

PENNSYLVANIA GAMING CONTROL BOARD

HEARING ROOM 1  
NORTH OFFICE BUILDING  
HARRISBURG, PENNSYLVANIA

THURSDAY, DECEMBER 15, 2005, 10:14 A.M.

BEFORE :

THOMAS DECKER, CHAIRMAN  
MARY DiGIACOMO COLINS  
WILLIAM P. CONABOY  
JEFFREY W. COY  
KENNETH T. McCABE  
JOSEPH W. MARSHALL, III  
SANFORD RIVERS  
GREGORY C. FAJT, SECRETARY OF REVENUE  
ROBERT P. CASEY, JR., PA STATE TREASURER

HILLARY M. HAZLETT, REPORTER  
NOTARY PUBLIC

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1           CHAIRMAN DECKER: Thank you all for coming.  
2 Good morning. I'm Tad Decker. I'm Chairman of the  
3 Pennsylvania Gaming Control Board. I would like to  
4 welcome you to this meeting.

5           A quorum of the voting members are present  
6 with us today, also Treasurer Casey and Secretary  
7 Fajt. Dennis Wolff, Secretary of Agriculture, is not  
8 able to be with us today.

9           As always, let me ask the members of the  
10 Board and everyone out there to turn off all of your  
11 electrical devices in light of their interference  
12 with our sound system.

13           Let's begin the meeting as usual with the  
14 Pledge of Allegiance. Please join me. Thank you.

15           (Pledge of Allegiance.)

16           CHAIRMAN DECKER: We'll start with old  
17 business. A very quick announcement, the Board, as  
18 has been our practice, held an Executive Session to  
19 discuss personnel matters, specifically potential  
20 candidates for positions with the agency. No  
21 business was conducted during these sessions.

22           Our first action item this morning is to  
23 approve the transcript of our last meeting. May I  
24 have a motion to approve?

25           COMMISSIONER COY: So moved.

1 CHAIRMAN DECKER: Thank you. Is there a  
2 second?

3 COMMISSIONER MARSHALL: Second.

4 CHAIRMAN DECKER: All in favor?

5 COMMISSIONERS: Aye.

6 CHAIRMAN DECKER: Any opposed?

7 Motion carries.

8 Please note that these minutes will be  
9 available on our website as usual, and this meeting  
10 is being recorded by a stenographer again as usual.

11 New business. Let's start, as has been our  
12 course in the last few meetings, with an update from  
13 our Executive Director, Anne Neeb.

14 Good morning, Anne. Thank you.

15 MS. LaCOUR NEEB: Good morning, Chairman --

16 CHAIRMAN DECKER: Is that on?

17 MS. LaCOUR NEEB: Good morning, members of  
18 the Board.

19 Am I on now? Thanks.

20 I would like to go ahead and give you all  
21 an update on some of the things we've been up to.  
22 The first thing deals with the leases for the eastern  
23 and western offices.

24 This past Tuesday, in connection with the  
25 Department of General Services, a proposal for bids

1 was released for the western and eastern space, that  
2 would be in Pittsburgh and Philadelphia.

3           If anyone is interested, they can go to the  
4 DGS website, and they can get the specifications.  
5 Basically, we're looking for 8,000 square feet in  
6 each of those areas. The solicitation numbers are  
7 93932 and 93934. So if anyone is interested in that,  
8 they can certainly check the website.

9           This would be in the Cranberry Township,  
10 Greentree Borough, City of Pittsburgh, Allegheny  
11 County and downtown locations along with -- that's in  
12 the Pittsburgh area.

13           In the Philadelphia area, it would be  
14 Bucks, Delaware, Montgomery, and Philadelphia,  
15 including downtown locations.

16           So we're anxious to get that done. Those  
17 bids are going to be due by January 5th. Then after  
18 that point, we will review the proposals to see what  
19 best works for the offices.

20           In addition, we are in the process of  
21 reviewing the central office proposals, which have  
22 come in. That's for the Harrisburg area. We'll soon  
23 have a decision on that.

24           CHAIRMAN DECKER: Anne, just a reminder to

25 everyone, that's going to include the gaming lab in

6

1 that location, correct?

2 MS. LaCOUR NEEB: It will include the  
3 gaming laboratory, which is really --

4 CHAIRMAN DECKER: Which are our  
5 investigative and compliance people.

6 MS. LaCOUR NEEB: It's the Bureau of  
7 Investigation and Enforcement and gaming lab, which  
8 requires a very specific space because of the fact  
9 they need a loading ramp to move machines in and out  
10 because they have to test the machines. Those  
11 specifications are pretty particular.

12 To update you on the gaming lab, basically,  
13 right after the Department of Revenue made its  
14 announcement that they were going to be using G Tech  
15 to handle the Central Computer System, they have  
16 begun a series of meetings with all of the state  
17 agencies involved, including representation from our  
18 office, in particular gaming lab and compliance  
19 people.

20 These meetings are approximately three  
21 hours a day, every day, Monday through Friday and  
22 very intensive. They deal with specifications and  
23 the protocols that have to be written assigning what  
24 duties are necessary for each agency, because

25 everybody has sort of a different responsibility.

7

1                   It's been a pretty big task, and it's  
2 ongoing. We're real happy to have the qualified  
3 people we have representing us there.

4                   Right now, they're working on the  
5 certification and slot machine program signatures for  
6 the games. There will be verification each day on  
7 the game, the integrity of each game and each slot  
8 machine in each casino. You can imagine the enormity  
9 of this task.

10                  Basically, the manufacturers will have  
11 checklists, which will be to submit products for  
12 approval. That is something that is also in review  
13 right now, and we're working with those manufacturing  
14 companies to make sure that the games and everything  
15 that's inside of the machine is up to par.

16                  In addition to that, we had slot machines  
17 delivered to the Board's office in November, November  
18 29th.

19                  What we have done is we've used those slot  
20 machines not for fun. We've used them for training  
21 for the Licensing Bureau to understand the mechanics  
22 of the machine and to go through what has to be done  
23 in management of a slot machine.

24                   There's going to be another presentation  
25   January 26th, where the Bureau of Investigation and

8

1   Enforcement will participate in training on those  
2   particular machines that are at the office now. So  
3   that's moving along pretty good.

4                   In the licensing area, we've had our first  
5   application for Category 1 license, which weighed  
6   1,350 pounds. I bring that up to kind of indicate to  
7   you the enormity of an application.

8                   According to the applicant, it was 40 feet  
9   in length; but we didn't measure it. We're just  
10  going to go with it on that.

11                  CHAIRMAN DECKER: Anne, are you  
12  exaggerating?

13                  MS. LaCOUR NEEB: No, I'm not exaggerating.

14                  COMMISSIONER RIVERS: That's the weight?

15                  MS. LaCOUR NEEB: Weight. It weighed 1,350  
16  pounds, one application. This is what I'm trying to  
17  tell you. That's why I'm bringing it up.

18                  CHAIRMAN DECKER: Almost a ton.

19                  MS. LaCOUR NEEB: It's an enormous amount  
20  of -- Susan --

21                  MS. HENSEL: The original and three copies.

22                  MS. LaCOUR NEEB: It's the original and  
23  three copies. Oh, okay. So it really only weighs

24 400 pounds.

25 CHAIRMAN DECKER: Did you and Susan put up

9

1 all of the copies together?

2 MS. LaCOUR NEEB: Yeah. Okay. That was  
3 from the Pocono Mohegan property. We're basically in  
4 the process -- the licensing division, as you can  
5 say, has their hands full with starting the  
6 processing of the applications.

7 In addition to these efforts going on in  
8 licensing with the communication area, what we have  
9 done is there's so much request for information on  
10 filling out these applications because, as you  
11 imagine, they're extremely complex.

12 We have started to develop a  
13 frequently-asked question list to put on the website  
14 to help alleviate some of the anxiety about getting  
15 the applications in and getting them in with the  
16 correct information.

17 We additionally have processed  
18 approximately 60 inquiries, intensive inquiries, not  
19 just what day is it due. Those continue to come in  
20 daily. So we're starting to see an amount of  
21 interest in getting these applications processed.

22 CHAIRMAN DECKER: Anne, can I ask you one

23 question?

24 MS. LaCOUR NEEB: Sure.

25 CHAIRMAN DECKER: You were in Louisiana in

10

1 or about the time of the licensing or some

2 relicensing, right?

3 MS. LaCOUR NEEB: For all licensing.

4 CHAIRMAN DECKER: For all licensing. Okay.

5 Is this application any different? Is the response

6 different? Are the inquiries different?

7 MS. LaCOUR NEEB: No. This is pretty

8 typical.

9 CHAIRMAN DECKER: Okay. All right. I was

10 just curious.

11 MS. LaCOUR NEEB: It is an enormous amount

12 of work for them to get the applications in timely

13 and then we do an update. Each application goes

14 through licensing and doesn't even leave licensing

15 and go to BIE until every piece of information that

16 is required is in that application. So there's an

17 ongoing dialogue even after the application is

18 dropped off.

19 CHAIRMAN DECKER: Anne, can you remind us,

20 maybe Susan can help us on this, too. They are not

21 deemed --

22 MS. LaCOUR NEEB: They are not deemed

23 complete.

24 CHAIRMAN DECKER: Can you explain that for  
25 everybody in the audience, what that means is

11

1 different than processing?

2 MS. LaCOUR NEEB: Right. Once the deemed  
3 complete date comes, I couldn't tell you the exact  
4 date. Once that date is determined, then from that  
5 point on, it's done. Then Susan can explain the  
6 exact mechanics.

7 CHAIRMAN DECKER: Susan, why don't you  
8 explain.

9 MS. LaCOUR NEEB: Just give them an update.  
10 Have a seat.

11 MS. HENSEL: There's a distinction between  
12 the deemed complete date for operators and an  
13 application being considered complete in the  
14 manufacturer/supplier/vendor sort of realm, because  
15 the deemed complete date with respect to operators  
16 triggers a 12-month period in which the Board needs  
17 to act on all permanent applications. So that has a  
18 legally significant definition.

19 In terms of whether or not an application  
20 is complete, we have just been working with the  
21 applicants to assure, as Anne has mentioned, that all

22 required information is added to or supplemented to  
23 applications for manufacturers. Those are the only  
24 ones we have dealt with to this point before moving  
25 them to BIE.

12

1 CHAIRMAN DECKER: Anne, please. Sorry to  
2 interrupt you.

3 MS. LaCOUR NEEB: No. That's okay. It's a  
4 very interesting concept. The other things that are  
5 going on, we have -- the Hearing Office is going to  
6 give a presentation, I believe. Mike Edmiston is  
7 here and will give you all an update on the process  
8 on regulations and putting together the Hearing  
9 Office procedures.

10 In the regulatory area, we continue to work  
11 on drafting regulations, particular regulations as to  
12 internal controls; and to give you an example, it's  
13 the types of things, like, the internal controls  
14 which are relative to, say, the movement of the money  
15 in the cashiers' cages, jackpots, payoffs, wide area  
16 progressive payoffs, gaming vouchers, processing the  
17 regulations for self exclusion and mandatory  
18 exclusion from casinos, and all of the technical  
19 standards that have to be in place for the machines.

20 Another thing we've been doing is working  
21 with the Racing Commissions in trying to understand

22 what is going on with them and with the Lottery  
23 Commission.

24 We had successful meetings last week  
25 concerning the placement and protocol for those

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1 lottery terminals in the casinos because there's  
2 going to be some movement there.

3 We've completed the first drafts on the  
4 vendor certification forms, which are going to be --  
5 soon to be going out and a registration of non-gaming  
6 employees.

7 In the technical area, we continue to work  
8 on the specifications for the games and the checkup  
9 and the securities on the games.

10 That's pretty much it for right now and  
11 we're -- Mike Walsh, Director of Bureau of  
12 Administration, is going to give an update on  
13 employment.

