account and 1.4
18 for admin and operations, they're suggesting
19 the 3.9 for the purse account, and then the
20 horsemen will do whatever they want with that.

21 MR. MORIZIO: That's right. So the
22 horsemen would be paid on the basis of 265,000
23 a day, and the horsemen's funds would then --
24 a portion of it would be used to support the

1 track.

2 COMMISSIONER MACDONALD: And what's
3 the precedent for horsemen -- horsemen using
4 their -- their designated funds for track
5 improvement purposes?

6 MR. MORIZIO: Well, I could use --
7 cite a recent that I saw recorded. I don't
8 know if it's correct or not, but I understand
9 Suffolk Downs is charging horsemen a thousand
10 dollars to come back to the track if -- to
11 their track, if they raised, I think it was in
12 New Jersey, was recently reported. So --

13 COMMISSIONER CAMERON: It's the
14 opposite.

15 MR. MORIZIO: The opposite.

16 COMMISSIONER MACDONALD: Okay.
17 Great.

18 MR. MORIZIO: The other precedent,
19 Commissioner, is that, is look at your own
20 regulations and the regulations of the
21 Commission, the prior racing commission, that
22 what happens, when the horseman receives his
23 check for running a race, winning a race, what
24 the horseman does with that money afterwards

1 has never been subject to the Commission's
2 jurisdiction.

3 COMMISSIONER CAMERON: But that's
4 when the money's from purses. It wasn't from
5 a state fund like this. It's a huge
6 difference, sir. And, you know, I think there
7 was so many premeetings here. I think that,
8 some of the characterizations that everyone
9 was surprised, I just find that hard to
10 believe, let me tell you. I know about the
11 premeetings. I was briefed, so I find that
12 hard to believe.

13 Secondly, I really would have wished
14 you would have presented a -- a memo before
15 coming in here today, which would have allowed
16 our legal staff to take a look, to have a
17 chance to look at what you're now requesting,
18 and, you know, be able to brief us on the
19 legality.

20 And, thirdly, you're asking for an
21 extraordinary amount of money for 15 days of
22 fair racing. You want all of the costs to be
23 paid by this fund. And I -- that is a
24 difficult. We have precedent with other

1 tracks. That is not done with the other
2 tracks.

3 We have said from the beginning that
4 we're very interested in trying to assist
5 racing, and we really are. But the way in
6 which this application has been handled, I
7 mean, just not providing the information we
8 need to make good decisions, and now today,
9 you know, just trying to add that kind of
10 money for 15 days of fair racing, is a
11 difficult request. And one in which we have
12 not had a chance to discuss with staff.

13 And one of the things we need to be
14 most careful about is precedent. We have two
15 other tracks that could come in next year and
16 say, hey, look what you did. Now, we want
17 1.4 million for operating expenses. The memo
18 says operating expenses. Now you're just
19 asking verbally that it all be part of a fund.
20 I'm finding this argument difficult, frankly.
21 Difficult --

22 MR. MORIZIO: If I may?

23 COMMISSIONER CAMERON: Yes.

24 MR. MORIZIO: Couple of points, if I

1 may, Commissioner. Thank you for your
2 comments. On the issue of precedent, the
3 purse money, if you will, the funds that are
4 flowed into purse accounts, for decades have
5 not been exclusively private monies. 128A has
6 always prescribed that a percentage of the
7 waging handle going to purse accounts, and
8 then from purse accounts be paid to the
9 horsemen. And that has always been under the
10 jurisdiction of the old racing commission, and
11 now under your jurisdiction. So I don't
12 believe that's a important distinction.

13 And, of course, since the simulcast
14 act was passed in 1992 and revised in 2001,
15 the simulcast monies have also been part of a
16 pool of funds that go into the purse accounts.
17 The horserace development fund is a new fund,
18 but it's being funded, in large measure, from
19 the same old way, simulcast funds, but, of
20 course, the new source of funding, the largest
21 being the slot machine revenue. But I don't
22 believe that we're creating a new precedent by
23 simply saying that, what the horsemen do with
24 their funds after they're paid, can be a

1 transaction between them and the tracks. And
2 that's not something that the gaming
3 commission needs to regulate.

4 COMMISSIONER CAMERON: What we need
5 to look at is using that money wisely. We
6 have a responsibility to make sure we're using
7 the monies wisely. And what is a new
8 precedent, is the extraordinary amount of
9 money you're asking for, for 15 days of fair
10 racing. That is --

11 MR. MORIZIO: I meant to address
12 that as well. I'll let Mr. Lagorio address
13 that, but the funds are four months of racing
14 and stabling and training -- I'm sorry,
15 training and stabling, together with 15 days
16 of racing in the middle of that. So it's far
17 less than others have asked for, and it
18 includes a lot more benefits for the horsemen.
19 That we were willing to provide only because
20 the horsemen requested it.

21 MR. SCARANO: Commissioner Cameron,
22 if I might --

23 CHAIRMAN CROSBY: Is the green light
24 on?

1 MR. SCARANO: Robert Scarano.

2 CHAIRMAN CROSBY: Are your mics on,
3 gentlemen?

4 COMMISSIONER ZUNIGA: Mr. Morizio,
5 is your mic --

6 MR. MORIZIO: Yep.

7 MR. SCARANO: Robert Scarano. The
8 precedent that Commissioner Cameron was
9 talking about, with other groups coming back
10 asking for more money, the one thing that they
11 have that the Mass THA and this track doesn't
12 have, is that they have the takeout from the
13 handle and the simulcast. It's already
14 included in their operational budgets.
15 They're utilizing that money on a
16 year-to-year, over-and-over basis.

17 So my feeling is they're not going
18 to be coming back to the Commission by
19 indicating that a precedent has been initiated
20 here to follow-up on that. They have a fund.
21 They have monies available to them they're
22 currently utilizing, and they're in their
23 contracts. They entered into their contracts
24 to do that.

1 So I don't see the precedent as the
2 setting by the Commission for including this
3 fund. But one other distinction was, to
4 effectuate the purpose of the Race Horse
5 Development Fund, those monies are to be used
6 in the best interest of racing. And I'm not
7 sure that a distinction of the amount is
8 important at that level of analysis. Using it
9 for the best interest of racing, we drop down
10 to the regulations and the discretion of this
11 Commission to utilize those funds, again, for
12 the purpose of the Race Horse Development
13 Fund, which is in the best interest of racing.

14 And I fully understand the
15 predicament that we are in because there have
16 been difference of opinions and legal opinions
17 on going back and forth. But we feel that
18 where the Commission has the discretion, and
19 has exercised it in the past, that they can
20 utilize that money at that level, and include
21 it in the amount that's due to the -- due to
22 the racing group.

23 That money, if it's included in
24 purses, is, at one point, all fungible and one

1 fund. They're utilizing that money for
2 purses. And if they decide to bifurcate it
3 and pay expenses, it's still in the best
4 interest of racing. And that exercise of
5 discretion seems to be consistent with the
6 purpose of the Race Horse Development Fund.

7 And I fully understood your last
8 position, and Ms. Cameron was not here for
9 that, indicating that you couldn't pay
10 directly to a racing association. We're in
11 agreement with that. But where the funds go
12 through a horsemen's group and they have a
13 budget, and there's a purse agreement, they're
14 honoring the purse agreement, and I suspect
15 that the Commission would too. That money is
16 going to be accounted for, aside from being a
17 private transaction, there's a budget.

18 We've all looked at the budget. The
19 expenses are reasonable. The expenses are in
20 line with what other tracks are spending to
21 operate. As a matter of fact, they're much
22 below what our sister and brother track is
23 spending on a daily basis. To Mr. Morizio's
24 point, this is for 18 to 20 weeks. This money

1 is not going for 15 days of racing. Eighteen
2 to 20 weeks to put together a home for the
3 horsemen to train, exercise, stable, feed.

4 This impact, and the impact on the
5 area, is what the Race Horse Development Fund
6 was designed to do. It is designed to assist
7 racing, to promote racing. And this package,
8 I think, promotes racing. Although, I think
9 there are, you know, some clarifications
10 required in the future, I don't think that you
11 would be mis-exercising your discretion to
12 utilize that money in the horsemen's account,
13 and allow them to pay their expenses for the
14 20 weeks of racing. And I think that's wholly
15 consistent with the regulations and 205 149 as
16 you just amended them. With that, I'd like
17 Mr. Lagorio just to speak on -- on the costs
18 associated, if you have a moment.

19 COMMISSIONER CAMERON: You know, and
20 that's an interesting point, since the
21 original application was for 10 percent,
22 400,000 that then went to \$1.4 million. And
23 that's where we have concerns, when, you know,
24 we're looking at how to use this money wisely.

1 MR. SCARANO: And I can see how -- I
2 can see how that's -- that's a legitimate
3 concern, and it should have been briefed
4 before it got to you. But that 10 percent --
5 that 10 percent, when we were talking -- were
6 talking about the racing, we were talking
7 about conducting racing like Suffolk's model.
8 We're not using Suffolk's model. Suffolk's
9 model is to race six days, 10 days overall,
10 utilizing a significant amount of money. That
11 model was part of the original thoughts, when
12 we discussed and you disclosed that we did
13 have free meetings on this. But now we're
14 looking at putting people back to work for 20
15 weeks. We're looking at housing horses for 20
16 weeks. We're looking at conducting that
17 racing over 20 weeks. That expense is what
18 justifies the additional amount. As opposed
19 to operating six racing days, six racing
20 events over 10 days.

21 And I think that this is the
22 stepping stone that brings racing back, at a
23 sustained level, to Massachusetts. And I will
24 go back to my last point, that I do not think

1 you're abusing your discretion by including
2 that money to the horsemen and allowing them
3 to expense --

4 COMMISSIONER CAMERON: Do you
5 understand my point, though, that we're
6 hearing about this verbally without seeing a
7 plan in place, which would -- it would require
8 a new purse agreement because, obviously, the
9 old one is not -- is not accurate for the
10 amount of money? So we don't have any
11 details.

12 You're asking us to make a decision
13 on some verbal -- you know, again, the proper
14 way to do business is to get it to staff ahead
15 of time, which was requested of you at the
16 last meeting. I was totally briefed on the
17 last meeting. And that didn't happen. So
18 this is difficult when you're giving us verbal
19 information without the facts, which our staff
20 always reviews, looks at all -- looks at it in
21 totality and then briefs us.

22 MR. SCARANO: That's understandable,
23 and I apologize for that. And there's no
24 excuse for it. And it certainly puts you in a

1 awkward position, and I do apologize for that.
2 It should have been briefed. But I think,
3 when we look back at the discretion, that was
4 the main comment of the chairman at the last
5 meeting. It was, how do we exercise our
6 discretion? And I think the point here is
7 that you already have the discretion to move
8 that money from the Race Horse Development
9 Fund through the regulations into the
10 horsemen's purse account. I am truly sorry
11 that we didn't disclose that. And, yes, it
12 would require an amendment to the purse
13 agreement, absolutely. It would have to go
14 from 10 percent to almost 32 percent. That's
15 an amendment to the purse agreement, though.
16 And that would allow the funding necessary to
17 operate at the track. So there is one change
18 to the purse agreement. The percentage that
19 we originally had talked about, from 10 to
20 about 32 percent.

21 And, again, you are correct, ma'am,
22 in indicating that springing this on you is
23 not in the best interest of the Commission,
24 ourselves, or staff.

1 COMMISSIONER ZUNIGA: Do you want to
2 talk, Mr. Lagorio?

3 MR. LAGORIO: If I can.

4 COMMISSIONER ZUNIGA: Okay. Why
5 don't you go ahead? I do want to come back to
6 the question of legality and discretion, but I
7 think that's central to the whole discussion.

8 MR. LAGORIO: Hi. Bill Lagorio,
9 president of Mass THA. And to
10 Commissioner Cameron's point, I think I felt
11 the same way, moneywise. It's a lot of money.
12 There's no doubt about it. And when I first
13 heard it I said, how's it going to work and
14 why so much? But when we really dug into the
15 making it operate, it doesn't matter if it's a
16 fair meet or a commercial meet, the money's
17 still the same. You have to feed -- you know,
18 the whole stabling process is still the same.
19 I thought the money was extraordinary.

20 But when I looked at some numbers,
21 and I looked at -- you know, and I won't dwell
22 on this, but Suffolk Downs is racing six days
23 with training for nine days, and they break
24 down to about \$105,556 a day in expenses. And

1 that's simply a ship-and-go. If we were to
2 equate that into what we are doing, we'd be
3 asking for about \$12 million with the same per
4 diem, so there's certainly a precedent there.

5 Backside operating expenses, and
6 I've been made privy to some of the NYRA
7 expenses, the New York Racing Association
8 expenses. For example, Aqueduct's backside in
9 New York is about \$7,000 a day just to operate
10 the backside. Belmont, which is as big as the
11 city, is \$25,000 a day to operate the
12 backside. And the training track up at
13 Saratoga that's running right now, which is
14 called the Oklahoma Track, it's \$8,000 a day
15 just to maintain the backside. So there is a
16 phenomenal amount of money here to operate a
17 backside.

18 The monies used, understanding that
19 the 1.4 -- basically, 1.47 million, I broke it
20 down, and it would be -- you know, about
21 166,000 a day would go to everyday purses with
22 about 98,000 going to expenses for the 15
23 days. So you would be looking at about
24 \$98,250 a day, of the race days, for expenses.

1 But, again, that would incorporate many days
2 of training and stabling on the backside.

3 Our predicament in the state is --
4 is terrible. The state of racing is terrible.
5 You know, he made reference to the piece in
6 Monmouth. And that's crazy, but Monmouth is
7 asking people, if they ship to Boston they
8 have to pay a thousand dollars to get back
9 into Monmouth. Those are all things that are
10 out there. But I just want to make one point
11 to that.

12 If I'm Monmouth Park, and if you
13 commissioners owned Monmouth Park and you say,
14 okay, Bill Lagorio just asked for 10 stalls
15 for his horses and he's going to race there.
16 Well, that's wonderful. I don't pay for those
17 stalls there. They provide them, and that's
18 their expense. They just ask me to
19 participate there. Now they're seeing someone
20 that's -- that's got the model that's really
21 not with the rest of the country, and that's
22 providing three weekends of racing, and
23 they're asking people to pull out from the
24 place we're allowing you to stay and train,

1 and race, to go race there for a couple of
2 days and come back.

3 So that is -- that is a problem for
4 most tracks, because Saturdays and Sundays are
5 big days for all horse tracks, and the horse
6 population certainly isn't what it used to be.
7 So I'll just say that the request -- although,
8 I thought, at first, it was extremely high, as
9 Commissioner Cameron did, I looked at the
10 monies and 300 and -- it's about 360,000 is
11 going to operating -- just putting people back
12 to work that were working at Suffolk as
13 officials, as veterinarians, and that part of
14 it, and then you encompass the entire backside
15 operation for a long time. What the horsemen
16 need desperately, all of them, is a place to
17 train and stable, and we haven't had that in
18 two years.

19 And I'm not a lawyer so I won't -- I
20 will apologize for any problems, as far as
21 getting the material to you. And, certainly,
22 you need to be briefed because you're the
23 be-all-end-all for -- for the horsemen in
24 Massachusetts.

1 I will tell you that -- and I won't
2 get into too much legislation, but I was up
3 until quarter of one in -- this morning on the
4 phone with the legislators. Nothing passed
5 that will help us go forward. Nothing. They
6 stripped the bill that would give you
7 people -- you folks, the wonderful
8 commissioners, more power, and they stripped
9 that down to the basics at quarter past 12
10 last night. The bill that's going forward
11 that's on the governor's desk is House Bill
12 4459, which is an extension of the one to 50
13 days, an extension of everything else that's
14 killing us.

15 And while the Commission's asked for
16 help from the legislature, I've been on
17 Beacon Hill now for three months, and I'm
18 going back up there again on Thursday. And
19 our group is fighting for the right thing.
20 And the group that's getting funded was
21 pushing for 4459. So it's hard for me to sit
22 here and not say I'm frustrated today in a big
23 way.

24 Racing's a mess. You guys were

1 handed this. It's not your fault. And the
2 legislation is the biggest part of it. But
3 for me to advocate for changes, it's
4 difficult, because every time I go somewhere
5 they have a lobbyist. Mass THA has me, and
6 it's been difficult.

7 It was frustrating for me, last
8 night, to hear that we didn't get the changes
9 that you need to effectuate the changes that
10 we need, you know, along the way. And, you
11 know, that happened, again, at quarter past
12 12, where they took what would have been
13 Senate Bill 2435, which incorporated
14 Senator Pacheco's 844, and gave discretion to
15 the Commission to move forward with more than
16 50% of the Race Horse Development Fund for
17 other things. Instead, we had something come
18 across that was a stripped version of that.

19 So I will say, the money's
20 extraordinary, based on what we asked for
21 before. But looking at the numbers, it's not
22 extraordinary. It's really in line with the
23 rest of the country, as far as operating a
24 backside. And that's the biggest expense. If

1 we could create 15 days of ship-and-go, that
2 number drops right down. Come in and race and
3 leave. But the Massachusetts horsemen have
4 nowhere to train, nowhere to go. This is it
5 for us.

6 And I know that -- I was surprised,
7 on the 21st, to hear that we couldn't use any
8 of the money for, but it is what it is. And
9 I'm hoping that we can come to some accord to
10 help the horsemen get back and race.

11 It is, and it will be the first time
12 that we're utilizing this Race Horse
13 Development Fund for local agriculture, local
14 businesses and the local horsemen. And it's
15 difficult to see it fall -- fall off for this
16 year. I put my faith in the Commission. I
17 always have. Everybody's been very fair to me
18 right along. Commissioner Cameron's been more
19 than fair, and everybody on the Commission as
20 well.

21 So I would ask for some sort of leap
22 of faith here to look at this and say, hey,
23 maybe this can be done, understanding that it
24 is the best interest of horseracing. It is in

1 the best interest of horseracing in
2 Massachusetts. And a lot of these folks are
3 still in jeopardy of losing their homes and
4 farms. And I know it's a byproduct of
5 what's -- what's happened. And I'm
6 frustrated, again, by the legislative changes,
7 but I hope that, with some leap of faith and a
8 good look at this you can say, okay, what's
9 1.47 million? It's going to put people back
10 to work, and it's going to get the horsemen
11 out of a big heap of trouble. And thank you,
12 Commissioners.

13 COMMISSIONER ZUNIGA: Thank you.

14 Yeah, let me say a couple of things. Thank
15 you for those comments, Mr. Lagorio. I
16 respect all of your efforts, the fact that you
17 represent a lot of good people who are trying
18 to make ends meet on a number of fronts.

19 I also -- the gist of your comments
20 on the legislative efforts, you know, will
21 continue. Good luck with that. May be too
22 late for this year. But the analysis that you
23 present, in terms of costs being reasonable,
24 they may be reasonable, they may be necessary

1 to accomplish a lot of goals that you
2 articulate, but they -- they may not be legal.
3 I'm hung up on the question of this
4 discretion.

5 I don't believe we have the
6 authority to disburse monies from the Race
7 Horse Development Fund into operational
8 expenses, which was the central point of the
9 last meeting, and is the central point in my
10 mind today. That is something that we need to
11 consider first, which is exactly how we left
12 it last time around. And there's a history
13 and precedent to this.

