

PENNSYLVANIA GAMING CONTROL BOARD

NORTH OFFICE BUILDING
HEARING ROOM 1
HARRISBURG, PENNSYLVANIA

MARCH 16, 2006, 10:23 A.M.

BEFORE:

THOMAS DECKER, CHAIRMAN
MARY DiGIACOMO COLINS
WILLIAM P. CONABOY
JEFFREY W. COY
JOSEPH W. MARSHALL, III
KENNETH W. MCCABE
SANFORD RIVERS
ROBERT P. CASEY, JR., STATE TREASURER (via telephone)
GREGORY C. FAJT, SECRETARY OF REVENUE
DENNIS WOLFF, SECRETARY OF AGRICULTURE

HILLARY M. HAZLETT, REPORTER
NOTARY PUBLIC

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1 CHAIRMAN DECKER: Good morning. I'm Tad
2 Decker, Chairman of the Pennsylvania Gaming Control
3 Board.

4 I would like to welcome you all to our
5 public meeting today. A quorum of the voting members
6 of the Board are present; and therefore, the meeting
7 is called to order.

8 I would like to note that Treasurer Casey
9 will be joining us by telephone later -- we're late.
10 He's probably been on there since we're late anyway.

11 In the interim, Terry Kostoff, good to have
12 you again, from the Treasurer's Office is here
13 representing Treasurer Casey.

14 As always, let me ask that the members of
15 the Board and the audience turn off their cell
16 phones, blackberries, etc., in order to not interfere
17 with our sound system.

18 Please join the Board in the Pledge of
19 Allegiance.

20 (Pledge of Allegiance.)

21 CHAIRMAN DECKER: Thank you. By way of old
22 business, I have a couple of announcements. First,
23 the Board had held an Executive Session prior to this
24 meeting to discuss various personnel matters. No
25 business was conducted at this meeting.

1 Second, I am very happy to note that we
2 have several guests from the regulatory community
3 visiting and observing today. I think they're all in
4 the audience now because we were late, they couldn't
5 possibly not be here.

6 Let me start introducing them. It's a
7 great group. Let me introduce them first, Bobby
8 Siller is a Commissioner of Nevada Casino Control
9 Commission. Bobby?

10 Linda Kassekert is Chair of the New Jersey
11 Casino Control Commission, and Diana Fauntleroy is
12 chief counsel to the New Jersey Casino Control
13 Commission.

14 I would like to welcome you. It's really
15 great to have you. I also want to note that these
16 three individuals and their Board have been
17 unbelievably helpful to us in a networking,
18 benchmarking way in getting started.

19 Without this group, we would have been
20 months behind where we are today. They helped us
21 overcome the hurdles that we faced after the lawsuit
22 was put in place.

23 We met with them. We were able to plan
24 with them. So I can't thank you enough for the help
25 you provided. We're delighted that you're here

1 today.

2 Subsequent to this meeting, we're going to
3 have sort of a round table discussion led by those
4 three individuals and Mike French, who is also here
5 from Price Waterhouse Coopers, on various subjects
6 that we're going to be dealing with down the road,
7 not specific applicants, of course; but we are going
8 to be looking at topics, such as suitability,
9 licensing hearings, all sorts of other things today
10 for a couple of hours.

11 We're very blessed they were able to give
12 us the time to come with us today and have dinner
13 with us last night. Again, thank you very much and
14 welcome to our meeting today.

15 Third item I want to talk about is I want
16 to remind everyone that the deadline to register for
17 the Board's public input hearings, public forums, if
18 you will, on our 22 operator license applications is
19 this Friday, March 22nd -- I'm sorry -- March 17th,
20 2006.

21 This is a postmarking deadline, so make
22 sure you have your registration in the mail no later
23 than, I guess, 5:00 on Friday. If 5:00 is that time.
24 Is that right, Nick?

25

The registration forms, again, are

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1 available on website, www.pgcb.pa.us. If you click
2 on the public input hearings on the homepage, it will
3 steer you to the right spot. You'll also find on
4 that site the hearing dates, times, and locations for
5 these forums.

6 Fourth announcement, again, a reminder that
7 our first public input hearing in Gettysburg is less
8 than two weeks away. It will be held on Wednesday,
9 April 5th, at Gettysburg College in the Student Union
10 Building Ballroom starting at 8:30.

11 The input hearings are open to the public,
12 all of them. We hope that all interested parties can
13 attend one of these sessions because this forms a
14 critical portion of our licensing process. Again,
15 check the website for more details.

16 Our last announcement is that our regular
17 Board meeting on April 20th will be held in
18 Pittsburgh in conjunction with the public input
19 hearings being held there. Obviously, not at the
20 same time, I believe it's the day before or the day
21 after.

22 The Pittsburgh meeting will be held at the
23 Omni William Penn Hotel at 10:00 a.m. on Thursday,
24 April 20th. We will also make a formal announcement

25 of that at the appropriate time.

7

1 Our next regularly scheduled meeting is on
2 Thursday, April 6th. It will be as usual in
3 Harrisburg at 10:00 a.m.

4 Now, moving on to our agenda items, the
5 first item is our minutes or transcripts of our
6 meeting on February 28th. May I have motion to
7 approve the transcript and post it on our website?

8 COMMISSIONER MARSHALL: So moved.

9 CHAIRMAN DECKER: Second?

10 COMMISSIONER McCABE: Second.

11 CHAIRMAN DECKER: Thank you. I just want
12 to note before we vote, Treasure Casey is now with us
13 on the phone.

14 Welcome, Treasurer.

15 TREASURER CASEY: Thank you, Mr. Chairman.

16 CHAIRMAN DECKER: Any discussion on the
17 minutes?

18 Hearing none, all those in favor, please
19 indicate by saying aye.

20 COMMISSIONERS: Aye.

21 CHAIRMAN DECKER: Any opposed?

22 Motion carries. Thank you.

23 Our next item of business is our Executive

24 Director's report. Anne?

25 MS. LaCOUR NEEB: Thanks. Good morning,

8

1 Chairman Decker, members of the Board. Basically, I
2 just want to remind people -- not remind -- you
3 already reminded them about the March 17th date, and
4 just let the Board know we've had 667 registrants for
5 the public hearings. So I think the response has
6 been really, really good.