14 Mike Edmiston, Director of Hearing and  
15 Appeals, is going to give an update on the Hearing  
16 Office. We're also going to have a presentation by  
17 communications, Nick Hays, and counsel, LaMonte  
18 Williams, on the Right-to-Know Policy, which will be  
19 brought up to your attention.

20 So if you have any questions?

21                   CHAIRMAN DECKER: Any questions for Anne?  
22                   Thank you, Anne. I appreciate it very  
23 much.  
24                   Who is next? Mike? I should say Mike  
25 Walsh.

14

1                   MR. WALSH: Thank you, Mr. Chairman. I  
2 have two items to present to the Board today. The  
3 first is a list of candidates for you to consider,  
4 and the second deals with office space in the  
5 Conshohocken area.

6                   First, with proposed hires before the  
7 Board, there are 18 that come before you and they  
8 come from five Bureaus within the agency.

9                   The first is the position of legislative  
10 liaison, who will join Steve DeFrank in the  
11 complement under the Executive Director; and that is  
12 Dan Stambaugh, who currently serves as the research  
13 analyst for the Republican Policy, Development, and  
14 Research Office in the Senate of Pennsylvania.

15                   In the Bureau of Administration, we have  
16 three candidates. The first is an intern actually.  
17 As you know, we had an intern for this past fall who  
18 worked out great. Allison Hicks is her name. She's  
19 really been a great help. She'll be going back on  
20 her way to school in January.

21                    Steven Crevak will be joining us, who is  
22                    currently in law school and who will work with us in  
23                    the spring.

24                    The other two candidates are in the  
25                    information technology area within our Bureau. They

15

1                    both come from the Department of Revenue. Thank you,  
2                    Mr. Secretary. The first is Ben Williams as an  
3                    information technology specialist. The second is  
4                    George Semarge as a telecommunications administrator.  
5                    Actually, they've been great over the past year  
6                    helping us as we've gotten off the ground.

7                    CHAIRMAN DECKER: Is there anybody left at  
8                    DOR? Oh, a couple, I guess.

9                    COMMISSIONER COY: And will this come out  
10                    of DOR's budget?

11                    SECRETARY FAJT: Yes, we will continue to  
12                    pay them for as long as you want.

13                    CHAIRMAN DECKER: Thank you, Greg.

14                    MR. WALSH: We'll get a bill. The next two  
15                    are in the Bureau of Corporate Compliance and  
16                    Internal Controls working with Denyse Miskin. The  
17                    first is Andrew Bender, who will be a Corporate  
18                    Compliance Supervisor; and Matthew Loughney, who will  
19                    be a Compliance Analyst.

20 CHAIRMAN DECKER: Can I just make a point?

21 You might ask, as we did, why do you need people in  
22 compliance now, in addition to training them.

23 The reason is they're going to be spending  
24 time on the financial side of applications and  
25 looking at things. So they're going to have a lot to

16

1 do.

2 We're happy to have some people with  
3 financial acumen and we need a few more. So that's a  
4 plug for anybody else that wants to come in and meet  
5 with BIE or Compliance.

6 MR. WALSH: The next set of candidates are  
7 in the Bureau of Investigations and Enforcement. In  
8 the western regional office, we have Ralph Young as  
9 an investigator, David Smith as an investigator, and  
10 Thomas Smith also as an investigator.

11 In the central regional office, we have  
12 Jarrod Coury as an investigator and Jeffrey Couzens  
13 as a senior forensic accountant.

14 In the eastern regional office, we have  
15 Howard Gelfand and John Walczak, who will also both  
16 be investigators.

17 In the Bureau of Licensing, there are five  
18 candidates to assist Susan with the 400-pound  
19 application. The first candidate is an

20 administrative assistant, Tracy Smeigh; and three  
21 licensing analysts, John Zukowski, Sherry Morgan, and  
22 Karen Duncan; and a manager in the licensing area,  
23 which will be their second manager, and that is Sean  
24 Hannon.

25 So those are the 18 candidates that we

17

1 offer. If I could --

2 CHAIRMAN DECKER: Thank you, Mike. May I  
3 have a motion --

4 COMMISSIONER CONABOY: So moved.

5 CHAIRMAN DECKER: -- approving this?  
6 Is there a second?

7 COMMISSIONER McCABE: Second.

8 CHAIRMAN DECKER: Any questions for Mike  
9 about any of the candidates?

10 Hearing none, all of those in favor of  
11 making offers to the above-named candidates --  
12 subject to passing the background investigation, all  
13 right -- please indicate by saying aye.

14 COMMISSIONERS: Aye.

15 CHAIRMAN DECKER: Any opposed?  
16 Motion carries.

17 Thank you, Mike. You want to go on to the  
18 second topic now?

19 MR. WALSH: Sure. The second agenda item  
20 has to do with the Conshohocken office.

21 CHAIRMAN DECKER: I'm going to cut you off  
22 for just one minute and describe something. We had a  
23 -- I guess we've been in this lease for maybe a month  
24 or two with Preferred Realty.

25 We recently read one of the articles about

18

1 the potential license by application, I should say,  
2 for a license for an operation within Philadelphia by  
3 Donald Trump and Pat Croce and some others.

4 They were identifying a property, which is  
5 leased -- would be leased to them, as we understand  
6 it, by Preferred Realty, which is our landlord in  
7 Conshohocken.

8 So therefore, it represents a potential  
9 conflict of interest if that -- if they do file an  
10 application, we would be looking into the background  
11 of the lessor and the landlord. They would be also  
12 leasing to us. So we're going to remove ourselves  
13 from that lease over a short period of time.

14 So I'll turn it back over to you, Mike. I  
15 wanted to describe the situation. I think we put out  
16 a release on Friday of last week, so many of you may  
17 already know about that.

18 MR. WALSH: Thank you. The motion is

19 simple. It would just be a motion by the Board to  
20 terminate that lease because we made a motion to  
21 enter into it.

22 The landlord has notified us that they will  
23 let us get out of the lease and release us from all  
24 future liabilities, financial and otherwise.

25 I would just ask the Board to formally make

19

1 a motion to end that lease in Conshohocken. As you  
2 know, we advertised in four counties in southeastern  
3 Pennsylvania for a new office.

4 CHAIRMAN DECKER: May I have a motion to  
5 that effect?

6 COMMISSIONER CONABOY: So moved.

7 COMMISSIONER McCABE: Second.

8 COMMISSIONER MARSHALL: Mr. Chairman, I  
9 would just like to note for the record that I'm  
10 recusing myself from this action. I currently am in  
11 a business relationship with Mr. O'Neill. So I will  
12 abstain from voting.

13 CHAIRMAN DECKER: Right. No problems. Any  
14 other questions for Mike on this issue?

15 Okay. All of those in favor of our  
16 terminating our lease -- authorizing the Chair to  
17 terminate the lease, please indicate by saying aye.

18 COMMISSIONERS: Aye.  
19 CHAIRMAN DECKER: Any opposed?  
20 Motion carries.  
21 Thank you, Mike.  
22 COMMISSIONER MARSHALL: And I abstained.  
23 CHAIRMAN DECKER: And note for the record  
24 that Commissioner Marshall, Board Member Marshall,  
25 abstained.

20

1 Anything else, Mike?  
2 MR. WALSH: That's it.  
3 CHAIRMAN DECKER: Thank you very much.  
4 Before going to our next item, I would like  
5 to thank some people in the government for helping us  
6 over the last few weeks in our attempt to get bills  
7 paid and get our -- what we call it -- back office in  
8 proper shape and our processes.  
9 There are some people in both Budget and  
10 also in the Comptroller's Office who have been  
11 extremely helpful in helping us expedite things.  
12 Now, we're getting some people from DSG in expediting  
13 these leases, particularly in Philadelphia and  
14 Pittsburgh where we have people hired and ready to go  
15 somewhere but not a permanent location. In fact, in  
16 Philadelphia, we don't even have a temporary location  
17 and we have people coming on by the end of January.

18 I appreciate everything there.

19 I also have a special thanks for Terry  
20 Kostoff, who is sitting over here, who has been  
21 hugely helpful for months now. I think he probably  
22 has an office in our building, because we've asked  
23 him to help so many times.

24 I want to thank people when they do help  
25 us. Since we're a new agency, we sometimes stumble

21

1 over our own feet. They have been extremely helpful  
2 to us.

3 Terry, thank you. Terry, we'll be offering  
4 you that job shortly to come on board here.

5 Is the Treasurer here? Never mind. He's  
6 been terrific, as have a number of other people in  
7 those three Bureaus, four Bureaus now. So I just  
8 wanted to get that in.

9 I guess our next item is -- am I doing this  
10 right -- the communications issue -- did I skip  
11 something -- and our Right-to-Know Policy. Did I  
12 skip something?

13 Let me go through something while Nick and  
14 LaMonte come up. With our December 28th deadline for  
15 operator license applications, now less than two  
16 weeks away, we have been getting a lot of questions

17 about what information in those applications is  
18 public and what is confidential.

19           This is an important issue, because the  
20 Board has been committed from its first meeting a  
21 year ago to the idea of transparency and openness to  
22 ensure the integrity of gaming in Pennsylvania and to  
23 foster public confidence in this new industry.

24           One of our first actions, as an example, in  
25 fact, was to embrace the state's Sunshine and Open

22

1 Records Law, which along with Act 71 and our own  
2 regulations set the standards.

3           Nick Hays was introduced to you before by  
4 Anne as our Director of Communication and also our  
5 Right-to-Know Officer now.

6           He and LaMonte Williams, Deputy Chief  
7 Counsel for Administration, will now give a  
8 presentation on our Right-to-Know Policy and its  
9 implications in the licensing process.

10           Just to set the stage for this, we have the  
11 Sunshine Laws but we have the confidentiality  
12 requirements in Act 71. Okay. Thank you.

13           MR. HAYS: Thank you, Mr. Chairman and  
14 members of the Board. Mr. Chairman, as you said in  
15 your introduction, public interest in the Board's  
16 work is growing as the December 28th deadline for the

17 submission of operator applications approaches.

18           LaMonte from the counsel staff is here with  
19 me to discuss one aspect of that interest,  
20 specifically how the Board will respond to requests  
21 from the public and the media for access to  
22 information connected to the licensing process.

23           One thing we have learned is that this is a  
24 very complex situation that involves the intersection  
25 of the Pennsylvania's Right-to-Know Law, Pennsylvania

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1 Racehorse Development and Gaming Act, Act 71,  
2 regulations adopted by Pennsylvania Gaming Control  
3 Board, and current case law in the Commonwealth.

4           LaMonte is going to begin by discussing the  
5 legal issues in detail, and then I will review our  
6 policy in practical terms.

7           Before we begin though, I would like to  
8 take one moment to thank the team that helped get us  
9 where we are today, beginning with Commissioner  
10 Colins, Executive Director Neeb, and Licensing  
11 Director Susan Hensel.

12           In addition, we were fortunate to have  
13 contributions from several members of our legal  
14 staff, including Nan Horner, Lisa McLain, Kevin  
15 Hayes, and Debra Joyce. This has been a collective

16 effort. Thank you to everyone who has contributed to  
17 it.

18 I will now turn to LaMonte to overview the  
19 legal issues, and I will come back after he is done.

20 MR. WILLIAMS: Thanks, Nick. Good morning,  
21 Mr. Chairman, Commissioners, members of the Board.  
22 Thank you for this opportunity to speak with you  
23 today about the Pennsylvania Right-to-Know Law.

24 I will keep my presentation brief; however,  
25 the brevity of my presentation is not an indication

24

1 of the complexity of this issue.

2 The Right-to-Know Law is complex, fact  
3 intensive, and public policy driven. The  
4 Pennsylvania Racehorse Development and Gaming Act  
5 states that the Pennsylvania Gaming Control Board  
6 shall be an agency for the purposes of the  
7 Right-to-Know Act.

8 The Right-to-Know Act requires Commonwealth  
9 agencies to provide citizens of the Commonwealth of  
10 Pennsylvania with access to public records for  
11 examination, inspection, and duplication.

