

STATE OF CALIFORNIA
GAMBLING CONTROL COMMISSION

COMMISSION MEETING

ORIGINAL

California Gambling Control Commission
2399 Gateway Oaks Drive
Suite 100
Sacramento, California 95833
August 20, 2009
10:00 A.M.

Received
August 20, 2009
CGCC

Reported by: Angelica R. Gutierrez, CSR No. 13292



Northern California Court Reporters

(916) 485-4949 ■ Toll Free (888) 600-NCCR ■ Fax (916) 485-1735

1 APPEARANCES:

2

3 DEAN SHELTON
4 Chairman

5 STEPHANIE SHIMAZU
6 Commissioner

7 ALEXANDRA VUKSICH
8 Commissioner

9 JOY CALKIN
10 Staff Services Analyst

11 HERB BOLZ
12 Senior Legal Counsel

13 Public Speakers:

14 James Allen
15 Shannon George
16 James Butler
17 Mark Kelegin
18 Robert Tabor
19 Mark Jones
20 Arcon Somo
21 John Nyhan
22 Allen Titus
23 Andrew Schneiderman
24
25

1 BE IT REMEMBERED, that on August 20, 2009,
2 commencing at the hour of 10:00 A.M., at the California
3 Gambling Control Commission, 2399 Gateway Oaks Drive, Suite
4 100, Sacramento, California, before me, ANGELICA R.
5 GUTIERREZ, Certified Shorthand Reporter in and for the
6 county of San Joaquin, state of California, the following
7 proceedings took place:

8
9 (The following proceedings were held on the record.)

10
11 CHAIRMAN SHELTON: Call the meeting to order.
12 Please stand for the pledge of allegiance.

13 (Pledge of Allegiance.)

14 CHAIRMAN SHELTON: Roll call, please.

15 JOY CALKIN: Chairman Shelton?

16 CHAIRMAN SHELTON: Here.

17 JOY CALKIN: Commissioner Shimazu?

18 COMMISSIONER SHIMAZU: Here.

19 JOY CALKIN: Commissioner Vuksich?

20 COMMISSIONER VUKSICH: Here.

21 CHAIRMAN SHELTON: Item number three. Mr. Allen
22 are you carrying that?

23 JAMES ALLEN: Good morning. For the record, my
24 name is James Allen, A-l-l-e-n, and I'm the manager of the
25 Commission's Regulatory Actions Unit. We're here to conduct

1 a public hearing regarding the proposed adoption of
2 regulation in Title 4, Division 18, of the California Code
3 of Regulations as described in the Notice of Proposed Action
4 duly published in the California Regulatory Notice
5 Register on July 3rd, 2009, and mailed to those on the
6 Commission's regulations mailing list.

7 Specifically, the Commission is proposing
8 amendments to Chapters 2.1 and 2.2 of Division 18 concerning
9 the conversion from registration to licensure and the
10 renewal of third party proposition player services and
11 gambling business licenses.

12 Before we begin taking public comments, I just
13 have a few little items for the record to go over.

14 First of all, if you've not already done so, I ask
15 that all persons attending this hearing, even if you do not
16 wish to testify, please sign the register. This is purely
17 voluntary but we would appreciate having a complete record
18 of all those in attendance.

19 Under the rule making provision of the
20 Administrative Procedure Act, this is the time and place set
21 for the presentation of statements, arguments and
22 recommendations both orally or in writing for or against the
23 proposed regulations.

24 This is a quasi-legislative proceeding in which
25 the Commission carries out a rule-making function delegated

1 to it by the legislature.

2 If anyone has written comments they wish to
3 present today, you may hand them to me now or at any time
4 before the close of this hearing.

5 In addition, written comments will be accepted
6 until the close of the public comment period today;
7 August 20th, 2009, at 5:00 p.m.

8 This entire proceeding is being recorded. The
9 record of this hearing, as well as all written comments
10 received by the end of the public comment period will become
11 part of the rule-making file.

12 Persons presenting comments, objections and
13 recommendations will not be sworn in, nor will we engage in
14 cross-examination of witnesses.

15 Persons to wish to present comments, objections or
16 recommendations are asked to come to the podium and use the
17 microphone to ensure that all testimony is recorded and
18 entered into the record correctly.

19 Before you begin your comments, please identify
20 yourself by name and spell your last name for the record.

21 The Commission may respond to, discuss any
22 questions, comments, objections or recommendations received
23 today.

24 All comments, objections and recommendations will
25 be considered. And the Commission's formal responses will

1 be included in the Final Statement of Reasons that will be
2 prepared after the close of the public comment period.

3 The Commission will not formally respond directly
4 to individuals.

5 The Commission has maintained a rule-making file
6 for the proposed regulatory action. A copy of the current
7 file is contained in a binder at the back table and is
8 available for public inspection here today.

9 Before we continue, are there any questions
10 concerning the nature of the proceeding or the proceedings
11 to be followed?

12 Hearing none, I will turn this matter over to
13 Ms. Amy Arndt from the Licensing Division who will briefly
14 outline the proposed action and answer any questions.

15 AMY ARNDT: Good morning, Chairman and
16 Commissioners. My name is Amy Arndt, A-r-n-d-t. I'm an
17 analyst in Licensing Division.

18 Agenda Item Number 3 concerns the adoption of
19 filing of amendments to regulations Title 4 of the
20 California Code of Regulations, Chapters 2.1 and 2.2 with
21 the Office of Administrative Law.

22 In your binders there's a memorandum with staffs'
23 recommendation, an overview of the proposed action and the
24 proposed regulation text. These documents are also
25 available at the back table for the public.

1 Staff recommends that the Commission: One, adopt
2 and approve for filing with the Office of Administrative Law
3 the final text of proposed regulations to provide a license
4 renewal process for third party proposition player providers
5 and for gambling businesses, to extend the term of third
6 party proposition player contracts from one year to two
7 years, to establish a process for approval of playing books,
8 to change the required forms for converting a registration
9 to a license, and to make other non-substantive changes as
10 described in the staff memorandum.

11 And Two, authorize staff to make necessary
12 non-substantive changes that may be required by OAL during
13 their review process.

14 Comments were received late yesterday afternoon
15 from the Bureau and are as follows:

16 In Chapters 2.1, Section 12200.13 (c)(1)(B) on page
17 6 of the text, line 14. They're requesting to add the
18 words, "that complies with this section." The Commission
19 agrees with this proposed change.

20 CHAIRMAN SHELTON: Commission staff?

21 AMY ARNDT: Commission staff, yeah.

22 CHAIRMAN SHELTON: And what was the change, again?

23 AMY ARNDT: They are requesting to add the words,
24 "that complies with this section" -- to read, "sample
25 playing book form that complies with this section."

1 CHAIRMAN SHELTON: Any comments?

2 COMMISSIONER VUKSICH: That means it will be
3 considered a substantiative change?

4 AMY ARNDT: Yes.

5 They are requesting to change Section 12205.1(a)
6 and(c) on page 8, lines 13 and 27. Change, "as applicable,"
7 to "the applicable," and remove the word, "an."

8 CHAIRMAN SHELTON: "An."

9 AMY ARNDT: The Commission staff agrees with this
10 change.

11 CHAIRMAN SHELTON: Next.

12 AMY ARNDT: Section 12218(c)(1) on page 9, lines
13 25 and 27. They are requesting to change, "as applicable,"
14 to "the applicable," and remove the word, "an." The
15 Commission staff agrees with this change.

16 CHAIRMAN SHELTON: Next.

17 AMY ARNDT: Section 12218.8(a)(1) on page 11,
18 lines 29 and 30. Change, "as applicable," to "the
19 applicable," and remove the word, "an." The Commission
20 staff agrees with this change.

21 CHAIRMAN SHELTON: Next.

22 AMY ARNDT: Section 12218.9(b) page 13. The
23 Bureau is requesting to add to Subsection(b) a Number 4
24 stating, "the Bureau receives the completed application from
25 the Commission less than 90 days prior to expiration of the

1 current license." Commission staff partially accepts this
2 recommended change. We request to add language to
3 Subsection(a) Number 4 that states, "unless that application
4 is filed with Commission less than 120 days prior to the
5 expiration of the current license," so that text would read,
6 "If the Bureau conducts an investigation it shall submit a
7 written report concerning the renewal application to the
8 Commission no later than 45 days prior to the expiration of
9 the current license unless that application is filed with
10 the Commission less than 120 days prior to the expiration of
11 the current license."