14 Let me also mention a couple of
15 other things that were mentioned by
16 Mr. Morizio and others. The Race Horse
17 Development Fund was set up exclusively for
18 funding purses. We all understand that the --
19 the horseracing industry, and, therefore, the
20 horse people, benefit from that, but it was
21 not established to fund administrative
22 expenses or private type of activity. The
23 whole idea of funding the purses includes the
24 ability to increase the quality of the product

1 that was later going to have virtuous effects
2 in terms of, you know, additional customers,
3 additional simulcasting, revenue, et cetera.

4 Separate and aside from that is the
5 2015 law that allowed for the takeout from
6 simulcasting to be used for administrative
7 expenses. Where that might have placed you,
8 unfortunately, you and Mr. Carney, if you're
9 not thinking of simulcasting -- Mr. Carney's
10 not thinking of simulcasting on the
11 fairgrounds, is, you know, your inability to
12 use that piece of the legislation that allowed
13 us the discretion to use takeout points for --
14 for administrative funds.

15 The unprecedented nature, or the
16 nature of this discussion on creating
17 precedent, is where the Race Horse Development
18 Fund is very clear in the purpose of funding
19 purses, we believe is an authority we may not
20 have relative to funding anything else that's
21 not purses.

22 That's, to me, the central point
23 here. It's very uncomfortable. I applaud you
24 for the -- for the efforts that you have been

1 making, in terms of trying to educate
2 legislators. I know it's a topic that is --
3 it's not easily understood by them,
4 necessarily, with all the history and
5 different chapters. One that was due -- two
6 that were due to expire in 2014, and now have
7 only been, you know, renewed for -- for one
8 year at a time. And I'm talk about 128A and
9 C. And then the juxtaposition of the Race
10 Horse Development Fund that now has real
11 monies for the purpose that was exclusively
12 funding purses.

13 MR. MORIZIO: If I may, just for one
14 very short comment?

15 COMMISSIONER ZUNIGA: Yeah.

16 MR. MORIZIO: Our suggested approach
17 doesn't change that, Commissioner. We're only
18 asking the Commission to fund purses for the
19 3.9 million. Simply recognizing, that what
20 the horsemen, and have always paid some of
21 their horseracing expenses, what they do what
22 with that after the purse has been funded, is
23 consistent with the 2015 law. You are funding
24 purses. The purses are then paid to the

1 horsemen. The horsemen then pay their
2 expenses.

3 So we are after -- if you consider
4 the waterfall effect of the flow of money, we
5 are after-purse payment. We are at the end of
6 the waterfall.

7 COMMISSIONER ZUNIGA: But aren't
8 their expenses, meaning the horsemen,
9 different from the track's expenses. Whereas,
10 you know, in what we discussed last time, if
11 you know, Attorney -- Counsel Blue was -- and,
12 Director Lightbown were making the distinction
13 of, well, the 262,000 can clearly go to the --
14 to the Mass. Thoroughbred Association, that's,
15 you know, more under -- under the
16 discretionary realm. Whereas, expenses that
17 go directly to operating fund are clearly
18 under the track realm.

19 MR. MORIZIO: I think the whole way
20 of looking at this is the waterfall of the
21 money, flow of money. The money comes from
22 the development fund, which was -- the 2015
23 law had four elements to it. Three of it were
24 directing simulcast takeout funds, and the

1 fourth was horseracing -- the horseracing
2 development fund. The money comes out of the
3 fund into the purse account, and from the
4 purse account paid to purses. Once it's paid
5 to purses, the color of the money is no longer
6 public funds. It's the horsemen's funds.

7 So as a strict legal analysis, that
8 is -- recognizing that that's the system in
9 place, that is fully within the Commission's
10 discretion to allow that to happen. What the
11 horsemen do with the horsemen's funds
12 afterwards is not a funding by the Commission,
13 but it's a transaction between the horsemen
14 and whoever. They pay their jockey. They pay
15 their insurance. They pay their fee. They
16 pay for their automobiles and trailers. And
17 in this particular case, they're going to
18 agree to pay for some of these services that
19 no one better than Bill can describe, which is
20 the stabling, training and everything
21 necessary that these horsemen need in order to
22 make their industry work.

23 COMMISSIONER CAMERON: I'd love to
24 hear from General Counsel Blue, who I know is

1 hearing this for the first time as well, but
2 just some thought on the legality.

3 MS. BLUE: So I think a couple of
4 things the Commission may want to consider.
5 When it comes to monies that we're allotted
6 under 128A and C, monies that go into purses,
7 and that has been, historically, what purse
8 money has been funded with, I think it's -- it
9 is clear, and anecdotally this is my
10 understanding, that the horsemen entered into
11 agreements with the track and they allocated
12 those monies. And that, in essence, the
13 amendments to 128A received for the pieces
14 from Live Handle, and from simulcast
15 arrangement, and from premiums, they made
16 arrangements to share those monies. How they
17 did that, you know, was under a purse
18 agreement. I don't know what the prior racing
19 commission did, but I think that's probably
20 the case. Is that the amendments codify,
21 which might -- something which might have been
22 a past practice. So that would not surprise
23 me.

24 What it doesn't take into account,

1 is that money under 128A and 128C is not tax
2 money. It's not public money. It never came
3 through the Commission. It went through the
4 track. It was money that came from doing
5 business as a race meeting licensee.

6 And I think another important point
7 to make is a race meeting licensee is a
8 business. They're out there running a
9 business, trying to make that work. Race
10 Horse Development Fund money is money that
11 comes from gaming revenues. It comes out of
12 the tax money that the Commonwealth assesses
13 on the slots. That money is allocated, very
14 specifically, to purses, breeders, and what I
15 always call health and welfare benefits.

16 The model for the Race Horse
17 Development Fund tracks a model that is used
18 in many other jurisdictions. And that model
19 is the model that, if you improve purses, the
20 quality of the product is better, you get
21 larger simulcasting handle, you get larger
22 live wager, the track does more business, more
23 business encouraging more racing. It's a
24 separate stream of money.

1 I don't agree with Attorney Morizio,
2 that once it goes into a purse account that
3 the quality of that money changes. I mean, it
4 is a different -- a very different income
5 stream. And so, it's not the same kind of
6 income stream. So I don't think that once it
7 gets in there, all of a sudden what was
8 specifically amended under 128A and 128C
9 changes the quality of that income.

10 Now, I will say that I did
11 consider -- I personally considered the
12 proposal that they're making as one's way to
13 do that. When I considered that proposal, I
14 still come up against the same concern, which
15 is, you have a different income stream that's
16 going into that purse account. The
17 legislature was very specific, when they
18 amended 128A and 128C, they did not amend the
19 Race Horse Development Fund legislation.
20 Whether they made that choice consciously, or
21 whether it's oversight, I cannot say. But I
22 do think the quality of taxpayer money going
23 in has to be treated somewhat differently.

24 And so, you know, I acknowledge that

1 they're trying to make this work. I
2 acknowledge that it's a very difficult
3 decision, but I still have concerns on the
4 legal piece of that. That putting it all in
5 and mixing it all up doesn't all, necessarily,
6 make it available for the expenses of the
7 track.

8 There's also the concept that
9 Commissioner Cameron raised, which is, this is
10 a business that's asking us to fund their
11 expenses. And that's a different -- that's a
12 precedential issue that comes up. And so,
13 that's something the Commission has to
14 consider very carefully, because we have other
15 racetracks in the Commonwealth. There's no
16 reason why those tracks couldn't come back
17 next year and ask for the same -- the same
18 issue. I mean, they have other funds.
19 Attorney Scarano is correct, they have
20 simulcasting and Live Handle monies that go
21 into their purse accounts, but I'm sure we've
22 heard from them before. They have expenses,
23 and they would probably like assistance too.
24 So I don't -- I don't think that there's

1 anything to stop them from coming back and
2 making a similar request next year.

3 CHAIRMAN CROSBY: Can I take a
4 different -- were you finished?

5 COMMISSIONER CAMERON: (Ms. Cameron
6 nodding up and down)

7 CHAIRMAN CROSBY: I just want to
8 reiterate whatever others had said. It's just
9 not professional or appropriate to drop this
10 on us without a written -- we asked many times
11 to get it to make life easier. I, at least,
12 have been trying to figure out, is there a way
13 we can possibly do it, and this doesn't help.

14 Having said that, there are two
15 issues here. One is, do we have the
16 discretion to do this under the law? I happen
17 to agree with Mr. Lagorio, that racing is a
18 mess, and the statutes are a mess. They are
19 laid over, laid over, laid over. And in
20 trying -- I've been poring over these things
21 trying to find readings that either tell me no
22 or tell me yes. We -- and at first blush,
23 because the -- our statute, 23A says --

24 COMMISSIONER ZUNIGA: K.

1 CHAIRMAN CROSBY: 23K, says that the
2 funds should be combined to fund purses for
3 live races, it appears on first reading to be
4 pretty straightforward, that the intention was
5 that the 80 percent will go to fund purses.

6 I will say, if you wrestle with this
7 screwed-up, multi-layered, multi-times-amended
8 legislation, that you -- you can read
9 Section 60A says, "Will set up Race Horse
10 Development Fund." Then this last sentence
11 says, "The Commission shall make distributions
12 from the Race Horse Development Fund to each
13 licensee under 128A." Does that mean we could
14 make distributions like we're told to do under
15 128A, which was amended to say could be
16 administrative and operational?

17 Similarly, when the 80 percent
18 section of 23K, Section 60, I think, it says
19 that we should take money from the Race Horse
20 Development Fund, put it into a
21 interest-bearing personal account to be
22 established by and for the benefit of the
23 horsemen. Pretty broad mandate. Provided,
24 however, blah, blah, blah, licensees shall

1 combine these funds with revenues from
2 existing purse agreements to fund purses for
3 live races consistent with those agreements.
4 What is to fund purses from live races modify?
5 If it only modifies purse agreements, because
6 that's mostly what purse agreements are for,
7 is for purse -- is to fund license -- fund
8 purses, then, what that's really saying is,
9 licensee shall combine these funds with
10 revenues from existing purse agreements
11 consistent with those agreements.

12 So I can find a reading that
13 suggests that, maybe, you do have the
14 discretion to use it. Is that a good reading?
15 Is that a better reading than any others? I
16 think it's debatable. But it's debatable. I
17 mean, it's genuinely debatable. And I think
18 that's an honest, legitimate reading.

19 Now, I think there's another problem
20 that General Counsel Blue brings up, which
21 we're dealing with on another issue, which is
22 the public purse -- purpose problem, which we
23 haven't even gotten to, you know, but be that
24 as it may.

1 So what I would like to suggest for
2 myself is, let's accept, for the sake of
3 discussion, that you could make an argument
4 either way, if we knew we had the authority,
5 if we were comfortable we had the authority,
6 what would we do? Do we think this is an
7 appropriate use of this money? Because
8 there's always been that two-step process. I
9 always say, just because we have the
10 discretion doesn't mean I think we should do
11 it. But we need to address the threshold
12 question of discretion.

13 So would we do this, if we clearly
14 had the authority? I go back and forth. And
15 I think Commissioner Cameron makes, you know,
16 completely legitimate, important arguments. I
17 will say, I'm not concerned about
18 discretion -- I'm sorry, about precedent.
19 Like some of the other things we've been
20 talking about, this is all de novo. This is a
21 unique, weird case. This organization has
22 been working at this a lot of -- for a long
23 time.

24 There's a bunch of people out here

1 who are voting with their feet, for whom this
2 is virtually a existential kind of a question.
3 We begged the legislature to give us and
4 everybody else the tools to try to straighten
5 out this whole mess. We don't have it. We're
6 left with what we always had, if that.
7 Hopefully, by 12 o'clock we'll at least have
8 that.

9 I'm sort of leaning, fellow
10 commissioners, towards saying, you know what,
11 I think we could -- an honest person could
12 read this either way, and I'm kind of inclined
13 to say, you know, we're supposed to be trying
14 to figure out ways for thoroughbred racing to
15 get itself together to get moving. This is
16 suboptimal in the extreme, but it would jump
17 start something, probably, and build --
18 something to build for -- off of. I'm leaning
19 towards thinking that we should -- we should
20 do it. And why not?

21 Otherwise, the money's just going to
22 be sitting there for some unknown thing in the
23 future. We don't know whatever's going to
24 happen with that money. Is this the perfect

1 use? Probably not. But is it as good as any
2 other right now, and it's going to do real
3 things for real people. I'm -- I'm kind of
4 inclined to think of that.

5 COMMISSIONER CAMERON: I've always
6 wanted to do something to help racing. You
7 see the passion --

8 CHAIRMAN CROSBY: Everybody has. I
9 mean --

10 COMMISSIONER CAMERON: I would
11 agree. I would agree that the entire
12 Commission really is -- you know, has
13 expressed those opinions about how do we --
14 how do we assist? I guess I'm a little
15 concerned here about unintended consequences.
16 You know, have we thought out, you know, this
17 with just verbal information, without a real
18 purse agreement, without having our experts
19 really think this through and advise us
20 wisely?

21 And, you know, Dr. Lightbown, I
22 don't know that you've had a chance to look at
23 this, as far as the expenses and, you know,
24 what they are. Again, I go back to 400,000 to

1 1.4 million. I think I understand you, that,
2 that covers all the cost of, you know, the
3 horses training and, you know, being there.
4 You know, are those expenses this account
5 should be paying for? I just have so many
6 questions. I feel -- I'm usually very
7 decisive, but I have good information in front
8 of me in order to make those decisions. I
9 don't feel like that I have that right now.
10 Hearing this verbal argument, just no changing
11 what's clearly here for operational costs and
12 then just saying, oh, we'll make it all purse.
13 And that's -- that's the information we have
14 to work with. I just know I like to be better
15 prepared before I decide these issues, and I
16 don't feel like I am.

17 COMMISSIONER ZUNIGA: I'd like to
18 respond to you, Mr. Chairman, on the argument
19 you made towards, you know, whether we could
20 read this -- you know, exercise some
21 discretion as a two-part decision and then,
22 you know --

23 CHAIRMAN CROSBY: If we have the
24 authority.

1 COMMISSIONER ZUNIGA: -- if we have
2 the authority, you know, then fund this, in
3 particular. I think that question, the second
4 question -- and you know, I'm still hung up on
5 whether we have the authority or not. I don't
6 think we do. But even getting to the second
7 part, in my mind, it becomes a short-term,
8 long-term, or treating the patient with --
9 treating a symptom versus trying to let the
10 fund accumulate, and maybe treating the
11 underlying problem. If that fund accumulates
12 enough, where it becomes economically feasible
13 for an investor to come in a year or two from
14 now, whatever that, you know, may be, to -- to
15 put money down and, you know, create a -- you
16 know, a real solution, if you will, a longer
17 term rather, that's the opportunity cost. If
18 we deplete that fund little by little, year by
19 year.

20 So it becomes a question of
21 short-term, longer-term. There's all kinds of
22 things that the legislature could do, and, of
23 course, we're not -- we're not them, if they
24 see this fund accumulate. It could be a tool,

1 or it could be a subject of, you know,
2 reappropriating. And that's a very, very
3 unsettling, to an industry, you know,
4 question. But when we -- if we were to
5 exercise this, you know, questionable
6 authority, I would pose that it would come at
7 the -- at the potential cost of, you know, a
8 -- preventing a longer-term solution. That
9 has happened in other -- in other states. I'm
10 not just making this up. I know -- I know
11 that this is possible. This has been possible
12 in other -- other states, where, through
13 something that accumulates that becomes, you
14 know --

15 CHAIRMAN CROSBY: I've made those
16 same arguments. I don't disagree with you at
17 all. It's just that, you know, everybody -- a
18 lot of us try, like the dickens, to get the
19 tools where we could put together a strategic
20 plan. Now your -- one is layering if on top
21 of if, maybe something would happen next year,
22 maybe it won't. There's -- I mean, look
23 what's happening in the legislature. There's
24 a bucket of \$14 million sitting here.

1 Somebody's going to say --

2 COMMISSIONER ZUNIGA: No. It's the
3 -- remember, we've been -- we've been making
4 payments to standardbreds. We've been making
5 payments to breeders on the thoroughbred side,
6 and to get health and welfare. And, you know,
7 there's purses going to Suffolk Downs last
8 year and -- you know, and this year as well.

9 So I fear that we go down a path
10 where there's little to show for on a future
11 year, and that's -- I think that's really --
12 that needs to be acknowledged as in, you know,
13 better to do something short-term as in we may
14 have an ability to do something larger. If we
15 also have the authority, you know, which is --
16 has been due to be modified, 128A and C, and
17 where we can put in -- we can put in all kinds
18 of other things.

19 All these convoluted number of
20 premiums and takeouts could be streamlined,
21 could be, you know, analyzed for the economic
22 terms, and the circumstances -- you know, the
23 underlying circumstances, and this would be
24 just another very important tool in the

1 toolkit. Which, again, by spending it on, you
2 know, what could -- I don't want to deny the
3 point that you make, which is, you know, this
4 allows some people to train and to, you know,
5 and to stay here. Obviously, it's a very
6 difficult decision, but that's what we're
7 giving up, if we went that route, the ability
8 to do something like that.

9 MR. BEDROSIAN: Mr. Chairman, may I
10 say one thing, a comment? I'm probably the
11 least conversant on the underlying subject
12 matter here, but just comment on process. I
13 would be concerned that if the Commission
14 approved the amount of money that's being
15 asked for today, in oral presentation today on
16 a vote, based on this discussion, it's a
17 significant amount of money.

18 I don't think you were well prepared
19 for this -- for this type of determination, to
20 make an allocation of millions of dollars.
21 And what I've heard is a lot of conjecture and
22 speculation, which I'm not surprised at, given
23 this was presented for the first time today.
24 And I know there are people who are -- who, as

1 we all said, are -- their livelihoods depend
2 upon this, and it's very serious for them.
3 But I would suggest --

4 COMMISSIONER MACDONALD: Excuse me.
5 What was that last phrase you used?

6 MR. BEDROSIAN: Their livelihoods
7 depend upon this.

8 CHAIRMAN CROSBY: It's very serious.

9 MR. BEDROSIAN: It's very serious.
10 But it's very serious for the Commission also.
11 I just can't see -- well, I shouldn't say --
12 you can do what you can do, obviously. I
13 would suggest -- I know people need closure.
14 I know people need finality. But even if it
15 is putting this off yet again, I think you
16 need a written proposal addressing a lot of
17 the issues that have been raised today.

18 CHAIRMAN CROSBY: Mr. Lagorio, you
19 were going to say something.

20 MR. LAGORIO: Yeah. I want to
21 respond to Commissioner Zuniga, who I respect
22 greatly, to a couple of points. Talking about
23 bringing in -- pooling the money and hopefully
24 bringing in an investor. Well, that's --

1 that's about the furthest thing from the truth
2 because I've attended the monies on the split,
3 the thoroughbreds are down now to 45 percent.
4 There won't be, you know, a huge amount of
5 money being pooled.