12 The Act provides for procedure for access  
13 to public records, redaction, agency's response to  
14 written requests for access, final agency  
15 determination, judicial appeal, court costs, attorney

16 fees, penalties, immunity, fee limitations,  
17 implementation, and practice and procedure.

18           The major issue regarding the Act is the  
19 application of the definition of public records,  
20 which generally contemplates a two-step analysis; the  
21 first, a determination of whether the document meets  
22 the statutory definition of public record; and  
23 second, if it is considered public record, if it  
24 meets one of the statutory exceptions.

25           If the document meets one of the statutory

25

1 exceptions, it's not considered a public record under  
2 the Act.

3           Step 1, definition of public records under  
4 the Act can be broken down into two categories;  
5 accounts, vouchers, or contracts dealing with fiscal  
6 aspect of an agency; and second, minutes, orders, and  
7 any essential component of an agency's decision to  
8 fix the personal property rights of a person or group  
9 of persons.

10           In the first category of public record  
11 under the Act dealing with physical aspects of an  
12 agency includes any document that is related to the  
13 disbursement of funds by an agency that is in the  
14 possession of that agency.

15                   The second category, public records under  
16 the Act, for a document to be considered an essential  
17 component of the agency's decision, the agency's  
18 decision must have been contingent upon the  
19 information contained in that document and could not  
20 have been made without it.

21                   The second step of the analysis, the Act  
22 specifically exempts from the definition of public  
23 record, documents that would disclose the institution  
24 progress or result of an investigation undertaken by  
25 an agency in the performance of its official duties,

26

1 except those reports filed by to an agency pertaining  
2 to safety and health industrial plants.

3                   The second is documents that are  
4 prohibited, restricted, or forbidden by statute, law,  
5 order, or decree of Court.

6                   Third, the documents that would operate to  
7 prejudice -- to the prejudice or impairment of a  
8 person's reputation or personal security.

9                   Last, documents that would result in the  
10 laws of the Commonwealth for its political  
11 subdivisions or commissions or state or municipal  
12 authorities of Federal funds except, however, records  
13 of any conviction of any criminal act.

14                   As I stated earlier, the Right-to-Know Law

15 analysis is public policy driven. In fact, the  
16 Supreme Court of Pennsylvania has stated that in  
17 exercising these supervisory powers and discretion to  
18 grant or deny access to public documents, a Court  
19 must decide whether the presumption of openness  
20 attached to such a document outweighs the  
21 circumstances warranting closure of the documents to  
22 inspection and copying by the public.

23 Pennsylvania Courts have found that records  
24 that reflect attorneys' work products do not qualify  
25 as public record.

27

1 The Pennsylvania Courts have also found --  
2 have also used the deliberative process privilege to  
3 shield documents containing confidential  
4 deliberations of law, as well as policy making that  
5 reflect opinions, recommendations, or advice for  
6 public disclosure.

7 The deliberative process privilege allows  
8 for intraagency and interagency flow of information  
9 and protects the discretion afforded and exercised by  
10 agencies from public disclosure.

11 As a result, the mental processes of agency  
12 counsel, as well as the administrators, are not  
13 subject to public disclosure.

14                   The Supreme Court has used this  
15 deliverative process in making decisions regarding  
16 the construction of the Right-to-Know Act.

17                   In developing the Pennsylvania Gaming  
18 Control Board Right-to-Know Policy, we have insured  
19 that it will be consistent with the Right-to-Know  
20 Act, Pennsylvania case law, the Gaming Act and its  
21 regulations.

22                   Mr. Chairman, members of the Board, and  
23 Commissions, thank you for your attention.

24                   CHAIRMAN DECKER: Are there any questions  
25 or comments for either Nick or LaMonte?

28

1                   COMMISSIONER McCABE: I have a question.  
2 So in essence, we're going to be releasing the names  
3 of who applies, stakeholders, location, where they're  
4 applying for?

5                   MR. WILLIAMS: I hate -- unfortunately, I  
6 am going to have to sound like a lawyer and say we're  
7 going to handle it on a case-by-case basis. If that  
8 information does meet that decision, yes, we would.

9                   However, there are exceptions, again, that  
10 I just mentioned. If any of that information meets  
11 those exceptions, as well as maybe meet the  
12 confidentiality definition which we have in the Act  
13 and regulations, then such information would not be

14 released; but information that would be considered  
15 public record would be released.

16 CHAIRMAN DECKER: The stuff that  
17 Commissioner McCabe just described is pretty --

18 MR. WILLIAMS: Yes.

19 MR. HAYS: If I could?

20 CHAIRMAN DECKER: You sounded too much like  
21 a lawyer.

22 MR. WILLIAMS: Thanks.

23 MR. HAYS: I may be able to help enlighten  
24 everybody on this a little bit by talking about the  
25 process and how this is going to work after December

29

1 -- it's actually going on already with the  
2 manufacturer applications.

3 The way this works as part of the intake  
4 process, the licensing staff under which it is going  
5 to review each application and all of its contents in  
6 light of the structure that LaMonte has just outlined  
7 for you and will divide information into confidential  
8 and non-confidential folders.

9 The information that will be -- in the  
10 non-confidential holder, the public holder, we will  
11 then make -- we will announce that it is available  
12 and make that available to people who want to come

13 into the office to see it or wish to purchase copies.

14 But to answer your question, Commissioner  
15 McCabe, the items that you listed are all things that  
16 we -- to my understanding would be public  
17 information.

18 CHAIRMAN DECKER: Any other questions for  
19 --

20 MR. HAYS: One thing we would ask that the  
21 Board consider --

22 CHAIRMAN DECKER: We will do a motion.

23 MR. HAYS: Okay.

24 CHAIRMAN DECKER: Do we have a motion --

25 COMMISSIONER MARSHALL: I'll move it.

30

1 CHAIRMAN DECKER: Thank you. To adopt the  
2 Right-to-Know Policy?

3 We've got a motion. May I have a second?

4 COMMISSIONER CONABOY: Second.

5 CHAIRMAN DECKER: Any further discussion or  
6 questions?

7 Hearing none, all those in favor, please  
8 indicate by saying aye.

9 COMMISSIONERS: Aye.

10 CHAIRMAN DECKER: Are there any opposed?

11 Motion carries.

12 Thank you, LaMonte. Thank you very much.

13                   Next, from the Bureau of Investigations and  
14 Enforcement, Chief Counsel Michael Schwoyer is going  
15 to take us through a proposal for the Board to  
16 contract for credentialing and photography services  
17 via the state procurement process.

18                   Is that correct, Michael?

19                   MR. SCHWOYER: That's correct.

20                   CHAIRMAN DECKER: Please, go ahead.

21                   MR. SCHWOYER: Chairman Decker, members of  
22 the Board, staff and guests, thank you for the  
23 opportunity to make this presentation to you this  
24 morning on our plan to implement the fingerprint and  
25 photograph requirements on the Pennsylvania Racehorse

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1 Development and Gaming Act.

2                   The Gaming Act requires that each applicant  
3 for a license or permit, unless exempted by the  
4 Board, be fingerprinted and photographed; and as  
5 required by the Board, that the applicant's  
6 fingerprints be submitted to the Federal Bureau of  
7 Investigation for purposes of verifying the identity  
8 of the applicant and obtaining records of criminal  
9 arrests and convictions.

10                   Additionally, the Board's regulations  
11 require that other individuals, who have filed an

12 application with the Board seeking authorization to  
13 engage in activities under the Act, be fingerprinted  
14 and photographed as well.

15           In light of these requirements, we  
16 developed a plan for implementation. In developing  
17 our plan, we've consulted with the Pennsylvania State  
18 Police, PCCD, that's the Pennsylvania Commission on  
19 Crime and Delinquency, Technology and Automation  
20 Committee members, JNET staff, that's the  
21 Pennsylvania Justice Network, the PA Chiefs of Police  
22 Association, Department of Revenue IT staff, and  
23 others.

24           I would like to begin explaining the plan  
25 by providing you with some background concerning

32

1 existing systems in place in the Commonwealth related  
2 to fingerprinting and photographing individuals.

3           The Commonwealth currently utilizes Identix  
4 LiveScan devices to fingerprint individuals. Identix  
5 LiveScan devices capture high resolution fingerprints  
6 in digital format much in the same way that a  
7 photograph is scanned into a computer.

8           The digital fingerprints captured utilizing  
9 LiveScan are of a quality that meets standards  
10 established by the National Institute of Science and  
11 Technology.

12 Existing LiveScan devices across the  
13 Commonwealth are networked and the PSP central  
14 repository is networked with the Federal Bureau of  
15 Investigation through the automated fingerprint  
16 identification service or AFIS.

17 The AFIS network enables captured  
18 fingerprints to be submitted electronically to the  
19 PSP and FBI central database where arrest records are  
20 automatically searched and the results electronically  
21 returned to the submitting agency.

22 Manual record searches are limited to  
23 situations when a record can't be affirmatively  
24 associated with the individual.

25 The Commonwealth currently utilizes

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1 Dataworks Plus hardware and software to operate and  
2 administer the Commonwealth Photo Imaging Network or  
3 CPIN, which is the computer network used to record  
4 and store digital photographs of an individual's face  
5 and any scars, marks, tatoos, or other unique  
6 features.

7 Like fingerprints captured using LiveScan  
8 Devices, the digital photographs captured, utilized  
9 using CPIN are of a quality that meets standards  
10 established by the National Institute of Science and

11 Technology.

12                   These two existing systems, LiveScan and  
13 CPIN, can effectively and efficiently be used to  
14 fingerprint and photograph individuals who have filed  
15 applications with the Board.

16                   The plan utilizes these systems and their  
17 associated infrastructure, because these existing  
18 systems can be easily adapted to meet the Board's  
19 needs.

20                   The use of existing LiveScan and CPIN  
21 workstations, as well as existing infrastructure and  
22 network connectivity, will allow for the full work  
23 flow needed to satisfy the Act's fingerprinting and  
24 photograph requirements.

25                   It will allow the Pennsylvania State Police

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1 to capture images of faces, fingerprints, and other  
2 unique identifying characteristics, submit this  
3 information as required to the PSP and Federal Bureau  
4 of Investigation central databases, verify the  
5 applicant's identify, conduct a criminal history  
6 search on the applicant; and by simply adding a few  
7 accessories, it can be utilized to issue secure Board  
8 credentials.

9                   How will this be accomplished? Consistent  
10 with an agreement reached between the Board and the

11 Pennsylvania State Police, the initial phase of this  
12 plan will utilize seven PSP locations across the  
13 Commonwealth that have been designated by PSP to  
14 facilitate the short-term fingerprinting and  
15 photographing of Board applicants.

16           These seven facilities are presently  
17 equipped with technology that can be modified as  
18 necessary to fingerprint and photograph individuals  
19 who filed applications with the Board.

20           PSP personnel are already familiar with the  
21 use of these systems. Under our plan, these seven  
22 PSP sites will be utilized for this purpose until  
23 such time as licensed slot machine facilities are  
24 operating in the Commonwealth.

25           Utilizing AFIS, fingerprints taken at these

35

1 seven sites will be sent electronically to the PSP  
2 central repository where they will be maintained.

3           From there, they can be sent to the FBI as  
4 required by the Board. Photographs taken at these  
5 seven sites will be sent to PSP central CPIN database  
6 and maintained.

7           In addition to being maintained by PSP  
8 under this plan, applicant photographs will be  
9 transmitted across existing Commonwealth computer

10 networks to the Board's central office in Harrisburg.

11           In order to receive these photographs, the  
12 Board will need to establish a consolidated  
13 photograph server in the central office, and the  
14 server will need to be connected to CPIN.

15           Additionally, hardware and software will be  
16 required to enable the Board to collect these  
17 photographs from CPIN and maintain them in CPIN  
18 format.