12 COMMISSIONER SHIMAZU: No comment.

13 AMY ARNDT: Okay. In Chapter 2.2, Section
14 12220.13(c)(1)(B) page 14, line 26. The Bureau is
15 requesting to add, "that complies with this section." And
16 the Commission staff agrees with this change. It would
17 read, "Sample playing book form that complies with this
18 section."

19 CHAIRMAN SHELTON: Next.

20 AMY ARNDT: Section 12225.1(a) and(b) page 17,
21 lines 8 and 17. Change, "as applicable" to "the
22 applicable," and remove the word, "an." The Commission
23 staff agrees with this change.

24 CHAIRMAN SHELTON: Next.

25 AMY ARNDT: Section 12233(c)(1) page 18, line 14.

1 Remove the word, "an." And the Commission staff agrees with
2 this change.

3 CHAIRMAN SHELTON: Next.

4 AMY ARNDT: Section 12238(a)(1) page 19, lines 16
5 and 17. Change, "as applicable," to "the applicable." And
6 remove the word, "an." Commission staff agrees with this
7 change.

8 CHAIRMAN SHELTON: Give me that again. What page?

9 AMY ARNDT: Page 19, lines 16 and 17.

10 CHAIRMAN SHELTON: And the changes again?

11 AMY ARNDT: Change, "as applicable," to "the
12 applicable." Sorry. It's actually page 20, line 16.

13 CHAIRMAN SHELTON: Next.

14 AMY ARNDT: Section 12239(b) page 21. Add to
15 Subsection(b) a Number 4 stating, "the Bureau receives the
16 completed application form from the Commission less than 90
17 days prior to the expiration of the current license." The
18 Commission partially accepts this recommended change. We
19 suggest to add language to Subsection(a) Number 4 that
20 states, "unless that application is filed with the
21 Commission less than 120 days prior to the expiration of the
22 current license," for it to read, "if the Bureau conducts an
23 investigation it shall submit a written report concerning
24 the renewal application to the Commission no later than 45
25 days prior to the expiration of the current license, unless

1 that application is filed with the commission less than 120
2 days prior to the expiration of the current license."

3 CHAIRMAN SHELTON: Next.

4 AMY ARNDT: That's the -- we have no more comments
5 or changes.

6 CHAIRMAN SHELTON: Bureau, any further comments?
7 Public comments? Commission?

8 COMMISSIONER SHIMAZU: No comment.

9 COMMISSIONER VUKSICH: Yeah, the recommendation
10 originally was to go ahead and file. But now we have to do
11 a 15 day notice.

12 AMY ARNDT: Yes.

13 COMMISSIONER SHIMAZU: Okay. So a different
14 motion because of this recommendation change. So I'm ready
15 to move. Do we need to do a motion? We just need to file
16 another 15 day period and include all the ones we just
17 accepted?

18 HERB BOLZ: Yeah, we probably need to move -- Herb
19 Bolz, Senior Legal Counsel -- to move to approve the staff,
20 approve the regulation with the changes recommended by staff
21 to be accomplished via a 15 day change.

22 COMMISSIONER SHIMAZU: That's my motion.

23 JOY CALKIN: Commissioner Shimazu?

24 COMMISSIONER SHIMAZU: Aye.

25 JOY CALKIN: Commissioner Vuksich?

1 COMMISSIONER VUKSICH: Aye.

2 JOY CALKIN: Chairman Shelton?

3 CHAIRMAN SHELTON: Aye.

4 JOY CALKIN: Motion Carried.

5 CHAIRMAN SHELTON: Item Number 4.

6 SHANNON GEORGE: Good morning, Mr. Chairman and
7 Commissioners. For the record my name is Shannon George,
8 G-e-o-r-g-e. And I'm an analyst in the Regulatory Actions
9 Unit.

10 Item 4 concerns potential regulations regarding
11 limitations on reopening closed card rooms. Since the
12 Commission's last workshop on this matter in June of this
13 year, staff has identified six possible policy options for
14 discussion and consideration. Mr. Chairman, would you like
15 me to go through the options or do you just want to open it
16 up for public comment?

17 CHAIRMAN SHELTON: I think everybody already has a
18 copy of it. I don't see why we have to go through them.
19 And let's start with the public. Is that all right with
20 you?

21 SHANNON GEORGE: Yes.

22 CHAIRMAN SHELTON: The mic is open.

23 JAMES BUTLER: Morning. Thank you. And I'd love
24 to go first. My name is Reverend James Butler, B-u-t-l-e-r.
25 I'm from the California Coalition Against Gambling

1 Expansion.

2 Mr. Chairman, if I might, I'd like to first get at
3 least a couple of clarifying points. I begin by saying that
4 I support Option Number 6, and I'll get into a couple
5 reasons for that. But there's a line -- it's on the
6 material that I was able to download that this is based --
7 or it's per an IGLS opinion. And I'm wondering if that's a
8 legal opinion. Usually, when I go to these -- when it says
9 something is based on an opinion, it's considered a legal
10 opinion; is that accurate or?

11 CHAIRMAN SHELTON: I believe so.

12 HERB BOLZ: Chairman, if I may address that --
13 Herb Bolz here. There was a typographical error in an early
14 version of that document, which had the word -- had the
15 letters IGLS in it and that typographical error was
16 corrected. And the version we're working from now no longer
17 contains that.

18 CHAIRMAN SHELTON: Where did the document come
19 from? Where did it originate from?

20 SHANNON GEORGE: I did, Mr. Chairman.

21 CHAIRMAN SHELTON: You did?

22 JAMES BUTLER: I guess, my question is, does that
23 mean that this is not based upon --

24 CHAIRMAN SHELTON: That's what it means. It's not
25 based on any legal analysis.

1 JAMES BUTLER: Well, that changes what I was going
2 to say. I do support Option Number 6. And I think that at
3 best, it supports the intent of the currently established
4 moratorium. I'm also wondering now -- there is an
5 inference, I'll call it, that this option may not be legally
6 sustainable in the material. And now, I need to find out,
7 is that a legal opinion, or is that just another analyst
8 opinion?

9 CHAIRMAN SHELTON: Well, I'm certainly not going
10 to try to answer that.

11 HERB BOLZ: Yes, I would recommend not to answer
12 that at this point. If the speaker has legal questions he
13 wishes to raise about the option, I will urge him to --

14 JAMES BUTLER: Okay.

15 CHAIRMAN SHELTON: I understand where he's coming
16 from --

17 JAMES BUTLER: It's on page number two --

18 CHAIRMAN SHELTON: Was that an analyst definition?
19 I think we need to clarify that.

20 SHANNON GEORGE: That was an analyst opinion,
21 Mr. Chairman.

22 CHAIRMAN SHELTON: We need to identify that in our
23 reports because that's misleading. I apologize.

24 JAMES BUTLER: Thank you, sir. I will simply
25 then, again, try to reiterate why I support Option Number 6.

1 I believe that when a license is no active -- and
2 I know we talked about this before on how we may identify
3 that whether it be a dormant or whatever. I would suggest
4 that because there's no privilegers(sic) or responsibilities
5 associated within an inactive license and because the
6 renewal procedures are basically the same as initial
7 application processes, I would contend, therefore, that an
8 inactive license simply no longer exists. And therefore,
9 cannot be renewed under the moratoriums concepts. It was
10 intended, I believe, that no new licenses would be issued.
11 I would contend that an inactive license that has no
12 responsibilities or privileges that has to go through an
13 application process just as if it never existed is not a
14 renewal but rather an issuing of a new license and would not
15 support the moratorium that fits in place. Thank you very
16 much. Any questions you may have?

17 CHAIRMAN SHELTON: I don't think so.

18 COMMISSIONER SHIMAZU: No.

19 JAMES BUTLER: Thank you very much.

20 CHAIRMAN SHELTON: And that's it? We can do what
21 we want to do. Commissioner?

22 COMMISSIONER SHIMAZU: Well, I'm astonished.
23 There's no --

24 MARK KELEGIN: Mark Kelegin, K-e-l-e-g-i-n on
25 behalf of Crystal Casino.

1 I'm not going to repeat any of the arguments
2 basically that we made in our letter format, which I know
3 the Commission has and we restated on prior occasions. I
4 will try to limit my comments to the staff's response that
5 we were provided with today. And if there's any follow up
6 after other comments, I may have some as well.

