

NEW HAMPSHIRE GAMING REGULATORY OVERSIGHT AUTHORITY

Approved Minutes of Meeting – October 21, 2010

Member Attendance:

Tom Ferrini, CHAIR (Mayor, City of Portsmouth)
John Barthelmes, Commissioner, Dept of Safety
Paul Kelley, Director, NH Racing & Charitable Gaming Commission
Debra Douglas, Chairman/Commissioner, NH Lottery Commission
Michael Delaney, Attorney General, State of NH
David Bailey, Chief of Police, Bedford NH
William Graham, NH State Police

Additional Attendees: see Exhibit A

Meeting called to order by Chair, Tom Ferrini

Old Business:

Paul Kelley, MOTION to ADOPT meeting minutes of October 7, 2010 as revised
Bill Graham, SECONDED the MOTION
7 – Ayes; 0 – Nays

A variety of documents have been provided to us by Paul Kelley, specifically in response to a request by Commissioner Barthelmes. This information is in regards to audits and reviews, license inspection summary, client checklist and a few other items. In the event that they are not part of the Right to Know they will not be put on our website. It is our intention to have all documents that become part of presentations at these meetings put on the website.

We received an update from Keith Lohman on the website status. Our website location will be www.nh.gov/groa. This website is going to be the receptacle of these documents/agendas, etc. We will post as many items as possible in advance of any meetings. The website is expected to be up and running next week.

A revised contact information sheet, revised proposed calendar, and the Lottery Presentation (from 10/7 meeting) has been handed out to board members for inclusion in their binders.

Review of Agenda:

Right to Know briefing from Mike Brown, Attorney General's office.

Attorney Paul Sanderson, Local Government Center, will discuss regional land use issues and municipal services agreement, in particular, selection of locations.

Cliff Sinotte, Rockingham County Planning Commission, will discuss planning in adjacent communities for infrastructure development.

As we look at the regulatory environment we are going to have to be mindful of those kinds of things, because NH really doesn't have a political structure to deal with those kinds of developments as they may occur.

Copies of the NH Gaming Study Report have been submitted to authority members in hard copy. (This report can also be found at www.nh.gov/gsc.) Tom Ferrini will be discussing some of the overview portions of this report. Steve Norton is here to discuss this report that was created by the NH Center for Public Policy that specifically speaks to market signs and what that might mean as far as infrastructure in NH and northern Massachusetts. As we look at the regulatory format that we are going to create, and the legal format that we are going to create, we are going to be thinking about the scalable size of what it is we have to develop in terms of a statutory and regulatory structure. This will help us get an understanding of the magnitude of what we might conceivably be looking at.

Mike Brown, Senior Assistant Attorney General, submitted a high level presentation of the Right To Know Law. The Right to Know Law is an extremely complex area of the law. One of the non-meeting areas is legal council. Should this commission authority require legal council in regard to Right to Know, the Attorney General's office would stand ready to do that. That would be done in a non-public session. The Attorney General's office has developed a Right to Know Memorandum Law which is designed specifically for public bodies and for the public to gain an understanding of the Right to Know Law itself. This is a worthy resource, and can be found on the Attorney General's website (www.doj.nh.gov/publications/documents/right_to_know.pdf). There are two broad themes, one has to do with meetings and the other has to do with documents. A governmental record is anything that you receive, create, or obtain, on behalf of this public body. All of these documents are public records. The Right to Know law also covers electronic documents. You can also have an electronic meeting, which is a meeting by virtue of a trail of e-mails. The Gaming Regulatory Oversight Authority is considered to be a "public body". In order to meet as a public body you have to have a quorum. To create a quorum you need ½ plus 1 members in attendance. Any time there is a chance meeting with members, and you have ½ plus 1 members in attendance this will fall within the Right to Know Law. You need to be cautious of that and understand that. It is the same for writing e-mails. Once you have gone over the threshold of 1/2 plus 1, you now have a quorum and that constitutes a meeting. Meetings do have to be open to the public and have to be noticed at least 24 hours in advance. Minutes have to be taken, names of authority members who are present have to be articulated in those minutes, and those minutes have to be made available to the public no later than 5 business days. Every document, including the minutes, are public documents and should be made available to the public. The public should have an opportunity to understand where the meeting is being held, the date of the meeting and the agenda. If testimony is provided, the gist of the testimony should be part of the minutes and the names of the witnesses should also be recorded in the minutes. It is doubtful that this commission would go into a non-public session. Non-public sessions are instances in which you might deal with highly personal issues, usually in the context of traditional state agencies. The public has a right to record the public meetings in addition to having access to the public minutes. As a general proposition all documents are public documents and obviously the public has a right to access them. Every document that is to be provided to the public has to be analyzed as to whether or not it is a public document. Mike went on to read the preamble to the Right to Know Law. The way that the Supreme Court looks at matters of Right to Know, their default **ALWAYS** is for openness, openness in the context of public meetings, openness in the context of documents. Only if you can find an exception does it allow that meeting to be closed or prevent those documents from being disclosed to the public. When the court looks at those exceptions, they do so narrowly.