19           Finally, we will design a secure credential  
20 card and acquire hardware and software necessary to  
21 create and issue credentials using the CPIN  
22 photographs that are stored in the consolidated  
23 photograph server at the Board's central office.

24           The second phrase of the plan will be  
25 implemented over time as each licensed facility

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1 prepares to begin operations.

2           Each slot machine licensed facility will be  
3 equipped with this same technology, LiveScan and  
4 CPIN, so that applicants can be fingerprinted and  
5 photographed on-site upon receipt of a bonafide offer  
6 of employment or as they are identified vendors,  
7 junket representatives, etc.

8           Now that we've talked about fingerprints  
9 and photographs, I would like to talk briefly about

10 data fields and data files related to Board  
11 applicants and work flow.

12           Upon the establishment of the Board's  
13 permanent applicant database, that is the database in  
14 our offices to keep track of applications received  
15 and the status, etc.

16           The transfer of data among all of these  
17 systems can be included in this process through a  
18 secure web-based system.

19           Under the plan, licensees could initiate an  
20 individual's application process on-site at their  
21 facility. Data about the individual could be passed  
22 along to the on-site CPIN system which will be used  
23 to photograph the individual.

24           The CPIN data, that is data that is  
25 collected during the photograph process, will then be

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1 passed along to the LiveScan system, which will be  
2 used to fingerprint the individual.

3           Ultimately, the individual's application,  
4 including their photograph, will be submitted to the  
5 Board upon the formal submission of the applicant's  
6 application.

7           Predetermined data fields relating to the  
8 applicant will then be used to populate the Board's

9 applicant database. This process of integrating  
10 data, fingerprint and photograph exchange, will  
11 create single points of data entry, eliminate  
12 redundancies, and minimize error. The plan system  
13 ultimately will be capable in this fashion.

14 That's an overview of the plan. You were  
15 provided with a statement of work that provided  
16 greater detail regarding the photograph portion of  
17 this. This concludes my presentation.

18 Are there any questions?

19 CHAIRMAN DECKER: Any questions?

20 COMMISSIONER DiGIACOMO COLINS: I have a  
21 couple questions.

22 CHAIRMAN DECKER: Please, Mary, go ahead.

23 COMMISSIONER DiGIACOMO COLINS: The  
24 contract overview that you've given us and the  
25 presentation relate to the -- our agreeing to acquire

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1 CPIN and LiveScan technology, correct?

2 MR. SCHWOYER: Correct.

3 COMMISSIONER DiGIACOMO COLINS: All right.  
4 Does this contract extend into finding and accepting  
5 hardware, software, and the transfer of the data that  
6 is obtained through CPIN and LiveScan, or is that  
7 another phrase that you have to address?

8 MR. SCHWOYER: There is no contract at this

9 point in time. It is anticipated that any contracts  
10 entered into would -- you know, it would include all  
11 of this.

12 COMMISSIONER DIGIACOMO COLINS: So then  
13 this contract is for the acquisition of the CPIN and  
14 the LiveScan capability but nothing more at this  
15 point?

16 MR. SCHWOYER: No. Again, there is no  
17 contract at this point. Simply purchasing the  
18 machines without the ability to connect them would  
19 not implement the plan.

20 These machines -- when you purchase these  
21 machines, they come with maintenance agreements.  
22 They come with -- they can connect them. They set  
23 them up and they test them. That will all be part of  
24 a contract when a contract is ultimately entered, I  
25 would anticipate.

39

1 At this point, as Phase 1 is taking place  
2 at the seven existing PSP sites and since the Board  
3 is not going to be collecting and gathering the  
4 fingerprint portion, at this point in time, I would  
5 hope that the Board would consider implementing the  
6 photograph portion of the plan as -- I don't believe  
7 that there will be any contracts necessary to

8 implement the fingerprint portion, as that's going to  
9 be handled by the State Police at their seven remote  
10 sites.

11 It's simply the photograph plan that the  
12 Board needs to take action on, because the  
13 photographs need to be transmitted to our central  
14 office so we can issue credentials from those  
15 photographs.

16 COMMISSIONER DiGIACOMO COLINS: And I  
17 suppose what I'm asking is we have the hardware and  
18 software capability now to have this data  
19 transmitted, or do we have to enter into further  
20 contracts in order to have that capability?

21 MR. SCHWOYER: We will need to enter into  
22 further -- we will need to enter into contracts.  
23 Again, there aren't any contracts entered into with  
24 regards to this technology and the plan that I  
25 outlined but as we would --

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1 CHAIRMAN DECKER: I think Mary is asking  
2 another question, Michael. She's asking down the  
3 road, are we going to have to have supplementary  
4 contracts with others, them or others to implement  
5 this stuff. Am I asking that correct, Mary?

6 COMMISSIONER DiGIACOMO COLINS: That's  
7 right.

8                   CHAIRMAN DECKER: Not this contract or an  
9 existing contract.

10                   COMMISSIONER DiGIACOMO COLINS: This  
11 contract is pretty straightforward. It's to acquire  
12 the machines and to accumulate the data.

13                   MR. SCHWOYER: And to connect the machines  
14 to existing systems so that the plan that I outlined  
15 under Phase 1 could be implemented. I anticipate  
16 that could be accomplished in a single contract.

17                   COMMISSIONER DiGIACOMO COLINS: And then  
18 the final part of my question, are there other  
19 jurisdictions we can look to for models as to what  
20 software or hardware they have in order to achieve  
21 this type of integration?

22                   MR. SCHWOYER: Pennsylvania already  
23 achieved this type of integration. This technology  
24 that I've outlined for you is in place in multiple  
25 sites across the Commonwealth. It's a technology

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1 that is currently utilized by the State Police, the  
2 Department of Corrections, the Pennsylvania Board of  
3 Probation and Parole, many counties, many local  
4 jurisdictions. There are over 100 LiveScan and CPIN  
5 units currently in operation across the Commonwealth.

6                   COMMISSIONER DiGIACOMO COLINS: But it has

7 to be transferred to our system, correct?

8 MR. SCHWOYER: Correct. That can be  
9 accomplished over the Commonwealth Enterprise  
10 Network.

11 COMMISSIONER DIGIACOMO COLINS: Okay.  
12 That's my question. All right. Thank you.

13 CHAIRMAN DECKER: What is the timing on  
14 this process, Michael?

15 MR. SCHWOYER: We will need to -- pursuant  
16 to the Criminal Code, we will need to enter into a  
17 contract to accomplish that.

18 As you all well know, the time frame  
19 involved in the contract process is sort of an  
20 unknown. The work involved once the contract is  
21 entered is relatively simple. It's basically  
22 replicating work that has been performed over and  
23 over again.

24 CHAIRMAN DECKER: It would be an RFP kind  
25 of process.

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1 MR. SCHWOYER: Well, as these are existing  
2 systems, the procurement provides for sole-source.  
3 What the Board would essentially need to acquire are  
4 accessories to the existing system, server to connect  
5 to the existing system at our database, a printer to  
6 connect to the existing system at our central office.

7 So it's not -- we're not creating a new system. We  
8 would like to utilize existing systems in the  
9 Commonwealth.

10 CHAIRMAN DECKER: Any other questions?

11 COMMISSIONER McCABE: Mr. Chairman, I have  
12 a motion.

13 CHAIRMAN DECKER: Please.

14 COMMISSIONER McCABE: In regards to the  
15 credentials contract authorization, I move that the  
16 Board authorize Chairman Decker to pursue and enter  
17 into contracts pursuant to the Procurement Code for  
18 the acquisition of supplies, equipment, software, and  
19 maintenance agreements necessary to enable the Board  
20 to capture photographs, meeting Commonwealth photo  
21 imaging network standards, and transfer, maintain,  
22 and store these captured photographs and related  
23 demographic data to facilitate background  
24 investigations and to issue credentials to such  
25 persons.

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1 CHAIRMAN DECKER: Thank you, Ken.

2 COMMISSIONER DiGIACOMO COLINS: Second.

3 COMMISSIONER COY: Mr. Chairman?

4 CHAIRMAN DECKER: Any questions? Please,  
5 go ahead.

6 COMMISSIONER COY: Thank you. Mike, I  
7 guess I want to make sure that some of the things  
8 that you said and maybe I understood or didn't, these  
9 systems that we will have then or this system that we  
10 have, will they be compatible working with the State  
11 Police and their systems?

12 MR. SCHWOYER: Yes, sir.

13 COMMISSIONER COY: Okay. And is there --  
14 would you describe this system as state-of-the-art  
15 today in terms of this type of equipment and  
16 procedure?

17 MR. SCHWOYER: Yes. LiveScan technology  
18 and the use which the Commonwealth puts that  
19 technology and CPIN technology and the use which the  
20 Commonwealth uses that, is considered cutting age.

21 Pennsylvania has received numerous awards  
22 from national associations with regard to their use  
23 of this technology. So yes, it is cutting edge.  
24 It's not a new process to Pennsylvania.

25 COMMISSIONER COY: And the fact that we can

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1 interface with the State Police is a benefit to both  
2 the State Police and to us; is that correct?

3 MR. SCHWOYER: That's correct.

4 COMMISSIONER COY: Good. Thank you.

5 CHAIRMAN DECKER: Thanks.

6 Any other questions?

7 We have a second. With that said, all of  
8 those in favor, please indicate by saying aye.

9 COMMISSIONERS: Aye.

10 CHAIRMAN DECKER: Any opposed?

11 Motion carries.

12 Michael, thank you very much for that very  
13 good description.

14 We're now going to turn our attention as we  
15 do at most meetings to a regulations update.

16 Commissioner Colins, we have several items  
17 today as I understand it?

18 COMMISSIONER DIGIACOMO COLINS: We do. We  
19 have a number of items that encompass an enormous  
20 amount of territory that we have covered over the  
21 past few months; and the first, Dale Miller and Mike  
22 Edmiston have been working diligently for a couple of  
23 months drafting regulations on hearings and appeals.

24 Dale is going to do a presentation, a brief  
25 presentation that is going to highlight this very

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1 important element of the Gaming Board, which is the  
2 procedure or the practice before the Board.

3 Then we're going to go right into new  
4 regulations that are being drafted as amendments for

5 management contracts. Nan Horner will explain that.

6 Then Michelle and Nan will do a  
7 presentation on the changes that are made to existing  
8 contracts. These first regulations are going to be  
9 offered for public comment.

10 MR. EDMISTON: Good morning, Mr. Chairman  
11 and members of the Board. My name is Michael  
12 Edmiston. I'm the Director of the Office of Hearings  
13 and Appeals.

14 The presentation we have for you today is  
15 one that I'm going to share with Dale Miller, PGCB's  
16 first Hearing Officer.

17 At the outset, I would just like to make a  
18 couple of initial remarks. The regulations that you  
19 have before you -- you will have before you by way of  
20 a motion to advance for public comment, address the  
21 procedures and practice before the Office of Hearings  
22 and Appeals and the Pennsylvania Gaming Control  
23 Board.

24 I would like to make it clear that these  
25 regulations as a proposal before you are my

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1 responsibility.

2 However, as you know, most of our efforts  
3 at the PGCB are collective endeavors. We've had  
4 benefit of the guidance of Commissioner Colins and

5 the help of some significant number of our workmates.

6           So I would like to state for the record  
7 that the Licensing Bureau and the Bureau of  
8 Investigation -- Bureau of Investigation and  
9 Enforcement, as well as the counsel's office, have  
10 provided analysis and suggestions that have advanced  
11 this proposal through six drafts to the current state  
12 of maturity.

13           Specific thanks are due to Jim Dohery, Don  
14 Shiffer, and Melinda Tucker. As you know from your  
15 efforts to build this agency out from the statutory  
16 blueprint, there are insights and lessons to be  
17 garnered from the experience of others that have  
18 traveled similar roads.

19           For that reason, we took a note of  
20 alternatives that existed elsewhere in the  
21 Pennsylvania government, as well as for that matter  
22 regulatory agencies and their hearings and appeals  
23 regulations in other jurisdictions.