7 Option 6 in my opinion is the only viable option
8 here. And again, I've set forth all the reasons why we take
9 that position, and I won't go through that today.

10 Addressing the remaining provisions, Option 1
11 limiting to the last license donor, I believe still needs to
12 have the reference to revoked or denied license and that
13 those would automatically not be reeligible. I understand
14 the staff's response of, "Well, we'll look at that along
15 with everything else." And, "We'll look at the reasons for
16 disqualification," and so forth. It's my opinion though
17 that if a license was, in fact, revoked or denied as opposed
18 to being perhaps suspended or under investigation or under
19 the threat of adverse action that has risen to a level of
20 action by the Commission previously that should not be
21 subject to being reopened again.

22 As to Option 2, which extends it to successors and
23 interest that I think is the -- perhaps, the trickiest of
24 all the options here because I think we have to consider
25 under what circumstances successor in interest can come into

1 play.

2 First issue of course being whenever something
3 passes from one person to another, what did that person have
4 to transfer? I think that any transfer that was
5 contemplated, initiated or occurred by reason of death prior
6 to closure of the card-room maintains that ownership that
7 right -- those rights that nexus that allows a possible
8 transfer. I think an argument could be made that any type
9 of transfer by death or purchase after the close -- after
10 the casino or card room closed during this what I think has
11 been discussed here in an ambiguous time frame or time
12 limits in to which act after that I think we would have to
13 put some type of limitations on action that took place
14 within the time period that the casino originally closed.

15 If for example, we chose 6 months or 12 months, I
16 think either of those type of periods are more than
17 adequate. Otherwise, you have people trying to transfer
18 rights to a successor that they have been so detached from
19 and which they have no rights to, there's nothing left to
20 pass. So I think a reasonable time frame would be 6 months
21 or a year at the outside.

22 Having said that though, license that has been
23 revoked or denied has no rights to transfer. I don't
24 care -- no matter what time limits you put on the ability of
25 a licensee to transfer rights either voluntarily or through

1 a death. Once that's been revoked, once its been denied,
2 the licensee doesn't have anything to transfer. It doesn't
3 fall into that ambiguous frame work of we have closure but
4 no time limit to transfer.

5 Option 3, obviously, gives me the greatest concern
6 opening it up to anyone at any time. And I think, again --
7 as I've said in the paper work that's been -- the regulation
8 is going to have to meet a burden of proof that there's some
9 basis to allow it to go to someone other than a successor
10 and interest or the last license. And again, I don't
11 believe that there's any justification or support for that.

12 Option 4, I don't think requires any discussion
13 because it's already addressed in Option 1 through 3.

14 Option Number 5, I think is also a viable option
15 because, again, it limits it to the original licensee. And
16 here again, I will just rerepeat my one comment. If it's
17 been revoked or denied, I don't think it's a license that
18 should be subject to reconsideration, which is really what
19 the Commission would be doing by not inserting the words
20 revoked or denied. I think there are a lot of situations
21 where something could be under the threat. I think there
22 are situations where there may have been applications
23 pending to withdraw a license that have been ruled upon. I
24 think that there's a lot of threats of adverse action that
25 could potentially survive and be reexamined again. But I

1 think once the decision has been made that it's been revoked
2 or denied, there should no further reconsideration of that
3 person as the last licensee. And subsequently, they then
4 would have nothing the transfer. I think that's all I have
5 the say in response to the staff's response. Are there any
6 questions that you might have for me at this time?

7 COMMISSIONER SHIMAZU: No.

8 CHAIRMAN SHELTON: No.

9 MARK KELEGIN: Thank you.

10 CHAIRMAN SHELTON: Thank you.

11 ROBERT TABOR: Robert Tabor, T-a-b-o-r with the
12 Law Offices of Robert S. Tabor.

13 The Commission through its staff held at least two
14 meetings, all the meetings on this for comment from the
15 general public. One down in southern California and one
16 here in Sacramento. Both of which, I believe, were last
17 year. And during the one that was in southern California,
18 both Mr. Blonien and Mr. Harlan Goodson, the initial
19 Director of the Bureau of Gambling Control commented on
20 their involvement in the crafting of the moratorium
21 language.

22 When a statute is vague or in any way unclear, the
23 accepted process in determining the intent behind the
24 legislature, is to look at the legislative record to the
25 extent that is written down, interview the folks associated

1 with crafting that legislation, both Mr. Blonien and
2 Mr. Goodson agreed -- and were quite adamant that the sole
3 purpose of the moratorium was to impose a ceiling, a cap, on
4 the possible number of card rooms in the state of
5 California. That cap was set forth by the language the
6 which read in key part, that if the license was issued on
7 December 31st, 1999, those card rooms could be -- were
8 available.

9 There's been some comments made here today about
10 the ability of prior licensees to pass down licenses or
11 transfer licenses. Licenses can't be pass down and
12 transferred any way. They have to be issued by either the
13 Commission -- well, not either but by, both the Commission
14 and local jurisdiction.

15 So I believe that what the legislative intent
16 really was, was to -- will be most adequately incorporated
17 in either Option 3 or Option 4. And I think Option 3
18 probably most appropriately encompasses the legislative
19 intent.

20 A card room license, if it's denied by the
21 Commission or revoked by the Commission or surrendered by
22 the licensee that license -- I agree completely with the
23 prior comments -- is gone forever. But that does not
24 address the issue of whether or not a card room may be
25 reopened in within that jurisdiction at some point down the

1 road whether that's 3 months, 6 months or 16 years. The
2 real issue was, did that jurisdiction have a license -- have
3 a license that was issued for a card room on December 31st
4 of 1999.

5 If so, anyone who can be found suitable and
6 licensed by the local jurisdiction and by this Commission
7 has the right to open a card room. So we're not talking
8 about transferring licenses here. We're talking about what
9 was the cap that the state imposed on the number of possible
10 card rooms.

11 The purpose of the moratorium was not to prevent
12 this Commission so much from issuing licenses. It was
13 really addressed to the local jurisdictions and that is
14 confirmed by some of the languages in the moratorium, which
15 speaks about how the -- number of tables could be expanded,
16 how -- whether new card rooms could be established, and
17 would require votes of the local jurisdiction, by the local
18 people.

19 So I think that that deals with the intent of this
20 moratorium. It wasn't a prohibition on new applicants
21 coming in to be licensed. It was a prohibition on the local
22 jurisdictions from granting -- from opening new card rooms
23 or granting new licenses in their jurisdictions.

24 So what you have is the legislature saying, we're
25 going to determine that we're not going to allow any more

1 card rooms in this case that existed on December 31st, 1999.
2 So if a card room were to close today, and if the Commission
3 were to revoke a license, and the card room were to close
4 today, then 6 months down the road, I could be before you
5 with an applicant who is attempting to obtain their own new
6 initial license for a card room of potentially a completely
7 different name and a different location within that
8 jurisdiction.

9 And that is completely in line in my view with the
10 intent of the legislature and somewhat by the clear language
11 of the moratorium. And in fact, I noticed -- and I agree
12 with a comment made by staff in documentation made available
13 here today, which references the Business and Professions
14 Code Section 19963, which makes no nexus between a closed
15 card room and applicants or licensees to reopen that card
16 room and that there be any requirement that that applicant
17 have any relationship to the prior licensee.

18 So certainly, there may -- I'm all for this
19 Commission granting or creating and passing some regulation
20 that dictate or lay the groundwork for how these prior card
21 rooms can be reopened. You know, whether that goes to --
22 opens it up to everybody, which I believe is the proper
23 intent or it opens up to everybody but sets the hierarchy of
24 the prior licensee or different folks associated with that
25 location that is up to this Commission.

1 Again, I think Option 3 is the option that will
2 most have -- will most forward the intent of the legislature
3 and pass the moratorium as has been amended through the
4 years. Thank you very much.

5 CHAIRMAN SHELTON: Thank you. Any questions?

6 COMMISSIONER SHIMAZU: No.

7 COMMISSIONER VUKSICH: No.

8 MARK JONES: Good morning, Chairman Shelton,
9 Commissioners.

10 CHAIRMAN SHELTON: State your name.

11 MARK JONES: I'm sorry. I forgot you all know me.
12 Mark Jones.

13 I have been working with one the local
14 jurisdictions in Northern California to reopen one of these
15 small card rooms so I'm waiting for the determination on
16 what the language of this legislation is going to be.