7 We've had a lot of phone calls we're trying
8 to field to explain how the process works. So we're
9 really excited about that.

10 The other thing I want to let the Board
11 know is that five of the six Category I applications
12 have been handed off to BIE. They are in the process
13 right now. The investigation is ongoing. So we're
14 real happy about that. That's a big movement in the
15 regulatory process.

16 That's pretty much all I have for today,
17 and I want to welcome Frank Donaghue, who is here
18 today, our chief counsel. He's going to be giving a
19 presentation after the director of administration
20 talks about our hiring on enforcement regulations.

21 So unless you all have any questions,
22 that's all I have today.

23 CHAIRMAN DECKER: Any questions for Anne?

24 Thank you, Anne.

25 Next up is Mike Walsh, our Director of

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1 Administration. Mike?

2 MR. WALSH: Thank you, Mr. Chairman. There
3 are four candidates that the Executive Director and
4 the Bureau directors put forth for your consideration
5 today for hire.

6 There are two in the Office of Chief
7 Counsel. The first is Richard Sandusky as a director
8 of regulatory review. Second is Douglas Sherman as a
9 deputy chief counsel for litigation.

10 In Michael Schwoyer's area of chief
11 enforcement counsel, we have a Nan Davenport for
12 assistance enforcement counsel.

13 In the Bureau of Investigations and
14 Enforcement, Central Region, we had Darryl Brown as
15 an investigator.

16 These four candidates would be subject to a
17 background check by the Pennsylvania State Police,
18 and final employment would be subsequent to that
19 investigation.

20 CHAIRMAN DECKER: Are there any questions
21 of Mike about the candidates?

22 All right. Can I have a motion -- may I

23 have a motion to approve the hiring of these
24 candidates subject, as always, to the successful
25 completion of a background investigation?

10

1 COMMISSIONER DIGIACOMO COLINS: So moved.

2 COMMISSIONER COY: Second.

3 CHAIRMAN DECKER: Thank you.

4 Any other questions?

5 All of those in favor?

6 COMMISSIONERS: Aye.

7 CHAIRMAN DECKER: Any opposed? The motion
8 carries. Congratulations to our hopefully four new
9 employees.

10 MR. WALSH: Thank you.

11 CHAIRMAN DECKER: Anything else? I wanted
12 to ask you -- I did want to ask you one thing. Where
13 are we -- we're in the process of finishing our
14 employee handbook?

15 MR. WALSH: That's correct. We have -- the
16 Office of Human Resources has been working on that
17 employee handbook, which we talked about a little bit
18 about before.

19 A final draft is in review right now. We
20 should have that for the Board at the next meeting in
21 April.

22 It includes a laundry list of policies,

23 everything from the hours of the workday through
24 leave and benefits and employee rights and employee
25 code of conduct.

11

1 Some of these policies have been previously
2 adopted by the Board. For example, at the first
3 meeting in December of 2004, we established that we
4 would have certain workdays and that we take our
5 benefits from the Pennsylvania Employee Benefit Trust
6 Fund.

7 Some other policies like the code of
8 conduct have been more recently adopted, and then
9 some will be adopted when we review this employee
10 handbook. So we have some additional policies that
11 will be brought forth at that time.

12 CHAIRMAN DECKER: You think this will be
13 ready in two weeks?

14 MR. WALSH: Yes. That's correct.

15 CHAIRMAN DECKER: Thank you.

16 COMMISSIONER RIVERS: Mr. Chairman?

17 CHAIRMAN DECKER: Please.

18 COMMISSIONER RIVERS: Commissioner Coy and
19 I have had an opportunity to look at a draft of the
20 employee handbook. We've made some adjustments and
21 some changes.

22 little bit better than 14 percent. When we benchmark
23 ourselves against similar size state agencies, those
24 would be banking, aging, PEMA, we are in every case 6
25 percent or greater than where they're at in

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1 diversity.

2 The Commonwealth wide is a little better
3 than 10 percent. Like I said, we're at 14; but I
4 think we, as LaMonte Williams has talked about
5 before, this is a good business practice that we
6 continue to look at the diversity in every area, both
7 in management, the supervisory staff, right down
8 through the ranking files.

9 So we're doing that. You're never
10 completely satisfied, because you're just continually
11 readdressing the situation and trying to increase
12 those numbers. I think we're a little bit higher
13 than 14 percent right now.

14 COMMISSIONER COY: Thank you very much,
15 Mr. Chairman.

16 COMMISSIONER DIGIACOMO COLINS: Could I
17 just follow-up a bit on that, and with respect to the
18 discussion of diversity, that includes in it as well
19 the efforts to reach out to women-owned businesses
20 and practices encouraging women in employment; is

21 that correct?

22 MR. WALSH: That's correct.

23 COMMISSIONER DiGIACOMO COLINS: And how are
24 we doing in that area?

25 MR. WALSH: I would have to get you figures

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1 on where we are with that with our contracts. I
2 don't have those with me this morning.

3 I know in terms of women on the staff, in
4 terms of that employment, we are at 47 percent female
5 for the agency, but I can get you some additional
6 figures for the types of women-owned businesses that
7 we're using as part of the agency. Is that what
8 you're reaching towards?

9 COMMISSIONER DiGIACOMO COLINS: What I'm
10 reaching for essentially is a recognition that
11 diversity includes representation of women in the
12 workforce and the business community as well and that
13 those are considerations we put a value on.

14 MR. WALSH: Okay. I thought you meant in
15 terms of contracts that we had done, because we
16 always work with the Department of General Services
17 and minority and women-owned businesses with any
18 contracts. I apologize, I thought you were going
19 down that road.

20 In terms of gender diversity, we're at 47

21 percent. Again, I think we can be proud that in
22 racial and in gender diversity, it is equally
23 balanced from the Executive Director right down to
24 administrative and clerical support.