24           I would be remiss were I not to remark  
25 about the assistance as well of executive and

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1 legislative branch lawyers and others experienced in  
2 regulatory endeavors, who have contributed to varying  
3 degrees in this proposal.

4                   Generally, these regulations have been  
5 developed to a state of readiness for this public  
6 comment, and we anticipate the responses will provide  
7 us responsible suggestions for further improvement  
8 and refinement.

9                   The goals of these regulations is set forth  
10 in the first slide before you. They present the  
11 structure and function of the Hearings and Appeals  
12 Bureau.

13                   They are intended to act as a guide for  
14 lawyers and practitioners for the Office of Hearings  
15 and Appeals, as well as before the Board.

16                   They have been designed for applicability  
17 to both the licensing hearings and regulatory  
18 enforcement proceedings.

19                   The Office of Hearings and Appeals itself  
20 is comprised of the basic elements in the current  
21 slide. They are similar to other core components  
22 found in like entities throughout the Pennsylvania  
23 State Government and, for that matter, throughout the  
24 country.

25                   This next slide sets forth the

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1 responsibilities of the director. As you can see,  
2 the duties and functions are basic. I'm one of seven  
3 directors on the staff of the Pennsylvania Gaming

4 Control Board.

5 Like my director colleagues, I do and will  
6 attend directors' meetings as a matter of course.  
7 Notable among the items listed on this slide is my  
8 obligation to make sure that the Office of Hearings  
9 and Appeals meets your deadlines.

10 The next slide presents the Clerk to the  
11 Board. The Clerk will need separate office space  
12 within Hearings and Appeals.

13 The Clerk will have day-to-day  
14 responsibility for courtroom administration,  
15 including supervising docket clerks and providing  
16 stenographers. Further, the Clerk will maintain a  
17 hearing calendar, which will be available to the  
18 public.

19 This slide presents the Hearings Officers.  
20 They will be full-time employees. They will be  
21 authorized to conduct a variety of hearings as this  
22 Board might require.

23 Like the more general category of Presiding  
24 Officers, they will be empowered to make reports or  
25 recommendations to the Board for further action as

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1 the Board determines.

2 After a hearing procedure is conducted or a

3 report is made to the Board, that final order alluded  
4 to a moment ago is in effect an adjudication.

5           The Presiding Officers will be Hearing  
6 Officers, but there may be other individuals, other  
7 persons, who at the Board's request may conduct  
8 hearings.

9           These regulations authorize the Chairman to  
10 appoint such Hearings Officers or other persons to be  
11 Presiding Officers to conduct the proceedings. You  
12 would want to know that the Chairman will have  
13 authority to appoint, as a Presiding Officer, a  
14 member of the Board.

15           A Presiding Officer's responsibilities are  
16 rather routine, formal hearing functions. They'll  
17 administer oaths, take evidence, hold hearing  
18 conferences, and dispose of procedural matters. They  
19 will perform other duties as directed by the Board.

20           The next portion of the presentation, Dale  
21 is going to handle.

22           MR. MILLER: Thanks, Mike.

23           I'm Dale Miller. I'm the one and only  
24 Hearing Officer that we have right now. Basically,  
25 once we get a matter ready for hearing, the Board can

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1 hear a meeting directly or they can refer any type of  
2 matter to a Hearing Officer or a Presiding Officer.

3 Under the Act, documentary hearings are  
4 permissible, as well as oral hearings. All hearings,  
5 whether documentary or oral, are going to provide due  
6 process to all of the parties.

7 As is routine in administrative  
8 proceedings, the Rules of Evidence will be relaxed.  
9 Any side will have an opportunity to publicly present  
10 their case to the Board or to the Presiding Officer.

11 The actual courtroom procedures themselves  
12 are going to involve Direct Examination, Cross  
13 Examination, and that sort of thing. Those  
14 procedures will be in accordance with the  
15 Pennsylvania Code, which are Administrative Practice  
16 and Procedure's guide for all administrative agencies  
17 in Pennsylvania.

18 In an oral hearing, it can either be  
19 conducted by the Board itself or by a Presiding  
20 Officer.

21 Those oral hearings will provide for live,  
22 oral testimony, presentation of documentary evidence,  
23 and all those things we normally see in a trial or in  
24 any other administrative hearing.

25 Once that hearing is completed, whether

1 it's with a Presiding Officer or a Hearing Officer, a

2 report or recommendation of that hearing will be made  
3 to the Board. Then the Board can review it when it's  
4 made.

5 At a documentary hearing, there will be no  
6 contemporaneous live testimony, but depositions and  
7 interrogatories taken under oath will be considered  
8 as documents and may be submitted by the parties  
9 concerned.

10 The parties will have notice of any  
11 documentary hearing date and will have up to five  
12 days before the date to submit whatever they want the  
13 Board or Presiding Officer to consider.

14 Five days before the hearing date, the  
15 record will be closed but up to that time,  
16 depositions, interrogatories, and other evidence can  
17 be taken and presented.

18 If a public input hearing is held in the  
19 matter, the record of that proceeding will be  
20 included as part of the documentary hearing and can  
21 be considered by the Board.

22 Of course, before any matter gets to the  
23 Board, the Board will be permitted to have pleadings  
24 in a case. These are the type of pleadings that we  
25 anticipate will be permitted under these regulations.

1 We expect that the most common pleadings

2 will be complaints of petitions, but all of these  
3 pleadings listed here will be permitted.

4 All pleadings will be filed with the Clerk,  
5 which is located within the Office of Hearings and  
6 Appeals.

7 A complaint is the basic document to start  
8 a proceeding before the Board. It can be used to  
9 request a hearing, object to non-final Board actions  
10 and will definitely be used by the Bureau of  
11 Investigation and Enforcement to begin regulatory  
12 violation proceedings. That is how any of those  
13 violations will get into a hearing.

14 A petition can be used to request special  
15 relief from the Board. For instance, there will be  
16 times when parties may disagree over a meaning of a  
17 regulation or a Board's action.

18 Those parties can then petition the Board  
19 to issue, what is called, a declaratory order to  
20 resolve that problem or controversy. As part of a  
21 petition, a hearing may be requested.

22 If a petition for declaratory order is  
23 filed, the Board can act on that request. When the  
24 Board makes a decision in the declaratory order, that  
25 adjudication or final order may be appealed.

1                   Intervention is permitted. Even though a  
2 person may not be a party to a proceeding, they may  
3 request to intervene in a matter before the Board.

4                   When a petition to intervene is filed, the  
5 Board may entertain it or they may grant or deny  
6 intervention at its discretion.

7                   The motion practice will be permitted  
8 before the Board or Presiding Officer. The parties  
9 may want to file motions to dismiss an action, to  
10 close it, to make a pleading more specific, for any  
11 one of a hundred things that attorneys may want to  
12 consider.

13                   MR. EDMISTON: The slide before you now is  
14 the Board's recommendations. I just have a few more  
15 slides left this morning.

16                   The reports and recommendations will set  
17 forth the issues that are in controversy, the  
18 findings of fact, and conclusions of law developed by  
19 the Presiding Officer. The reports or  
20 recommendations will be provided to the parties.

21                   MR. MILLER: Of course, once the parties  
22 get hold of that report or recommendation, they may  
23 object to some parts of it or all of it.

24                   If they do, they can file those objections  
25 with the Board by way of exceptions. When they do

1 file exceptions, a brief will be required so that the  
2 Board can know exactly what the party's objections  
3 are and what law applies.

4 The Board may grant a hearing on those  
5 exceptions; and if they do, it will be a documentary  
6 hearing.

7 MR. EDMISTON: Take it back one, if you  
8 will. One more. Okay. We jumped the slide in our  
9 impetuosity and desire to perform well for you in our  
10 first joint appearances here today.

11 COMMISSIONER COY: You had to get that word  
12 from Deweese.

13 MR. MILLER: Don't blame me.

14 MR. EDMISTON: Youthful enthusiasm, indeed.  
15 The report we did shoot right past was the matter of  
16 the review of reports or recommendations.

17 You will review as a Board the reports or  
18 recommendations. It will be your province to adopt  
19 the reports or recommendation in their entirety,  
20 adopt a portion thereof, remand the matter or, for  
21 that matter, elements of it for further hearing.

22 Additionally, you, as a Board, may conduct  
23 your own hearing de novo, in other words, as those  
24 previous hearings never took place. The subsequent  
25 remand would be before a Presiding Officer.

1           The regulations before you do accord  
2 parties the right to file briefs. Additionally, the  
3 right to request a reopening, a rehearing, or a  
4 reconsideration of the Presiding Officer's reports or  
5 recommendations.

6           The last slide that we have for you is on  
7 the matter of appeals. The final Board orders may be  
8 appealed, as you all do well know. They may be  
9 appealed pursuant to Act 71 of 2004.

10           Notice of appeal, according to these  
11 regulations, must be filed with the Clerk. A stay of  
12 a final Board order may be issued either by this  
13 Board at its discretion or the appropriate appellate  
14 court pursuant to the Judicial Code and the Rules of  
15 Appellate Procedure.

16           Thank you for your attention.

17           MR. MILLER: Any questions?

18           CHAIRMAN DECKER: Any questions from any of  
19 the Board members?

20           Please, Greg.

21           SECRETARY FAJT: Thank you, Mr. Chairman.

22           Mike, where is the Court of appeal from a  
23 final hearing by the Board? Is it Commonwealth  
24 Court, Superior Court?

25           MR. EDMISTON: It most ordinarily would be

1 Commonwealth Court with the exception of licensing  
2 these decisions. That would be Supreme Court.

3 SECRETARY FAJT: Thank you.

4 CHAIRMAN DECKER: Thanks, Greg. It's a  
5 good thing to point out. Thank you.

6 Any other questions?

7 Please, Treasurer.

8 TREASURER CASEY: For both Mike and Dale,  
9 I'm not sure who can answer this; but I'm going to  
10 the section on hearings and the distinction between a  
11 documentary hearing and oral hearing.

12 How is that distinction made and what are  
13 the considerations that are waived? In other words,  
14 what guides that decision?

15 MR. MILLER: On a documentary hearing,  
16 well, under the Statute, under the Act itself, under  
17 Section 1205, it says specifically, procedures for  
18 licensing or application hearings adopted by order of  
19 the Board shall provide parties before it with a  
20 documentary hearing, but the Board may resolve  
21 disputed material facts without conducting an oral  
22 hearing where Constitutionally permissible.

23 That's where the documentary hearing comes  
24 from. The Act, itself, gives the Board the authority  
25 to do that.

1           As you can see, some of these licensing  
2 applications are enormous. The Board will have to  
3 review those things.

4           In determining how exactly the Board was  
5 going to conduct a documentary hearing, I researched  
6 other states, other areas to see how documentary  
7 hearings were conducted in other places.

8           To be frank, there's very few places that  
9 do this; but those that we found all provide a due  
10 process for the parties, which we're going to do  
11 here.

12           I think the way we would like the Board to  
13 conduct the documentary hearings as provided for in  
14 the regulations will give every applicant and every  
15 party that appears before this Board the best due  
16 process that we can possibly provide.

17           MR. MILLER: Additionally, if I might,  
18 simply said, the matter is discretionary with this  
19 Board as to whether a hearing will be an oral hearing  
20 or documentary hearing.

21           Dale did welcomely cite the appropriate  
22 provision in the Statute. As you know, having  
23 acquainted yourself with it long before Dale's  
24 reinvocation of it here, it makes it rather clear  
25 that due process is uncalled for but the arrange of

1 the discretion probably ultimately is going to be a  
2 matter that someone will settle before an appellate  
3 court.

4 MR. MILLER: I might add, Mr. Treasurer,  
5 depositions, which is essentially live testimony  
6 conducted under oath at a different place, will be  
7 permitted, that will be part of the documentary  
8 record to be considered by the Board.