17 I agree with Mr. Tabor that the intent of the
18 original moratorium was to put a cap on the number of card
19 rooms. It obviously, wasn't to put a cap on the number of
20 tables that the individual card rooms could own because they
21 have continually expanded the number of card room tables for
22 all the years that this moratorium has been in place.

23 So I think that, in itself, will speak to the fact
24 that it was more intended to be a cap on the number of card
25 rooms versus the number of tables -- so I think the

1 expansion of gaming -- we had an ordinance in place in
2 several jurisdictions at the beginning of this moratorium
3 where they had active card rooms participating.

4 A lot of these card rooms went down because of
5 tribal gaming. And the competition was pretty strong in
6 some of these areas and caused these people to lose their
7 card rooms. These card rooms just didn't close because they
8 were bad operators. There was competitiveness in the area
9 that caused some of these. If a vender is willing to go in
10 there and take the risk and the city is willing to offer him
11 the opportunity to do so in a card room that was open at
12 that time, I see no reason that that jurisdiction shouldn't
13 have the same opportunity as one larger cities that has
14 these card rooms in it. It just doesn't sit right.

15 So I would hope that the commission would look at
16 the fact that these card rooms were open. They were
17 operating. They provided jobs.

18 And there's no reason -- I for one, would probably
19 be the most licensed person in this room with gaming
20 licenses. So I know I'm qualified to open a card room
21 because that's what I do for a business, for a living. So
22 to be denied that opportunity -- I can understand why the
23 card rooms don't want this to happen because they don't have
24 any competition. If the little guys don't open up around
25 them, they can still operate and continue to grow without

1 that competition. But is it fair to those jurisdictions
2 that have ordinances in place, that had card rooms open at
3 the time, and fall within this jurisdiction -- this rule.

4 So I'm definitely in support of Option Number 3
5 for personal reasons. Thank you.

6 CHAIRMAN SHELTON: Thank you.

7 ARCON SOMO: Good morning, Mr. Chairman,
8 Commissioners. My name is Arcon Somo, S-o-m-o. And I would
9 like to thank you for giving me the opportunity to speak
10 before this morning.

11 Looks like it's going to be three for three now
12 because I am in support of your proposed regulation. And to
13 me, the question is really not the Commission is on a legal
14 ground to propose that regulation. It's a matter of which
15 option is the best and is going to serve the public and the
16 staff.

17 And just to illustrate my point, today on the way
18 here from San Diego, I had a state senator sitting right
19 next to me. Somebody I've known for years when he was in
20 the assembly and now in the state senate. And he asked me
21 what I'm doing here in Sacramento because it's kind of odd,
22 taking the first flight. It's got to be real important. I
23 said, "Before I tell you what I'm here for" -- I got the act
24 went to 19963. And I said, "Would you please read it for
25 me?" He did. And I said, "I have a question for you. Can

1 you tell me if the Commission proposing legislation to
2 reissue these licenses wouldn't be on a legal ground?" He
3 goes, "Let me read it again." He read it again. And he
4 says what it says here, "The Commission may not issue a
5 gambling license for a gambling establishment that was not
6 licensed at that particular time. And the legislature made
7 one exception for those who have an application and stated
8 another date." So you have a state senator, as of this
9 morning, who thinks that you're on the right track.

10 So I'm here today in sharing my thoughts with
11 yours, which is this option. And I submitted my comment to
12 Shannon this morning, and it's going to be part of the
13 record.

14 To me, it's almost the same either the original
15 license or those who qualify successors. For somebody who
16 is interested and who's supporting Option 3, I think there's
17 going to be challenges for that and Number 1, how about if
18 that original licensee is no longer interested in opening
19 that card room, could be for economic reasons, health
20 reasons, maybe somebody who passed away, how about if they
21 don't live in the state, or maybe they're not legally
22 qualified for whatever they did in that between period of
23 time.

24 So next set of questions will be, how are we going
25 to deal with that, how would the Commission try to address

1 these issues, okay, which responsibility will be to
2 contacting who's going to be next in line -- and that
3 addresses priority on Option 4. Would that be the staff?
4 Who's going do notify the Commission that the original of
5 owners is no longer interested, or the successor -- the
6 qualified successors? There's a lot.

7 And how -- and the Commission has to come up some
8 kind of a criteria, a time table that says, if the original
9 owner does not come forth to submit their at application, to
10 reopen the card room -- and that's going to be -- I mean,
11 from our point of view, it is complicated. Option 3 to us
12 is the most viable one because it's reasonable. And it's
13 very practical to implement. Why? Because it gives the
14 option to everyone.

15 So if the original owner would like to come
16 forward and reopen, well they have that ability. And for
17 those who are advocating for that, I can tell you from a
18 jurisdiction, local jurisdiction point of view the original
19 owner will always have an advantage over somebody like me
20 who was not licensed in that jurisdiction, they already have
21 a track record in that city in that jurisdiction and they
22 already have been approved by the Commission -- assuming
23 they did not have a violation or they were not revoked.

24 So what are we talking about? We're really
25 talking about the old debate between the big boys who are

1 trying to protect their turf, about they don't want any
2 competition. This is really the -- in my opinion, and maybe
3 has not been stated as clearly. And to be honest with you,
4 for someone who was involved before, in previous
5 conversation I had in my previous lifetime where we're
6 talking about big grocery store that's lot of legislation
7 that was not for the little guy. And I see this is the same
8 discussion.

9 It's really the field of protecting their turf.
10 And today I am going to go out on a limb today and, you
11 know, and I'm going to predict the same people who are
12 opposing this proposed regulation, they're going to line up
13 at the capitol to try to advocate a lobby for the legislator
14 to extend the moratorium. Why? For the same economic
15 reason that they are doing it today.

16 In conclusion, I think the Commission is on the
17 right track. I believe the staff is on the right track by
18 giving the proper feedback. If the Commission chooses to
19 implement Number 3, I truly believe and look at all the --
20 and even if you look at the report and some of the comment
21 they made they almost all raised the same questions and
22 ambiguity we need to be more open. But to make it easier
23 and to have a leveled plain field for everyone, I truly
24 believe that Option 3 is the most viable one.

25 Thank you for the opportunity. And if there's a

1 question?

2 CHAIRMAN SHELTON: Thank you. Any questions?

3 COMMISSIONER VUKSICH: No.

4 COMMISSIONER SHIMAZU: No.

5 CHAIRMAN SHELTON: Thank you.

6 ALLEN TITUS: Good morning, Commissioners. Allen
7 Titus.

8 We believe that this is not a policy question, but
9 a legal question. And back in June we submitted a letter on
10 this, which I hoped remains in the record. I hope remains
11 under your consideration. Nothing has change in our
12 opinion. We have not submitted anything new because nothing
13 has changed.

14 As we read the act it does not allow for late
15 renewal of licenses. It does not allow for inactive
16 licenses. There are many acts which have very clear
17 language in them that allow for such things. The
18 legislature did not put that in this act. It has already
19 been mentioned that there appears to be an opinion from the
20 Indian Gaming Law Section of the Attorney General's Office.
21 And my understanding is that there is such an opinion that
22 was given to the Bureau and referenced in the first notice
23 that was sent out on these regs.

24 I would urge both the Commission and the Bureau to
25 release that opinion. I think that's very relevant to

1 what's going on here. And to the extent that that is a
2 question legal, why not share that with the public? There's
3 really -- I don't see that it harms the state in any way.

4 There is a legal reference in the materials I have
5 here. And this also has been referenced earlier -- excuse
6 me -- that Section 19876 states that if a license is not
7 renewed, all gambling activity shall cease until renewal,
8 and it is true that section is in there. I have gone back
9 and looked at the development of the Gambling and Control
10 Act. It developed over many years, about six years.

11 And if you go back to when that language was first
12 appeared, the draft of the Gambling Control Act contained a
13 30 day late renewal provision. The people didn't get their
14 renewals in before expiration. They had 30 days to do it.
15 And this sentence then made a lot of sense. That 30 day
16 provision was subsequently removed from the act.

17 This sentence at that point really had no meaning.
18 The act -- it didn't allow for late renewal any more that
19 sentence just becomes obsolete. And I will try to find some
20 of this material and submit it in a letter to you so that
21 you have you the whole documentation. I'll try to get that
22 in the next couple days. Thank you very much.