25 COMMISSIONER DIGIACOMO COLINS: Thank you.

15

1 CHAIRMAN DECKER: Any other questions for
2 Mike?

3 Mike, thank you very much. I appreciate
4 it.

5 Next up is our chief counsel, Frank
6 Donaghue, and our chief enforcement counsel, Michael
7 Schwoyer. They're going to talk about a proposal
8 that will help us move forward through the
9 investigatory phase of the licensing process.

10 Frank and Michael?

11 MR. DONAGHUE: Mr. Chairman and
12 distinguished Board Members, it's a pleasure to be
13 here today. Mike will give some more specific
14 details in a moment, but I just wanted to provide a
15 general overview to the Board.

16 Section 1517(f) of Act 71 authorizes the
17 Board through the Bureau of Investigations and
18 Enforcement to engage in information sharing
19 regarding applicants or licensees with law

20 enforcement and gaming authorities of other domestic,
21 foreign, or federally approved jurisdictions.

22 So it may be necessary from time to time to
23 enter into formal agreements in order to facilitate
24 the sharing of information authorized by the section
25 of the Act.

16

1 Mike, if you could give us some more
2 specifics.

3 MR. SCHWOYER: Sure. There's no general
4 rule amongst law enforcement agencies or gaming
5 regulatory agencies as to whether or not a formal
6 written agreement is required.

7 We have most recently been in discussions
8 with Louisiana concerning the sharing of information.
9 Louisiana, it is their custom and practice to enter
10 into written memorandums of understanding with other
11 gaming jurisdictions and other law enforcement
12 agencies concerning the sharing of information.

13 We have expressed our desire to share
14 information with Louisiana, and they expressed their
15 willingness to enter into a written agreement with
16 the Gaming Control Board concerning matters and
17 issues related to confidentiality, permissible uses
18 of information, and other logistical matters related
19 to the sharing.

20 We don't anticipate that Louisiana's
21 request is going to be unique. I've been told -- I
22 have not reached out yet, but I have been told that
23 Michigan is the state that may require a written
24 agreement.

25 In order to facilitate the negotiating and

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1 entering into these agreements with other gaming
2 jurisdictions and other law enforcement agencies, we
3 are respectfully requesting that the Board entertain
4 and adopt a motion that we give the Chairman the
5 authority to negotiate and enter into information
6 sharing agreements on behalf of the Board with law
7 enforcement entities and gaming authorities in the
8 Commonwealth and other domestic, foreign, or
9 federally approved jurisdictions in order to
10 facilitate the efficient and effective
11 administration, supervision, and enforcement of Act
12 71. Thank you.

13 COMMISSIONER MARSHALL: So moved.

14 COMMISSIONER McCABE: Second.

15 COMMISSIONER DiGIACOMO COLINS: Thank you.

16 CHAIRMAN DECKER: Are there any questions
17 for either Michael or Frank? Otherwise, the motion
18 will read to negotiate -- did you read --

19 MR. SCHWOYER: Yes.

20 CHAIRMAN DECKER: All right. Thank you.

21 Again, any questions?

22 Okay. Hearing none, all those in favor,
23 please indicate by saying aye.

24 COMMISSIONERS: Aye.

25 CHAIRMAN DECKER: Any opposed?

18

1 Motion carries. Thank you.

2 MR. SCHWOYER: Thank you.

3 CHAIRMAN DECKER: Next up is our topic we
4 deal with every meeting as a new agency, and that is
5 regulations.

6 In the past, Commissioner Mary Colins has
7 overseen our presentations and has done a terrific
8 job in that area. Now that Frank Donaghue is here as
9 our chief counsel, he is going to take the lead on
10 these presentations.

11 Frank, please. Thank you.

12 MR. DONAGHUE: Thank you very much,
13 Mr. Chairman.

14 COMMISSIONER MARSHALL: It's a high market.

15 MR. DONAGHUE: That's what I understand.

16 COMMISSIONER DiGIACOMO COLINS: Welcome,
17 Frank.

18 MR. DONAGHUE: As been our continuing

19 process, the legal staff has drafted regulations and
20 is reviewing and revising existing regulations for
21 consistency and efficiency.

22 Today, we have a number of presentations
23 for the Board's consideration, the first which would
24 be regarding regulations on hearings and appeals.

25 Over the past few weeks, our staff has been

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1 refining the regulations pertaining to hearings and
2 appeals processes before the Board.

3 The establishment of regulations pertaining
4 to hearings and appeals is an essential element of
5 the licensing process and requires our careful
6 consideration of the rules of the Administrative
7 Code, as well as Pennsylvania case law governing
8 agency licensing proceedings.

9 Today, Michael Edmiston and Dale Miller of
10 our Hearing and Appeal Office will be presenting for
11 the Board's consideration the final hearings and
12 appeals regulations. Mike and Dale?

13 MR. EDMISTON: Thank you, Frank.

14 Good morning, Commissioners. At your
15 meeting on December 15, we presented to you for your
16 approval for publication draft regulations as to the
17 Office of Hearings and Appeals and setting forth our

18 procedures as suggested.

19 In the interim, there have been very modest
20 comments on those draft regulations. However, we did
21 have input from some who reviewed them and were
22 concerned particularly with a few technical
23 grammatical corrections that were called for.

24 Dale is prepared to go through a brief
25 summary of those items for you. Dale?

20

1 MR. MILLER: Thank you, Mike.

2 Mr. Chairman, members of the Board, we
3 bring before you today the final hearings and appeals
4 regulations. These regulations have been on the
5 website for public comment, and 30 days for public
6 comment has passed and no public comments were
7 received.

8 Although we didn't receive any public
9 comments, our staff has reviewed and discussed the
10 regulations internally and discussed them with a
11 member of the legislative counsel staff.

12 Some changes were made as a result, and I
13 would like to discuss them briefly at this time.
14 Some changes and additions have been made to the
15 regulations, which do not affect their integrity.

16 We added the following definitions in
17 Section 492.2, definitions of adjudication, consent

18 agreement, documentary evidence, intervener,
19 participate, and party.

20 We modified the definitions of director,
21 office of hearings and appeals, hearing officer, and
22 presiding officer.