9 TREASURER CASEY: Thank you.

10 CHAIRMAN DECKER: Mary, did you have a  
11 question?

12 COMMISSIONER DIGIACOMO COLINS: No, I don't  
13 have a question; but I do want to let everyone know  
14 the degree and the level of work that was involved  
15 that Dale and Mike contributed to create this body of  
16 regulations. I really am very grateful to them. It  
17 was an enormous task and we are going to, after the  
18 motion is made, welcome public comment on this,  
19 because this is the establishment of an entire  
20 structure of hearings and appeals, which is enormous.

21 So I thank them, again, for their efforts.  
22 If there are no more questions, I will make a motion  
23 for you.

24 CHAIRMAN DECKER: Please. I was going to  
25 say, Mary, do you have a motion for us?

1 COMMISSIONER DiGIACOMO COLINS: I do.

2 COMMISSIONER RIVERS: Second.

3 COMMISSIONER DiGIACOMO COLINS: I'll move  
4 that they be published -- that these regulations be  
5 published in the Pennsylvania Bulletin and that they  
6 be open for public comment from December 15th, today,  
7 through January 18th, 2006.

8 CHAIRMAN DECKER: Second, right, Sandy?

9 COMMISSIONER RIVERS: Yes.

10 CHAIRMAN DECKER: Any further questions?

11 Hearing none, all of those in favor, please  
12 indicate by saying aye.

13 COMMISSIONERS: Aye.

14 CHAIRMAN DECKER: Any opposed?

15 Motion carries.

16 Thank you very much. Thank you, gentlemen.  
17 Thanks for the work and presentation today.

18 What is next on this?

19 COMMISSIONER DiGIACOMO COLINS: Nan wants  
20 to talk -- will explain now the regulations dealing  
21 with the management companies. She has a pretty  
22 comprehensive explanation of what she has drafted and  
23 the reason for it.

24 MS. HORNER: Good morning. Michelle and I  
25 are making presentations today about new management

1 company regulations and amendments to existing  
2 regulations.

3 I believe we have a total of 15 pages,  
4 double spaced, 12 point font. We will go as quickly  
5 as we can.

6 COMMISSIONER MARSHALL: Bless you.

7 MS. HORNER: Just very quickly, I would  
8 like to thank Maureen Williamson and Joe Grad for  
9 their assistance with the management company  
10 regulations.

11 Before you this morning is consideration of  
12 the opening of a ten-day public comment period on  
13 draft regulations concerning management contracts and  
14 the regulation licensing of the people and companies  
15 that will be providing management services to slot  
16 machine licensees in the Commonwealth.

17 Management contracts are arrangements made  
18 between a management company and a licensed facility  
19 to provide for the management of all or part of a  
20 licensed facility.

21 Management contracts may be utilized by  
22 slot machine licensees to provide essential gaming  
23 experience that may be lacking in companies that are  
24 new to the industry and may be utilized by gaming  
25 companies that do not meet the eligibility

1 requirements of holding a slot machine license.

2 Management contracts may be as simple as  
3 the provision of a person or a small group of people  
4 to be the slot machine licensees operators.

5 They may also be as comprehensive as the  
6 provision of turn-key package that could include  
7 financing, land leasing, design and development,  
8 employment, and operational services.

9 The compensation provided to a management  
10 company is generally in the form of a revenue share  
11 based upon gross terminal revenue, a percentage of  
12 revenue generated at the entire licensed facility, or  
13 a percentage based upon some other formula.

14 The regulations that we have drafted  
15 attempt to address all possible scenarios. The  
16 regulations require the management company to  
17 complete the same application form as the slot  
18 machine licensee.

19 The slot machine licensee must submit the  
20 management company's license application with the  
21 requisite application processing fees and the  
22 management company licensing fee as set by the Board.

23 The management contract must clearly set  
24 forth the duties and obligations of the parties, the  
25 terms of compensation and specify that the parties

1 are jointly and severally liable for acts and  
2 omissions in violations of the Gaming Act and the  
3 regulations.

4 A management contract must be approved by  
5 the Board before it becomes effective, and it may not  
6 attempt to delegate benefits, duties, or obligations  
7 specifically granted to or imposed upon a slot  
8 machine licensee.

9 Additionally, the parties must prove that  
10 the approval of the management contract would not be  
11 in violation of any provision of the Act nor the  
12 spirit or intent of the Act.

13 Because especially in the situation in  
14 which turn-key services are being provided, the  
15 management company is essentially stepping into the  
16 shoes of the slot machine licensee. I, therefore,  
17 urge the Board to publish the draft management  
18 company regulations.

19 As you are aware, the Board's approval of  
20 the publication of the draft regulations will mark  
21 the beginning of a ten-day long public comment  
22 period.

23 There is an abbreviated comment period for  
24 the management company regulations, because the Board

25 recognizes that management contracts may be required

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1 in order to address a necessary component of an  
2 applicant's filings.

3 The Board wants to inform applicants and  
4 potential management companies of the duties and  
5 responsibilities prior to the slot machine license  
6 filing deadline.

7 Due to the abbreviated public comment  
8 period, the regulations will only be published on the  
9 Board's website and will not appear in the  
10 Pennsylvania Bulletin.

11 In order to be considered, comments will  
12 have to be postmarked by no later than Friday,  
13 December 30th, 2005. Comments must be accompanied by  
14 the commentator's name and the name of an entity or  
15 organization on whose behalf the comment is being  
16 submitted.

17 Commentators must also include a mailing  
18 address, including county, for the individual and  
19 organization, if appropriate, and a telephone and  
20 email address that can be used to verify the source  
21 of the information.

22 When the comments are submitted, they  
23 should cite the specific section to which the  
24 comments pertain or, at a minimum, the topic under

25 discussion.

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1           Comments, which are not related  
2 specifically to management companies, will not be  
3 entertained and considered during this comment  
4 period.

5           Once the staff has reviewed the public  
6 comments, the comments and the Board's response will  
7 be posted on the Board's website. The end.

8           CHAIRMAN DECKER: Thank you, Nan.

9           Any comments or questions for Nan Horner?

10          COMMISSIONER DIGIACOMO COLINS: I would  
11 like to make a motion.

12          CHAIRMAN DECKER: Please.

13          COMMISSIONER DIGIACOMO COLINS: That the  
14 Board adopt -- that the Board publish these  
15 management company regulations for a ten-day public  
16 comment period.

17          COMMISSIONER MARSHALL: Second.

18          CHAIRMAN DECKER: All of those in favor,  
19 please indicate by saying aye.

20          COMMISSIONERS: Aye.

21          CHAIRMAN DECKER: Any opposed?

22          Thank you. The motion carries.

23          Mary, there is one more item, as I

24 understand.

25 COMMISSIONER DiGIACOMO COLINS: There's --

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1 CHAIRMAN DECKER: There's always one more  
2 item.

3 COMMISSIONER DiGIACOMO COLINS: There's a  
4 lot of work going on. Now, there's some amendments  
5 for Michelle Afragola to talk about.

6 MS. HORNER: We have the 14 amendments of  
7 the last Board meeting. Okay.

8 CHAIRMAN DECKER: These are ones that were  
9 out there for public comment already, correct?

10 MS. HORNER: Yes.

11 CHAIRMAN DECKER: Do you want to summarize  
12 those for us?

13 MS. HORNER: We will do that as quickly as  
14 possible. Okay. In adopting regulations, the Board  
15 reserved the right to make amendments to the  
16 regulations as necessary in accordance with and in  
17 order to further the intent of Act 71.

18 As we move forward in the regulatory  
19 process, we are continually reviewing the existing  
20 regulations, taking suggestions from the Board, from  
21 the Bureau of Licensing; and based upon the staff's  
22 review of the existing regulations, we're offering  
23 some editorial changes today.

24                   Those changes will involve Sections 401.4,  
25   405.3, 421.2, 421.4, 432.5, 435.1, 435.2, 435.4,

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1   437.1, 437.3, 441.7, 441.9, and 441.10.

2                   Okay. Definitions. On June 16th, 2005,  
3   the Board voted to adopt the definition of  
4   controlling interest.

5                   The definition specifies that a person who  
6   holds any securities in a privately held entity shall  
7   be deemed to possess a controlling interest unless  
8   the person rebuts the presumption of control with  
9   clear and convincing evidence.

10                  In order to avoid each and every holder of  
11   a beneficial interest of a privately held entity from  
12   having to come forward to rebut the presumption of  
13   control with clear and convincing evidence, a change  
14   to the definition of controlling interest would deem  
15   those holders of less than 5 percent of the  
16   securities of such entity as having rebutted the  
17   presumption of control.

18                  The change is consistent with the  
19   definition of key employee qualifier, which provides  
20   that a person or entity that holds 5 percent or more  
21   of the securities of an entity will be considered a  
22   key employee qualifier and, therefore, be required to

23 complete one of the application forms.

24                   As always, the Board does have the  
25 authority to require any person, even the holder of

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1 one share of non-voting securities of a privately  
2 held entity, to be licensed.

3                   Second change is to the definition of  
4 gaming employee. The existing definition refers to  
5 gaming employees of slot machine licensees and  
6 suppliers.

7                   However, because manufacturers may have  
8 gaming employees whose duties are directly involved  
9 with slot monitoring systems, casino management  
10 systems, player tracking systems, and wide area  
11 progressive systems in the Commonwealth, these  
12 employees are now included in the definition of  
13 gaming employee.

14                   The systems I mentioned are, as you know,  
15 specifically exempt from the requirement that they be  
16 sold through suppliers.

17                   The next change is to the definition of key  
18 employee. For the same reasons discussed with a  
19 gaming employee, it expands the definition of key  
20 employee to cover key employees of all licensees if  
21 that person's duties affect or require contact with  
22 slot machines for use or play in the Commonwealth.

23                   Pursuant to the Gaming Act, key employees  
24 of suppliers and manufacturers were always required  
25 to file as key employees. The change to the

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1 regulation now makes it clear.

2                   In order to provide guidance to applicants,  
3 we've added a definition of the term publicly traded.  
4 Publicly traded requires such an entity to be  
5 registered under or subject to the reporting  
6 obligations of the Securities Exchange Act of 1934 or  
7 of the Investment Company Act of 1940.

8                   Another change concerns application  
9 withdrawal. The changes to Section 423.5 of the  
10 regulations set forth the procedure by which an  
11 applicant may request and the Board may grant either  
12 with or without prejudice the withdrawal of an  
13 applicant's application or the application of one of  
14 its qualifiers.

15                   The procedure would allow the Board to  
16 grant or deny such withdrawal request prior to the  
17 consideration of the full application itself.

18                   The Board may grant or request for  
19 withdrawal without prejudice in a situation where an  
20 entity no longer seeks to be licensed by the Board,  
21 in a situation where an applicant no longer holds a

22 position that would require him or her to be  
23 licensed, or if a qualifier is no longer an owner of  
24 the applicant.

25           The Board may grant a request for

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1 withdrawal with prejudice, thereby making the person  
2 ineligible to reapply for a period of five years, in  
3 a situation such as where a qualifier would be  
4 deficient in making the requisite showing of good  
5 character, honesty, and integrity.

6           This person would be publicly identified by  
7 the Board, have his relationship with the applicant  
8 severed, be precluded from applying to the Board for  
9 five years, and would not have any rights to appeal,  
10 which would attach by virtue of denial of the  
11 application.

12           Because the procedure would occur prior to  
13 the Board's final determination concerning a license,  
14 it would enable the Board to avoid conditioning a  
15 license based upon the divestiture of a qualifier.

16           The final change that I'm presenting is  
17 unfortunately the most voluminous. I will get  
18 through it as quickly and painlessly as possible.

19           It has to do with Section 435.2, key  
20 employee qualifier license. Several sections of the  
21 Gaming Act allow the Board to waive the requirement

22 that certain entities and natural persons be  
23 individually qualified.

24 Section 435.2(g) of the regulations  
25 provides the vehicle by which such persons may seek a

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1 waiver.