23 CHAIRMAN SHELTON: Thank you.

24 ROBERT TABOR: Robert Tabor, again, T-a-b-o-r. I
25 was listening to some of these comments, which I find all of

1 them very interesting, and well stated.

2 I thought of an analogy that I think is
3 appropriate here. We're talking about licenses that maybe
4 granted by local jurisdiction and or the state or both.
5 Analogize this to a liquor license. There's a limited
6 number of liquor licenses in each jurisdiction that are
7 available.

8 If I have a liquor store -- a restaurant with a
9 full liquor license and due to competition or old or because
10 I've become rich, I'm retiring. I close down my store. And
11 I surrender my liquor license and I walk away. Is that
12 liquor license gone forever or the ability -- my liquor is
13 gone forever. But the ability for some other person or
14 entity to come in and obtain that license is not gone. Now,
15 that jurisdiction has one new available license that could
16 be issued for a restaurant liquor license.

17 The same thing is true here. If a card room shuts
18 down, for whatever reason, that jurisdiction now has the
19 ability -- has a license, if you will, in reserve or in its
20 pocket that it may issue to any qualified applicant. And
21 it's up to me, it's up to the local jurisdiction initially
22 to determine which applicant is qualified. And then they
23 come to this body and then this body will engage in its
24 activities, along with the Bureau and determine whether that
25 person is qualified.

1 But the issue is, not whether a license is
2 renewable or has been abandoned or anything else. It's,
3 does that local jurisdiction have in its back pocket the
4 ability to issue a license for a licensable activity --
5 whatever that may be whether a liquor license -- excuse
6 me -- or a card room license. And I see no difference here.

7 And I think the moratorium does what the liquor
8 license laws of California have done, which is impose a
9 cap on the number of liquor licenses that are available,
10 which is one of the reasons liquor licenses are so
11 expensive. Just like getting a gaming license is awfully
12 expensive going through the process and paying the local
13 fees. I think that analogy fits perfectly. Thank you very
14 much for your time.

15 CHAIRMAN SHELTON: Thank you.

16 MARK KELEGIN: Mark Kelegin again.

17 In response to the analogy and to Mr. Tabor's
18 comments earlier, I think that the flaw in that thinking is
19 that it presumes that the jurisdiction, itself, the local
20 municipality decided that it wanted that licensed to be
21 renewed or reacted or reissued or whatever term we want to
22 put on it at many some point in the future.

23 The reality is -- and I think the fact in most of
24 these cities -- and I can't speak the all of them -- is that
25 the municipality made a decision. They said, for example,

1 if your license is revoked or it's surrendered that's it.
2 It's expired. It's dead. It did not say in any way shape
3 or form and by the way, somebody can come afternooon and that
4 license will be available to your successor or to someone
5 down the road. The own jurisdiction doesn't say that.

6 In some instances, they did some jurisdictions did
7 go a little further and said, if somebody wants to come in
8 and apply for a license, you have a certain amount of days
9 to do so. And that obviously, did not take place or we
10 wouldn't be here -- that particular card room wouldn't be on
11 the list.

12 So I think the card fails because it presumes some
13 perpetual right in the jurisdictions and the jurisdictions
14 have the ability to decide what to do with a license that
15 closed or was surrendered. And when it did not grant this
16 open ability, then it doesn't exist.

17 And the Commission or the state does not have the
18 ability to grant it to them at this time. Thank you.

19 JOHN NYHAN: Good morning Commissioners. My name
20 is John Nyhan, N-y-h-a-n. I'm speaking today on behalf of
21 Tom Farage(Phonetic). Who will ultimately hopefully be
22 submitting an application to reopen a card room that was
23 closed over four years ago because the owner became aged,
24 infirm, suffered poor health and his wife died.

25 The local authority having jurisdiction supports

1 the revitalization of the card room that was closed four
2 years ago. We support Options 2, 3 or 4 because we believe
3 each of them is consistent with the Business and Professions
4 Code Section 19963; in that, by allowing the reopening of a
5 closed card room, you'll be promoting competition consistent
6 with the legislative purpose intended.

7 So either of those Options 2, 3 or 4 would promote
8 competition. We oppose 1, 5 and 6 because we think they're
9 unnecessarily anticompetitive. And in the case with respect
10 to the -- Mr. Kelegin who just spoke about local authority,
11 we think Options 2, 3 and 4 afford local authorities having
12 jurisdiction to express their view on whether the proposed
13 revitalization effort that Mr. Farage(Phonetic) has underway
14 is consistent with their objectives, their community
15 planning, their effort to build a stronger local vibrant
16 downtown community in Blythe.

17 So we urge you to adopt one of those options. We
18 prefer 2 because we think it's the cleanest. But 3 or 4
19 would also be consistent with our objectives.

20 CHAIRMAN SHELTON: Thank you.

21 MARK JONES: Again, Mark Jones. Just want to
22 comment to Mr. Kelegin a comment about local rules and
23 regulations. I know in southern California there are those
24 kinds of rules that they try to retire licenses. But I also
25 know that up where I live, the rules are very clear they

1 limit the number of tables and the number of card rooms in
2 the jurisdiction under the code. It has nothing to do with
3 surrendering licenses and they got to go away.

4 So I think when we get down to the local
5 jurisdictions is where we need to look at what their rules
6 are as far as how things are applied. I can open up a card
7 room in my jurisdiction because we're allowed 3 of them.
8 And there's only one of them right now. The additional ones
9 were open after the moratorium went into effect. So his
10 reasoning may apply down in southern California. But does
11 not apply in northern California. Thank you.

12 JAMES BUTLER: Reverend James Butler, again,
13 B-u-t-l-e-r. Again, I guess I'm -- two points. One, I
14 heard reference that was confusing to me -- perhaps two.
15 That there was a legal opinion that was issued to the
16 Bureau, and perhaps that is what was used in reference.
17 Again, if that's the case, I certainly wish it could be --

18 CHAIRMAN SHELTON: Well, let me clarify something
19 here. Legal opinions are given to Commissioners at our
20 request and those are confidential legal opinions. That's
21 between the client and the attorney.

22 JAMES BUTLER: Okay.

23 CHAIRMAN SHELTON: And that's our opinion. Those
24 are never released in this Commission. And we're not about
25 to go down that road today.

1 JAMES BUTLER: And obviously, I don't have the
2 authority to ask for the actually deal. But if that
3 opinion, which I don't know. But if, in fact, it did
4 service some of the basis for Option 6, then I think that's
5 certainly is germane to the discussion in consideration.
6 And so I do want to at least -- I wanted to re-emphasize
7 that.

8 Second point, I want to make it clear that not
9 everyone is here opposing these reissuing of licenses
10 because they have a vested interest in diminishing
11 competition among card rooms but I mean, if you'd want to
12 close them all, I would support that as well. And so I
13 did -- and finally, the various illustrations that were
14 being used is on how to look at this -- and I would suggest
15 we might also look at the instances that perhaps this
16 moratorium was intended to set to a maximum but not a
17 minimum.

18 There are many times that something will be,
19 quote, unquote, grandfathered in. But once that particular
20 grandfather is no longer a current issue that option and
21 that exception disappears. I would say these were permitted
22 with maybe the intent that they would be diminished niche
23 through attrition. Thank you very much.

24 CHAIRMAN SHELTON: Thank you. Anybody else?

25 ARCON SOMO: I thought everyone did two times. So

1 I said not, why not me? Again, Arcon Somo. I just want to
2 bring up a couple of point. One of them is that Mr. Kelegin
3 which I just met at the last workshop. I admire his
4 passion. For example, in Oceanside, I believe, they are
5 associated with Ocean Elevens(sic). To my knowledge that it
6 was a license years ago that they bought and they close down
7 and that's perfectly fine, competition, what have you.

8 What Mr. Kelegin does not realize is that there
9 are other jurisdictions that does not exist. If Ocean
10 Eleven -- Ocean's Eleven decided to open that card room,
11 they have advantage over anybody else. So there is -- if
12 he's trying to protect his turf, his turf is very well
13 protected.

14 The issue is investors like myself and those who
15 like to engage in this industry, they're not going to invest
16 hundreds thousand of dollars in a location. And putting all
17 the things that need to be done, just because they want to.