23 We also specified a 30-day period in which
24 a party may file an appeal after a final Board
25 decision. We did this in order to clarify the time

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1 in which an appeal may be taken.

2 In addition to the changes I just
3 mentioned, we made minor editorial and grammatical
4 changes, which, again, did not affect the integrity
5 of the regulations. They simply make the regulations
6 more readable and user friendly.

7 The only substantial change to these
8 regulations since they were originally brought before
9 you in December is that we have deleted the original
10 section on intervention. We did that to allow us a
11 little more time to consider this extremely important
12 part of agency law.

13 We believe that this revised version of the
14 regulations is in the best interest of the public and
15 is clear, concise, user friendly, and will benefit
16 all persons who appear before this Board.

17 This concludes my remarks. I ask if any
18 member of the Board has any questions. A hard copy
19 of those regulations has been provided to each member
20 of the Board.

21 CHAIRMAN DECKER: Are there any questions
22 of our panel?

23 COMMISSIONER DiGIACOMO COLINS: Well, I
24 just have a comment I would like to add. I think
25 that it's important for us to pass these today,

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1 because this will signal to the members of the Bar
2 that this Board is now open to the administrative
3 practice of law before it; and that's very important
4 at this stage, that those who need to file petitions
5 and have answers and concerns addressed can
6 communicate with the Board through the administrative
7 legal process.

8 So I think it's a very significant and
9 important thing today that we get these adopted.
10 Also, you called them final regulations. They're
11 final temporary regulations.

12 MR. MILLER: That's correct, Commissioner.

13 COMMISSIONER DiGIACOMO COLINS: Okay.
14 Thank you.

15 CHAIRMAN DECKER: May I have a motion to
16 approve the final temporary regulations on hearings

17 and appeals and to post them on the website?

18 COMMISSIONER CONABOY: So moved.

19 CHAIRMAN DECKER: Second?

20 COMMISSIONER McCABE: Second.

21 CHAIRMAN DECKER: Any further questions?

22 COMMISSIONER MARSHALL: So the motion is we
23 adopt the draft regulations as our temporary final
24 regulations for the hearings and appeals process?

25 CHAIRMAN DECKER: Final temporary.

23

1 MR. MILLER: And perhaps I should state
2 what they are. They are Title 58, Part 7, Subpart H,
3 Practice and Procedures, Chapters 492, 493, and 494.

4 COMMISSIONER MARSHALL: Should we add that
5 to the motion?

6 MS. DiGIACOMO COLINS: I actually have a
7 resolution, which is what we usually do.

8 CHAIRMAN DECKER: Do you want to read it,
9 Mary? Please.

10 COMMISSIONER DiGIACOMO COLINS: This is
11 usually our practice when we adopt the regulations.
12 Whereas on July 5th, 2004, the Pennsylvania General
13 Assembly enacted the Pennsylvania Racehorse
14 Development and Gaming Act, establishing the
15 Pennsylvania Gaming Control Board as the primary

16 regulatory agency charged with the responsibility of
17 implementing and overseeing slot machine gaming in
18 the Commonwealth.

19 And whereas the Act authorizes the Board to
20 adopt temporary regulations in order to facilitate
21 the prompt implementation of the Act during the two
22 years following the Act's effective date.

23 And whereas the Board has developed draft
24 temporary regulations governing the hearings and
25 appeals process.

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1 And whereas the public has had an
2 opportunity to comment on the draft temporary
3 regulations.

4 And whereas the Board's final temporary
5 regulations are designated as Title 58, Recreation,
6 Part 7, Gaming Control Board, Subpart H, Practice and
7 Procedure, specifically, Chapters 492, 493 and 494.

8 Whereas the Board reserves the right to
9 amend the temporary regulations as it deems necessary
10 and in accordance with the purpose Act and in order
11 to further the intent of the Act.

12 Be it resolved that the Board adopts the
13 draft regulations as its temporary regulations for
14 the hearings and appeals process.

15 CHAIRMAN DECKER: Final temporary

16 regulations, correct, Mary --

17 COMMISSIONER DiGIACOMO COLINS: That's
18 correct.

19 CHAIRMAN DECKER: -- for the hearings and
20 appeals? That's the motion. Can I have a second on
21 that motion, please.

22 COMMISSIONER McCABE: Second.

23 CHAIRMAN DECKER: Again, any questions?
24 Hearing none, all of those in favor, please indicate
25 by saying aye.

25

1 COMMISSIONERS: Aye.

2 CHAIRMAN DECKER: Any opposed?

3 Motion carries. Thank you very much.

4 MR. DONAGHUE: Mr. Chairman, the next group
5 of regulations, which we would like to open for
6 public comment, are those governing exclusion and
7 self exclusion lists.

8 Under Section 1514 of the Act, the Board
9 created regulations for the establishment of a list
10 of persons who are to be excluded or ejected from any
11 licensed facility.

12 The regulations must provide the standards
13 and procedures for exclusion. These regulations will
14 provide a safeguard for operators or to operators and

15 the public.

16 Pursuant to Section 1516 of the Act, the
17 Board has the duty to create regulations for the
18 establishment of a list of persons voluntarily self
19 excluded from gaming activities at all licensed
20 facilities.

21 Jim Dohery and Don Shiffer, who are members
22 of our legal staff, will provide a presentation on
23 these regulations.

24 MR. DOHERY: Good morning, Mr. Chairman,
25 members of the Board. I am here today to present for

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1 your consideration the regulations for the exclusion
2 of individuals from licensed gaming facilities.

3 I ask that the Board post these regulations
4 on the PGCB's website for a ten-day comment period.
5 These regulations have been modeled after the New
6 Jersey and Louisiana regulations concerning the
7 exclusion and ejection of individuals from licensed
8 gaming facilities.

9 Section 1514 of the Act provides the Board
10 with the authority to create and place individuals on
11 an excluded person's list. This list will be
12 maintained by the Board, distributed to each licensed
13 gaming facility, and made available for public
14 review.