6 I'll bring you the example of
7 Stronach again. I know I've been talking
8 about them ad nauseam, but I'll tell you, I
9 talked to them three weeks ago. They were
10 hoping and praying, like the Commission, that
11 something would change. What you have to
12 understand is, Suffolk down remains with the
13 host track status, that's the block bringing
14 an investor in. Stronach, right now, is
15 taking over operations at Parx Racetrack in
16 Philadelphia. They're not interested in the
17 casino portion. They're going to operate the
18 racetrack. This is what we talked about
19 before.

20 What's holding up the industry, is
21 the track that runs three days and is approved
22 for, or a track that runs six days and is
23 approved for it, maintains the host track
24 status and control of the simulcasting.

1 Nobody's going to come in. They're not
2 interested in what's accumulating. They're
3 interested in the overall picture. What we've
4 lost -- what we've lost track of is the way we
5 generate purses, and that's through statutory
6 regulations from simulcasting, and from
7 Live Handle. This fund is supposed to be the
8 cherry on the sundae. It's not supposed to be
9 the big meal, you know. We were supposed to
10 take an industry that was double A and make it
11 triple A, and we haven't seen any of that.

12 Investors are here. Legislation has
13 handcuffed us greatly. But the investors
14 aren't looking for an approval of money in the
15 Race Horse Development Fund. They're looking
16 for the tool, the biggest piece of the
17 industry, which is the simulcasting end of it,
18 that's the piece of the industry that'll bring
19 in the investor.

20 Stronach said to me, a lawman said,
21 three weeks ago by telephone, I hope things
22 can change on Beacon Hill. I met with the
23 speaker for 45 minutes. It was an open
24 invitation that a lawman fly up from Aurora,

1 or down from Aurora, and meet, but it's
2 difficult on Beacon Hill.

3 The biggest thing is, we don't have
4 a lobbyist. And I was asked by a couple
5 legislators, why don't you have one? And I
6 said, well, I haven't got a lobbyist like I
7 had Attorney Scarano, who, right now I'm in
8 debt up to my ears with trying to get things
9 done, but it is -- it is frustrating.

10 But to your point,
11 Commissioner Zuniga, the holdup in the
12 industry is not accumulating monies to bring
13 in an investor. It's freeing up that signal.
14 And you say, okay, you're running three days
15 and six days, you're not a host racetrack. If
16 you want to simulcast, that's fine, but free
17 up the piece of the industry that is holding
18 us down.

19 To me, up on Beacon Hill, it was a
20 simple deal. If you could get rid of the one
21 to 50 days and implement any minimum base
22 requirement, I'll leave it at your discretion,
23 the Commission, the industry will upright and
24 straighten itself out. And this mess, and it

1 is a mess, Chairman Crosby, it is a mess, that
2 it would correct itself.

3 So I don't think pooling money in
4 the Race Horse Development Fund is going to
5 bring in an investor. They're interested,
6 like you see Stronach right now, moving in to
7 operate a racetrack. Utilizing that signal as
8 a business plan. And that's the business
9 plan, making those numbers work. And they
10 share at 50 percent all the revenues from
11 simulcasting and live racing with the
12 horsemen. And that's the way -- that's the
13 model that we've lost concept of in the
14 Commonwealth. We don't have that anymore, and
15 we're losing concept of how we fund our
16 purses.

17 Our request -- and, again, my
18 apologies for leaving everybody unprepared. I
19 was a little surprised on the 21st, taken back
20 by, you know, the fact we could use money and
21 now we're scrambling. But I've spend more
22 time on Beacon Hill than I have preparing --
23 preparing here trying to help along the way.
24 But I do feel as though --

1 CHAIRMAN CROSBY: Could we figure
2 out why this keeps breaking up?

3 THE VIDEOGRAPHER: He just needs to
4 lean back a little.

5 COMMISSIONER ZUNIGA: Yeah, don't
6 get so close.

7 MR. LAGORIO: Sorry.

8 COMMISSIONER STEBBINS: So close.

9 MR. LAGORIO: Sorry. You know,
10 the -- spending more time on Beacon Hill and
11 less time preparing for this. I do feel as
12 though it's more than just some people that
13 need help. It's the entire industry. This is
14 a push for the entire industry to move forward
15 with something. Running three days and six
16 days, it's wonderful. Everybody likes it.

17 I've been in Suffolk Downs my whole
18 life. I've been training there since 1980 --
19 '81. And it's a wonderful place, but it's not
20 a racetrack. They're staging races that's
21 all. It's a staging place for races. People
22 come and see them and then they leave. Racing
23 is the full model. It's stabling and
24 training, and racing at the same facility.

1 That's the only business model that works.

2 That's what supports an industry.

3 So although I know, again to
4 Commissioner Cameron's point, the numbers are
5 high. But \$2.4 million issued for six days of
6 racing, to me, that's high, but that is what
7 it is. I would say to take this number, which
8 is, you know, 3.97 and look at it, and compare
9 the two and see what they're doing for the
10 industry, and it is helping a lot of people.
11 And Chairman Crosby's point is, it is bringing
12 something back, and that's a start. And, you
13 know, I'm asking the Commission's help on
14 this, as much as the Commission can help.
15 And, again, apologizing for the lack of
16 preparation on your end -- on our end.

17 COMMISSIONER CAMERON: Mr. Lagorio,
18 you're so knowledgeable, you're so passionate.
19 I know you represent everyone here. Could you
20 get us a memo, quickly, that just lays these
21 things out so we have something? We can take
22 a quick look at it. We're not looking to
23 delay a long time. But I would love to see,
24 you know, the argument about four months of

1 training, those agricultural benefits, an
2 attempt to save the industry, an attempt to
3 have people work this year. I understand the
4 issues, but it's -- we're listening to
5 different comments. Some of which are
6 accurate, some are hard to put together. That
7 would be very helpful to -- to address the
8 issues that we brought today, in helping us
9 make -- make a good decision here. Could we
10 do that?

11 I'm not talking about War and Peace.
12 I'm talking about a similar memo, but one that
13 outlines the changes that you brought to us
14 today, and the overall benefits of your -- you
15 know, we're not talking about 15 days. We're
16 talking about four months. Knowing that, that
17 still -- it has to be, you know, a track
18 safety. You know, that has to be done. And I
19 know there's -- there are railings. They're a
20 number of issues before you're ready to open.

21 I understand it's the chicken and
22 the egg kind of thing. But I know I would be
23 more comfortable looking at a memo and
24 outlining these issues you brought before us

1 today. And we'd have staff have a chance to
2 take a look at it and advise us -- you know,
3 just point out whatever issues there may be
4 and allow us to make a good decision.

5 MR. LAGORIO: Well, I'm not Tolstoy
6 so we can skip War and Peace. But I will tell
7 you that we absolutely would do that for you,
8 Commissioner. That wouldn't take a great deal
9 of time. As a matter of fact, I was working
10 on a lot of that this past week, and it
11 wouldn't take much to put it back together.
12 You know, the numbers, that's all I've been
13 dealing with, the numbers --

14 COMMISSIONER CAMERON: I understand.

15 MR. LAGORIO: And it is important to
16 the Commission to understand and see -- and I
17 agree with you, Commissioner Cameron, to see
18 exactly what this would do and where it would
19 go. So, absolutely, we can prepare that.

20 COMMISSIONER STEBBINS: I also would
21 appreciate that. And, you know, Bill, don't
22 sell yourself short, in terms of needing a
23 lobbyist. I think, when you, yourself, are up
24 on the Hill, it's probably the most convincing

1 voice some of the lawmakers hear from.

2 MR. LAGORIO: Thank you,
3 Commissioner.

4 COMMISSIONER STEBBINS: I also want
5 to see the proposal laid out in a little more
6 black and white. Again, I worry about the
7 next step. I worry about where we find
8 ourselves again a year from now understanding
9 the statute. Probably isn't going to be any
10 changes, just getting extended again.

11 I do worry about it being
12 precedent-setting. I don't think that the
13 other racing venues should just kind of come
14 in and say, hey, we do simulcasting so we
15 don't need that money. I don't buy that
16 argument. This application originally came in
17 with simulcasting attached and now it's not.
18 And, you know, I also understand, you know, we
19 have hundreds of comments. People saying we
20 want a hundred days of racing in Brockton.

21 So as anxious as I think this
22 Commission is, to try to look at the new
23 proposal, do the best we can for this year,
24 and again keeping in mind what we are legally

1 allowed to do, there still needs to be a focus
2 on the next step. I don't want to be here a
3 year from now thinking about the same proposal
4 and the same issues as it relates to the
5 Brockton track.

6 MR. LAGORIO: I agree, Commissioner.
7 I will say that, it will extend the life of
8 some people because they feel as though
9 another year of hiatus we lose our core of
10 horsemen. That's the issue at hand, of
11 course, for us.

12 COMMISSIONER STEBBINS: I understand
13 that point.

14 CHAIRMAN CROSBY: Commissioner
15 Macdonald, do you have anything?

16 COMMISSIONER MACDONALD: Only to
17 state that, other than Mr. Bedrosian, the only
18 person in this -- in this room who knows less
19 about horseracing in the past is me. That
20 said, I take a preparation for our public
21 meeting seriously. And I note that the
22 staff's position on this issue was part of the
23 publicly-distributed materials before the
24 August -- I mean, July 21, hearing. So it was

1 not a surprise, should not have been a
2 surprise, to any -- anyone, particularly the
3 Brockton organization, that this position was
4 what we had been advised by our general
5 counsel.

6 That said, I was very sympathetic to
7 Mr. Morizio last -- on the meeting of the
8 21st, in which he said, news to me. He said,
9 in substance, that he hadn't had the
10 opportunity to -- to review the, you know,
11 history here on the statutes to be able to
12 address, directly before us, the staff's
13 recommendation, but we put this off
14 specifically to provide that opportunity.

15 And I will say that -- that I took
16 advantage of that time by personally going in
17 and doing my homework on this, and reviewing
18 the -- the legislation, the -- the
19 Commission's, you know, founding legislation
20 from 2011, 23K. And I retrieved the statutes
21 relating to simulcasting that were passed in
22 2015. And my view of it, given the explicit
23 nature of the 23K Section 60 C1 provision,
24 that the Race Horse Development Fund was to be

1 used, quote, to fund purses for live races,
2 that, that was inconsistent with the later
3 2015 statutes. But I had an open mind so I
4 was really looking forward to be coming to
5 hearing what the argument was on the other
6 side. And that, everyone has said that we
7 regret not haven't received something. And I
8 hear you, Mr. Lagorio and Mr. Morizio, saying
9 that you regret not having put something
10 before us.

11 But with nothing before us, and now
12 only an oral proposal to take all of these
13 funds and to put them into -- into the hands
14 of horsemen to then, kind of at their
15 discretion as to how to -- how to -- to what
16 extent to apply those funds for -- for, you
17 know, operations and administrative expenses,
18 that sends a terribly weak signal, to me, as
19 to what the lawful authority is behind --
20 behind all of this. I hate to think what the
21 repercussions would be, if we had approved of
22 this under the circumstances, quite apart from
23 the, you know, failure of notice to members of
24 the public who have interest in it because the

1 proposal was only -- was only orally presented
2 to us.

3 So I'm not averse, if that's the --
4 the sense of the -- my colleagues to have this
5 postponed further. But all of my -- my legal
6 instincts and experience, given the record to
7 date, is that the applicant has basically
8 failed in its burden to -- to address the
9 issues that were -- were out front identified
10 on July 21st, and then be prepared to vote
11 substantively today on a proposal.

12 CHAIRMAN CROSBY: Well, we've --

13 COMMISSIONER ZUNIGA: Sounds like
14 there may be a consensus towards the -- you
15 know, deferring this further. Can I just
16 mention something, based on your remarks from
17 a little while ago, Mr. Lagorio?

18 And maybe this is rehashing a little
19 bit too much history, but isn't a big
20 impediment that you're referring to here, the
21 whole notion of the 2015 legislation that
22 established a minimum of between one and 50
23 days of live racing --

24 MR. LAGORIO: Chapter 10 of the acts

1 of 2015. That's correct. That's been the
2 thing that's turned the vote upside down.

3 COMMISSIONER ZUNIGA: That's at the
4 center of all this, because when reasonable
5 people could have imagined, well, maybe we get
6 20, maybe we get 30, maybe we can stable,
7 maybe we can train, ended up being three days.
8 And you heard -- we heard you very
9 passionately in those hearings. You heard my
10 comments and others. And that was a little
11 bit of, well, if we could only change that
12 legislative. It meets the legislative
13 language. Perhaps, not what people intended.
14 Perhaps, not what -- what really helps the
15 industry.

16 And as you continue, and I hope you
17 do, you know, informing legislators about
18 this, that, you know, that's what we have here
19 and, you know, that's one thing that should
20 change, if you ask me, if it's going to help
21 the industry. Because once you bring
22 everything in, the whole sundae and the cherry
23 on top, then, maybe, there's a commercial --
24 you know, a solution, whether it's somebody

1 like Stronach or anyone else locally or
2 elsewhere, and they need to -- all those, you
3 know, racetrack operators or would-be
4 operators who can, you know, put everything
5 into the mix. But, traditionally --
6 historically, that minimum is what minimum
7 number of days, and that was always said by
8 legislation was, in my -- in my view, what
9 really allowed and benefited, you know, the
10 industry locally because --

11 MR. LAGORIO: And what used to be a
12 200, by the way. That was a statutory
13 requirement. We had 200 days. I mean, it's
14 just -- it's crawled down to -- and to your
15 point on Beacon Hill, and to Commissioner
16 Macdonald, you're not alone in this knowledge
17 of racing, because when you go up to
18 Beacon Hill, you know, and 58 percent of the
19 legislature who's only been there a couple
20 years, racing's like a three-headed monster
21 when you talk about it. It's like, you
22 mention racing they run the other way in the
23 lobby and they look to hide, you know.

24 But I got -- to something that was

1 optimistic, I got a phone call last night at
2 nine o'clock, and they're working up there,
3 from a Representative Schmidt, who's a farmer.
4 And he said, I read your piece, and I don't
5 understand why, you know, we can't move
6 forward on things, and it's frustrating.

7 But it is getting the point across
8 to the right people. And, traditionally,
9 racing they wait til the 11th hour and they
10 say we have to extend this. And I went to --
11 I went yesterday on Beacon Hill, walked up on
12 the Bowdoin Street side, walked into the
13 governor's office and left him a letter that
14 said 4459 is just an extension of -- you know,
15 what we've had and it's terrible, you know,
16 having a feeling that it was going to go
17 forward.

18 But Commissioner Zuniga, you're
19 right. I mean, it's those things. And it's a
20 really one simple thing. One part of it. My
21 position was that they mentioned, you know,
22 the other group by name in legislature, which
23 is strong as well, but that wasn't the key
24 point. The key point was the one to 50 has

1 been the stopper. That -- the Chapter 10, the
2 acts of 2015 devastated the industry, and it's
3 holding it. And it doesn't have to be
4 Stronach, although I talked to him, but
5 someone will come in.

6 This is a great marketplace.
7 Massachusetts is strong. And the majority of
8 our simulcast revenue comes from thoroughbred
9 racing. That's what people want to see, and
10 that's what's been there since 1935. And I
11 hope -- you know, I will continue to be active
12 on Beacon Hill.

13 You know, I started this, and I got
14 to keep -- I have to see it through. And I
15 was working on -- I believe I'm working on the
16 Commission's behalf up there, with pushing --
17 pushing as hard as I could push. And with
18 Patty Ritz' help, was up there, and she was
19 trying to -- there was a hearing up there the
20 other day, where they were talking about the
21 no sales tax. And the big three were standing
22 there and Patty was trying to worm her way in
23 and they kind of -- kind of kept her away a
24 little bit. But, you know, at some point, I

1 hope we can get the legislation squared away.
2 And in the interim, I hope we can get
3 something done this year and go forward. It's
4 hard --

5 CHAIRMAN CROSBY: Let's move on
6 here. I think we do have, at least, a
7 plurality, or a majority of us that were
8 requesting time -- I mean, requesting some
9 delay and a written proposal that addresses
10 the new notion, why you think it's a good
11 idea. You know, the rationale that you've
12 been giving us orally. You've heard the
13 issues that we're wrestling with. You tell
14 us.

15 We scheduled this meeting because we
16 were told you were all right to have it today.
17 So how long do you need before you can give us
18 what we're asking for?

19 MR. LAGORIO: I don't think we need
20 a great deal of time because I think -- in my
21 mind, I've been working on this anyway. And
22 like I said, I think a lot of it was my time
23 on Beacon Hill. But I can put something
24 together quickly. And I'll ask the Commission

1 to -- we could get back, you know, a week, if
2 that's okay.

3 CHAIRMAN CROSBY: Well, we have --
4 today's what? Today's Monday.

5 MR. LAGORIO: Monday.

6 CHAIRMAN CROSBY: We have a meeting
7 a week from Thursday, right, or no, is it --
8 is it Thursday?

9 MS. BLUE: Eighteenth.

10 CHAIRMAN CROSBY: A week from
11 Thursday.

12 COMMISSIONER ZUNIGA: Yes.

13 CHAIRMAN CROSBY: Is that a week?

14 MS. BLUE: Two weeks.

15 CHAIRMAN CROSBY: So -- so say it
16 again what did you -- this has got to be a
17 special meeting so say it again what you said.

18 MR. LAGORIO: Well, I think a week's
19 time would allow us to put it together. And I
20 hope we don't go too far because we've seen
21 this before. The season is expiring. We
22 don't want to run in December in Brockton.
23 The barns aren't set for winter racing.
24 However, I will say that racing in September,

1 October is wonderful. But --

2 CHAIRMAN CROSBY: All right. So you
3 can get something to us when? Give me the
4 date.

5 MR. LAGORIO: Today's the 1st, so
6 I'll say the 8th.

7 CHAIRMAN CROSBY: Okay. So we'll
8 needs at least a couple of days after that for
9 us to internalize it. So could we talk about
10 having a meeting on Wednesday -- a week from
11 Wednesday. Janice?

12 MS. REILLY: I'll go look at
13 calendars.

14 CHAIRMAN CROSBY: Well, you don't
15 have to do it right now. We'll follow-up.
16 But let's try for Wednesday, if not Thursday.
17 We will have a special meeting to try to get
18 our arms around this thing once and for all.

19 MR. LAGORIO: Thank you very much
20 Chairman and Commissioners.

21 MR. MORIZIO: Thank you.

22 MR. SCARANO: Thank you.

23 MR. BEDROSIAN: Mr. Chairman, can I
24 have a quick break so you and I can consult on

1 something?

2 CHAIRMAN CROSBY: Yeah, quick break.

3

4 (A recess was taken)

5

6 CHAIRMAN CROSBY: We are ready to
7 reconvene. Just in our ongoing -- sorry. In
8 our ongoing commitment to transparency,
9 there's no secrets here, there is a -- there
10 is a statute, which makes simulcast on
11 horseracing legal, will lapse at noon today,
12 unless the governor signs the bill on his desk
13 to extend the existing law for a year. And we
14 don't know yet whether the governor is going
15 to sign the bill. And since we will have to
16 figure out what to do if he doesn't, we were
17 just trying to check in with the governor's
18 office to find out what's going on. So if my
19 phone rings, I will have another quick recess
20 while I try to find out what they're doing.
21 So that's what I was doing on the side.