A link to the Right to Know Law will also be added to the Gaming Regulatory Oversight Authority website.

Paul Sanderson discussed the Municipal and Regional Issues in the Development of the Gaming Facility. Paul is a Staff Attorney at the NH Local Government Center. The NH Local Government Center is the association of all municipalities in our state. Paul is also a Selectman in the Town of Greenland, and this year a representative to the Greenland Planning Board. The LGC have expressly taken no particular position with regard to whether gaming is a good idea or a bad idea. We have assumed that the Legislature has authorized gaming and now there are locations throughout our state where there may be consideration of very large gaming facilities. We assume that as being the most difficult case in regards to giving guidance on the difficult issues that could be faced. NH is not a home ruled state. This is very important! Our municipalities have no authority other than that which is given to us by the Legislature. When we field questions from municipalities we are always going to look at NH state statutes or decisions of the NH Supreme Court. Our advice to municipalities is they don't have that authority. It is crucial when the Legislature considers this particular issue that they keep that dead rock principal in mind and give the municipalities the necessary authority to deal with these very complex issues. It also means we don't have the power to innovate, we don't have the power to be creative, other than that which the Legislature has granted to us. Regardless to how much innovation, how many creative ideas have happened, unless Legislature has specifically given us authority we can't take those particular actions. Zoning is **NOT** universal throughout our state. There are at least 20 communities in the northern part of our state that have no zoning ordinance at all. They have chosen at their local town meetings, not to utilize that land use control. There are additional municipalities which have exercised the zoning power. Because gaming has been illegal for so long there is no municipality which has made that a permitted use in their zoning ordinance. If Legislature determines that there should be particular locations where these things should be considered there is no zoning ordinance in the state presently that has these as a permitted use (other than where it currently exists). If this is something that is to be considered possibly, municipalities will need time to have their zoning ordinances updated to allow this as a type of use that

could be considered. In the city, the City Council or the Board of Mayor and Alderman, is both the executive branch and the legislative branch. They have the ability to consider zoning changes any time throughout the year subject to provisions in their charters. This is not so for towns. The only time a town can consider a zoning change is either at the annual meeting of your town or if a special meeting is called for that purpose. It can take a long time for a municipality that is not a city to bring forward a proposal and have it considered at town meetings. The planning board will hold public hearings, but the planning board does not have the ability nor do the selectmen or anyone else to change the language of that citizen partitioned article. Even if it is legally flawed, even if it has policy provisions that you may feel are inappropriate, that language can't be changed. A planning board or selectman generated ordinance can be altered prior to the time that it goes on to a warrant. We also have a use issue. Let's assume that the proposal calls for a Foxwoods or Mohegan Sun. That type of a facility in addition to having a gaming component will also have a lodging component, a restaurant component, an entertainment component, and a special event component. Most of our ordinances are not written for this type of mixed use complicated type of proposal. The application to the planning board is the last step in the process, it's not the first. The first step is preliminary conceptual consultation. Abutters **DO NOT** have to be notified. The next step is the design review stage at which point abutters do have to be notified. After the design review stage you then go to the formal application. Only at that time do time limits attach for the review of this matter by the planning board. Fairly short time limits – 90 days. Once all the information is in and a public hearing has been held, the planning board will make a decision as to whether or not that particular proposal should be granted. It might be that land has to be divided, it might be a subdivision or it might be a unitary parcel of land. If there is a unitary parcel of land and no subdivision is required the planning board will use its site review regulations to determine whether or not that type of use should be approved as requested in that particular location. A lot of the assumption is that everything about that proposal complies with the zoning ordinance. If it doesn't comply, how do you get relief in the fact that a proposal does not comply with the zoning ordinance? There are two methods, first go back and change the zoning ordinance, which is very complex in non cities. You may be talking about a one year process. The 2nd method is to go to the zoning board of adjustment. Every town that has adopted a zoning ordinance must have a zoning board of adjustment. The zoning board of adjustment has the authority to grant the variance that says in this particular location, for this particular proposal, in order to avoid an unconstitutional taking of property we will vary the ordinance and say that provision doesn't apply here. Obviously this is an important thing to make the decision that the ordinance doesn't apply at a particular location. Therefore our Supreme Court has set forth a statute, RSA 674:33, five very specific tests that must be met before a variance can be granted.