15 Upon receipt of the exclusion list, it is
16 the responsibility of each gaming facility to inform
17 its employees of the necessary procedures to ensure
18 compliance with the exclusion list and report any
19 additional names to the Bureau of Investigations and
20 Enforcement of individuals who they believe the Board
21 should consider placing on the exclusion list.

22 An individual may be placed on the
23 exclusion list if they have been convicted of a crime
24 of moral turpitude, convicted in this or any other
25 jurisdiction of a crime punishable by more than one

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1 year in prison, or if the Board determines that his
2 or her presence in a licensed gaming facility would
3 be inimical to the Commonwealth or licensed gaming
4 they are in or both.

5 The finding of inimicability may be based
6 upon a determination that an individual's presence at
7 a licensed gaming facility threatens the maintenance
8 of public confidence in the efficacy of the
9 regulatory process, the integrity gaming operations,
10 the gaming industry, and its employees.

11 However, race, color, creed, national
12 origin or ancestry or sex shall not be a reason for
13 placing the individual on the excluded list.

14 In order to place an individual on the
15 exclusion list, the Bureau of Investigations and
16 Enforcement must first conduct an investigation into
17 the individual to determine if he or she satisfies
18 the necessary criteria for exclusion.

19 If, based on the investigation, the Bureau
20 of Investigations and Enforcement determines that an
21 individual is a candidate for exclusion, it must file
22 a petition for exclusion with the Board.

23 Additionally, the Bureau of Investigations
24 and Enforcement may file an application with the
25 Board seeking preliminary placement of an individual

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1 on the exclusion list pending the completion of a
2 plenary hearing on its petition for exclusion.

3 Once the board issues a preliminary order
4 placing an individual on the exclusion list, notice
5 shall be provided by the Board to the excluded
6 individual.

7 He or she shall have 30 days from the
8 receipt of the exclusion notification to demand a
9 hearing before the Board in order to challenge his or
10 her name on the exclusion list.

11 Failure to demand a hearing shall be deemed
12 an admission of all facts alleged in the Board's
13 notice.

14 The final order of exclusion shall be
15 entered by the Board following, one, a hearing at
16 which the Board determines that an individual meets
17 the criteria for exclusion; or, two, an admission by
18 the individual named for exclusion of all matters and
19 facts alleged in the Board's notice either
20 affirmatively or through a failure to request a
21 hearing within 30 days of service of the exclusion
22 notification.

23 The exclusion list will contain the name,
24 date of birth, physical description, known aliases,
25 address of record, and a photograph consistent with

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1 the Commonwealth photo imaging network for each
2 excluded individual.

3 As I discussed earlier, the Board will
4 maintain, update, and distribute the exclusion list
5 to the slot machine licensees who upon receipt of a
6 list have an affirmative duty to exclude and/or eject
7 any individual on the exclusion list or known to
8 satisfy the Board's criteria for exclusion.

9 However, licensed gaming entities or
10 employees thereof shall not be liable for damages in
11 a civil suit based upon a failure to withhold gaming
12 privileges from an individual or committing an

13 individual to gamble.

14 An individual's placement on the exclusion
15 list -- an individual placed on the exclusion list
16 may petition the Board to request a hearing
17 concerning his or her removal from the exclusion list
18 after five years from the date of his or her original
19 placement on the list.

20 The Board shall grant the petition for
21 removal only upon a finding that there is new
22 evidence, which is material and necessary, or that
23 the circumstances have changed since the placement of
24 the excluded person on the list, and that there would
25 be a reasonable likelihood that the Board would alter

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1 its previous decision.

2 Individuals who have been on the exclusion
3 list for less than five years may petition the Board
4 for early consideration for removal provided,
5 however, that no excluded person may within the
6 five-year period of exclusion file more than one such
7 petition.

8 The exclusion list is a statutory creation
9 that is intended to assist the Board in maintaining
10 the integrity of gaming in this Commonwealth, ensure
11 the security of licensed gaming facilities, and
12 foster a safe and inviting atmosphere for the patrons

13 of these licensed gaming facilities.

14 This concludes my presentation on the
15 exclusion regulations. I will now turn the
16 presentation over to my colleague, Don Shiffer, who
17 will discuss self exclusion regulations.

18 CHAIRMAN DECKER: Gentlemen, when would you
19 like questions from us, after each piece or at the
20 end of all three?

21 MR. DOHERY: Whatever the Chairman prefers.

22 CHAIRMAN DECKER: It is okay to ask the
23 question now?

24 COMMISSIONER COY: Mr. Chairman?

25 CHAIRMAN DECKER: My question and then I'll

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1 turn it over to Commissioner Coy on the definition of
2 whether someone is -- not the definition -- convicted
3 of a felony, how far back do you go? The Statute
4 provides some guidance to us on that.

5 Is there any time period after which that
6 they're not a candidate to be put on the exclusion
7 list?

8 MR. DOHERY: No, there's not. In these
9 regulations, there's not. It's also a finding that
10 they're inimical to the interests of the
11 Commonwealth. It's not merely a conviction.

12 CHAIRMAN DECKER: Say that again.

13 MR. DOHERY: It's not the mere conviction
14 that requires them to be placed on the exclusion
15 list. It's a conviction combined with the
16 determination by the Board that they are inimical to
17 the interests of the Commonwealth.

18 CHAIRMAN DECKER: Because the Statute has a
19 guideline for us. I forget. Is it 15 years? 15
20 years, and I get a little concerned that the Statute
21 allows us to license somebody but our regulations
22 would say they could be excluded. That's the only
23 thing I have for you all.

24 Go ahead, Commissioner Coy.

25 COMMISSIONER COY: Thank you, Mr. Chairman.

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1 In light of our previous discussion concerning the
2 shared information, I'm wondering, especially because
3 we have a couple of other states here today, is this
4 shared information from other states available?

5 In other words, can we determine in essence
6 to protect people in Pennsylvania if they are on a
7 list in New Jersey?

8 MR. DOHERY: I know the New Jersey list is
9 public information. It would be up to the Board to
10 make its own determination as to each individual, if
11 we would like to exclude each particular individual

12 from licensed gaming in Pennsylvania.