22 Okay. We are now to our next item
23 on the agenda, Ombudsman Ziemba, picking up
24 where we were last week or two weeks ago.

1 MR. ZIEMBA: Thank you, Mr. Chairman
2 and Commissioners. The first item on the
3 agenda today is the finalization of the review
4 of the applications for the 2016 community
5 mitigation fund as of last week. Joining me
6 here today - or the week before - is the
7 review team for this year's program. Includes
8 General Counsel Blue; chief financial,
9 officer, Derek Lennon; paralegal,
10 Mary Thurlow; and construction project
11 oversight manager, Joe Delaney. All of the
12 recommendations are included in your packet.

13 At the last meeting, we went through
14 all of the reserve applications. We got,
15 primarily, through the -- mostly through the
16 transportation planning grant applications,
17 and that our specific impact applications
18 remained for consideration today.

19 So let's just skip forward to the
20 remaining transportation planning grant
21 application. My summary is brief so I'll just
22 repeat what we said at the last meeting. That
23 the Commission's concern just related to how
24 this related to the surrounding community

1 agreement, but let me just briefly repeat what
2 I said last time.

3 So Malden is requesting \$100,000 to
4 assess parking capacities and pedestrian
5 safety around public transportation and
6 parking in Malden. Malden is recognized as a
7 transportation hub for the Wynn project. Wynn
8 will be providing shuttle service from both
9 Malden center for both employees and patrons.

10 Malden will assess its parking
11 resources to understand the need and cost for
12 upkeep over the life of the Wynn casino
13 project. It will assess the need for existing
14 lots into parking structures. It further
15 identified the need for a redesign around the
16 Malden station, due to traffic impacts and
17 pedestrian and bicycle safety. Given the
18 importance of Malden center as a
19 transportation hub, we recommend this funding.

20 As with all of these requests, staff
21 will work with Malden on the scope of such
22 efforts and compliance with how funds are
23 expended between Malden's reserve request and
24 this transportation request.

1 So as I noted last -- at the last
2 meeting, the Commission had some questions on
3 how the funding being requested, and this
4 grant request relates to the funding in its
5 surrounding community agreement request. And
6 included in your packets is Malden's response
7 to this application.

8 As we noted last time, there were a
9 couple of different payments that were upfront
10 payments to the City of Malden. One, a
11 transportation hub payment, and one, a
12 transitional roads payment. Both of those are
13 upfront payments.

14 Out of the two, the transitional
15 roads payment, the City of Malden, in its
16 response, noted that the transitional roads
17 payment was really related to the roads that
18 connect up Malden and Everett, and was not
19 really meant to take a look at some of the
20 immediate vicinity right near Malden Station,
21 which is the hub.

22 In regard to the -- to the
23 transportation hub payment, Malden -- I'll
24 just read you what they said. "The purposes

1 of the funds discussed in the SCA, the
2 Surrounding Community Agreement, are related
3 to items such as the actual physical
4 improvements needed to the garages once
5 identified in both promotional efforts to
6 inform the general public and Wynn employees
7 about these shuttle options, and engagement
8 with the Malden business community to explore
9 ways this could benefit them as well. The
10 request of this -- of the MGC, through the
11 transportation planning grant, is to identify
12 what structural improvement repairs are needed
13 for the garage." And then they say, in short,
14 "The monies provided in the SCA are for
15 different reasons, and for different areas
16 than the request made on the transportation
17 planning grant application."

18 COMMISSIONER MACDONALD: John, I
19 have what was distributed to me earlier. I
20 was out the last couple days of last week.
21 But it's titled, The City of Malden Second
22 Addendum to the 2016 Planning Grant
23 Application. I think you were just quoting
24 from that. The conclusion of that is, in

1 short, the monies provided in the SCA are for
2 different reasons in the different areas in
3 the request made for the transportation
4 planning grant application." Do you and the
5 review team agree with that?

6 MR. ZIEMBA: Yeah. I mean,
7 everything -- most things that were dealt with
8 in most of the Surrounding Community
9 Agreements were dealt in a very, very broad
10 level.

11 COMMISSIONER MACDONALD: So, in
12 substance, you agree with that?

13 MR. ZIEMBA: In substance, I do
14 agree with that. I mean, certainly, whenever
15 you're planning for actual improvements, one
16 might say, would you consider the planning for
17 those actual improvements, but we take Malden
18 at its word that that's what it was intended.

19 COMMISSIONER ZUNIGA: I read the
20 response, and I was wondering what questions
21 were there, whether what was consider in the
22 Surrounding Community Agreement. In their
23 response, I see a lot of generalities, and I'm
24 going to contrast that with the Surrounding

1 Community Agreement and further grant request
2 from the Community Mitigation Fund from
3 West Springfield, which was very actionable.
4 They almost have, like, now have actual bids.

5 They know there's a delta. There
6 was a very thoughtful agreement that they --
7 that they reached for an amount that they
8 thought was necessary that was the result of
9 an arbitration, and this -- this delta is now
10 very concrete.

11 When I read Malden's, in contrast to
12 that, there's generalities. We're going to
13 look at different areas, you know. And I
14 think -- I'm just not comforted that there's a
15 real distinction and incremental benefit to
16 what they already have. I would ask them, and
17 I was wondering, if, in the response, they
18 would respond with, here's what we use and are
19 using the 500,000 that we got out of the
20 Community Mitigation Fund, a number of
21 activities. Here's however many we want do
22 that we don't have enough money for. Because
23 I would rather -- the whole -- my whole
24 approach to this is, I would rather they do

1 this first with the monies that they already
2 have. Figure out solutions, figure out, you
3 know, alternatives and reserve -- from my
4 perspective, I'd rather reserve the ability to
5 come back and supplement. Make sure we're
6 not, you know, just adding to the general
7 budget. So if we're going to approve that
8 request based on this response, I would be
9 against -- against this request.

10 COMMISSIONER CAMERON: And I, you
11 know, just looking at the guidelines, we did
12 approve the guidelines, either to determine
13 how to achieve further benefits from a
14 facility, or avoid or minimize any adverse
15 impacts. I agree with staff, that this does
16 fit into the guidelines. I think it's
17 important that we're clear. We give
18 guidelines, people respond to those
19 guidelines. And I think changing -- and I
20 would see this as a change to the guidelines.
21 I think it fits. I think it's reasonable.
22 They did give us an explanation as to how it
23 differs so I'm comfortable approving this.

24 CHAIRMAN CROSBY: Others?

1 COMMISSIONER MACDONALD: I'm
2 comfortable approving it as well. And
3 consistent with what Commissioner Cameron just
4 said, that -- but, you know, taking a step
5 beyond. Number one, we have guidelines that
6 were promulgated, or at least approved by the
7 Commission, and then we've had a disciplined
8 review process that begins with the
9 composition of a review team that's comprised
10 of, you know, five senior members of the staff
11 of the Commission. And without going through
12 all of the subsequent steps, but I can outline
13 them, rather, as eight that followed all of
14 these -- all of these steps coming --

15 CHAIRMAN CROSBY: Excuse me. If I
16 could have a quick recess.

17 COMMISSIONER ZUNIGA: We're in
18 recess for a minute.

19
20 (A recess was taken)

21
22 CHAIRMAN CROSBY: The indication is
23 -- the indication is that, that legislation
24 will be signed. So we will act accordingly

1 and let things continue as they are. You
2 might want to get word to Alex. Okay. Sorry.
3 We interrupted somebody in the middle --

4 COMMISSIONER MACDONALD: Me. You
5 mean, you weren't listening? I was just at
6 the therefore part. Without, you know,
7 reciting all the different steps, in my mind,
8 it's a very, very impressive process, and we
9 have staff for a reason. And unless there's
10 something very clear that would lead me to
11 have an independent -- independently-based
12 disagreement with them, I'm totally
13 comfortable with the process and the substance
14 of the recommendation.

15 CHAIRMAN CROSBY: Anybody else? Do
16 I have a motion?

17 COMMISSIONER CAMERON: I move that
18 we approve and accept Malden's request for
19 assistance from the 2016 Community Mitigation
20 Fund.

21 CHAIRMAN CROSBY: Second?

22 COMMISSIONER MACDONALD: Second.

23 CHAIRMAN CROSBY: Further
24 discussion? I'm sympathetic to

1 Commissioner Zuniga's point, but I think the
2 bottom line, I'm okay with going ahead. All
3 in favor?

4 COMMISSIONER CAMERON: Aye.

5 COMMISSIONER MACDONALD: Aye.

6 CHAIRMAN CROSBY: Aye.

7 COMMISSIONER STEBBINS: Aye.

8 CHAIRMAN CROSBY: Opposed?

9 COMMISSIONER ZUNIGA: No.

10 CHAIRMAN CROSBY: All right. Four
11 to one, Commissioner Zuniga objecting. Next
12 item?

13 MR. ZIEMBA: Thank you,
14 Commissioners. Now, on to the final category.
15 Specific impact funding. Our guidelines
16 specify that funding is available for specific
17 impacts that have occurred or are occurring by
18 February 1st.

19 Earlier this year, the Commission
20 approved \$350,000 in funding for Springfield,
21 to help preserve Springfield's important
22 historical resources. That was matched by
23 \$350,000 by MGM. The remaining specific
24 impact applications, we have one from the

1 Hampden County Sheriff's Department, and we
2 have one from the City of Springfield relative
3 to Caring Health.

4 In regard to the Hampden County
5 Sheriff's Department. We have a pending
6 application from the Hampden County Sheriff's
7 Department for assistance with its relocation
8 of the acclaimed Western Mass Correctional
9 Alcohol Center. This center has provided a
10 regional benefit providing rehabilitative
11 benefit for, approximately, 17,000 persons
12 since 1985 for the five western counties.

13 I won't -- will not go into too much
14 depth about this application. It has been an
15 issue reviewed by the Commission for over a
16 year-and-a-half. This 2016 application
17 replaces the 2015 application by the Sheriff.
18 The application requests half of the 2015
19 application, reflecting a reduction in costs,
20 and a reduction of the scope of the project
21 and further efforts by the sheriff to address
22 such costs.

23 As this is an extremely important
24 regional governmental facility that was

1 displaced within the actual site of the
2 planned casino, it was evicted, and because
3 future important services are potentially in
4 jeopardy without such funding, we recommend
5 that the Commission fund the first year of the
6 lease assistance, and specify that the
7 Commission plans to commit no more than
8 \$2 million over the lifetime of this lease.

9 Approximately, \$1 million of the
10 \$2 million would be needed during our
11 more-constrained fiscal period before the
12 licensees generate gaming taxes, which would
13 replenish the fund. But we recommend the
14 funding for the first year. And that the --
15 the Sheriff's department would need to reapply
16 each year for subsequent lease assistance.

17 In that first year, some unknowns
18 will become more known. In that first year,
19 there is -- there is an election of the
20 Sheriff in western Mass, in that county, that
21 may have an important -- may be important to
22 the future of the center. In addition, we'll
23 take a look at the fiscal situation of the
24 Sheriff's department.

1 Right now, if you take a look at
2 some of the materials that they've submitted,
3 they're not in a tremendous situation, given
4 the budgetary constraints and the constraints
5 facing all of the Commonwealth. But our
6 recommendation that we be -- we would fund
7 that first year's portion of the -- of the
8 lease assistance, and they would reapply in
9 the future.

10 COMMISSIONER ZUNIGA: So do they
11 have a lease in their proposed city,
12 currently?

13 MR. ZIEMBA: They do.

14 COMMISSIONER ZUNIGA: And how much
15 is that lease for?

16 MR. ZIEMBA: So the total amount of
17 the lease is -- Derek can help me with all the
18 numbers but it's \$1 million --

19 MR. LENNON: It's 1.287 per year.

20 MR. ZIEMBA: Exclusive of utilities.

21 MR. LENNON: Exclusive of utilities.
22 So they're looking for, approximately, 400,000
23 from us. Prior to signing this lease, their
24 cost includes utilities worth \$660,000. So

1 they've almost doubled. They're finding a lot
2 of resources in-house, and they're asking for
3 supplemental for it.

4 COMMISSIONER ZUNIGA: What are they
5 going to do to fund the additional, because
6 400,000 doesn't get them to 1.2 --

7 MR. LENNON: Correct.

8 COMMISSIONER ZUNIGA: -- 1.287?

9 MR. LENNON: So they're currently
10 working with A and F to try and get a
11 supplemental. They're also pulling money from
12 other programs within their department.
13 They're waiving -- their conference committee
14 report came out \$3.8 million lower than what
15 they looked for, for maintenance. So they are
16 prioritizing this program by keeping it open
17 and looking for a small assistance from us in
18 that regard.

19 MR. ZIEMBA: This is a reminder.
20 When we first were reviewing this application,
21 what we tried to do is, we tried to reach out
22 to the state to see what additional assistance
23 they could provide, and that we would be part
24 of the overall mix. We were unsuccessful,

1 and, indeed, it reflected the fiscal condition
2 of the Commonwealth at the time, of having
3 some sort of negotiated settlement of what we
4 would pay versus what they would pay.

5 But I think that they -- that the
6 new application, which has been reduced by
7 \$2 million, does reflect a reasonable amount
8 that -- that we would be able to pay, and it
9 probably is a much better situation than we
10 would have been under the 2015, even if the
11 state was able to contribute more.

12 COMMISSIONER ZUNIGA: And are they
13 already in this place?

14 MR. ZIEMBA: They'll be in this
15 place as of November 1st. And our
16 recommendation is that the first year's
17 assistance, it takes into the account the
18 November 1st opening date, so that's why we
19 recommend \$280,000 over -- over the first
20 year, which is, basically, 7/12ths of the
21 400,000 request.

22 COMMISSIONER ZUNIGA: And you're --
23 you're recommending anything -- everything on
24 a yearly basis, but what is the likelihood

1 that anything changes next year?

2 MR. ZIEMBA: So what I'm also
3 recommending, is that we also include, in our
4 grant documents, that we will pay no more than
5 \$2 million over the lifetime of their request,
6 over the five years worth of request, five
7 calendar years. And that, in our grant
8 documents, what we will do is, we will request
9 them to provide us an annual report of all the
10 activities that they've made, in order to try
11 to get other sources of funds so that they
12 continue their operations. It is not
13 anticipated that we would pay, after our
14 period of -- period of assistance is over. So
15 there will be a cliff, at some point, unless
16 the Commonwealth is in a better fiscal
17 position to pay for these services.

18 COMMISSIONER ZUNIGA: And I'm
19 worried about that prospect, which is five
20 years away, I suppose, but, you know, I don't
21 know how that cuts -- now their current --
22 their space, the new space --

23 MR. ZIEMBA: Yes.

24 COMMISSIONER ZUNIGA: It has less

1 square footage than they currently have -- or
2 used to have, rather?

3 MR. ZIEMBA: Well, they eliminated
4 the use, which is an auditorium space.
5 They're converting a couple of basement spaces
6 to an area where all the persons receiving
7 services can be clean. And it's been a very
8 important part of their program, that they
9 originally wanted to enhance with the
10 auditorium, but due to monetary constraints, I
11 believe that they determined that they could
12 scale that back and still provide the same
13 type of services.

14 COMMISSIONER ZUNIGA: And remind me,
15 there was at least one prior options where
16 there was a need for some tenant improvements
17 on the new space. Is that something that's
18 still part of this calculation?

19 MR. ZIEMBA: They're doing all of
20 those improvements now.

21 COMMISSIONER ZUNIGA: But who's --
22 what monies are paying for that? They also
23 could do some of it themselves.

24 MR. ZIEMBA: Yeah, but the -- the

1 new landlord is making all those improvements
2 and that lease --

3 COMMISSIONER ZUNIGA: So it's
4 incorporated in the lease -- in the lease
5 amounts?

6 MR. ZIEMBA: Yep.

7 CHAIRMAN CROSBY: Go ahead.

8 COMMISSIONER CAMERON: Again, I
9 agree with staff's recommendation. I remember
10 hearing about this program, vital program.
11 And, frankly, we need more of them. And I
12 think it is a reasonable request, the 400,000
13 per year, so I'm comfortable approving, after
14 looking at all of the work that's been done on
15 this.

16 COMMISSIONER ZUNIGA: But the
17 recommendation is to approve 280,000?

18 MR. ZIEMBA: Yes. Included in the
19 memo, there's a number of other provisions
20 that we will include in the grant documents,
21 such as no more than \$2 million over the
22 lifetime of that. There's other provisions
23 included in the --

24 CHAIRMAN CROSBY: 280.

1 MR. ZIEMBA: Right. In the memo.

2 COMMISSIONER CAMERON: Got it.

3 COMMISSIONER ZUNIGA: That's because
4 the lease -- that's because the lease --

5 COMMISSIONER CAMERON: Yeah.
6 That's -- so --

7 COMMISSIONER ZUNIGA: The lease --
8 lease year begins in November, which is
9 prorated.

10 COMMISSIONER CAMERON: Right, which
11 is prorated, yeah.

12 COMMISSIONER ZUNIGA: It's
13 proration.

14 COMMISSIONER CAMERON: So that's
15 where I got that number from. Correct. It is
16 a -- it is \$280 --

17 MR. ZIEMBA: And just as a
18 clarifier, what we're now using is, we're now
19 using is, we're using the fiscal year for the
20 purposes of our grants. We are very hopeful
21 that we'll be able to make awards for the FY
22 '17 -- excuse me, the 2017 grant fund,
23 probably somewhere in May, or earlier, so that
24 we would enable people to plan for the full --

1 full fiscal year. Given a lot of the other
2 stuff what was happening at the Commission
3 this year, we just weren't in that position.
4 But it's now reflecting a July to July date,
5 so November through July.

6 COMMISSIONER STEBBINS: John, just
7 two quick questions. MGMs contribution to
8 this whole relocation effort, obviously, they
9 were very involved in the extensive relocation
10 and the mission.

11 MR. ZIEMBA: Yeah. Pursuant to the
12 Host Community Agreement, there was a
13 relocation payment.

14 COMMISSIONER STEBBINS: Okay.

15 MR. ZIEMBA: That went to -- that
16 was there available for the Sheriff's
17 department.

18 COMMISSIONER STEBBINS: Okay. And
19 in your grant agreement, some type of
20 contingency, obviously, if this location
21 doesn't continue to operate going forward,
22 that money doesn't come attached to wherever
23 the new alcohol center may or may not be?

24 MR. ZIEMBA: That's right. So we

1 want to reserve our ability to eliminate that
2 funding, if something happens to that
3 facility.

4 CHAIRMAN CROSBY: Do I have further
5 discussion or a motion?

6 COMMISSIONER STEBBINS: Mr. Chair, I
7 would move that the Commission approve a total
8 of \$280,000 for FY '17 lease cost for the
9 Western Mass Correctional Alcohol --
10 Correctional Addiction Center as presented in
11 the packet.

12 CHAIRMAN CROSBY: Second?

13 COMMISSIONER MACDONALD: Second.

14 CHAIRMAN CROSBY: All in favor?

15 COMMISSIONER MACDONALD: Aye.

16 COMMISSIONER STEBBINS: Aye.

17 COMMISSIONER CAMERON: Aye.

18 COMMISSIONER ZUNIGA: Aye.

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

21 MR. ZIEMBA: Thank you.

22 Commissioners, Springfield submitted an
23 application of \$275,000 to assist Caring
24 Health Center address additional costs as a

1 result of construction predominantly related
2 to parking. In your packet, there's an
3 extensive summary of issues that remain
4 regarding the proposal.