18 There are other jurisdictions that they already
19 have laws in place who would love to have to have people
20 like Mr. Farage or Mr. Jones to come back and reinvest and
21 revitalize their community. The Commission needs to
22 recognize that and give these local jurisdiction the
23 opportunity to do so. And that's what I wanted you to keep
24 in mind. Thank you again.

25 CHAIRMAN SHELTON: Thank you.

1 Commissioners?

2 MARK KELEGIN: Mark Kelegin, again. I just want
3 to address the one comment about Ocean's Eleven since it was
4 given in a public forum. In that situation, at the bequest
5 of the city, Ocean's Eleven purchased that license from
6 another license holder, returned it to the city, and the
7 city retired that license. So there was no -- there's no
8 ownership by Ocean's Eleven of that license. Thank you.

9 CHAIRMAN SHELTON: I have to say after watching TV
10 for the last couple of weeks what a wonderful and
11 professional group we have for input. Nobody yelled. I
12 didn't see any signs. Thank you very much. I didn't know
13 what to expect. And we learned that we have a new legal
14 counsel.

15 Commissioners?

16 COMMISSIONER SHIMAZU: I'm -- I know we have all
17 these options before us. I haven't indicated where I was
18 going thus far because I've been trying to be openminded and
19 listen to everyone. You know, when I read 19963, it's not
20 completely clear. But I'll tell you, originally, my gut was
21 that yes, I know it doesn't say there has to be a nexus but
22 there is because we're talking about individuals that need
23 to be licensed and they were licensed for an establishment.
24 So I've been waiting for maybe during these workshops for
25 someone to come and tell me that I'm wrong and to show me

1 something specific, since the language is ambiguous with
2 legislative intent.

3 And I know that there are people that are
4 concerned about competition and those who want to open up
5 card room -- and Mr. Farage(Phonetic) I appreciate he came
6 here and shared everything with us, and it seems very
7 thoughtful and his work with locals.

8 But I don't think we should be legislating or
9 regulating based on trying to accomplish for an individual.
10 We just have to look at what we think is a reasonable
11 interpretation of the language, and then apply it across the
12 board so that's -- I guess, I'm still leaning towards Option
13 1, maybe that would generate some more comments. And I
14 don't know where you guys are headed so.

15 COMMISSIONER VUKSICH: I've been fascinated with
16 your arguments. I've been listening with open ears. My
17 initial reading of this also would support Number 1. And in
18 my mind legislation needs to be able to live beyond the
19 ability to go back to the authors and ask, "What did you
20 mean by this paragraph?" So in away, I'm kind of glad
21 that Mr. Blonien isn't here, so that these words can live
22 without his interpretation for us.

23 From what I'm hearing this morning, I think we're
24 actually talking about two different issues. One issue is
25 the moratorium and the length of the moratorium. That's

1 been amended twice now in legislation -- or once and I
2 understand there's another piece that has this as a topic
3 right now.

4 So that is a separate issue in my mind from the
5 language of 19963, which the way I read the entire act --
6 and if you go back to 19962, and the original opening
7 paragraphs of the act, they seem to accommodate a particular
8 group of applicants who may not have made that window of
9 time before September 2001 when door closed.

10 And we're trying to do hear, I believe, is grapple
11 with the way to put a frame around that snapshot in time.
12 And I know many people are hoping and seeing this as an
13 opportunity to open some new small businesses in your
14 community and that -- believe me -- I'm wholeheartedly for
15 that. But that has to do with the moratorium, itself, and
16 not this language.

17 I do believe there needs to be a nexus between --
18 as you stated -- the original applicant and an ability to
19 reopen that club or reactive the application -- because here
20 the applicant and license belong to a person. And they
21 cannot be sold.

22 Unlike an ABC license, there's a set number of ABC
23 licenses in the state of California. And you can buy and
24 sell them. And once local jurisdiction shuts the number
25 down and that's it. And that's why they become so

1 expensive. In this case, there's no finite number on the
2 cap.

3 In fact, it makes me feel uncomfortable using cap.
4 It's more like a high water mark with the number depleting
5 down. And the moratorium is to keep that high water mark
6 there for a certain number of years before you can open up
7 the dam and let more water into the tank. So I see it
8 more -- even though it's probably not a good analogy -- but
9 I have to look at these licenses more as a dental license or
10 a doctor's license because a dental practice shuts down,
11 does it that someone else can come in and buy that dentist's
12 license, no. They have to qualify for the license in order
13 to operate the dental practice, which is what we have here.
14 You can buy the practice, but you can't operate it until
15 you're licensed. And there aren't a set number of those out
16 there. So that's where I'm having trouble with this. And
17 again, tend more to Option 1, even though, believe me, I'd
18 like to impose Option 6 that's a nice clean -- but that
19 wasn't written in the act. So I have to go as much by
20 what's not in here as what's in here, and my inclination is
21 towards 1.

22 CHAIRMAN SHELTON: Well, this will prove we don't
23 talk. I -- these shotguns and all these options are
24 probably because of my initiation -- a lot of thought to go
25 into it. So we put it up against the wall and have public

1 discussion. We have the legislators and their wisdom on how
2 many card rooms can be open and how many tables.

3 They legislate. They set the criteria and we
4 write -- or regulations under the guideline and what we're
5 stuck to. Some of this things I was worried about at the
6 beginning where as if you had a fire in the establishment
7 and they had to close and we had an earthquake or storm and
8 they can't afford to make their payments what do we do?

9 Well, I was advised by legal staff that the codes
10 say that there's no provision for that. That the payments
11 had to be made. So that would take special legislation to
12 change that. So you had to pay your table fees, while your
13 shop is closed being rebuilt or attempting to sell it, that
14 kind of took care of that portion of the regulation that I
15 was concerned about because California's noted for natural
16 catastrophes, and deaths in ownership and how do we handle
17 those. And so this hasn't help me in that context
18 whatsoever.

19 I differ from the other Commissioners. I think
20 Opposition 6 is all we have on the table that we can vote
21 for. And I believe that because of the advice I heard today
22 and the advise from legal. And I listened to it. So having
23 said that, I don't -- the other five options are open to me.
24 So unless you can change my mind. So that's what happens
25 when you have three Commissioners. And that does prove we

1 don't discuss these items.

2 COMMISSIONER VUKSICH: Yeah. No. Option 6 would
3 require of a -- a definition of an abandoned license. And
4 there's no, you know, unless an application to operate was
5 on file with the department prior and after "x" date the
6 application is -- or the license is deemed abandoned. That
7 would make it all very easy. But again, that language isn't
8 in there. So I have a problem adopting this unless there
9 was.

10 CHAIRMAN SHELTON: Well, staff had spoken a little
11 bit with me on the situation. And they were
12 recommending something like 6 to 18 months for consideration
13 before the license to be reopened. And in the future, they
14 weren't talking about the past licenses that have been out
15 here several years. And to me those licenses -- people had
16 opportunity to do it and nobody came forward and did it.
17 And I think futuristic you can give 6 months, 18 months.

18 COMMISSIONER SHIMAZU: Option 5 would just apply
19 to future issues.

20 CHAIRMAN SHELTON: Yes.

21 COMMISSIONER SHIMAZU: So I'm trying to think of a
22 way to combine them.

23 COMMISSIONER VUKSICH: No, I think that's a
24 separate -- I's love to have a whole separate definition to
25 categorize these licenses. But to me, that's not what's

1 under consideration here. It's how to look at 19963 and
2 shut the door on it.

3 CHAIRMAN SHELTON: Right.

4 COMMISSIONER VUKSICH: Because right now it's an
5 open window with, no magnetism to close it.

6 COMMISSIONER SHIMAZU: I guess, I was looking at
7 Option 1 because when I look at the language -- like I said,
8 it ties with the individual that had the license for the
9 establishment and that individual could still come forward,
10 even after the card room had closed, so closing wasn't a
11 limitation.

12 CHAIRMAN SHELTON: You're talking successor of
13 interest. And I think if someone walks away, they don't
14 have any --

15 COMMISSIONER SHIMAZU: No, I'm --

16 COMMISSIONER VUKSICH: No, I'm -- I'm not talking
17 successor of interest at all.

18 CHAIRMAN SHELTON: What would it be called if I
19 gave up my license and come back six months to a year and
20 want to renew it.

21 COMMISSIONER VUKSICH: How do we know that they
22 walked away and were not kidnapped or taken away and being
23 held by Al-Qaeda the last 24 years, an alien abduction. I
24 mean, we can assume that they've abandoned their effort to
25 get a license.