13 COMMISSIONER COY: So these lists from
14 other states are public information?

15 MR. DOHERY: I know New Jersey is. I'm not
16 sure about any other state.

17 COMMISSIONER COY: Did we address this at
18 all in the rules and regulations?

19 MR. DONAGHUE: If that is something with
20 the shared information that our Bureau of
21 Investigations and Enforcement would be able to get
22 if it was not publicly available, they could begin
23 that conversation with those various agencies in
24 order to obtain that information.

25 COMMISSIONER COY: I think it would be

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1 interesting to have a recommendation maybe from BIE
2 or you all in the future about this, whether this is
3 something that makes sense or not.

4 CHAIRMAN DECKER: Go ahead.

5 COMMISSIONER McCABE: I agree. If they are
6 excluded from Las Vegas or from New Jersey, can we
7 adopt their exclusion list and say if they're
8 excluded in Las Vegas and New Jersey, they're going
9 to be excluded here in Pennsylvania, too?

10 MR. DOHERY: You certainly could, but it

11 might be more advantageous to look at each
12 individual, because that individual may not ever come
13 into Pennsylvania. That may not be necessary.

14 COMMISSIONER MARSHALL: Well, and don't you
15 think just for due process reasons we would have to
16 have some Act? It may be probative information, but
17 we still would have to take some action.

18 I would be a little concerned about just
19 automatically saying if you're included in Las Vegas
20 that you're automatically excluded in Pennsylvania
21 without some --

22 MR. DONAGHUE: Once we obtain that
23 information, either publically or through information
24 sharing, ultimately, it would have to be an act of
25 the Board.

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1 CHAIRMAN DECKER: There would have to be a
2 hearing on that?

3 MR. DONAGHUE: Yeah.

4 MR. DOHERY: Each person -- you couldn't
5 adopt the entire list. You would have to file a
6 petition with the Board for each individual person.

7 CHAIRMAN DECKER: The important thing, as
8 the Commissioners have indicated, is to have access
9 -- get access to it so that we know who the people
10 are. If they want to come here, we will take action

11 on them so we know they're excluded.

12 COMMISSIONER McCABE: Mr. Chairman, I've
13 looked on the websites of Las Vegas and New Jersey.
14 They have their names, their pictures on the --

15 CHAIRMAN DECKER: They publish it. I think
16 other jurisdictions do as well.

17 You need to change -- with these comments
18 and mine, do you need to change any of the regs to
19 cover these points, the proposed regs?

20 MR. DOHERY: I can change the conviction.

21 CHAIRMAN DECKER: They're just getting
22 published --

23 MR. DOHERY: They're only getting published
24 for ten-day comment.

25 CHAIRMAN DECKER: These are comments for

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1 us.

2 Don, did you finish already?

3 MR. SHIFFER: Yes, I'm all done. Good
4 morning, Chairman Decker and members of the Board.

5 Also before you this morning is a request
6 to open a ten-day public comment period on draft
7 regulations concerning individuals who were to
8 voluntarily self exclude themselves from licensed
9 gaming facilities in Pennsylvania.

10 Today, I present and request that pursuant
11 to the Board's authority promulgated in Section 1516
12 of the Act, that it approve the publication of these
13 regulations for public comment.

14 Several states, notably New Jersey and
15 Louisiana, have in place similar regulations that
16 allow a person to voluntarily place him or herself on
17 a list of people to be excluded from gaming
18 facilities, and the self exclusion regulations before
19 you today have been modeled after these
20 jurisdictions.

21 Commonly known in other jurisdictions as
22 self exclusion, these regulations are designed to
23 assist individuals with recognized gambling problems
24 by serving as a tool to keep them away from licensed
25 gaming facilities.

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1 Once an individual chooses to be placed on
2 the Board's self exclusion list, he or she agrees to
3 be excluded from all gaming activities and to be
4 prohibited from collecting any winnings, recovering
5 any losses, or accepting any complimentary gifts or
6 services or anything else of value at any licensed
7 gaming facility in Pennsylvania.

8 Individuals may opt to be placed on the
9 board's self exclusion list for one year, five years,

10 life, or on an alternative time period that the Board
11 deems appropriate.

12 Upon written request, any self excluded
13 person may after the expiration of their period of
14 self exclusion have their name removed from the
15 Board's self exclusion list.

16 Those who opt for voluntary self exclusion
17 agree to completely waive any liability on the part
18 of the Commonwealth, the Board, and its employees,
19 and all slot machine licensees and their employees
20 for any harm, monetary or otherwise, which may arise
21 out of or by reason of any Act or omission relating
22 to any request for self exclusion or removal from the
23 Board's self exclusion list.

24 The Board will maintain the official self
25 exclusion list and shall notify each slot machine

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1 licensee of any addition to or deletion from the
2 list.

3 The information supplied from these persons
4 who have elected to participate in the Board's self
5 exclusion program will be kept confidential from
6 anyone other than the Board and its employees and
7 employees and agents of the slot machine licensee
8 whose duties and functions require access to such

9 information.

10 In working with prospective licensees and
11 developing their security and surveillance plans,
12 Board employees will assist them in establishing
13 procedures designed to prevent those individuals
14 subject to self exclusion from gaining access to or
15 from using any services associated with any licensed
16 gaming facility.

17 In addition, slot machine licensees will be
18 prevented from soliciting or sending targeted
19 mailings or promotions of any kind to those who are
20 subject to self exclusion.

21 As the Board is aware, the Board's approval
22 of the publication of these draft regulations starts
23 the ten-day comment period.

24 In order to be considered, comments will
25 have to be postmarked no later than March 31st, 2006.

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1 Any public comments must be accompanied by an
2 individual's name and, if applicable, the name and
3 entity or organization on whose behalf the comment is
4 being submitted.

5 Those submitting public comments must also
6 include a mailing address, including a county, for
7 the individual and organization and, if appropriate,
8 a telephone number and e-mail address that can be

9 used to verify the source of the information.

10 When comments are submitted, they should
11 also cite the specific section of the regulation to
12 which the comments pertain to.

13 In addition, comments not related to
14 exclusion, voluntary self exclusion, or employee
15 credentials, which are before the Board today, will
16 not be entertained and considered during this period.