Tom Ferrini: Our statutory obligation charge says we need to look at procedures and criteria for the selection of locations. It's inherent in the nature of a non home ruled state that this becomes part of what we are looking at because so many towns (that are in parts of NH where this could occur) don't presently have it in their zoning. You understand the trajectory of the timing of how legislature could enact the bill but local land use is another whole matter.

Chief Bailey: Would there be anything that we would be putting in our regulations to solve that problem?

Tom Ferrini: Given the statutory charge, one of the things that would have to be considered is are there legislative options that would address the non home role aspects of the challenges that the state will face given that the legislature may enact some sort of expanded gaming statute that allows construction at these types of facilities.

Paul Sanderson: There are models in existing state statutes that might overcome this and to understand that you have to understand the principal of preemption. That means we have different levels in our government; federal, state and local. Federal will always trumps state, state will always trump local. Therefore because we are a non home ruled state the legislature has the authority to preempt all these issues, to take charge, to put itself in charge of these particular issues. There are places where things like that have been done. One good example is the Pease Development Authority. That was land that was owned federally, and then transferred away from the federal. RSA 12-G sets forth the Pease Development Authority. That is an example of how the statute preempted land use within a particular confined area. Another example is RSA 674:41 where they had said it is not going to be allowed for municipalities to grant building permits on what we call class 6 roads. These are roads that are not municipally

maintained or private roads. That became a statewide standard in regards to access of properties that are not on municipally accepted roads. That type of history in our statute will allow for that type of preemption. Those are the models that you can look to.

Tom Ferrini: The preemption aspect of this is what ties to if the legislature passes laws that say expanded gaming may exist and we as a regulatory oversight authority create recommended statutes and laws to perhaps be adopted. One item under our consideration may well be to what extent does preemption occur or not occur. The legislature will have to make that determination. First you have to understand the local land use process and then you have to understand the preemption process.

Paul Sanderson: Another aspect that sometimes occurs is that the state and local regulations are for working in tandem, almost like a network. Some of them use permissiveness and it is still delegated and handled by the municipality.

Cliff Sinnott, Rockingham County Planning Commission: Cliff is the Director of the Rockingham County Planning Commission (RCPC). The RCPC is one of nine regional planning commissions in NH that were established by state statute. We are creatures of municipalities. The towns and cities create us if they wish to have a body to help them deal with regional issues. Their mission is to help individual municipalities deal with land use and planning issue, to carry out some regional planning functions (for example the federal government mandates the transportation planning occurring regionally in metropolitan or urbanized areas in order for federal funds to flow), and to help communities coordinate, collaborate, and work together on dealing with regional issues. Often this comes down to infrastructure. As an agency they have no position for or against the development of gaming development per se. We as an agency will always have an interest however in making sure whatever development of a larger scale is properly bedded in terms of its impact to both the host municipality and the region that it's going to be located in. This is what the RCPC gets involved with. (Handouts of Cliff's presentation have been distributed.) The title of the handout makes the point, it's not so much that these are particular impacts that go along with a resort casino large scale development, it is the same sort of impact that would go along with potentially any multi-use large scale development. The items being discussed are not specifically specific to this particular type of development. They have to be considered in a municipal or regional contract for any large scale development. This is relatively rare in the Portsmouth/Salem area in the southeastern part of NH. In Cliff's 20 years of working in this capacity he can only recall 3 times where there has been development of such scale that they really would involve a lot of this kind of consideration. One is the Pease Development, which was really a development plan that was being approved, not the development itself. The 2nd is the Rockingham Park Mall, and the 3rd was the Fox Run Mall in Newington. In each of those cases there was great concern in the region about the sort of impact that would be generated, mostly in terms of traffic. In all those cases there was a challenge in that the host community (the one that received the development) probably the majority of the impacts and the majority of the tax benefits had the complete discretion to decide whether or not that would occur. The questions is what about the surrounding communities? What do they have to say about it? What mechanisms do we have in New Hampshire to deal with infrastructure needs that get caused by that scale of development and what opportunities for the other effective parties essentially. The kinds of impacts that you would typically see in a large scale development; what impacts would you have at the site and municipal level? What impacts would affect municipal services? What impact would you have on regional, either service related or infrastructural related?