5 The remaining concerns relate to
6 whether or not funding may be awarded to --
7 due to limitations under the Massachusetts
8 Constitution, which prohibit public money or
9 property from aiding nonpublic institutions.
10 We go into some depth, in the memorandum, how
11 this constitutional control applies to
12 components of Springfield's application.

13 Springfield provided its significant
14 argument why it believes it can provide
15 funding to Caring Health upon any award.
16 Despite Springfield's argument, we remain
17 concerned that this request is still not in
18 keeping with the Commission's guidance on
19 funding for nonpublic entities.

20 Our 2016 guidelines included
21 significant guide -- guidance on how the
22 Commission would evaluate such requests. At
23 the heart of our guidance was the concept that
24 a partnership between the licensee, here MGM

1 Springfield, the community here, Springfield,
2 and the Gaming Commission, is necessary to
3 address such issues.

4 In this regard, our recommendation
5 is that the Commission requires staff to work
6 with Springfield and MGM to determine how best
7 to address both the short-term and longer-term
8 parking and construction issues that may
9 impact this section of the city on Main Street
10 facing the MGM facility.

11 Caring Health provided significant
12 detail regarding its concerns. Both we, the
13 city, and MGM have been working with
14 Caring Health over the past year on such
15 concerns. However, as is evident through
16 Springfield's application, concerns remain,
17 and will remain, especially as construction
18 further ramps up and construction and employee
19 parking is being planned in the area. We note
20 one area in Springfield's application that
21 could potentially pass constitutional muster
22 with comfort, and provide relief to
23 parking-related issues, namely the valet
24 program.

1 Therefore, we have -- we have
2 included a place marker recommendation of a
3 \$150,000 for this purpose. However, we
4 believe that further work needs to be done on
5 the application, and on MGM's plans in the
6 area.

7 Given this, we think that the
8 Commission would benefit from these further
9 discussions before making a final
10 recommendation. MGM is due back before the
11 Commission in early September. We think we
12 should come back not later than that date. In
13 the interim, we'll work with the city and MGM
14 on immediate issues. Hopefully, in
15 partnership, we, the City of Springfield and
16 MGM can continue to help address the issues
17 that have been identified in this area of
18 Springfield, including concerns raised by
19 Caring Health.

20 COMMISSIONER STEBBINS: John, how
21 did you arrive at the number of 150 as a
22 recommendation?

23 MR. ZIEMBA: So Springfield's
24 application is broken down into four different

1 areas. They had 140,000 -- 143,042 for a
2 valet parking pilot, 66,050 for net increased
3 cost replacement of off-street parking, 47,983
4 for additional staff with contractor cost, due
5 to time expended on utility disruptions,
6 curing new parking resources, and managing
7 problems related to parking delays in patient
8 arrival due to traffic congestion, and not
9 parking. And \$17,925 for administrative cost
10 for the City of Springfield to administer a
11 Mass Gaming Commission award.

12 In regard to that final item, our
13 guidelines do not call for administrative
14 expenses in administering the grant. And in
15 Springfield's response it stated that this is
16 very typical for grants that it receives.
17 Therefore, that's why they included this. But
18 in recognition of the Commission's requirement
19 of contributions from the City of Springfield,
20 that they, if necessary, would waive that
21 \$17,925.

22 So the 150,000 references the
23 143,000 for a valet parking pilot program, but
24 we have it as a place marker because one of

1 the -- one of the things that we requested, or
2 that we asked the City of Springfield about,
3 would be, is there a way that is more
4 comforting in relation to meeting a public
5 purpose within the area, so that we could use
6 these funds to provide maximum public benefit
7 and address the issues?

8 The 143, which represents the valet
9 program, Springfield has since added another
10 entity, the Springfield Health and Human
11 Services Department that could also take
12 advantage of the valet department. So there
13 could be some additional expenses there. But
14 I think what we're including as a place
15 marker, is that, we do recognize that,
16 depending on the conversations that go back
17 and forth between us and the city, and MGM,
18 that there might be additional need for -- for
19 funding over and above the valet program,
20 while we're taking a look at the other
21 categories and try to solve this issue more
22 comprehensively than the way it was put forth
23 in this application.

24 COMMISSIONER ZUNIGA: Well, but at

1 issue here is the public purpose, right?

2 MR. ZIEMBA: That's right.

3 COMMISSIONER ZUNIGA: What -- the
4 rub here is that, using tax monies for,
5 ultimately, a private entity brings up
6 constitutional issues; is that how you
7 characterize this?

8 MR. ZIEMBA: You know,
9 constitutional issues and issues within all
10 grants. A person, under the statute, we -- we
11 have to meet a public purpose, when we make
12 our grant allocations. City of Springfield,
13 when it provides funding, it also has to do
14 the same. City of Springfield, the
15 significant argument that they raise is that
16 they have a grant with Caring Health, and that
17 the additional funding from us would enable
18 Caring Health to complete its mission.

19 COMMISSIONER ZUNIGA: Why is it not
20 able to complete its mission without that
21 additional money?

22 MR. ZIEMBA: Well, the application
23 from Springfield noted that they're having
24 very significant parking issues that are

1 impacting their business. They've had parking
2 issues. They've had some utility issues. And
3 their impact in the ability of Caring to
4 attract the patients and the -- and the
5 customers that they normally take advantage
6 of -- or, excuse me, that they normally take
7 care of, and that, that's impacting their
8 overall ability to function.

9 COMMISSIONER ZUNIGA: But if the
10 cities merely serves as a conduit, isn't that
11 just bypassing the question?

12 MR. ZIEMBA: So City of Springfield,
13 indeed, it's not paying for the direct
14 services themselves, but they do have a grant
15 that pays for specific services that are
16 related to Caring's mission. So the city did
17 pay for those services, and they're asking for
18 this additional assistance from us. And the
19 constitutional argument that they're raising
20 is that the additional assistance from us
21 would serve the public purpose of enabling
22 Caring to continue its mission.

23 COMMISSIONER ZUNIGA: But what if it
24 was a broader, as in the public purpose; not

1 just Caring but other? You mention this in
2 your remarks quickly because you were reading
3 them, but that's -- that's the center of your
4 recommendation, come back and redefine --
5 clarify who might be benefiting --

6 MR. ZIEMBA: That's correct.

7 COMMISSIONER ZUNIGA: -- besides
8 just Caring, but who might be benefiting from
9 this, potentially, larger number of people.

10 MR. ZIEMBA: Right. Well we --
11 Springfield, we believe, are in this best
12 position to know what is needed for its
13 citizens within a particular area. But we've
14 noted, throughout the Springfield City Council
15 proceedings, recently, with a number of other
16 businesses in the area, that there are parking
17 concerns up and down that Main Street area
18 that continue to be an issue that needs to be
19 addressed. And with the new influx with a lot
20 of new construction workers, that's going to
21 provide a lot of benefit to some of the area
22 businesses. You'll have people buy -- you
23 know, buying sandwiches, et cetera, that may
24 really help out some of those local

1 businesses.

2 But what we think we need to do is,
3 we need to take a look at it during this gap
4 period, between now and the opening of the
5 garage that is in the middle of construction.
6 And between now and the availability of
7 additional parking from the viaduct project
8 that -- that will provide an influx of new
9 parking in the area. And we just need to take
10 a look at a little bit more comprehensively.

11 I know MGM and City of Springfield
12 has been working very significantly with all
13 of the entities. We've been working with
14 Caring Health, MGM's been working with
15 Caring Health and some of the other local
16 businesses on -- on how do we provide
17 assistance? Either through an additional lot,
18 an additional lot with lighting, as has been
19 offered in the past.

20 We want to take a look at and see,
21 what is the best approach that we can help out
22 these businesses? Are there ways that we can
23 market this area? And marketing for a wider
24 area would be less of a concern than dollars

1 for one specific entity, from a constitutional
2 matter. But I think, what we're basically
3 saying now, is that, we would like to look at,
4 a little more comprehensively, than we've
5 been -- been able to do from this grant
6 application.

7 One of the constraints that we have
8 is that, when we're reviewing all of these
9 applications, we try to review them in a
10 manner that is similar. So we try to review
11 Springfield in a manner that's similar to
12 Malden, in a manner that's similar to Everett,
13 one of our communities.

14 But this particular grant, we
15 followed the same process. We asked
16 Springfield some questions, they provided
17 answers to us. But at the end of day, I think
18 that we still remain -- that some questions
19 remain on how best to accomplish the mission
20 work we're trying to -- trying to do.

21 COMMISSIONER ZUNIGA: On this
22 particular request?

23 MR. ZIEMBA: On this particular
24 request.

1 COMMISSIONER ZUNIGA: So the
2 recommendation is to come back, at some point,
3 you mentioned September, maybe?

4 MR. ZIEMBA: Again, I wouldn't
5 recommend anything later -- what's difficult
6 is that Caring and a number of other
7 businesses are experiencing difficulties right
8 now, because there is construction on both --
9 both sides of the street. On the MGM side of
10 the street, that area has been cordoned off
11 for quite some time. And on the other side,
12 opposite of MGM, there is a number of cones
13 because they're doing some utility work right
14 now. So for the next short period of time --

15 COMMISSIONER ZUNIGA: Is that also
16 MGM-related?

17 MR. ZIEMBA: Yep. Yeah. So -- so
18 we don't know how long that may last. It
19 could be six to eight weeks.

20 CHAIRMAN CROSBY: John, there's a
21 representative, I think, of Caring behind you,
22 who would like to speak; do you want to have
23 her come up and --

24 MR. ZIEMBA: I don't think that

1 that's really been part of our process to
2 date.

3 CHAIRMAN CROSBY: Okay. Sorry.
4 You're right. The structure that I remember
5 from our last discussion, was that there were
6 two different issues. One was the public
7 purpose. And I -- it was the memory that we
8 had pretty well figured out that we thought we
9 were -- had dealt with the public purpose
10 issue pretty well.

11 The remain -- the second issue,
12 which was the equity issue, you know, treating
13 everybody up and down that affected the
14 corridor, equitably, and that we have not yet
15 gotten our arms around. And it's that that --
16 from my view, where I think there needs to be
17 more work to figure out, you know -- and maybe
18 you can make distinctions between Caring and
19 other facilities. I don't know if that's what
20 you guys -- to make a recommendation, but we
21 did make the point that we ought to think
22 about this, in terms of equity across
23 everybody who is affected.

24 COMMISSIONER ZUNIGA: I actually saw

1 them a little bit more related than that. As
2 in, part of our -- the mission of looking at
3 the public purpose implicitly included this
4 notion of equity across these particular
5 entities. So it was not something --

6 MR. LENNON: Commissioner, to put it
7 as simple as I could put it when we were
8 thinking about this, is there a greater public
9 benefit from opening it up to more than just
10 Caring, and sitting down with the city and
11 trying to figure that out.

12 So I think what we're looking for is
13 an approval of 150,000. Let us sit with the
14 city, come back with a reasonable expect --
15 reasonable recommendation to you. But if you
16 approve it now, it allows us, with a short
17 window, to get what John's talking about, the
18 short window of time where they're -- they're
19 experiencing immediate problems. Get some of
20 that covered.

21 CHAIRMAN CROSBY: So you're --
22 you're asking us to approve the 150 and -- but
23 its utilization is contingent upon you coming
24 to a satisfactory conclusion. And if the

1 staff decides that it's okay to spend it, it
2 would then be spent?

3 MR. ZIEMBA: I guess, the way that I
4 was looking was that 150 was a place marker.
5 It could even be, potentially, more than that
6 150.

7 CHAIRMAN CROSBY: Yep.

8 MR. ZIEMBA: We could not do
9 anything more than the -- the total amount of
10 the grant, which was the 275. But -- and what
11 we do this year versus future years -- the one
12 thing with our mitigation grant program, is
13 that we can do reimbursements in future years.

14 So when we work with the city of
15 Springfield and MGM, what is the best
16 assistance that can help to solve the problem
17 for the -- for the area? And so, the 150
18 recognized that the valet program seemed to be
19 a very legitimate purpose --

20 CHAIRMAN CROSBY: Right.

21 MR. ZIEMBA: -- in comparison to
22 other things.

23 CHAIRMAN CROSBY: But are -- I just
24 need to know. I'm not sure what you're asking

1 for. Are you asking for the authority to
2 expend --

3 MR. ZIEMBA: No.

4 CHAIRMAN CROSBY: -- start expending
5 the 150?

6 MR. ZIEMBA: Unless the Commission
7 sought that the 150 for that purpose should be
8 spent in any regard, I think what we were
9 thinking is that we would take a look at what
10 is the best use for all of these? And maybe
11 the valet program is the best way to solve the
12 problem.

13 CHAIRMAN CROSBY: But you
14 wouldn't -- then you'd then come back to us at
15 the September meeting --

16 MR. ZIEMBA: We'd have to come back
17 to you.

18 CHAIRMAN CROSBY: -- and get the
19 authorization?

20 MR. ZIEMBA: Correct.

21 CHAIRMAN CROSBY: So what -- I
22 don't -- what's the point of having the 150 as
23 a placeholder, if you're not going to use it
24 until you come back with the final plan?

1 MR. ZIEMBA: If the Commission
2 wanted to authorize, at least, that for -- for
3 these conversations, it could do so. The
4 place marker from me to you, was that when we
5 take a look at all of these requests, we feel
6 a lot more comfortable with the valet program
7 versus some of the other things in the
8 application, such as paying for employee
9 parking. Those are the types of things that
10 we have to hammer out. Is there a way to
11 accomplish a parking purpose without direct
12 payments?

13 COMMISSIONER MACDONALD: Just
14 further on that, John, is there any reason not
15 to do it? I mean, if -- if the review team
16 has identified this as a -- as an
17 appropriate -- this meaning the valet program,
18 as definitely an appropriate response to an
19 existing problem, existing, meaning, today
20 because I understand that this is a present
21 problem, why not -- why not ask us to approve
22 the expenditure at least --

23 MR. ZIEMBA: The only why not is
24 that there might be other possibilities out

1 there. So say -- and this is not a reasonable
2 number. Let's say that that same \$150,000 we
3 could buy a public parking lot and make that
4 available for the whole neighborhood, we might
5 choose to buy that public parking lot. You're
6 not going to be able to do that with \$150,000,
7 but there could be some possibilities out
8 there that might be a better expenditure.

9 COMMISSIONER MACDONALD: So is it
10 the review team's recommendation that we
11 not -- we not authorize the current drawdown
12 on this placeholder, or a place marker on
13 that?

14 MR. ZIEMBA: I think, if the
15 Commission so determines that it wants to
16 authorize that \$150,000, I think that would be
17 perfectly appropriate. We could come back
18 to -- to the Commission with whatever use
19 there is of that. We can leave it to the
20 discretion of the review team, in concert with
21 the executive director, on how best to use
22 those. If, indeed, in these conversations
23 we're going to have in the near term, it's
24 quite evident that there's nothing that we're

1 going to be able to do with that short of
2 money, or even up to the 275 of how to solve
3 this problem, then -- then we would have to
4 report back to you and say that we would not
5 use that 150 in the interim period. But that
6 would provide some flexibility to the team, to
7 try to determine what we can do, especially,
8 as the six- to eight-week period of
9 construction is out there. So we could -- it
10 could --

11 COMMISSIONER MACDONALD: Having gone
12 out on site just a couple of weeks ago, this
13 is a very, very active site. And that the
14 disruption to this very important institution
15 for the Springfield community being apparently
16 clear, I, at least, would be strongly inclined
17 to -- to give the staff the flexibility to
18 authorize the expenditure of this amount,
19 pending further consideration in our September
20 meeting.

21 CHAIRMAN CROSBY: On a pilot program
22 -- on a valet program?

23 COMMISSIONER MACDONALD: Yes.

24 CHAIRMAN CROSBY: Not anything else?

1 COMMISSIONER MACDONALD: Right.

2 CHAIRMAN CROSBY: Yeah, right.

3 COMMISSIONER MACDONALD: As I
4 understand it, that's what the placeholder or,
5 you know, place marker fund is for, parking --
6 I mean, for -- for a valet.

7 CHAIRMAN CROSBY: Yeah. For valet,
8 yeah. A pilot valet program is what it's
9 called.

10 COMMISSIONER ZUNIGA: But you're
11 also talking about alternatives.

12 MR. ZIEMBA: Yes.

13 COMMISSIONER ZUNIGA: Like,
14 potentially, you know, identifying and renting
15 a parking lot that serves a greater --
16 broader, rather, maybe not greater, broader
17 public purpose.

18 MR. ZIEMBA: Yes.

19 COMMISSIONER ZUNIGA: Which, in my
20 mind, would be a lot more comparable to get
21 through this constitutionality question,
22 because there could be -- and we talked a lot
23 about precedent this morning, you know what's
24 to prevent the next private entity from doing

1 some kind of claim on business interruption?
2 Notwithstanding however many construction
3 workers there may be, or the obvious, you
4 know, intended benefits from -- of -- you
5 know, of the vitalization of that stretch of
6 streets.

7 It occurs to me that, you know, what
8 I hear you -- what I seem to be hearing
9 from -- from the discussion, is we need to
10 think of alternatives. And, at the same time,
11 send the signal that we recognize this is an
12 issue, and it's a -- it's a pressing issue,
13 but it would be a lot more comfortable for
14 everybody to -- to think about this notion of
15 public purpose as broadly as possible, in as
16 expeditious manner as we could.

17 So I -- I mean, I agree with the
18 recommendation. I think it's -- so long as we
19 can get a better idea of what alternatives may
20 have been studied and discarded. And,
21 ultimately, you know, it's the vital program
22 that, sort of, stands on its own, you know, we
23 can come back in September and do it. But if
24 I hear you in your analysis, maybe there's

1 other alternatives that could also -- that at
2 least need to be considered, and could also
3 serve -- help us with a notion of a broader
4 public purpose.

5 MR. ZIEMBA: And one thing I'm
6 thinking about, just now in -- in response to
7 that, if we did authorize a valet program just
8 for the interim -- I'm not sure that,
9 actually, Springfield could get it up and
10 running in the window that we're talking
11 about, that six to eight weeks. But we could
12 retain, in our grant documents, that if we
13 came up with something, an idea that was
14 broader and served more of a public purpose,
15 after -- after consideration with the
16 Commission, we could repurpose those dollars
17 in any sort of grant contract.

18 So if we could -- if we approved
19 dollars to get things moving in the interim
20 and come back to you, there's -- there's
21 meetings next week, there's meetings in two
22 weeks, there's -- hopefully, by September
23 we'll have a much better handle on, is there a
24 better alternative? We could bring up the

1 dollars subject to the discretion that, if we
2 come up with a better alternative in that
3 period of time, then we bring that back to the
4 Commission.