17 Once staff has reviewed all public
18 comments, the Board's responses will be posted on the
19 PGCB website at www.pgcb.state.pa.us.

20 CHAIRMAN DECKER: Thank you, Don.

21 Any questions for Don?

22 Please.

23 COMMISSIONER MARSHALL: Thank you for your
24 presentation. As part of the regulations we propose
25 today, a person on the self excluded list will be

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1 able to sign a statement that has all kinds of things
2 in it, and then it acknowledges that any winnings
3 during the period that you're on the self excluded
4 list would be subject to forfeiture. As a practical
5 matter, where does the money go?

6 MR. SHIFFER: Commissioner Marshall, we do
7 not have that section included in these current draft

8 regulations.

9 COMMISSIONER MARSHALL: The ones I was
10 reading, there was a provision --

11 MR. SHIFFER: In the event that this is
12 included, that such proceeds would go to the
13 Compulsive Gaming Fund, which would help to --

14 COMMISSIONER MARSHALL: I meant where does
15 it go after -- it says it's subject to forfeiture.

16 MR. SHIFFER: Right. It would be subject
17 -- I'm sorry for the confusion. No, those proceeds
18 would go to the Compulsive Gaming Fund.

19 COMMISSIONER MARSHALL: Thank you.

20 CHAIRMAN DECKER: Any other questions?

21 COMMISSIONER COY: Mr. Chairman.

22 CHAIRMAN DECKER: Please.

23 COMMISSIONER COY: Thank you. I'm circling
24 back to the other subject only because I agree with
25 Commissioner McCabe. I understand about due process.

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1 I think we would have to find a way to accomplish
2 that, but I would be hard pressed to understand why
3 we wouldn't want to exclude folks who have already
4 excluded themselves in many ways in another state.

5 So I look forward to some language to allow
6 us to do this in some sort of way that affords due
7 process, but I think we ought to be about the

8 business of trying to protect the folks if they
9 really seek to be protected.

10 CHAIRMAN DECKER: One of the ways to do it
11 might be that -- there are two different groups, one
12 that are excluded or not voluntarily excluded and the
13 others they would voluntarily exclude themselves.
14 Maybe there's a way to distinguish between the two.
15 And if there's a group voluntarily excluded
16 themselves but are excluded in other states for other
17 reasons, we notify them they're excluded and have a
18 right to a hearing.

19 MR. DONAGHUE: We would be happy to look at
20 that.

21 COMMISSIONER McCABE: One thing I would
22 like to point out is being able to gamble in
23 Pennsylvania is not going to be a right. It's a
24 privilege. I'm concerned about due process, being
25 sued, and all of that; but also gambling is not a

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1 right.

2 If we want to protect Pennsylvania and the
3 interest of Pennsylvania, it's a privilege. That's
4 where I'm coming from.

5 CHAIRMAN DECKER: But as long as they ask
6 for a hearing, you can have both. Why don't you

7 examine that and get back to us at a subsequent
8 meeting and when you get the other public comments
9 in, but keep that in mind, that the Board is very
10 interested in that, and also the question I raised
11 about the Statute requirements versus what we're
12 doing here in the regs.

13 Commissioner Marshall, did you have a
14 question?

15 COMMISSIONER MARSHALL: No.

16 CHAIRMAN DECKER: I think at the end of the
17 day, you're going to have to pay attention to some
18 due process. The question is if what can we do if we
19 don't get a response. Now, we have --

20 MR. DONAGHUE: We do have one more
21 regulation that we would like to post for public
22 comment.

23 CHAIRMAN DECKER: Thank you very much, Jim
24 and Don. Very well done.

25 MR. DONAGHUE: Again, thank you. This

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1 particular regulation that we would like to post for
2 public comment pertains to employee confidentiality.

3 It's common practice in the gaming
4 jurisdictions to require gaming employees to display
5 board issued credentials for the purpose of
6 monitoring and security.

7 Michelle Afragola will present these
8 regulations to the Board.

9 MR. AFRAGOLA: Thank you.

10 Good morning. Today, I'm offering for your
11 consideration regulations on employee credentials,
12 and these regulations will govern the physical
13 identification badges that the Board will issue to
14 employees who have been approved for an occupation
15 permit, a non-gaming employee registration, or an
16 employee license.

17 The physical credential will include
18 identifying information about the employee such as
19 the name, address, date of birth, a photograph that
20 is in compliance with the Commonwealth Photograph
21 Imaging Network, a licensed permit or registration
22 number, an expiration date, the signature of the
23 employee, and other security features such as
24 identifying the level of employee right on the badge
25 for monitoring purposes.

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1 The regulations provide that the employee
2 must display his Board issued credential at all times
3 while engaged in the performance of his duties at the
4 licensed facility.

5 Slot operators are prohibited from allowing

6 an employee to perform his duties on the premise
7 unless he is wearing his credentials.

8 The regulations also provide that the
9 security department of the slot machine licensee may
10 issue Board approved emergency credentials to an
11 employee that are only valid for 24 hours.

12 The Board may also issue temporary
13 credentials to key employees and key employee
14 qualifiers whose investigation may not have been
15 completed or the need be only there for the start of
16 the facility and may not be necessary for the entire
17 time that the facility is operating.

18 This credential is valid for 30 days, and
19 the implementation of these regulations is an
20 important element of licensing and facility security.

21 I'm open for any questions.

22 CHAIRMAN DECKER: Any questions from the
23 Board for Michelle on this point?

24 Thank you, Michelle.

25 MS. AFRAGOLA: Thank you.

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1 CHAIRMAN DECKER: I would ask for a motion
2 to the effect that the Board make available for
3 public review and comment the draft temporary
4 regulations pertaining to exclusion, self exclusion
5 and credentials through the publishing of the

6 regulations on the Board's website, and that the
7 Board shall establish a public comment period for a
8 period of ten days ending on March 31st, 2006.