1 COMMISSIONER SHIMAZU: And we would put a time
2 limit on it too. So it's not something that goes on forever
3 but have some reasonable restrictions on it.

4 CHAIRMAN SHELTON: I think that depends on the
5 investigation whether they walked away, if it was a certain
6 amount of time. The Bureau would know when they talk to
7 locals and to the applicant to see what happened if they
8 were kidnapped. We would find out that happen too.

9 COMMISSIONER SHIMAZU: Oh, no. But yeah, what I
10 was thinking with Option 1 that it would authorize the
11 original applicant or original licensee but there would be
12 time limit so it wouldn't be indefinite where they could
13 apply 20 years from now. But I think staff had put into the
14 standard leg which the application period would be perhaps
15 12 or 24 months. And I was thinking more like 12 months, so
16 that would be --

17 COMMISSIONER VUKSICH: 12 months?

18 COMMISSIONER SHIMAZU: Yeah.

19 ROBERT TABOR: Are we still open for comment?

20 COMMISSIONER VUKSICH: Yes.

21 ROBERT TABOR: Robert Tabor, again, T-a-b-o-r. A
22 couple issues. First Commissioner Vuksich, respectfully,
23 you did make the comment that you were pleased that
24 Mr. Blonier wasn't here and probably Mr. Goodson as well
25 because you didn't want to have us go back and look at the

1 intent of the folks that were involved in drafting the
2 legislation. As you probably know, whenever the California
3 Supreme Court or more importantly the U.S. Supreme Court,
4 the Federal Courts look at issues regarding the Constitution
5 one of the documents -- one of the series of documents that
6 they go back to regularities are the federalist papers. So
7 they're going back 200 years to try to figure out what was
8 the intent of these folks who drafted this thing.

9 COMMISSIONER VUKSICH: And my comment is, the
10 words need to live without the person who placed those
11 words on the papers. They can't speak to Madison --

12 ROBERT TABOR: The words on the paper actually --
13 and that's the way legislation is interpreted all the time,
14 is the words on the paper live in conjunction with the words
15 with the people at the time that drafted it.

16 COMMISSIONER VUKSICH: Correct.

17 ROBERT TABOR: The legislature would after all
18 today -- you'd go back and look at the legislative record
19 and say, what were they talking about? What -- how did the
20 legislation change during the period of time until it became
21 law? And you would look at all of that comments that were
22 made -- there would be a public file that would be available
23 to interpret all of that. Well, that's what the comments
24 made by Mr. Blonien and Mr. Goodson incorporated or those
25 comments would be incorporated as part of that public file

1 of what was the intent of those folks involved in drafting
2 the legislation?

3 COMMISSIONER VUKSICH: Well, then I would argue
4 that we should have the full discussion and not simply the
5 two drafters that are still around. It would be -- I would
6 ask for the entire legislative record and a verbatim, just
7 as we're having right here.

8 ROBERT TABOR: I couldn't agree with you more --

9 COMMISSIONER VUKSICH: But I don't think anyone
10 has time to get that or go back and look at it, unless
11 somebody would want to.

12 ROBERT TABOR: I would ask --

13 COMMISSIONER VUKSICH: I know --

14 ROBERT TABOR: But it seems to be that that would
15 be an important thing to look at. This moratorium has been
16 in place now for what 10 years. And I think a comment was
17 made, why haven't people come forward before to try to
18 obtain these licenses? Well, I for a fact know that
19 individuals have attempted to come forward and say, you
20 know, we used to have this gaming license in this
21 jurisdiction. I'd like to open a club there. And comments
22 made to by -- when those questions were posed to either
23 staff, the commission or the Bureau, the comments were made,
24 well, the law says you can't open a new card room. And they
25 didn't want to have to sue and spend all that money to try

1 to figure out what's going on.

2 So I think that this effort by the Commission to
3 craft regulations is going to be very helpful to everybody.
4 At the end of the day if this Commission determines that
5 Option 6 is the proper regulation that gives -- and that
6 regulation is put into place it gives the opportunity to
7 individuals to bring a lawsuit and have a court determine
8 whether that's appropriate. So I think that's -- at least
9 we'll keep to process moving forward.

10 But again, I think if we take sometime with us --
11 certainly there's no rush. The moratorium has been in place
12 for 10 years. If we take a couple months and figure out
13 what the legislative record on this was, that may well help
14 the Commission to make a more informed decision. Well,
15 there's also a comment made by one of the Commissioners -- I
16 don't remember which of you -- that we don't buy and sell
17 licenses. Well, yes, legally you're absolutely correct.
18 But in practicality, I would disagree.

19 And as evidence for that look at some of the
20 transactions that have occurred in the recent past where a
21 relatively dilapidated establishment -- that if it didn't
22 have that gaming license associated with it sold -- and it's
23 just a bar and maybe just a small restaurant sells for ten
24 times the value of -- that the place would you be without
25 the license -- that buyer is coming in. He's not thinking,

1 oh, gosh this place is falling apart. It's full of
2 termites. And it's in a terrible location in town. He's
3 not going to be thinking I'm not going to be making
4 something of this. He's thinking I'm going to get my hands
5 on that license because I am going to be found suitable by
6 the Commission and the jurisdiction because I'm a good guy,
7 never had any problems. Now, I can take that license and
8 maybe move into a new location and have a whole bunch of
9 money. So he really is -- he or she really is coming in to
10 buy that license.

11 Now, I understand the legalities that licenses are
12 not transferable. We all agree that. But the reality is
13 that is that they're buying the license in their mind and
14 for their business purpose.

15 And again, I go back to this whole idea of where
16 was the industry prior to '99? You really had local
17 jurisdiction that have on their books laws and ordinances
18 that say something very analogous to, the city of "x" shall
19 not have more than "x" number of card rooms. And in the --
20 we shall have not more than "x" or "y" number of tables.
21 And the fees on them are such as such. So all the
22 legislation is there and it's in place and was in place
23 prior to '99. And it doesn't talk about -- excuse me -- it
24 does talk about licenses being renewed and being abandoned
25 and such.

1 In come cases a lot -- some of these local
2 organizations are not particularly comprehensive. But where
3 does it talk about renewals and such? But if -- many of
4 them do not address the issue of where a license is
5 surrendered, abandoned, revoked or whatever it might be.
6 And they certainly don't say that those licenses, if they
7 are abandoned or the business is closed down that license
8 can never be reissued. What the local ordinances say, is
9 this jurisdiction shall not have more than "x" number of
10 card rooms.

11 And so then when you look at the how legislation
12 on the moratorium get into place, the state came and said
13 look, we've always been a hands off jurisdiction in the card
14 rooms but it's time for the state to have some more
15 influence here. One of the things we want to do from the
16 get-go is -- let's put a cap on.

17 And I believe with respect, Ms. Vuksich, it truly
18 is a cap and not a high water mark because if you look at
19 the way at the way that's -- the 1963 is drafted -- and I'm
20 at a bit of a disadvantage. I forgot to bring my Gambling
21 Control Act with me -- it says, in essence that no license
22 shall be issued for a card room if that license was not
23 issued on or before December 31st, 1999. So if there was --
24 and I'm sorry the card room was in operation.

25 I don't think it actually says it was licensed --

1 if that card room was in operation. So if you had -- it
2 doesn't say and it does not address -- and that's the
3 issue -- one of the issues this Commission is facing -- it
4 does not address what happens if that card room then closes
5 down. That's the quick sand we're in now.

6 So it says you can't issue a license for the card
7 room -- for a card room, if there was not a card room in
8 operation on December 31 of '99, which then gives this
9 Commission the ability to issue -- and the jurisdictions to
10 issue licenses for a certain capped number of card rooms in
11 each jurisdiction. If the jurisdiction authorized three
12 card rooms and only one is operating and the number of table
13 has not been capped out in that particular jurisdiction,
14 there's nothing, in my view, that would permit by the plain
15 language of the Gambling Control Act that would prohibit
16 this Commission from granting -- and the local jurisdiction
17 from issuing a license for a card room where a license --
18 that license or a license for that particular card room in
19 that jurisdiction may not have been issued for any period of
20 time.