5 CHAIRMAN CROSBY: Right. I would --
6 I think I'm -- I agree with Commissioner
7 Macdonald, that what I think would make sense
8 would be to authorize the staff to commit and
9 expend, if it came to that, that 150 for the
10 purpose of a pilot valet program, up to that
11 150, if it decides, if the staff decides that
12 that is the best use of that, and that it
13 passes constitutional muster.

14 If you don't have time between now
15 and September to get to that conclusion, fine.
16 But I -- but it is a real pressing problem.
17 We saw the picture of the front door of Caring
18 with a big truck in front of it with the
19 yellow cones. And there are real people who
20 are trying to get in and out of that facility,
21 you know.

22 And if you all decide that that's an
23 appropriate use of it, and it's
24 constitutionally acceptable, then I would -- I

1 would vote to give you the authority to go
2 ahead and spend it at your leisure, without
3 getting further approval from us. And you'll
4 come back with an overall view, in time, when
5 you're ready. It just gives you the tool to
6 move quickly, if you decide it's the right
7 thing to do.

8 MR. ZIEMBA: And one thing I'll
9 note, because, obviously, the City of
10 Springfield and MGM, they've been great in
11 working with us in the past. And we've had
12 conversations with them about whatever happens
13 today, that we would reach out to them and try
14 to see what we could do regarding these
15 longer-term and midterm issues. And I think
16 that they've all been very -- very supportive
17 of working, regardless of what happens on the
18 grant.

19 COMMISSIONER MACDONALD: If I could
20 add --

21 COMMISSIONER STEBBINS: No, go
22 ahead.

23 COMMISSIONER MACDONALD: If I could
24 add just one thing. On the -- on the public

1 purpose issue, while I'm certainly not an
2 authority on this, I have -- I have reviewed
3 some of the Supreme Court cases on it, and
4 it's not a bright line test that's involved
5 here. It's a balancing test, where -- where
6 one is invited to analyze the primary impact
7 on the secondary -- secondary benefits.

8 And one case that illustrates this
9 is that there was a program to underwrite the
10 cost of tuition to private schools for
11 providing special education -- special
12 education benefits. Well, it's a payment to a
13 private school, but the SJC said that, under
14 the circumstances, they were actually
15 promoting a public purpose.

16 And I was -- and I was impressed by
17 the -- an e-mail that was distributed to us
18 from the city solicitor, which, in turn,
19 incorporated an e-mail from -- from a
20 Jasmine Naylor. Is that somebody here? Okay.
21 That's the lady in the -- who is in the room
22 here, which, in great detail, identifies
23 services being provided by the Caring Health
24 Center that aren't specifically underwritten

1 by specific grants from the City of
2 Springfield, both indisputably and
3 unquestionably providing a very substantial
4 public purpose. Just want to make a record of
5 that being in the record.

6 COMMISSIONER STEBBINS: John, I
7 would only -- you know, it's funny we talk
8 about the horseracing rules being a mess.
9 Traffic issues right now in downtown
10 Springfield are a mess by the construction,
11 MGM construction, City of Springfield probably
12 doing long overdue water main work, which I
13 think is what -- it's the east side of
14 Main Street. But, you know, we've heard from
15 MGM. We've read stories, as you mentioned, of
16 McCaffrey's and other businesses that are
17 struggling through traffic issues and its
18 impact.

19 There were -- I know right next door
20 to the Caring Health Center is Square One,
21 which also offers a number of programs to the
22 community, probably facing the same issues.
23 And I know everybody's scrambling.

24 I know even the -- as I read the --

1 the valet lot is not a long-term solution to
2 the valet service. You know, it's a -- it's a
3 lot that is being made available up until
4 about six months before the garage opens. And
5 there are other pieces of property that may be
6 underutilized, or might be -- yeah,
7 underutilized or -- MGM is certainly looking
8 around for where the hard-hats are going to
9 park.

10 So finding the solution that may
11 help Caring Health, may help Square One, may
12 help any of the other programs, and trying to
13 incorporate that in what the valet service, or
14 the valet pilot may be able to do immediately,
15 I think, may get us back across -- over the
16 hurdle of the question of, is this just
17 benefiting one entity, in the constitutional
18 question that you raise.

19 But to your point, I think a
20 longer-term plan needs to be discussed,
21 planned. City of Springfield needs to be at
22 the table, MGM needs to be at the table.
23 Understanding Springfield has a parking
24 authority other communities don't have, that

1 should also be part of the plan. They have a
2 business improvement district, that should be
3 part of the plan.

4 But, you know, I think I agree with
5 my colleagues, in terms of you giving you and
6 your team some deference in figuring out a
7 best, immediate solution. But at the same
8 time, understanding the solution may be at the
9 higher dollar value, as you've eluded to, and
10 understanding that this may not just be a
11 one-year application challenge. It may come
12 back with a new look and a new feel to it next
13 year, depending on the circumstances.

14 CHAIRMAN CROSBY: Anything else?
15 Commissioner Stebbins, do you have a motion?

16 COMMISSIONER STEBBINS: Mr. Chair, I
17 would move -- I would move that the -- I'd
18 move that the Commission approve an initial
19 amount up to \$150,000, subject to staff review
20 and recommendations, as to implementing the
21 pilot valet program, and that the staff work
22 with the City of the Springfield, MGM-related
23 businesses, any other local government
24 authorities, to come back with a more complete

1 plan, hopefully, within two months, and that
2 initial -- additional funding be discussed at
3 that point. I think that covers --

4 CHAIRMAN CROSBY: It's your
5 intention that the staff would have the
6 authority to commit or expend up to \$150,000
7 for the pilot program, if it chose, without
8 coming back for further authorization? That's
9 your intention?

10 MR. ZIEMBA: (Commissioner Zuniga
11 nodding up and down)

12 COMMISSIONER CAMERON: Second.

13 CHAIRMAN CROSBY: Further
14 discussion? All in favor? Aye.

15 COMMISSIONER STEBBINS: Aye.

16 CHAIRMAN CROSBY: Aye.

17 COMMISSIONER CAMERON: Aye.

18 COMMISSIONER MACDONALD: Aye.

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

21 MR. ZIEMBA: Thank you,
22 Commissioners.

23 CHAIRMAN CROSBY: Thank you. Just
24 for the record, the governor did sign the

1 extension of the racing law, so simulcasting
2 and horseracing will continue for yet another
3 year, for good or ill.

4 MR. ZIEMBA: Commissioners, second
5 item on my agenda --

6 CHAIRMAN CROSBY: Thank you, folks,
7 Jasmine, and for you all, for coming out so
8 far.

9 COMMISSIONER ZUNIGA: Thank you.

10 MS. NAYLOR: Thank you.

11 MR. ZIEMBA: Commissioners, as you
12 know, that second item on my agenda is
13 relative to the status of the Gaming Policy
14 Advisory Committee.

15 Commissioners, as you know, the
16 legislation and the Expanded Gaming Act
17 created important committees to help the
18 Commission receive valuable advice as it
19 crafts its gaming-related policies,
20 specifically in regard to community
21 mitigation, the Community Mitigation Fund and
22 public safety.

23 As a -- as a recent meeting -- at a
24 recent meeting, the Commission voted to extend

1 the term of several Commission appointees to
2 subcommittees to what we call is the GPAC, the
3 Gaming Policy Advisory Committee.

4 We've been successful in having a
5 number of useful meetings in the public safety
6 subcommittee, and having them as scheduled in
7 September. However, we've had some
8 difficulties on being able to move forward in
9 our local community mitigation advisory
10 committees, our community mitigation
11 subcommittee, and the GPAC itself. We've had
12 difficulty establishing the membership of
13 those -- those committees.

14 At issue, after significant work
15 back and forth with the state ethics
16 commission, to advise committee members
17 regarding their responsibilities under the
18 state conflict-of-interest law, last year it
19 was determined that having municipal employees
20 on our advisory committees may be a violation
21 of the conflict-of-interest law, because such
22 employees would have divided loyalties.
23 Loyalties to their municipal employers in --
24 as municipal employees, and loyalties as the

1 state -- as special state employees.

2 As a result, communities had to work
3 to replace their employees with nonemployee
4 representatives from the at-large community.
5 We have not received replacement from all
6 communities. They continue to work on finding
7 those replacements.

8 While working on replacements, we
9 continue to work with the -- we continued to
10 work with the state ethics commission. This
11 corporation resulted in legislation that would
12 allow municipal employees to sit on GPAC
13 committees without violating the
14 conflict-of-interest law.

15 The legislation was sponsored by
16 Senator Flanagan, and currently is on hold in
17 the FY '17 budget conference committee,
18 section -- Senate Section 40. We were hopeful
19 that this legislation would have passed by the
20 end of the legislation -- at legislative
21 session last night. While it may take a
22 little bit to fully understand what did occur
23 last night, at least initially, it doesn't
24 appear that the legislation has passed as of

1 yet.

2 If it does pass, in likely an
3 informal session, then communities could
4 reappoint those municipal employees. And
5 those municipal employees, at least in our
6 opinion, would be able to best represent their
7 communities before our -- our -- all of our
8 committees. It may also help the GPAC itself.

9 We've been working to get additional
10 members for the GPAC. We've just been unable,
11 as of late, to have a quorum. A big obstacle
12 is that, although the Gaming Act calls for
13 appointees from the licensees to sit on the
14 GPAC, if employee of the licensees serve on
15 such purely advisory committees, those
16 licensee representatives may violate the
17 conflict-of-interest law, because, among other
18 reasons, their employer would have a financial
19 interest in the policies that are being
20 discussed.

21 The licensees, despite the best
22 efforts, have been unsuccessful to date in
23 finding someone that can adequately represent
24 their interest without running afoul the

1 conflict-of-interest law. We're going to
2 continue to work with them to get other
3 members, in the hope of having a meeting of
4 the GPAC in September, or shortly thereafter.

5 CHAIRMAN CROSBY: Okay. That's
6 unfortunate, but thank you. Anything else?

7 MR. ZIEMBA: That's the end of my
8 report.

9 CHAIRMAN CROSBY: Okay.

10 COMMISSIONER CAMERON: Thank you.

11 CHAIRMAN CROSBY: It is 12:20. We
12 have two other items that shouldn't take too
13 terribly long so why don't we take a quick
14 break, and then come back in five minutes and
15 do the last two items.

16
17 (A recess was taken)

18
19 CHAIRMAN CROSBY: All right.
20 Reconvening meeting No. 196, and we are
21 picking up the Commissioner update.

22 COMMISSIONER CAMERON: Janice.

23 CHAIRMAN CROSBY: What? Did I miss
24 something? I said Commissioners. I meant

1 administrator. Sorry. Sorry. Thank you.

2 MR. BEDROSIAN: Good morning,
3 Mr. Chair and Commissioners. Harking back to
4 your discussion on Caring Health Care, in a
5 previous employment I worked in the
6 Attorney General's office, where we
7 figuratively considered access to health care
8 in terms of cost of health care. I didn't
9 realize I'd come to a job where literal access
10 to health care would be the next issue. But I
11 will work with staff, Mr. Ziemba, on that end.
12 I do consider that public purpose, an
13 important issue, honestly, working around the
14 constraints of the law also.

15 But the last we left -- left off, on
16 the previous meeting, I think the hanging
17 chad, for lack of a better term, was my
18 review. And my memory is that General Counsel
19 Blue described two different processes to do
20 that review, and I will let her refresh your
21 memory. And I will just say I am truly
22 agnostic.

23 So whatever you choose, I will
24 participate in. But I would like to get that

1 going, then I could be in sync with, pretty
2 much, the rest of staff. Because I will tell
3 you, I think we are in good shape. Most of
4 our review process for staff here has been
5 done, and we're working through all the other
6 related issues with that.

7 MS. BLUE: So when we last met, we
8 talked about two potential options. The first
9 one was for each commissioner to make notes,
10 or use the employee evaluation form, whichever
11 they preferred, bring those notes to a
12 commission meeting, have the conversation
13 about the executive director's review, make a
14 determination on salary adjustment, if
15 applicable, and then that transcript of that
16 meeting would become his performance review
17 placed in his file. So that was the first
18 option.

19 The second option was having
20 individual commissioners give notes to me. I
21 would compile them into one document. I would
22 present them to you at a commission meeting.
23 You could discuss them at that meeting, if
24 you'd like. You could look at them and then

1 wait and discuss it at a next meeting.

2 In the interim, we have taken a
3 little more time to review a case that came
4 down about performance reviews and municipal
5 boards. The judge, in that particular case,
6 was adamant that the chairman, of at least
7 that particular municipal board, could not
8 compile the reviews and then bring it to the
9 board to be discussed.

10 So -- so we know that, that is
11 clearly a violation of the Open Meeting Law.
12 But the other two options, and I think either
13 one will work, I think probably complies, and,
14 you know, it's up to the Commission as to how
15 you want to proceed.

16 CHAIRMAN CROSBY: Go ahead.

17 COMMISSIONER CAMERON: I think the
18 second option sounds more organized, in which
19 we each prepare and turn it over to you so
20 that you can compile, and then report to all
21 of us those -- those thoughts.

22 Just my thought that coming in
23 without, you know, just our own notes might be
24 a little confusing. And this appears to be

1 organized and we can present to you those
2 thoughts, and you can organize and get back to
3 us. Just my initial thought.

4 COMMISSIONER ZUNIGA: And your
5 compilation would consist of verbatim
6 transcript in some cases, or a summarized
7 notion of the comments?

8 MS. BLUE: I just -- it would depend
9 a lot on how you provide them to me. I mean,
10 to the extent that you provide something
11 that's quotable, you know, I can put it in
12 there. I would try to set it up in an
13 organized way so that you could see how it fit
14 into each section of the employee evaluation
15 form.

16 But I would also think, too, there
17 may be situations where it doesn't fit neatly
18 into that form, and that's fine too. That's
19 something that we all grapple with, when we
20 use that form for our own employees. So we'll
21 try to get it into an organized document so
22 that, that way, you can see all of the
23 thoughts, and then you can discuss it.

24 COMMISSIONER CAMERON: And I would

1 think there would be multiple comments that
2 would be similar, so verbatim probably
3 wouldn't work, because I -- I can imagine that
4 we each -- on some items there would be the
5 same comments repeatedly. And that, maybe
6 that's reflected in that, you know, three
7 commissioners had a similar X thought,
8 whatever.

9 MS. BLUE: I think if you -- I would
10 not put them in a document, particularly, as
11 I'm thinking about it, and attribute it
12 directly to each commissioner. And so, to the
13 extent, I think Commissioner Cameron is
14 correct, if I got three of the comments, the
15 same comments from three commissioners, it
16 would be in there.

17 So it depends on how you want to
18 consider that. If you actually do want to see
19 attribution to each commissioner, it may be
20 better for you to come to a meeting with notes
21 and just, you know, discuss it.

22 CHAIRMAN CROSBY: Other thoughts?

23 COMMISSIONER MACDONALD: Catherine,
24 would there be a impediment to your attaching

1 as, basically, an appendix to your summary
2 memo, the individual evaluations by us
3 commissioners?

4 MS. BLUE: Well, if I give it to you
5 before a commission meeting, I do that, then I
6 am -- I am transmitting information between
7 you individually. And so, that would be a
8 problem under the Open Meeting Law. You know,
9 if I gave it to you at the actual meeting,
10 then that would be the first time that you
11 were going to see it, that may be different.
12 I don't know that that gives you any time to
13 think about it before the meeting. So --

14 You know, I mean, under the Open
15 Meeting Law, I can't transmit information.
16 You can't have staff transmit information from
17 one commissioner to another.

18 COMMISSIONER MACDONALD: But if the
19 individual evaluations could -- I'm just
20 thinking out loud here. Individual
21 evaluations from which you were taking your
22 summary were distributed as part of the -- as
23 part of the public meeting package?

24 CHAIRMAN CROSBY: Really,

1 theoretically, if we needed the time, we can
2 finish the performance review two weeks later.

3 MS. BLUE: Yeah. Yeah. I mean,
4 basically, you can do that. The public
5 meeting -- the package would -- we would
6 probably could not give it to you much sooner
7 than the meeting, if I'm going to attach your
8 actual notes, because I can't transmit
9 information between you prior to a public
10 meeting. So -- so in that situation, I don't
11 know that you're going to get --

12 COMMISSIONER MACDONALD: Okay. So
13 again, it's not a disclosure. The issue is
14 not the complying with the notice provisions
15 of the -- of the commission's, you know,
16 public business that's going to be disclosed,
17 I guess. I'm in favor of the second
18 alternative.

19 CHAIRMAN CROSBY: The only issue
20 that I mentioned last -- last time -- last
21 week, is, in this case, I think it's -- you
22 know, the background here is we're all feeling
23 pretty good about stuff. But, you know, if
24 there were issues here, and a more difficult

1 situation, maybe we just do one thing this
2 time, make it clear that we're not committed
3 to doing it the same way in the future. I
4 don't know if we can -- whether we can do
5 that.

6 But it -- you know, the one thing
7 that concerns me is that, in the abstract
8 theory, is it puts a filter -- it puts
9 Catherine, actually, in a -- quite a -- could
10 be, potentially, a very awkward situation.
11 But it puts a filter between us and the
12 feedback.

13 And, as I say, in this situation, I
14 don't think it's a -- would be much to worry
15 about, but as the principal, not having our
16 feedback filtered through somebody else,
17 particularly somebody who reports to the
18 person who's doing -- being reviewed, you
19 know --

20 COMMISSIONER ZUNIGA: I don't know
21 that it would put a filter necessarily.
22 Because I'm imagining that, you know, the
23 discussion will be -- will be just that. With
24 the benefit of the notes. With the benefit of

1 advanced reading, then, anybody, any one of us
2 has the ability to say, this characterization
3 I entirely disagree with, for example, and
4 here's why. Or this characterization, I
5 completely agree, and leave it at that. Or
6 whatever -- or whatever -- remember there will
7 be a discussion. And that's the whole point.
8 It's going to follow to this, and the
9 transcript itself supplements, you know, the
10 form that we use, whether it's the same form.
11 Which, by the way, I suggest we do so that --
12 just as a guiding -- as a guiding document.

13 CHAIRMAN CROSBY: Just out of
14 curiosity, what is -- what is the difference,
15 from an open meeting standpoint, of giving us
16 a compilation of what we've all said, from
17 giving us what we've all said?

18 MS. BLUE: Because if I -- if I were
19 to give you a document, and say it was set up
20 and I listed each of your comments and
21 attributed them to you directly, then, I am
22 spreading your comments from one to the other.
23 And that I can't -- I can't -- we can't have
24 staff be a transmitter between --

1 CHAIRMAN CROSBY: But you're doing
2 it any way; you're just doing it without
3 attribution; is that the distinction?

4 MS. BLUE: Well, I would be giving
5 it to you the day of the opening meeting. I
6 would not be giving it to you in advance.

7 CHAIRMAN CROSBY: The memo?

8 MS. BLUE: Yes.

9 CHAIRMAN CROSBY: The --

10 MS. BLUE: Yes. The compilation,
11 yes.

12 CHAIRMAN CROSBY: So we're not going
13 to get compilation until before the meeting
14 any way.

15 MS. BLUE: Yeah, you're not going to
16 get --

17 CHAIRMAN CROSBY: So you might as
18 well attach the raw material.

19 MS. BLUE: We could -- we could do
20 that. I mean, we could.

21 CHAIRMAN CROSBY: Yeah. There's no
22 difference.

23 COMMISSIONER ZUNIGA: Well, my
24 understanding, from the training with the

1 Attorney General, is that, when you have
2 attribution and you distribute it before the
3 meeting, which, actually, we could do
4 ourselves, you cannot deliberate on that on
5 until the next meeting.