9 May I have a motion?

10 COMMISSIONER DiGIACOMO COLINS: So moved.

11 CHAIRMAN DECKER: Second, please?

12 COMMISSIONER McCABE: Second.

13 CHAIRMAN DECKER: Again, any of the
14 questions for any of the presenters?

15 All of those in favor, please indicate by
16 saying aye.

17 COMMISSIONERS: Aye.

18 CHAIRMAN DECKER: Any opposed?

19 Motion carries. Thank you very much.

20 MR. DONAGHUE: Thank you. Then as a final
21 order of business with regard to regulations, we are
22 continuing to draft the regulations but also
23 continuing to refine the existing regulations.

24 Maureen Williamson of our staff will be
25 working on amendments to existing regulations and she

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1 will be presenting some of the amendments for the
2 Board's consideration.

3 Maureen?

4 MS. WILLIAMSON: Good morning, Chairman

5 Decker and members of the Board. Before you for
6 consideration are a number of technical amendments to
7 the regulations that have already been adopted to
8 date.

9 A number of them are really non-substantive
10 in nature and are really designed to include
11 consistent use of terminology or treatment of subject
12 matter throughout our growing body of regulations.

13 The balance amplify are temporary
14 regulations that were adopted back in November for
15 the possession and transportation of slot machines,
16 to clarify that an applicant for slot machine license
17 may possess slot machines within the Commonwealth
18 subject to our standard slot movement notice and slot
19 master list possession requirements.

20 Unless there are any questions, I would ask
21 for a motion to adopt the technical amendments as
22 proposed.

23 COMMISSIONER COY: So moved.

24 COMMISSIONER MARSHALL: Second.

25 CHAIRMAN DECKER: Any discussion or

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1 questions for Maureen?

2 Hearing none, all of those in favor, please
3 indicate by saying aye.

4 COMMISSIONER: Aye.

5 CHAIRMAN DECKER: Any opposed?

6 Motion carries.

7 Thank you, Maureen and Frank.

8 MR. DONAGHUE: Thank you.

9 CHAIRMAN DECKER: We have one other item by
10 way of regulations, and I guess just for old time
11 sake, Commissioner Colins is going to review it.

12 COMMISSIONER DIGIACOMO COLINS: Yes. It's
13 the fun topic of definition of stock, which I've
14 discussed ad nauseam with the Board two times
15 previously.

16 Today, I'm going to ask the Board for a
17 motion to publish our response to the one public
18 comment we received regarding a proposal to define
19 stock.

20 The public comment -- as you know, the
21 Board -- originally, I proposed to the Board that we
22 define it in a narrow fashion. We received a comment
23 from Christopher Craig, who is counsel to Senator
24 Fumo, who advised us in his comment, and it's
25 published on the website, that the legislature had

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1 carefully crafted the provision on financial interest
2 and blind trust and stock, and that this was a matter
3 for the legislature to address and that it would be

4 inappropriate for the Board to narrow the scope at
5 this point. So we're going to defer to that.

6 I'm going to just read into the record the
7 response that will be published by the Board in this
8 area.

9 In advancing a narrow definition of stock,
10 the Board believed that it was protecting -- I want
11 to qualify, I'm speaking on behalf of the Board only
12 to propose this to the Board. It still has to be
13 voted on.

14 In advancing a narrow definition of stock,
15 the Board believed that it was protecting the spirit
16 and intent of the legislation by clarifying the type
17 of instrument that may be held in a blind trust while
18 enhancing the essence and integrity of the blind
19 trust exemption.

20 The Board received one public comment on
21 this subject from Christopher Craig, legal counsel to
22 Senator Vincent Fumo, and the comment suggested that
23 it was a matter for the legislature to review and
24 revisit and not for the Board to draft regulation,
25 which would restrict the scope of the Statute.

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1 As such, the Board would defer to that
2 point of view and to taking any further action on
3 defining stock or restricting the area at this time.

4 I would make a motion that the Board adopt
5 that approach and that response.

6 CHAIRMAN DECKER: Thank you, Mary.

7 Can I have a second?

8 COMMISSIONER McCABE: Second.

9 CHAIRMAN DECKER: Any questions for Mary?

10 All of those in favor, please indicate by
11 saying aye.

12 COMMISSIONERS: Aye.

13 CHAIRMAN DECKER: Any opposed?

14 Thank you. The motion passes.

15 I would like to thank the individuals who
16 participated in our meeting today. There's a lot of
17 hard work that goes on behind all of those regs and
18 the constant reviewing, as we have said before. So
19 we appreciate that.

20 It takes a lot of time and effort to get it
21 right and I think it's evolving -- as you said,
22 Frank, it's an evolving issue.

23 Just in case anyone missed it two weeks
24 ago, we did grant six licenses to manufacturers. We
25 are continuing to move on with both reviewing

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1 manufacturers and, I believe, David Kwait, who is
2 here today, who has got a lot of work to do

3 unfortunately and with the State Police, so I think
4 they're also here, will be starting the process of
5 reviewing our suppliers even though we don't have
6 final regs.

7 We will be in the process of looking at the
8 applications and starting the background
9 investigations on suppliers, and we hope to have
10 those finished and in the coming months.

11 We are also at the same time starting the
12 process if I'm right, Susan, on looking at
13 Conditional I applications, not the Board but the
14 staff of the Board, to make that clear.

15 Those will be hopefully moving along
16 shortly at the same time. So we are clearly on what
17 is a fast track to move these things forward. I hope
18 people will clearly focus on those activities, which
19 are the prime mission of the Board.

20 Is there anything else to come before the
21 meeting today?

22 Hearing none, I certainly would entertain a
23 motion for adjournment. We are, by the way, going to
24 have the round table I mentioned and maybe some
25 personnel matters, but we will not be coming back

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1 today following the adjournment.

2 May I have a motion?

3 COMMISSIONER CONABOY: So moved.

4 CHAIRMAN DECKER: Second?

5 COMMISSIONER COY: Second.

6 CHAIRMAN DECKER: Anyone against
7 adjourning?

8 We are adjourned. Treasurer Casey, thank
9 you for participating.

10 TREASURER CASEY: Thank you, Mr. Chairman.

11 (The meeting concluded at 11:21 a.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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