Site and municipal impacts:

- What is the impact on access? There needs to be access provided to a facility and obviously the larger the facility is, the bigger the impact it will have on roads, nearby intersections, and traffic congestion. What is the plan to deal with those impacts?
- Public Safety – Depending on the size of the facility, specialized equipment might be needed, especially fire equipment may be needed if it's a very large facility. What kind of police and EMT staffing is needed? How do you manage a large public event if that happens to be part of the facility plan?
- Water supply – increasingly big issue in much of the state, especially the seacoast where many of the communities are dependent on ground water and there is ongoing concern about what the carrying capacity of the region is for groundwater extractions. Also, is this facility going to be served by wells alone or is there a water treatment and distribution system installed and how will that be maintained?
- Sewage Disposal – similar issues. A large facility would need a treatment facility of some kind. In probably 75% of the communities in New Hampshire, this does not exist. It would need to be developed.
- Storm water Utilities – an increasingly important issue. Cities and towns are dealing with this because of EPA regulations. This is becoming very costly, more like a utility than a drainage ditch.

Services:

- Service impacts on staffing for public safety on a very large facility depending on how much traffic, how much activity is generated that would require additional, larger forces of police, fire and EMT.
- Road – more roads means more maintenance.
- Sewage Disposal – increased operating costs but if you pass a threshold for an existing treatment plant that will also have ongoing costs associated with it.
- Water Supply – same
- Storm water Utilities – same
- Waste Disposal – same
- Social Services
- Planning/Permitting/Inspection – most communities in NH don't have a full time planning staff. May have a full or part time building inspector.

Regional Impacts: There are impacts that you could combine to a municipality. There are impacts that will spill beyond the municipality into the surrounding region.

- New employment – hosted both in that municipality and likely in other municipalities as well. Major developments of any kind tend to spin off opportunistic development of other sorts.
- Housing – any new major employment opportunity will create the need to house the workers (hopefully not too far away). That is workforce housing.
- Transportation – impact on the highway system and how to deal with that. That would certainly be the case here no matter where the facility is placed. There may also be the need for considering a public transportation system or services might be augmented.
- Water supply – water in most places is a regional resource. Portsmouth for example gets its surface water supply from the town of Newbury and gets its ground water from wells in Greenland. Most places are like that – water supplies come from a region, not a single community. The impact that a development in a single community is going to have on that regional resource has to be considered.
- Sewer & Storm water – same kind of issue. Again in southeastern region and other areas as well. There is a limit of disposal capacity being placed on a lot of surface water receiving bodies. This is a limited resource, it affects the entire region.
- Land Use & Development – Again this depends on location. Is this going in an undeveloped area or is it going into an already developed area. What about secondary developments that will go along with it? Communities plan through a document called Master Plan. How does this development fit, not only with the town that it's going to locate in or the surrounding towns? It is certainly going to affect their future land use.
- Schools – Obviously with added employment, housing and people comes the potential need to expand schools.
- Regional Economy & Tourism – no doubt a major facility will have a beneficial effect on our regional economy. Is it the effect that the region is counting on or planning for? Does it change the plan of tourism that the region is attempting to foster? Are there any impacts on unrelated industries that would be beneficially or negatively affected?

Other Considerations: The group of other issues and other considerations really get dealt more into how do municipalities in NH deal with regional cooperation, deal with the need to maybe expand or develop infrastructure cooperatively. Paul Sanderson had already talked about the fact that there would have to be zoning amendments. When talking about trying to deal regionally with a major development there may be a need also for surrounding towns to cooperate, particularly in the development of sewer or water, but if next to one that has sewer and water is there a potential for them to share and cooperate in those capacities? There is a statute (RSA 53:A – “Agreements Between Government Units”) that enables that. It is a very broad statute which enables all sorts of cooperation between communities and counties. This statute is a tool. The law doesn't get into much detail about how the agreement should be made and structured so a lot of that would have to be invented for each particular case. There is a law for dealing with regional impact review and that is one that the RCPC is charged with administering and participating in. It is a very weak law – particularly because it essentially gives the discretion to the host community to decide whether it is a regional impact. There is a very famous case in Loudon, where the Town of Loudon decided that expansion of the race track was not a regional impact. That was litigated, but the law remains the same. It is the choice of the community to determine whether a development has a regional