6 MS. BLUE: A commissioner has to
7 distribute it at an open meeting.

8 COMMISSIONER ZUNIGA: Yes.

9 MS. BLUE: I am not a commissioner
10 so I have a little bit, I think, based on what
11 the Attorney General said, a little bit more
12 flexibility. We're coming close to a line
13 that, you know, is complicated, and we're
14 trying to -- trying to do this in a way
15 that -- you know, make sure that we comply as
16 best we can.

17 We've had some interesting case law,
18 since the Attorney General trained us, which,
19 you know, kind of puts a caution sign up there
20 as to how other munis have done it. But I
21 think, you know, to make sure that we are
22 complying as best we can, the best way to do
23 it would be, if you'd like me to compile it, I
24 can. I'd give it to you at the open meeting.

1 You take a look at it. If I give it to you at
2 the opening meeting, you know, I can -- I can
3 do attribution at the open meeting. The
4 question is, do you really want to repeat the
5 same comment three times? I mean, part of it
6 is an organizational issue, but part of it is
7 a -- an attribution issue. And then you
8 discuss it at that meeting. You don't have to
9 finish it at that meeting. You can, you know,
10 take whatever time you need to do it. It's
11 not -- it's not --

12 CHAIRMAN CROSBY: I thought -- I
13 misunderstood. I thought, in the compilation,
14 I thought you were saying you could give it to
15 us in advance so we'd have a chance to read it
16 and think about it. But if we're not going to
17 get the compilation until the meeting itself,
18 then it seems, to me, the compilation would be
19 fine, but you can -- you should at least
20 attach the originals so we got them there.
21 There's no downside to having them be there.

22 COMMISSIONER CAMERON: Other than, I
23 didn't realize we were each going to do an
24 evaluation. I thought it was much more along,

1 these were things that were important to me
2 and list those things, and then that would,
3 you know, maybe reference the category using
4 the list, and then you would compile, which,
5 if we're going to have a discussion anyway, I
6 don't personally see the need for then having
7 these other documents.

8 MS. BLUE: Yeah. I mean, you can --
9 you can simply do a discussion. Just bring
10 your notes and discuss it, and that's fine.
11 And, you know, based on the notes that come
12 out of the meeting, there could be a form
13 that's completed. If you want a completed
14 form, I think, in this situation, the
15 transcript best speaks for itself. So if you
16 come and you -- you have the meeting and you
17 have that discussion, I think that's fine.

18 COMMISSIONER CAMERON: It just seems
19 to have that compilation, to me, giving our
20 notes to you, you compiling, it just gives us
21 a way to have an organized discussion.

22 MS. BLUE: No, I agree with that.

23 COMMISSIONER MACDONALD: So you're
24 in favor of the --

1 COMMISSIONER CAMERON: I'm in favor
2 of No. 2.

3 COMMISSIONER ZUNIGA: Same here.

4 COMMISSIONER STEBBINS: Same.

5 CHAIRMAN CROSBY: Can we get it in
6 the morning? Can we -- we won't have read,
7 right? Can we get it when we get our board
8 books, I guess?

9 MS. BLUE: Well, you get your board
10 books, hopefully.

11 CHAIRMAN CROSBY: A day or to in
12 advance.

13 MS. BLUE: A day or two, in advance,
14 if we're very lucky. You would get it at the
15 beginning of the meeting. You could take some
16 time at the beginning of the meeting to read
17 it, if you wanted to.

18 CHAIRMAN CROSBY: Or just take it
19 and then put it off for two weeks?

20 COMMISSIONER CAMERON: Right.

21 MS. BLUE: Yeah. Yeah, you can do
22 -- can certainly do that too.

23 CHAIRMAN CROSBY: We'll play it by
24 ear.

1 MR. BEDROSIAN: Yeah. Okay.

2 MS. BLUE: Yeah.

3 CHAIRMAN CROSBY: All right. So
4 we'll go -- looks like there's a consensus to
5 go for the second option, and we'll see what
6 it is. If it's something we can look at
7 quickly on the spot, we'll talk about it. If
8 it's a big, long complicated memo, we'll maybe
9 put it off. We'll decide.

10 MR. BEDROSIAN: Thank you,
11 Mr. Chair. That's all I have.

12 CHAIRMAN CROSBY: Thank you. All
13 right. So the last item --

14 COMMISSIONER MACDONALD: That will
15 be noted in your employee evaluation.

16 CHAIRMAN CROSBY: Last item was
17 Commissioners Updates. This is a relatively
18 new item, if not a, literally, new item. Just
19 because I -- I've felt, and I think we've all
20 felt because while we meet about constraints,
21 it's important to keep each other so apprised
22 of what's going on, and to talk about what
23 would otherwise be, sort of, administrative
24 things where in the only environment we can

1 talk about them.

2 This has now been postponed once or
3 twice, so some of the information that I want
4 to mention is out of date, a little bit out of
5 date. But Director Bedrosian and I went and
6 had a briefing session with the senate and
7 house chairs of economic development and
8 emerging technologies, our committee, and the
9 senate's policy staff director,
10 Emiley Lockhart, and it was a very good
11 meeting, actually.

12 We forget we're so -- it was really
13 just an update and you know, sort of where we
14 stand, what our experience has been under
15 signature features of this law, what's
16 happening in terms of jobs and revenue and so
17 forth, how Plainridge is doing? But we're so
18 close to it, we forget that, even people like
19 our committee chairs, you know, don't really
20 get the details of what we're doing. And I
21 think that, ultimately, there were a lot of
22 notes taken. Discussion probably went on for
23 an hour or so. So it was an interesting
24 meeting.

1 And, you know, we reiterated to
2 them, as we have to many others, that we got a
3 really good bill -- a statute to work with.
4 Anything else on that, Mr. Bedrosian?

5 MR. BEDROSIAN: No. I just -- given
6 where they were in their session, I was
7 impressed by amount of time they gave to us.

8 CHAIRMAN CROSBY: Yeah, right. They
9 were at the very end of their session. The
10 second thing is, we have G2E, which is the big
11 American Gaming Association annual conference
12 coming up. It runs from Monday,
13 September 26th to Thursday, September 29th,
14 preceded by a day for problem gambling. I
15 guess it's the NCRG problem gambling
16 conference.

17 I do intend to go. I'm going to be
18 on a panel out there. But we need to think
19 about who else -- I mean, each of us is kind
20 of thinking about areas of focus and so forth.
21 I think we have -- on one hand, we have to be
22 a little bit, you know, discrete about how
23 many people go where and how much money spend.
24 On the other hand, there's a lot to be

1 learned. There's a lot to more going out --
2 in this industry, and we're still in a very
3 steep learning curve. So I just want to --
4 just want to remind everybody you got to make
5 those -- if -- if you're interested in going,
6 let me know, and let's try to work it out.

7 COMMISSIONER ZUNIGA: I would like
8 to remind ourselves that the travel budget is,
9 as any other items in the -- in the budget is
10 slightly lower on a number of fronts. And by
11 the same token, I agree, entirely, that --
12 that, you know, it's important for us to
13 have -- to continue to have some presence --
14 not some. Presence. Understand trends,
15 understand -- a lot to learn. And not just
16 G2E, but there's a number of other
17 conferences. INGL, IAGRA, problem gambling,
18 et cetera.

19 So as a general, sort of, comment, I
20 -- I guess some of the numbers that were
21 included in the budget, assume a little bit of
22 following, which is very sensible in my mind,
23 that a number of people, you know, a small
24 group who go to these conferences on a, sort

1 of, rotating basis it's important that
2 somebody see G2E for the first time, I think.

3 And some of us that have seen that
4 before, maybe can take -- you know, can take a
5 pass to -- you know, to allow others -- I know
6 Commissioner Macdonald has never been there,
7 and it would be a great opportunity, as
8 others -- even others that have been here for
9 a number of years, like Director Wells or --
10 you know, but, of course, you've only been
11 here nine months, but, you know,
12 Director Bedrosian.

13 So if we -- if we rotated, you know,
14 having some presence, we don't have to have a
15 very large group. And out of that process,
16 you know, we look at making sure that, you
17 know, people of legal have a presence, and,
18 you know, maybe you all can decide who is it
19 this -- this time around, or others with a
20 technology, you know, background and interest.
21 And each of these groups are, sort of,
22 multidisciplinary in a way, but it's a small,
23 manageable group. I think that would be very
24 important.

1 So I know we're not just talking
2 about ourselves, Commissioners, but the --
3 more -- more of the staff.

4 CHAIRMAN CROSBY: When I was --

5 COMMISSIONER ZUNIGA: Yes.

6 CHAIRMAN CROSBY: I was speaking
7 just about us, and assuming that
8 Director Bedrosian's going to be wrestling
9 with the staff issue. But the same thing
10 goes.

11 COMMISSIONER ZUNIGA: Right.

12 CHAIRMAN CROSBY: Right?

13 COMMISSIONER ZUNIGA: And something
14 else, which can go without saying, but just
15 having a conversation with people who have
16 been out there, for example, is extremely
17 valuable, may be extremely valuable as seeing,
18 you know, what did you find useful making an
19 appointment with a certain, you know, slot
20 machine manufacturer, for example, seemed to
21 me extremely helpful when we -- when I -- last
22 time I went, because it's easy to get lost in
23 the massive showroom that -- that G2E can
24 have.

1 And if there's a small group that's
2 going to go, well, that much better. If
3 there's a few that can go to those kinds of
4 appointments. The roundtable that AGA puts
5 together, or the, you know, GLI puts together,
6 also invaluable so that the people can make
7 the most of it. That would be my only -- my
8 only other comment to that.

9 CHAIRMAN CROSBY: Yeah. So both for
10 substance reasons, equity reasons, and budget
11 reasons, you know, just sort of think about
12 ones you're interested in doing. I think
13 Commissioner Cameron has got some areas that
14 she's already focused on and she's interested
15 in. So just let me what you're thinking about
16 that so we can do this a little more
17 organized.

18 The only other thing was, I, back in
19 May, went to East Coast Gaming Conference,
20 which was held in Atlantic City on May 25th
21 and 6th, and again I was on a panel. It was
22 -- it was heavily on on-line gaming issues.
23 We hope that the legislature will have passed
24 a statute to set up a study commission, not

1 just on DFS, but on all on-line gaming.

2 Senator Flanagan, who had the
3 on-line lottery legislation, didn't know
4 whether either hers or ours would pass, when I
5 saw her on Saturday. But we're hopeful that
6 we will have a study commission that we're a
7 part of to help do the background work that we
8 recommended in our white paper, that we look
9 at the whole panoply of on-line gaming stuff,
10 and that this would be a legislative
11 commission that we would be a part of, give
12 them the tools, maybe, to try to come up with
13 legislation next year. So this -- you know, a
14 lot of things talking about at this conference
15 was very relevant to that. Just a few data
16 points.

17 In 30 to 50 percent of gaming
18 revenues in Europe are on line. Less than
19 1 percent in the U.S. So it's just coming --
20 all of the evidence is, this is something
21 you've said all along, it's coming, it's
22 coming, it's coming.

23 ESports, which most of us don't even
24 begin to understand yet, generates \$7 billion

1 in revenue, which is -- internationally, which
2 is the same amount of money Las Vegas
3 generates a year. So that's one whole huge
4 issue. There's others, but the data points
5 will kind of be interesting.

6 Both New Jersey regulators, and
7 New Jersey operators have had more experience
8 on this than, pretty much, anybody else. They
9 have a lot of say, and I think we can learn a
10 lot from them. And if we do have our study
11 commission, we might involve them in that a
12 little bit, if the legislature's okay with
13 that.

14 The other topic that -- that came up
15 a great deal was the challenge of attracting
16 millenials to bricks and mortar and
17 traditional casino gaming. We've heard about
18 it many times. Out of that came some things
19 that I think we need to think about
20 proactively. And I think maybe we want to
21 think about getting Justin working on some
22 stuff.

23 Do we have any role in pushing the
24 promotion and development of social and

1 skill-based gaming? You know, we're in a
2 reactive mode at this point. That's fine.
3 Should we be more proactive on that, if that
4 appears to be a significant way to attract a
5 younger demographic? Do we have a role in
6 that? I guess I put it out there to think
7 about it.

8 There was a tremendous amount of
9 work going on about floor design to promote
10 social interaction, which is a more attractive
11 kind of gaming to millenials, supposedly.
12 Mandalay Bay and the Downtown Grand are doing
13 a lot of this floor design.

14 I assume our licensees, who are
15 developing these new facilities, are also
16 being attentive to this. But, again, do we
17 have any role in just at least thinking about
18 this and being aware of it? And finally, for
19 sure, expediting approval and deployment of
20 new and innovative games. I think we'd have
21 to have to done one to be in a position to
22 expedite, and if we judge, to approve on a
23 quick basis so we can get the forefront of
24 constructive innovation.

1 I also, on June 6th through 10, went
2 to Las Vegas for the conference on gambling
3 and risk-taking, which is a somewhat esoteric
4 conference put on by the UNLV Institute on
5 Gaming.

6 Wynn gave the opening address. And
7 this was -- I probably heard some of this
8 before, but Bugsy Siegel opened The Flamingo
9 in 1946. That was the start of Las Vegas.

10 The Mirage was the first integrated
11 resort casino that opened around 1990. From
12 '65 -- 1965 to 1989, Caesar's Palace had \$400
13 million of gross gaming revenue, which was
14 considered the ceiling at that point, from
15 almost 20 years. The Mirage had 500 million
16 in gross gaming revenue, and 600 million in
17 nongaming revenue. The first time that
18 nongaming exceeded gross gaming.

19 Bellagio opened with 600 million in
20 GGR, which was considered the ceiling, and
21 800 million in nongaming. Wynn then followed
22 with 700 million in GGR and 900 million in
23 nongaming. Encore now has 840 million in GGR
24 and 1.1 billion in nongaming.

1 So the ratios -- the relationship
2 between the two is expanding, but gaming
3 revenue is still going up tremendously.
4 What's the ceiling for a Las Vegas casino
5 has -- has doubled in the last couple decades.

6 Interesting conversation about data
7 mining. Again, we know about this stuff. We
8 have a mandate to use our player card data.
9 But they raised a bunch of issues about things
10 I never even thought about before, which,
11 theoretically, there could be a relationship
12 between real-time play, which the casino
13 operator can monitor in what's going on on the
14 floor.

15 Theoretically, you could notify
16 your -- your casino employee on the floor and
17 say, hey, Mr. Smith is slowing down his play.
18 You might want to go over and give him a
19 drink. I don't have any idea whether that
20 goes on, but it could go on. And it's just
21 something to think about.

22 A few other issues having to do with
23 responsible gaming that I have already talked
24 with Mark about that I think we'd want to look

1 into. An issue was raised, both at the NCLG's
2 conference that I attended, the panel that I
3 was on, on Saturday, and was raised out here
4 in Vegas, which is the issue of duty of care.
5 And I was thinking, Director Bedrosian and
6 Catherine, that I don't think this is anything
7 we've ever really talked about, you know. Is
8 there a duty of care for our licensees?
9 Should there be? Do we have any role? What
10 do we think?

11 So, I mean, I was thinking about
12 just asking you guys to sort of probe around
13 in that and give us some thoughts as to what,
14 if any, role, relationship, significance
15 import there might be. There's apparently
16 been a recent --

17 MR. BEDROSIAN: West Virginia.

18 CHAIRMAN CROSBY: West Virginia?

19 MR. BEDROSIAN: Yeah. I was at that
20 conference, also, and thought the same thing
21 you did so I contacted general counsel on
22 that. I suspect there's nothing on this
23 because gaming's so new in Massachusetts. But
24 we will look into that.

1 CHAIRMAN CROSBY: Well, what should
2 there be?

3 COMMISSIONER MACDONALD: The phrase,
4 duty of care, it's a phrase of art in the law
5 of torts. What is it -- what's the context
6 that it's -- that has arisen here?

7 CHAIRMAN CROSBY: Do you want to --

8 MR. BEDROSIAN: Yeah, I can. So the
9 context was, Commissioner Macdonald, that it
10 was brought at the conference that the
11 chairman and I were both at, up a couple
12 times. The West Virginia Supreme Court had --
13 has issued a recent decision, in the last, I
14 think couple of months, stating that the --
15 and I'm going to paraphrase, and the rule
16 against hearsay applies, if I misquote what it
17 was.

18 What I heard was, the West Virginia
19 Supreme Court issued an opinion stating that
20 the casino industry in that state does not owe
21 a duty to care to its customers.

22 COMMISSIONER MACDONALD: As to
23 its -- as to their -- as to their economic
24 loss on the care on --

1 MR. BEDROSIAN: Yeah, I would assume
2 so, but we are going to look at that case.

3 COMMISSIONER MACDONALD: Okay.

4 CHAIRMAN CROSBY: It's like a
5 bartender kind of issue. And it had come
6 up -- before I heard at this conference on
7 Saturday, I heard it out in Vegas too. So
8 it's just an interesting thing that I think we
9 ought to be aware of and thinking about.

10 The other thing that came up with
11 the on-line gaming with ESports was all this
12 skins betting. There's this phenomenal
13 phenomenon of skins betting, which is
14 basically betting on things going on within
15 the games, not the outcome of the games
16 themselves. Infinite permutations.

17 In your book, I've attached four
18 articles that I came up with that are, sort
19 of, about some of this skins competitive stuff
20 and some other related issues that are just
21 interesting.

22 Last thing, and this occurred to me
23 while during these sessions, that we ought
24 think about, or do you think we ought to think

1 about, whether we would want to give some
2 kinds of awards? Have the Commission give
3 certain kind of awards for things -- to our
4 licensees or others, for things like best
5 gaming innovation, best responsible gaming
6 activities, diversity accomplishment, revenue
7 per machine, or any other key metric that we
8 want to promote.

9 Like, we could have an awards
10 session where we give our licensees or other
11 constituents recognition for doing the best
12 job that year in some -- in areas that we care
13 about.

14 I just throw it out there. I'd be
15 interested in having you guys think about it.
16 I might bring it up at the next meeting, see
17 what -- if you think it's anything we ought to
18 look into. I don't know if anybody does it.
19 I think it would be kind of interesting, kind
20 of fun, and it's a way to promote and award
21 good behavior so we're thinking about it.
22 That was pretty much it. That's it for my
23 Commissioner's Update. Do any of you have any
24 other --

1 COMMISSIONER ZUNIGA: Can I react to
2 a couple of points?

3 CHAIRMAN CROSBY: Yeah, please.

4 COMMISSIONER ZUNIGA: And I did have
5 an update. That -- well my -- the update I
6 wanted to give is on the -- I attended the
7 National Council on Responsible Gaming
8 conference in Tarrytown. I was part of a
9 panel along with Mark and Marlene Warner, and
10 a GameSense adviser, on the -- on the
11 GameSense program.