2 Currently, the waiver section of the  
3 regulation allows only persons who are key employee  
4 qualifiers of manufacturers, suppliers, and slot  
5 machine licensees to be able to utilize the waiver  
6 provisions.

7 The proposed change today would allow  
8 persons who are key employee qualifiers of certified  
9 vendors and junket enterprise licensees to seek  
10 waivers as well.

11 There are currently three types of waivers  
12 that are available pursuant to the regulation; an  
13 officer of an affiliated entity of a licensee, an  
14 outside director of an affiliated entity of a  
15 licensee, and an institutional investor of the  
16 licensee or an affiliated entity of the licensee.

17 The proposed changes that I'll discuss will  
18 clarify which officers may seek a waiver, expand the  
19 ability and process of an institutional investor to  
20 seek a waiver, and add a fourth waiver provision.

21                   The first change would clarify that a  
22 officer of a licensee's affiliated entity but not an  
23 officer of the licensee itself may seek a waiver if  
24 the officer can demonstrate that he or she is not  
25 significantly involved in and has no authority over

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1 the conduct of business of the licensee.

2                   The second change would raise the  
3 percentage of ownership for institutional investors  
4 to seek a waiver from 10 percent to 15 percent.

5                   The change would allow an institutional  
6 investor that can demonstrate that it holds less than  
7 15 percent of the equity interest of a licensee or  
8 affiliated entity to seek a waiver. Institutional  
9 investors are governed by the Securities Exchange  
10 Commission.

11                   Most of these companies have an internal  
12 policy that their holdings of any company may not  
13 exceed 15 percent and many do not hold more than 11  
14 to 13 percent.

15                   By raising the ceiling of ownership, this  
16 would allow companies such as Barclay's, Merrill  
17 Lynch, and Morgan Stanley to invest in Pennsylvania  
18 gaming licensees without having to complete a full  
19 disclosure form unless they exceed the threshold  
20 amount.

21                   An additional change would allow an  
22 institutional investor to vote on matters put to the  
23 vote of the outstanding security holders, i.e., vote  
24 its stock, as long as it does not have an involvement  
25 in or the intention of influencing or affecting the

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1 affairs of a licensee.

2                   Various sections of the Act refer to the  
3 Board's ability to grant waivers. For example, the  
4 Board has the discretion to waive the need for  
5 qualification based upon relevant ownership interest  
6 when the Board is satisfied that a person does not  
7 have the ability to control or upon the person  
8 rebutting the presumption of control.

9                   The next change would add a fourth waiver  
10 provision consistent with the Gaming Act that would  
11 allow any key employee qualifier to come forward to  
12 demonstrate that he or she is not significantly  
13 involved in and does not have the ability to control  
14 a licensee or affiliated entity, that his or her  
15 licensure is not necessary to protect the public  
16 interest, and that good cause exists for the granting  
17 of a waiver.

18                   This provision would create an organized  
19 and uniformed manner in which the Board may consider

20 waivers that do not exactly fit the parameters of the  
21 waivers set forth in the current regulations.

22           A final change proposed today is a  
23 simplified manner in which an institutional investor  
24 that holds less than 10 percent of the equity  
25 securities of a publicly traded licensee or its

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1 affiliate may seek a waiver.

2           It would allow the licensee to file the  
3 waiver documents on behalf of the institutional  
4 investor as long as both the licensee and the  
5 institutional investor certify that the institutional  
6 investor is not involved in and does not influence or  
7 affect the affairs of the licensee.

8           Please keep in mind that provisions  
9 concerning waivers are merely for purposes of the  
10 initial filings.

11           The Board always has the right to require a  
12 full filing for any individual or entity who is  
13 involved in any aspect of Pennsylvania gaming.

14           Michelle will address the remainder of the  
15 editorial changes.

16           MS. AFRAGOLA: There's more. Thanks, Nan.  
17 Good morning, Chairman Decker and members of the  
18 Board.

19           As Nan mentioned, I'm offering some

20 editorial changes. First, I would like to  
21 acknowledge the work of Cheryl Posavec who has been a  
22 tremendous help in the regulations. She's sitting  
23 over there. She's been very helpful.

24           Okay. I'll be quick. In 401.4  
25 definitions, we propose adding the phrase as a key

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1 employee qualifier to the last two clauses of that  
2 definition. This is to clarify the existing  
3 language, which allows the Board the discretion to  
4 license additional persons, as it sees fit.

5           We also propose amending the definition of  
6 vendor to exclude management companies, as they will  
7 be regulated separately from vendors.

8           In Section 405.3, entitled Office of  
9 Enforcement Counsel, we propose adding the following  
10 language: The director of the Office of Enforcement  
11 Counsel may be removed by the Board only for good  
12 cause.

13           This language would be added to ensure  
14 compliance with the Lyness decision, which requires  
15 the separation of adjudicative and prosecutorial  
16 functions.

17           Section 421.2, entitled Licenses and  
18 Permits, lists the different authorizations that the

19 Board may issue to entities or persons within the  
20 industry.

21 We propose adding junket enterprise  
22 license, vendor certification, non-gaming employee  
23 registration, and vendor registration to this list.

24 Section 421.4 is entitled Investigations  
25 Supplementary Information. The proposed amendment to

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1 this regulation addresses a circumstance in which a  
2 potential buyer of a gaming entity is not yet an  
3 eligible applicant.

4 The amended language would allow the buyer  
5 to request the Board to accept an application from  
6 the proposed buyer and commence investigation.

7 The beginning of an investigation will not  
8 replace the standard application or investigation  
9 process required by the Act and the fees associated  
10 with that.

11 In Section 435.4, entitled Occupation  
12 Permit, Subsections h, i, and j give the Board the  
13 discretion to allow individuals with past convictions  
14 to demonstrate rehabilitation.

15 This language has been removed from this  
16 section and added to Section 435.1, which lists the  
17 general requirements for employees. So this language  
18 will pertain to all levels of employees rather than

19 just the gaming employee level.

20           In that same section, 435.4, the word  
21 license appears and should be replaced with the word  
22 permit.

23           In Section 437.1, entitled Vendor  
24 Registration Requirements, and 437.2, Vendor  
25 Certification Requirements, we propose adding a

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1 provision, which would allow vendor registrations and  
2 certifications to be subject to four-year renewal.

3           The renewal process, however, would be the  
4 same process as discussed in Section 1326 of the Act,  
5 but licenses are subject to annual renewal  
6 certifications four years.

7           In 441.7, which is entitled Procedure, we  
8 propose deleting Subsection (b), which discusses the  
9 process for divestiture.

10           This portion of the regulation will need to  
11 be redrafted in compliance with the structure and  
12 process of our hearing and appeals regulations.

13           Since those are open for public comment, we  
14 would like to delete this to avoid an inconsistency  
15 or until those regulations have been finalized.

16           In Section 441.9, entitled Responsibilities  
17 of Licensed Organization, the term the legal business

18 entity is being replaced with the term a legal  
19 business industry.

20           Lastly, in Section 441.10, which pertains  
21 to the bond or letter of credit in Subsection (b)(2),  
22 we've amended the ratings of banks from the two  
23 highest rating categories of Moody's or Standard &  
24 Poors to the three highest categories.

25           This amendment essentially broadens the

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1 acceptable credit rating to the third level. This  
2 avoids the unanticipated consequence of a number of  
3 reputable Pennsylvania banks from being barred from  
4 providing a letter of credit for the applicant.  
5 Nonetheless, we find this level suitable.

6           In Subsection (c), the term performance  
7 bond should be replaced with the term payment bond.  
8 Finally, in Subsection (f), we would like to amend it  
9 to include duration requirements for the bond or  
10 letter of credit.

11           These amendments are necessary to ensure  
12 consistency with the regulations, which specifies how  
13 the Board can draw in a letter of credit. That's  
14 all.

15           CHAIRMAN DECKER: Thank you. I think the  
16 only one we're going to talk to you about is changing  
17 the the to an a.

18 Any questions for Nan or Michelle?

19 COMMISSIONER DiGIACOMO COLINS: I'll move  
20 that we adopt these changes.

21 CHAIRMAN DECKER: Do I have a second?

22 COMMISSIONER MARSHALL: Second.

23 CHAIRMAN DECKER: All of those in favor,  
24 please indicate by saying aye.

25 COMMISSIONERS: Aye.

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1 CHAIRMAN DECKER: Any opposed?

2 Motion carries.

3 Let me thank everyone who is involved in  
4 this regulation producing process.

5 Michelle has one more thing.

6 MS. AFRAGOLA: It's not an amendment. I  
7 just wanted to announce the public comment is closing  
8 for the internal controls regulation on January 6th.

9 CHAIRMAN DECKER: Thank you. We appreciate  
10 that. Again, thank you, everybody. It's a lot of  
11 hard work. We tease about it. It's a tremendous  
12 amount of work for everybody involved.

13 Commissioner Colins has led this. It is a  
14 lot of work for her. You can see, she has aged quite  
15 a bit over the last several weeks. It's tough work.

16 COMMISSIONER DiGIACOMO COLINS: Don't tell

17 my surgeon that.

18 CHAIRMAN DECKER: We do appreciate it and  
19 it's tedious, detailed work. It takes a lot of time  
20 and effort. There's a lot of debate about words as  
21 you said, much like you were drafting a document that  
22 is going to go before the SEC and public offering.  
23 It's very difficult. Thank you.

24 Okay. At our last meeting, Commissioner  
25 Colins introduced a concept with respect to supplier

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1 regulations, where rather than finalizing everything  
2 including regions or no regions, we would take an  
3 interim step of getting the applications up and  
4 running -- I'm paraphrasing, Mary, to some degree,  
5 and a portion of perhaps the regulations at the same  
6 time but, again, issue no licenses until such time as  
7 we had dealt with the regional concept that has been  
8 debated for some time at the Board level.

9 It's my understanding that Commissioner Coy  
10 has something he would like to introduce with respect  
11 to that concept.

12 Is it okay, Mary, if I go right to that?

13 COMMISSIONER DiGIACOMO COLINS: Absolutely.

14 COMMISSIONER COY: Thank you, Mr. Chairman.

15 I appreciate your comments and I appreciate  
16 Commissioner Colins' recommendation at the last

17 meeting about trying to move the process forward.

18           Today, I have a resolution to offer and I  
19 have shared it with the members of the Board. For  
20 the sake of the public, I will read it now. I  
21 believe what it does is, indeed, move the process  
22 forward.

23           Whereas, on July 5th, 2004, the  
24 Pennsylvania General Assembly enacted the  
25 Pennsylvania Racehorse Development and Gaming Act

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1 establishing the Pennsylvania Gaming Control Board as  
2 the primary regulatory agency charged with the  
3 responsibility of implementing and overseeing slot  
4 machine gaming in the Commonwealth.

5           And whereas, the Act authorizes the Board  
6 to adopt temporary regulations or order to facilitate  
7 the prompt implementation of the Act during the two  
8 years following the Act's effective date.

9           And whereas, the Board has developed draft  
10 temporary regulations governing requirements for  
11 supplier licenses and the public has and will have an  
12 opportunity to comment on draft temporary  
13 regulations, and the Board will continue to take  
14 notice of these public comments.

15           The Board's final temporary regulations are

16 designated as Title 58, Recreation Part 7, Gaming  
17 Control Board, Subpart (b), licensing, registering,  
18 and permitting, specifically Chapter 431, supplier  
19 licenses.

20           And whereas, the Board at this time is not  
21 voting on whether or not to create regions for  
22 suppliers nor adopting temporary supplier  
23 regulations.

24           And whereas, in order to facilitate the  
25 acceptance of applications for supplier licenses, the

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1 Board today shall adopt a statement of policy setting  
2 forth the required application forms, fees, and  
3 information required to be submitted with  
4 applications.

5           All applications shall contain a notice  
6 that the Board has not yet determined whether  
7 supplier licenses will be issued on a statewide or  
8 regional basis and reserves the right to approve and  
9 issue supplier licenses on either of those bases.