impact. We are charged by giving guidance to the communities about how they should go about making that decision, but it is still their decision. That's one way that it is weak. The 2nd is that it does absolutely nothing to diminish, to take away the ability of that single host town to decide whether or not to pull out. The abutting communities are given the status of an abutter in the proceedings so you have standing but it doesn't reduce the ability for the host town to make that decision. This law is RSA 36:54 to RSA 36:58. The reverse of what we're doing here happened in Maine in 2003. A resort casino was proposed but no preparation had been made beforehand, either at the state level or the municipal level in terms of land use regulatory issues.

If things are as they are now we would not be well prepared because of the inadequacy of dealing with some of these interim municipal issues.

Michael Delaney: Looking at this authority's charge with respect to current legalized gambling in our first charge is to evaluate whether the current regulation in regulatory bodies for legal gambling in the state are adequate to operate. If this authority wanted to evaluate the local and regional impacts of current legalized gaming laws, how those impacts may have expanded as for example, charitable gaming and what impacts either expanded regulation or decreased regulation of existing gambling laws. That could be at the local level or it could be at the state level. How would you go about, and who would you look to, to assess those local impacts on the current structure?

Response: From a land use development perspective you would look to see where they're occurring and what sort of stresses its creating on a municipal infrastructure, whether it be services or infrastructure.

Michael Delaney: Who do you think would be best suited to help this authority evaluate that?

Response: The municipalities – if there is a municipality that is having a particular problem, help them scope out what that problem is, and what they're lacking to address it.

Tom Ferrini: To what extent would utilization or review of the existing laws, RSA36:54 thru RSA36:58, and RSA53A would be beneficial as part of the process we're charged with undertaking here? We want to look at the existing laws and make sure that they're adequate. There may be recommended changes that could be helpful if this happens.

Response: It is really a network. There are some things that probably need to be enclosed at the state level, some sort of back stop, limits. For example there is already a network of regulations having to deal with shore land protection, or getting a highway access permit based on traffic issues, or dealing with a disturbance of a large amount of terrain, those are all things that exist in sewer and water permits. Those are all systems that are in place, they are not all coordinated, but they all exist. All those things have to be permitted and reviewed. Some of those may need to be looked at from the perspective of how they're able to handle a very large scale development, a scale that we're not used to seeing. There is also municipal regulatory statutes that are really not adequate to deal with the development.

Tom Ferrini: Why would we consider land use? The obvious answer is as it's been explained and as we're charged under 1-A and under D-3 this becomes something that we need to consider in terms of impact. It may be that as an authority we make recommendations. We have harder regulatory legal criteria for actual operation of gaming facilities that we're going to develop in later meetings. First we do have a charge to look at those existing regulatory criteria and conditions and ability to handle development.

Commissioner Barthelmes: You made two points right from the beginning with your presentation. You went into great deal about impact. The 2nd piece was the issue of the mechanism for effective parties to weigh in. I understand that we need to look at specific statutes. When you said that what specifically were you thinking? What are you talking about specifically, what mechanisms?

Response: From an approval standpoint, the land use permitting authority is reserved at municipal level, so if a major development like we're proposing no matter how much it might affect surrounding communities, they under current law would be the ones to decide. In terms of weighing in there is surrounding communities or other parties that are affected. There is a process through this regional impact review for them to at least be at the table if the host community says it's a regional impact. They can at least testify and at least express their

concerns. They do not have any ability to decide whether it happens or not. That is reserved for the host community.

To add in the idea that municipalities don't ever talk to each other, because they do. There are some areas where it works fairly well, which would be mutual aid between police and fire. If you take a look at the police statutes and fire statutes that specifically call for mutual aid that is a system that is actually in place and it actually works pretty well. On RSA53-A when you talk about inter municipal agreements the most recent one is in the Sunapee/Newport area having to do with assessments around Lake Sunapee. They decided to get together and get one assessor to evaluate all the properties around the lake and do it by one consistent methodology so that we will be able to defend ourselves. That system worked very well, so that can in fact happen, but it's usually based around common interest. Cliff made several comments that sometimes developments that have them that are so wide ranging in scope that no one can get their hand around it. A perfect example that we both worked on is the widening of Interstate 93. There was a recognition that the 9 affected communities were going to be severely impacted by the widening and DOT put together something called CTAP which is the Community Technical Assistance Program and actually provided funds for those 9 municipalities to sit down together, learn about this common issue and learn ways that they can work together to try to solve it. That effort continues. That may be a model of what you're talking about here. Here's our one common problem. How do we get together and work together as various boards to try to seek a common regional solution. I live in a community where we have recently gone through the development of our first big box store. It was a very painful event that took 8 years of permitting, 14 lawsuits, and 3 trips to the Supreme Court before we could put up a Target. Several of those lawsuits were filed by our neighboring communities.