21 So I'm not -- I agree with you, Commissioner
22 Vuksich, we do need to put this frame around the legislation
23 and regulations are key to that. I mean, that's one of the
24 problems with Gambling Control Act in my view is it was
25 drafted relatively quickly and not was not particularly

1 comprehensive and that puts a great burden on this
2 Commission. But the Commission is also prohibited from
3 going outside the bounds of the law. And this Commission
4 has always been very careful to make sure it doesn't do so.

5 And I would suggest that rather than make a hasty
6 decision or decision without all the information, I would
7 strongly suggest that the Commission perhaps direct staff to
8 obtain the legislative record. Let's go back and see. What
9 was the true intent of this legislation because if it
10 doesn't and it issues Option Number 6, I think your odds of
11 obtaining -- or being faced with an additional lawsuit is
12 greatly enhanced.

13 Rather than ramble, I think I'll be done. Thank
14 you for your time.

15 ANDREW SCHNEIDERMAN: Good morning Commissioners.
16 Andrew Schneiderman, S-c-h-n-e-i-d-e-r-m-a-n on behalf of
17 the Commerce Casino Los Angeles. Two brief points. First
18 of all with respect to Robert Tabor's issues regarding
19 looking back at what Rod Blonien and Harlan Goodson may have
20 testified or spoke to. I think both would be extremely
21 gratified by the comparison to them and James Madison and
22 members of the Federalist papers.

23 However, Rod Blonien has been my lobbyist for 20
24 plus and Harlan Goodson a close friend for long time as
25 well. But you don't listen to the testimony or the

1 statements of participants post the legislative process to
2 try to find the legislative intent.

3 The first step in analyzing a statute is to look
4 at the four corners of the statutes itself as the
5 Commissioners were indicating. If the statute is clear
6 within the words of the statute. Then there's no need to go
7 into the legislative intent. The language speaks for
8 itself. And in this case, I think, for the reasons and I'm
9 not going to through them again, but for the reasons that
10 were outlined in the letter that Mark Kelegin submitted to
11 the Commission, I think it's very clear that this statute
12 justifies, in other words, the high water mark type of
13 analysis that you have come to in Option 6 would be wholly
14 within and authorized by -- and it's probably the only
15 option that wholly within the authorize by the language of
16 the statute itself.

17 To the extent that the Commission does not concur,
18 a legislative history could be ordered and that wouldn't
19 mean having people come and testify as to what they recall.
20 But there are committee records and things like that that
21 were contemporaneous to the passage. And I believe having
22 not been not directly a participant of it. But I believe
23 from my understanding that it would support the high water
24 mark type of conclusion. But that's something that would
25 have to wait until we receive that full legislative record.

1 The second issue that I just wanted to address was
2 Chairman Shelton's policy concerns regarding, you know, how
3 we're going to, how California should handle natural
4 situations where -- that are beyond a particular card room
5 owner's control might cause them to have to close their
6 casino temporarily. Those are very important issues
7 and something that was not contemplated when the Gambling
8 Control Act was drafted many years ago. And something I
9 think that is worthy of consideration now. But it must be
10 done in context of legislation because this is a statute and
11 I think that, you know, there has been an effort to engage
12 in discussions regarding the Gambling Control Act and to
13 clean it up and there are certain issues that are not
14 fully -- that don't fully meet today's needs.

15 I think I would certainly put that as one of the
16 highest priorities that maybe we should look at in future
17 legislation. Thank you.

18 CHAIRMAN SHELTON: Thank you. Commissioners?

19 JOHN NYHAN: Good morning again. John Nyhan,
20 N-y-h-a-n. Speak on behalf of Tom Farage(Phonetic) who is
21 seeking to revitalize downtown Blythe, which is under water.
22 It's below the high water mark. It's been in a depressed
23 area for years. He has come up with a project that will
24 revitalize this downtown community. It has the support of
25 local law environment, the regional prison authorities, the

1 local community college organization, the local chamber of
2 commerce.

3 If you adopt Option Number 1, we urge that you
4 consider making an exception for revitalization projects
5 with the support of the local community and the local
6 jurisdiction. If you adopt Option Number 6, Blythe is going
7 to remain well below the high water mark. Thank you.

8 CHAIRMAN SHELTON: Thank you.

9 Entertain a motion, unless you have more
10 discussion?

11 COMMISSIONER SHIMAZU: No.

12 COMMISSIONER VUKSICH: No.

13 COMMISSIONER SHIMAZU: It looks like we're not
14 giving in. But what -- this was just a workshop. So do we
15 need to actually move forward with a motion on one of the
16 options or -- I know people were talking about a need to
17 look at the legislative record. We've been going through
18 this for a long time. And I would hope that prior to this
19 that if there was something out there that would have been
20 brought forward 'cause I think that's what we're hoping for
21 that, you know, if it was not completely clear that someone
22 would have an argument, they can show it to us and we
23 could -- it would help clarify. And we've been having these
24 meetings for a while now and so far that hasn't happen. So
25 I'm not sure -- I'm not sure if that intent hasn't been

1 looked at, if we have researched it or not.

2 SHANNON GEORGE: I have done some research on the
3 committee analysis and things like that. The legislation
4 that implemented this section was part of a broader bill and
5 there is no mention of this section or the intent behind it
6 in any of the committee analysis that were going on at that
7 time.

8 COMMISSIONER SHIMAZU: That doesn't surprise me.
9 I know it was a lot to take in. And we concentrated on one
10 little issue so that's like it doesn't happen so.

11 CHAIRMAN SHELTON: I would suggest that there's
12 some expectation or direction to have a workshop. We have
13 to see what direction we want to go.

14 COMMISSIONER SHIMAZU: At least can eliminate some
15 of the other options and concentrate because right now we've
16 been working on just kind of everything and considering
17 everything. So maybe if we narrow it down to 1 and 6. At
18 least we can just concentrate on those areas?

19 CHAIRMAN SHELTON: Do you want us to vote on it?

20 SHANNON GEORGE: Mr. Chairman, what we are looking
21 for is more of a conceptual direction. And we can work out
22 the details.

23 CHAIRMAN SHELTON: I think you have it. You have
24 two Commissioners that are leaning towards 1. And you have
25 one Commissioner who is leaning towards 6. So that gives

1 you and staff the opportunity to go back and read those and
2 come back. I think you also heard in those some questions
3 about time, in your Option 1, is that true?

4 COMMISSIONER SHIMAZU: Yeah, to limit it to some
5 application period so it won't go on forever. And I think
6 Ms. Harn also in her letter talked about how everyone with
7 Option 1, if there was multiple owners that needs to be
8 reconciled. And how that would then -- how we would
9 determine who would be, you know, the original applicant or
10 the original licensee.

11 SHANNON GEORGE: And we can look into those issues
12 as well.

13 CHAIRMAN SHELTON: Okay. There's an opportunity
14 to full public -- discuss the comment. Anyone willing to
15 come forward? I can't thank everybody enough for coming
16 today and participating. Everybody had something very
17 important to say and constructive and very professional. I
18 think I speak for the entire Commission. We appreciate that
19 approach. And I know you'll be bashful the way the
20 Commission is leaning now. So you know where your input has
21 to be focused and direction. Having said that, I move for
22 adjournment.

23 COMMISSIONER SHIMAZU: Submitted.

24 JOY CALKIN: Commissioner Shimazu?

25 COMMISSIONER SHIMAZU: Aye.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JOY CALKIN: Commissioner Vuksich?

COMMISSIONER VUKSICH: Aye.

JOY CALKIN: Chairman Shelton?

CHAIRMAN SHELTON: Aye.

JOY CALKIN: Motion carried.

(End of proceedings.)

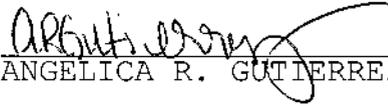
1 REPORTER'S CERTIFICATE

2
3 STATE OF CALIFORNIA)
4) ss.
5 COUNTY OF SAN JOAQUIN)

6 I, Angelica R. Gutierrez, CSR, hereby certify that I
7 was duly appointed and qualified to take the foregoing
8 matter;

9 That acting as such reporter, I took down in stenotype
10 notes the testimony given and proceedings had;

11 That I thereafter transcribed said shorthand notes into
12 typewritten longhand, the above and foregoing pages being a
13 full, true and correct transcription of the testimony given
14 and proceedings had.

15
16
17
18 
19 ANGELICA R. GUTIERREZ, CSR No. 13292
20
21
22
23
24
25