12 And two things. Very quickly, the
13 first one, the topic of skins is one that the
14 industry, in this case, the association and
15 service providers and whatnot, but also the
16 industry, is looking at, as well. We very
17 much -- we have a lot of interest because the
18 nexus to ESports, which is also exploding, is
19 -- is very important. This could be a way to
20 bypass gambling statutes, if you will, in
21 different states, where there's -- where the
22 stake is indirect enough to be able to call it
23 not gambling. And, again, something --
24 something to keep an eye on.

1 But more importantly from that
2 conference, and I realize this is going to
3 sound very self-congratulatory, but with that
4 preamble --

5 CHAIRMAN CROSBY: Who? For us?

6 COMMISSIONER ZUNIGA: For everybody
7 here. For everybody here. Us, especially.
8 We are really regarded very highly, when it
9 comes to responsible gaming, by the national
10 problem gambling councils and others.

11 We, you know, we met a delegation --
12 I'll give you a quick example. We met a
13 delegation from Singapore, who came to that
14 conference. And they came and met with Ed and
15 Mark, and myself as a follow-up to that,
16 because they really wanted to understand the
17 progress and the evolution of what we've done
18 with this -- in this area.

19 Very interested in looking and
20 understanding PlayMyWay, how that came about.
21 They went to go see it being demonstrated.
22 The GameSense center and GameSense program was
23 also very much in their interest. And they
24 told us, in no uncertain terms, that they

1 thought of us as the gold standard, when it
2 came to this area. They were equally
3 impressed by our transparency in our open
4 meetings, by the way, but that was not what
5 they were here for.

6 And it's one thing to sort of hear
7 it anecdotally, but quite something different
8 when -- when, you know, people come out
9 after -- after representation like the panel I
10 did, not just them but others, and talk about
11 how, you know, the factors that influenced it,
12 the law, the regulations we've done, and a
13 number of other things. And that was also
14 very important here, and I wanted to pass that
15 along.

16 CHAIRMAN CROSBY: Great.

17 COMMISSIONER MACDONALD: Good to
18 know.

19 CHAIRMAN CROSBY: Yeah.

20 COMMISSIONER CAMERON: Along those
21 same lines, we talked about skins. You know,
22 when I talk attended a conference on illegal
23 gambling, there was a whole presentation on
24 sports betting. And that -- that piece of it,

1 the in-game betting has exploded in Europe
2 with mobile -- the ability to use a mobile
3 phone to -- to place bets.

4 So the in-game betting has just
5 exponentially made that business grow
6 tremendously. You know, will they make the
7 field goal? The game winning hit? The bases
8 loaded? All that in-game betting has really
9 changed sports betting because of the ability
10 to place those bets during the game with a
11 mobile phone.

12 COMMISSIONER MACDONALD: And is that
13 the definition of skins, is a -- some kind of
14 a within game that --

15 COMMISSIONER CAMERON: That's one of
16 the terms. There's a number of terms used for
17 in-game, and one of them just being, you know,
18 in-game betting. But that has changed sports
19 betting tremendously.

20 CHAIRMAN CROSBY: The articles that
21 I have put in here do describe some to help
22 you understand it, but I think it's --

23 COMMISSIONER MACDONALD: I actually
24 read them, but didn't understand them.

1 CHAIRMAN CROSBY: Well, I mean --
2 but it's evolving so quickly that, you know,
3 you can't keep up with it.

4 COMMISSIONER ZUNIGA: And that's --
5 that's the point that there's still any number
6 of games that -- you know, the nongambling
7 arena, and the explosion of games is
8 remarkable, mobile and, you know, the
9 millenials like, et cetera, that trying to
10 regulate the game, just much like was the
11 center piece of our white paper, is, perhaps,
12 misdirected. That there needs to be a more
13 holistic view of, you know, what it means to
14 risk money on any platforms, and what are the
15 components of the activity, and why it needs
16 to be regulated, rather than try to chase the
17 legalities of DFS and why now, if that needs
18 to be, you know, thought of one way or
19 another.

20 There's nothing wrong with that, by
21 the way. But there's going to be any number
22 of permutations that can easily surface. All
23 of a sudden, you've got Pokemon Go. And the
24 explosion of this game, not everybody seems to

1 be, you know, willing to play.

2 COMMISSIONER CAMERON: Agreed. And
3 along the lines of public recognition, as you
4 just spoke of, I also sat on a panel yesterday
5 at NCLG, and it was a master class for INGL,
6 and it was a panel discussing the sweet spot
7 with regulators, with licensees, with
8 legislators. And we -- unexpected to me, a
9 couple of the gaming attorneys gave us great
10 credit for our educational forums to different
11 individuals that I -- I knew one of the two.
12 And just how that's very helpful to
13 legislators, to have that educational piece
14 because they do not have the time on their
15 own. They're making decisions about gaming
16 without proper information. So that was
17 something that folks thought that we did
18 really well, the educational forums and the
19 white paper.

20 And the other thing that I didn't
21 necessarily expect was the chairman here of
22 the Wampanoag Tribe gaming authority -- gaming
23 commission, rather, gave us credit for
24 being -- he said he's worked in a number of

1 states, and the relationship with the
2 commercial gaming authorities has not been
3 strong. And he really gave us credit --

4 CHAIRMAN CROSBY: Between the tribal
5 and the commercial gaming?

6 COMMISSIONER CAMERON: Correct. For
7 welcoming him, bringing him to our offices,
8 introducing staff. You know, just being
9 overall helpful to -- to another gaming
10 commission, recognizing them. So that was
11 also just nice to hear, that someone thought
12 that.

13 And I know there was a lot of tribal
14 conversations yesterday, so that was along the
15 lines of you're right, the commissioner, that
16 just thinks that we're doing as a team as, you
17 know, that's the entire staff, right, that
18 welcomed that -- that group. So just some
19 interesting things that were discussed
20 yesterday.

21 COMMISSIONER STEBBINS: This is -- I
22 just want to say, this is a great addition to
23 our agenda. When I was on the five-member
24 school committee, we would go through this

1 kind of the beginning of every meeting and
2 talk about different things. We'd been
3 hearing about and witnessing this when I'm in
4 and about the community.

5 I also had a chance to go to the --
6 the NCLG presentations. I think some of the
7 interesting ones that were sports betting,
8 and ESports, parimutuel betting. I sat with a
9 gentleman from the horseracing industry at
10 lunch. He said, we need to make it easier to
11 for people to understand how to bet on horses,
12 what all the information and all the
13 scorecards means. They need to do a better
14 job at that.

15 We all had -- or
16 Commissioner Macdonald and Chairman and I had
17 a chance to participate in the dedication of
18 the new MGM culinary training facility out in
19 Holyoke. MGM is funding some money for the
20 operation of the facility. Giving some money
21 up front to the City of Holyoke so they can
22 help out about 50 individuals to go through
23 the culinary training program.

24 We have had some additional

1 follow-up after our Workforce Skills cabinet
2 meeting with some key point people from
3 education, housing and economic development,
4 and labor and workforce to think about next
5 steps. MGM has invited Director Griffin and
6 I, and these three individuals, to come down
7 and see their training center at National
8 Harbor to understand what they hope to
9 replicate in Springfield.

10 Commissioner Zuniga and I, and
11 Director Griffin, went to a vendor diversity
12 summit that the governor's access and
13 opportunity committee pulled together, that
14 had SDO, Massport, a number of other agencies
15 at the table trying to think of best
16 practices. We're going to host the next
17 meeting here at our facilities.

18 And I also listened in on -- Justin
19 actually did as well, a Webinar on ESports.
20 And one of the interesting takeaways was they
21 had the property manager from the
22 Downtown Grand in Vegas talking about
23 introducing this into their facility, and
24 great recommendations in terms of, don't make

1 it look like it was an afterthought. You
2 know, don't make it like, hey, we got extra
3 store room, why don't you turn that into our
4 ESports gaming area?

5 They talked about the margins in the
6 business as not that great, but they hoped to
7 -- to your point, Mr. Chairman, about not
8 getting revenue, get people in, get them to
9 play, and at the same time, hope they
10 patronize the food and beverage side of the
11 house while they're there. So interesting
12 stuff.

13 CHAIRMAN CROSBY: Great. Anything
14 else?

15 COMMISSIONER MACDONALD: I might
16 say -- since I'm the only one who hasn't said
17 anything, this doesn't qualify as having gone
18 to an event, other than I did find the -- the
19 opening of the culinary facility in Holyoke
20 really inspiring. I think that was a great
21 demonstration of -- of a -- the combined
22 partnership between one of our licensees and
23 the City of Holyoke and City of Springfield.

24 But while we're here in open

1 meeting, last week, when I was on a couple of
2 days off, I had my quiet time interrupted by
3 an e-mail from our executive director, who was
4 passing on to me the decision from the federal
5 court hearing in Boston with regard to the
6 Taunton citizens' litigation. And you've
7 undoubtedly already heard of the -- of the
8 outcome in which Judge Young had concluded, in
9 very emphatic terms, including the phrase,
10 this was not a close call, that the land and
11 trust decision by the Department of Interior
12 of the Mashpee Wampanoag Tribe was fatally --
13 fatally flawed.

14 And the -- the nutshell of the -- of
15 that conclusion was based on the Department of
16 Interior's Bureau of Affairs secretary's
17 reliance on the second category of definition
18 of Indian under the so-called 1934 Indian
19 Restoration Reorganization Act. In any event,
20 the 1934 act.

21 And within 24 hours, my peace was
22 interrupted again by Executive Director
23 Bedrosian forwarding on to me a decision of
24 the court of appeals for the District of

1 Columbia circuit -- Federal Circuit Court of
2 Appeals, deciding a challenge to the 1934 act
3 that was raised with regard to the Cowlitz
4 Tribe of Washington state, having been granted
5 land in -- land in trust under the first
6 definition of Indian -- in the 1934 act. And
7 I know that all of us, to one degree or
8 another, are aware of the -- of the so-called
9 Carcierri issue. And the Carcierri issue arose
10 out of the decision in the late 2000s, in
11 which the Supreme Court, by eight to one,
12 found flawed the record of decision of the
13 Department of Interior of European Affairs
14 with regard to the Narragansetts tribe's land
15 and trust. And the Carcierri issue has -- has
16 been, you know, raised at the outset of --
17 assuming my time, anyway, on the commission,
18 with respect to the Mashpee Wampanoag
19 application. Not application, but the Mashpee
20 Wampanoag, you know, land and trust, and
21 presently being executed, a casino plan with
22 their partner the Genting organization.

23 So the -- the question is, what does
24 this mean for the Mashpee -- what does the

1 Cowlitz' case mean for -- for the future of
2 the federal court litigation here? Standing
3 by itself, what is the -- what is the prospect
4 of the federal court litigation here that was
5 decided by the federal court decision presided
6 by Judge Young?

7 I'm certainly not in a position
8 to -- to give any guidance on this. I'm
9 looking forward to -- to analysis from our
10 general counsel and Indian specialist
11 attorneys that, you know, the Commissioner,
12 apparently, has had a relationship with for --
13 for a number of years. But that, just off
14 the -- there's a couple of comments.

15 Number one, Judge Young did, in
16 effect, certify his decision for expedited --
17 expedited review by the First Circuit Court of
18 Appeals. So that, it's going to be
19 interesting to see what, in fact, that
20 expedition is comprised -- is comprised of.
21 But is not something that's just been kind of
22 left in the air to go through the ordinary
23 course.

24 The second question that I would

1 think that each of you would be interested in,
2 is, what, you know, my sense is just on a
3 preliminary basis of the relationship between
4 the Cowlitz' decision from the DC circuit and
5 the -- and the Taunton citizens on litigation.
6 I can say a couple things.

7 Number one, it's important to
8 understand that the Taunton Mashpee Wampanoag
9 record of decision was based on the judge's
10 construction, interpretation of the second
11 definition under the 1934 act. So that, even
12 if -- you know, even if the Mashpee Wampanoags
13 had been proceeding under the first
14 definition, like the -- like the Narragansett
15 tribe and the Carcierri situation, then, if
16 that were the case, the DC circuit, which has
17 a great influence on Indian law issues, a
18 decision would have a very substantial -- very
19 substantial likely impact. But it's the
20 second definition.

21 So the question is going to be, what
22 is the first circuit going to do with the
23 second definition, in light of the DC
24 circuit's construction in the first place.

1 That one, I wouldn't even give a
2 preliminary opinion on, but that it is
3 important to -- to know that the District of
4 Columbia circuit found two very significant
5 phrases in the 1934 act. Mainly, what does it
6 mean to be a -- what does reservation mean,
7 and what does under federal jurisdiction mean?
8 They found those terms in the '34 act to be --
9 to be ambiguous, and which is contrary to what
10 Carcieri had decided with regard to, what's
11 the meaning of the word now? And in the
12 famous line from Justice Thomas' opinion from
13 the Court, that now means now, in 1934.

14 And that the Carcieri decision
15 seemed to imply -- and I think that Judge
16 Young -- it's fair to say that Judge Young
17 thought it did as well, that the -- those
18 statutory phrases that were not ambiguous.
19 But even if they ultimately are in some kind
20 of objective sense, were thought, now in light
21 of DC circuit's Cowlitz' opinion to be likely
22 to be ambiguous, that wouldn't directly apply
23 to the -- to the Taunton plaintiffs litigation
24 in the near term?

1 CHAIRMAN CROSBY: In the near term?

2 COMMISSIONER MACDONALD: In the near
3 term. And what it could do is then just lead
4 to a -- to another application. But they
5 might have to go back and start all over
6 again.

7 CHAIRMAN CROSBY: Thank you. I was
8 -- going to are you finished?

9 COMMISSIONER MACDONALD: Yep.

10 CHAIRMAN CROSBY: I was going to
11 bring that up as an item of business, which
12 was not anticipated when we put together our
13 agenda, because it was decided on Friday,
14 after we put together our agenda, Thursday, I
15 guess, we put our agenda together. And thank
16 you for explicating something, which is
17 virtually incomprehensible to the nature of
18 the racing legislation, if you ask me.

19 But, you know, people have been
20 asking. I know Elaine Driscoll has fielded a
21 lot of inquiries. So what are we going to do
22 next? Now, what does this mean? And from my
23 standpoint, the issue we've always been
24 wrestling with from Region C was, was the

1 tribe going to get land and trust, and how
2 long should be wait for that to get resolved?

3 And, you know, we wrestled with
4 that, wrestled with that. Made -- it's a
5 temporary delay and eventually decided, all
6 right, can't resolve that. Let's go ahead and
7 do the commercial process. Now, we are right
8 back to where we were, which is, is the
9 land -- is the tribe going to get land and
10 trust; and, if so, when would that be
11 resolved?

12 So we are dead smack right back
13 where we were. And I think, at this point,
14 and I think this is what the staff is
15 recommending as well, is that, for the time
16 being we're just going to sort of sit tight.
17 And we've always said that the major variable
18 in our Region C deliberations is the status of
19 the tribe. The status of tribe is now in
20 play, yet again. So we'll just, for the time
21 being, let's bypass and see if this begins to
22 sort itself out in a way that would inform
23 future action for us.

24 MR. BEDROSIAN: Mr. Chairman, we --

1 not surprisingly, staff has been contacted by
2 a lot of stakeholders in this case, who are
3 sharing their particular views of either
4 strength, weakness, success, or lack of
5 success. But I think the best staff can do at
6 this point is gather as much information as we
7 can, understanding the context of we are very
8 early on in this process. So --

9 CHAIRMAN CROSBY: Well, and it's --
10 that is a good -- and that's, I think, great.
11 The issue is, and we've always wrestled with,
12 is where on the one hand we have a wish for
13 some kind of certainty so we can make an
14 informed decision about a commercial
15 application, on the one hand.

16 But on the other hand, there are
17 interested parties in southeastern Mass who
18 want the benefits of a casino, whether it's
19 the revenue or the jobs, or just simply the
20 pleasure. And we need to be attentive to that
21 as too -- as well. And you as well. You
22 know, if you've got any guidance for us along
23 the way, we're certainly looking for it. But
24 at the moment, I think we'll just have to sit

1 tight.

2 COMMISSIONER MACDONALD: Let me just
3 say one final thing to correct something that
4 I said. I didn't have my glasses on when I
5 was looking at my notes. The phrase of art --
6 the two phrases of art from the first
7 definition under the 34 act is, accurately I
8 said before, under federal -- federal
9 jurisdiction. But the second -- the second
10 phrase of art is not reservation, it's
11 recognition. So it has to do with second.
12 The recognized status of the tribe as of 19 --
13 as of 1934.

14 CHAIRMAN CROSBY: Okay. The only
15 other item that's come up that wasn't on the
16 agenda was our next meeting. It looks like we
17 have decided on Wednesday the 10th. Will be a
18 time to be determined. But at that issue, we
19 will deal with, hopefully, the remains on the
20 racing decision-making and such other
21 interesting and new idea -- projects that come
22 up between now and then. Anything else?
23 Anybody?

24 COMMISSIONER MACDONALD: So that

1 next meeting is going to be on things other
2 than the --

3 CHAIRMAN CROSBY: Well, it could
4 be -- since we're having a meeting, if things
5 come up we can put them in there, yeah.
6 There's no -- no plan to at the moment, but
7 things have a way of come up. Is there a
8 motion to adjourn?

9 COMMISSIONER ZUNIGA: So moved.

10 CHAIRMAN CROSBY: Second?

11 COMMISSIONER MACDONALD: Second.

12 CHAIRMAN CROSBY: All in favor?

13 Aye.

14 COMMISSIONER MACDONALD: Aye.

15 COMMISSIONER STEBBINS: Aye.

16 COMMISSIONER CAMERON: Aye.

17 COMMISSIONER ZUNIGA: Aye.

18 CHAIRMAN CROSBY: All opposed? The
19 ayes have it. Thank you all. Thank you,
20 Commissioner Cameron, for sticking with us.

21

22 (Proceeding concluded at 1:15 p.m.)

23

24

1 GUEST SPEAKERS:

2 Michael P. Morizio, Esq.

3 Robert G. Scarano, Esq.

4 William G. Lagorio, Massachusetts Thoroughbred

5 Horsemen's Association

6

7

8 MASSACHUSETTS GAMING COMMISSION STAFF:

9 Alex Lightbown, DVM, Director of Racing

10 Derek Lennon, CFAO

11 Edward Bedrosian, Executive Director

12 Catherine Blue, General Counsel

13 John Ziemba, Ombudsman

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C E R T I F I C A T E

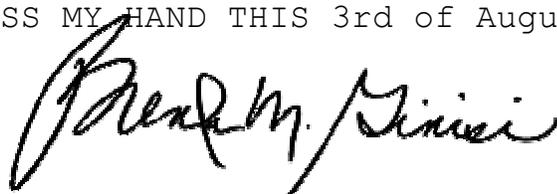
I, Brenda M. Ginisi, Court Reporter, do hereby certify that the foregoing is a true and accurate transcript from the record of the proceedings.

I, Brenda M. Ginisi, further certify that the foregoing is in compliance with the Administrative Office of the Trial Court Directive of Transcript Format.

I, Brenda M. Ginisi, further certify that 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 3rd of August
2015.



BRENDA M. GINISI

My Commission expires:

Notary Public

June 18, 2021