10           And whereas, the Board will not approve  
11 supplier licenses until such time as it decides  
12 whether or not the state will be divided into regions  
13 for the purpose of awarding supplier licenses.

14           Whereas, the Board reserves the right to  
15 adopt regulations in accordance with its decision on

16 whether or not to create regions for suppliers.

17           And whereas, the Board reserves the right  
18 to amend any such temporary regulations as it deems  
19 necessary in accordance with the purpose of the Act  
20 and in order to further the intent of the Act.

21           Be it resolved that the Board opens the  
22 application period for supplier applications  
23 commencing December 20, 2005 and closing February 28  
24 of 2006, and further directs that such applications  
25 contain a notice that the Board has not yet

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1 determined whether supplier licenses will be issued  
2 on a statewide or regional basis, and reserves the  
3 right to approve and issue supplier licenses on  
4 either of these bases.

5           Mr. Chairman, I move the adoption of the  
6 resolution; and after it is seconded, I would have a  
7 comment or two.

8           CHAIRMAN DECKER: Thank you, Commissioner  
9 Coy.

10           Do I have a second?

11           COMMISSIONER RIVERS: Second.

12           CHAIRMAN DECKER: Jeff, do you want to  
13 start?

14           COMMISSIONER COY: Thank you, Mr. Chairman.

15                   I want to emphasize that I appreciate the  
16 willingness of the Board to continue to look at the  
17 regional concept with regard to suppliers.

18                   I believe that opening this period where  
19 applications can be made and while we readily agree  
20 that once the Board adopts temporary regulations,  
21 there may need to be an additional period for  
22 application based on any changes that are made in  
23 those temporary regulations.

24                   The Board does encourage any supplier or  
25 any person, group, company who intends to be a

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1   supplier to apply within this period.

2                   I think that this will give the Board an  
3 idea of the number of suppliers we're talking about,  
4 of where they're coming, the size of the company  
5 involved, indeed of their minority participation, and  
6 whether or not they are from across the state or from  
7 one particular area.

8                   So I believe that this proposal has the  
9 benefit of allowing the Board to see, indeed, what we  
10 would be dealing with in terms of these applications  
11 and the number of them and so on.

12                   So I offer this as a compromised proposal  
13 to begin the application period, and I think it does  
14 move the supplier issue and, therefore, the other

15 ancillary issues which are contingent upon the  
16 adoption of these regulations forward.

17 COMMISSIONER DiGIACOMO COLINS: Can I make  
18 a comment?

19 CHAIRMAN DECKER: Please, Mary.

20 COMMISSIONER DiGIACOMO COLINS: I want to  
21 thank Commissioner Coy for moving forward on this  
22 issue. I'll reiterate what I stated at our last  
23 meeting.

24 He has moved from the initial proposal of  
25 five regions to two. He has come forward now with a

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1 posture that allows us to accept applications. I  
2 think we're all grateful to be in this position so  
3 that we can have a very practical basis for making  
4 our final decision on this.

5 And by way of instruction, the regulations  
6 on suppliers, which I explained at the last meeting  
7 and which contain very detailed information about  
8 what a supplier is and what a supplier must do, will  
9 be posted on the website and that will be the  
10 statement of policy that the Board has synchronized  
11 with the applications.

12 So everyone is to review that website for  
13 those regulations and follow those. If we change

14 them, if we do anything that changes them and  
15 necessitates amendments to them, we are going to, I  
16 believe, open up the period for a short time to allow  
17 those amendments.

18 CHAIRMAN DECKER: That's correct.

19 Ken?

20 COMMISSIONER McCABE: I, too, appreciate  
21 all of the effort and work that has gone into this.  
22 I think it's important that people realize that we  
23 are trying to reach a conclusion and a solution on  
24 this issue.

25 We want to continue to move forward, and I,

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1 too, encourage everybody that wants to apply for  
2 suppliers license to please apply. That will give us  
3 a bigger picture of what we have out here.

4 CHAIRMAN DECKER: Thank you, Ken.

5 Any other questions or comments?

6 The only other thing I would urge, and  
7 maybe Mary covered this, please take a look at the  
8 proposed regulations because in there -- if you're  
9 going to be a supplier, because in there are some  
10 things, particularly duties and responsibilities,  
11 which we think are very important and understand what  
12 they are before you file the application. We think  
13 that's very important.

14                   There may be some other things in there you  
15 want to peruse. They've been out there for quite a  
16 while. They're sitting out there.

17                   Mary, I think there are going to be  
18 proposed additions to those, if I'm not mistaken?

19                   COMMISSIONER DIGIACOMO COLINS: Well, the  
20 regulations I went through at the last meeting and  
21 the changes to them are what will be published.

22                   I would like to go so far as to make some  
23 statement for the record, which is that it's  
24 anticipated that those are the regulations that the  
25 Board will adopt with additional provisions relating

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1 to whether or not there will be regions and how there  
2 will be regions.

3                   CHAIRMAN DECKER: Eventually, there will be  
4 some regs that are adopted. These will clearly form  
5 the basis of them. There may be some additional  
6 changes, as Mary and others have suggested. I think  
7 it's important that you read those if you're going to  
8 be a supplier.

9                   Any other questions or comments?

10                   Hearing none, all of those in favor of the  
11 motion before us, please indicate by saying aye.

12                   COMMISSIONERS: Aye.

13 CHAIRMAN DECKER: Any opposed?

14 Motion carries. Thank you very much.

15 Before we adjourn, I just had two items I  
16 wanted to talk about. First of all, I wanted to  
17 announce today that we are delighted that the Board  
18 recently entered what we would believe is a historic  
19 partnership with the Pennsylvania State Police.

20 As you know the, Gaming Board's top  
21 priority is protecting Pennsylvanians by licensing  
22 only economically viable reputable operators, who  
23 will run safe, enjoyable, and profitable gaming  
24 facilities.

25 But protecting the citizens of the

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1 Commonwealth is also the mission of the Pennsylvania  
2 State Police. Our State Troopers put their lives on  
3 the line every day to provide that protection, the  
4 fact that we were sadly reminded of this week after  
5 the brutal and senseless murder of State Police  
6 Corporal Joseph Pokorny during a traffic stop in  
7 Allegheny County.

8 On behalf of the Board, myself, and our  
9 staff, we want to extend our condolences on the  
10 tragic death of Corporal Pokorny to his family and  
11 his fellow troopers. This is a terrible loss for his  
12 family, to the people of Pennsylvania, and the State

13 Police.

14                   Colonel Miller, Jeff Miller, the  
15 Commissioner of the Pennsylvania State Police, and  
16 Lieutenant Colonel Ralph Periandi were to be with us  
17 today but unfortunately, they've had to attend --  
18 they're going to attend the services for Corporal  
19 Pokorny, which are today. With us today, we have  
20 Captain Allue, commander of the Gaming Division of  
21 the PSP.

22                   Captain, could you just wave your hand?

23                   CAPTAIN ALLUE: Good morning.

24                   CHAIRMAN DECKER: Thank you, Captain, for  
25 being with us. We are all -- let's see. We are very

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1 pleased to have entered into this agreement. We look  
2 forward to working with the three individuals that I  
3 just mentioned and the respective troopers and staff  
4 of the Pennsylvania State Police to ensure the safety  
5 of our citizens as we bring this new important  
6 industry to the Commonwealth. Again, thank you very  
7 much. The Captain will be around today.

8                   One more item before we leave. Today is  
9 the last Pennsylvania Gaming Control Board meeting of  
10 2005. It also marks the first anniversary of our  
11 inaugural meeting.

12                   With that in mind, I want to review the  
13 highlights with what we think we've accomplished  
14 during this past year, which we believe are a series  
15 of important events.

16                   With respect to staffing, the Board has  
17 hired an executive staff with top-notch people, some  
18 like Anne Neeb, Rich and Maureen Williamson, who were  
19 leading gaming regulators in other states. Some like  
20 Nan Horner has a great deal of experience in gaming  
21 law.

22                   Others like David Kwait have had long,  
23 successful careers in law enforcement. Seven more,  
24 like our three Mikes, who have all presented; Walsh,  
25 Edmiston, and Schwoyer, along with Susan Hensel, Nick

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1 Hays, LaMonte Williams, Denyse Miskin, Steve DeFrank  
2 have experience in getting things done in Harrisburg.

3                   These leaders have been building teams to  
4 give our agency high quality level people. Thank you  
5 all, as well as the members of your teams, for the  
6 hard work.

7                   I also want to mention one other person who  
8 has been a consultant with us -- well, actually,  
9 through the Department of Revenue and now with us  
10 directly, Lynn Stelle, who has done just a terrific  
11 job of helping us get up and running with all of the

12 procedures and processes you have to deal with in  
13 State Government. He's done an excellent job with  
14 that.

15 Regulations, under the leadership of  
16 Commissioner Colins, the Board has adopted more than  
17 200 pages of regulations -- I don't know if that's  
18 half a ton but it's getting up there -- governing the  
19 three categories of gaming facilities; manufacturers,  
20 vendors, Investigations and Enforcements and  
21 addiction prevention and treatment.

22 In this regard, I also want to thank both  
23 the staff and the volunteers who got us up and  
24 running when we had three or four people on the  
25 staff, during that period of time where we would have

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1 been out of business but for their help in terms of  
2 producing these regs when we couldn't hire because of  
3 the lawsuit.

4 Licensing, our licensing staff has already  
5 received its first batch of applications, as you have  
6 heard, concerning the manufacturers and you know the  
7 window for potential operators to apply is now  
8 December 28th.

9 Investigations and Enforcement, our  
10 Investigations and Enforcement staff and now the

11 State Police have begun the work on the manufacturer  
12 applications and will assume a bigger role with  
13 applications from operators.

14 Diversity, the Board is committed to  
15 promoting diversity at all levels of gaming in  
16 Pennsylvania. Let me say again, it's important in  
17 these applications that people reflect diversity as  
18 operators, as suppliers, as vendors, etc.

19 We're going to look at that. We're also  
20 going to look very closely at their plan for dealing  
21 with diversity in their contracts and employees.

22 This fall, we sponsored successful  
23 diversity forums in Philadelphia and Pittsburgh that  
24 put potential vendors and suppliers in the same room  
25 with potential operators and manufacturers.

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1 We will also -- again, we will require that  
2 the operators will submit the diversity plans for  
3 their facilities and deliver results on these plans.

4 Taken as a whole, we think we've  
5 accomplished a great deal during this period,  
6 particularly in light of the delay we suffered with  
7 respect to the lawsuit and hiring qualified -- being  
8 able to hire qualified people.

9 One other thing I would like to say and  
10 thank is Greg Fajt and the Department of Revenue. We

11 tease a lot and kid a lot about that. They really  
12 got this up and running and did a terrific hand off  
13 to us and they're still involved. They're going to  
14 continue to be involved in operating the Central  
15 Control System.

16 Their cooperation, without that, we would  
17 be months and months behind where we are. Greg,  
18 thank you, and thank you for all the people involved  
19 in that.

20 A lot of hard work lies ahead, but we  
21 believe we are moving quickly toward the day when we  
22 will actually have gaming as a reality in  
23 Pennsylvania. So thank you.

24 Are there any other comments or questions  
25 or Acts that we want to talk about today for the

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1 Board?

2 Hearing none, I'll entertain a motion to  
3 adjourn.

4 COMMISSIONER MARSHALL: So moved.

5 CHAIRMAN DECKER: Second?

6 COMMISSIONER COY: Second.

7 CHAIRMAN DECKER: All those in favor?

8 COMMISSIONERS: Aye.

9 CHAIRMAN DECKER: Thank you.

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(The meeting concluded at 12:03 p.m.)

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1 I hereby certify that the proceedings and  
2 evidence are contained fully and accurately in the  
3 notes taken by me on the within proceedings and that  
4 this is a correct transcript of the same.

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Hillary M. Hazlett, Reporter  
Notary Public

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