Tom Ferrini: Paul just described the amount of lawsuits and years that you're talking about, and we're talking about if this law gets enacted what the devil plays out in these details, we need to be concerned about that and it is within our charge to do that.

We will seek to come up with summary points that will be available as we go forward and will have summary points from this meeting that will be helping in our deliberations and as we start to analyze things going forward, because indeed to not pay attention to this piece makes a lot of whatever else we do sort of a door stop. It's important to see how these things integrate.

The next piece of this meeting we can move on to is the NH Gaming Study Commission Report. Steve Norton will be doing a powerpoint presentation. Steve's presentation in particular is going to be discussing the economic modeling of potential gaming operations in southern NH. We're talking about a magnitude of regulatory authority we have to engage in. We need to know what is likely from an economic perspective that may well pop up in legislation that we're then seeking to regulate.

Tom made a few points from the Executive Summary. The first point would be expanding gaming Generates additional revenues and economic activity, but creates suicidal economic costs. We're looking at economic costs in the communities and we're talking about land use component. A fully informed decision about expansion requires a business model analysis that accounts for benefits and costs. Part of that is how economic infrastructure and municipal and town infrastructures are impacted because cost can be generated. In a state where a town can decide what it wants to do and not necessarily agree with the town next to it, that could be a cost driver in another town to create impacts and create costs in communities.

Tom reviewed some of the major points of this report.

- Though reliable data on co-sellers costs is limited, expansion will increase the number of problem gamblers. The costs associated with problem gambling will be greatest in communities within short drives of gaming facilities and has a substantial amount of data supporting it. The consideration for our regulation will be to what extent do we look at and how do we put into the regulation means to how that might be taken care of. What happens in terms of state revenues and how they're allocated?
- Proliferation of gaming is a concern but with no clear solution. We don't have to be concerned about that in this sense. That proliferation issue is a question that people might have for us as an authority as we go forward. As we said in the beginning of our opening meeting we are here neither to enable nor to preclude but to be ready and have an appropriate regulatory frame work.
- NH needs to review its regulation in gaming, with or without expansion of legalized gaming, to ensure integrity and public confidence. That is what we are charged with doing. We arose out of this and the legislature enacted what it did in great part as a result of this report.

- Many states do not drive in their regulations. If new gaming laws are in and we have a new and different footprint in terms of what gaming is allowed in the state, what are the measures that we can engage in and impose or put in a recommended regulatory structure that will allow us as the State of NH to understand those impacts.

Steve Norton, Executive Director of the NH Center for Policy Study: We are not experts on the regulatory frameworks of gambling. We made ourselves in understanding how one might simulate the impact of various different types of gambling. Why that might be useful to you is we have gambling in NH right now, about 20% of the populations unfortunately go to Connecticut. For gambling to be financially successful you have to significantly ramp up the gambling activity from an economic perspective. This means that to some extent you have to build a regulatory structure that is scalable. If you create one facility, that might require a certain regulatory structure. If you have 7 facilities, that might require a different set of regulatory structures or different statutes. The first requirement is understanding what is feasible and what is not feasible from an economic perspective. When we started building our models to understand what was going to happen, what could happen if we expanded gambling in NH, we had to come up with some basic assumptions from the literature. Number one when you put a casino in a particular place it significantly increases the likelihood that anyone would gamble. That makes sense but it is also required to be economically feasible. There is a relationship between the distance one is from a casino and how much they're likely to gamble. For example, if you're in Laconia and there is a facility in the southern part of the state you're less likely to gamble than if you were living right next to the facility. The size, attractiveness, and the various amenities associated with any gambling facility have a material impact on their draw. It's a standard retail model used to understand things like resorts and restaurants. We also had to assume that for small shared population this was going to create some potential social bills that had to be acknowledged in some fashion. We used those assumptions to build some models. The Commission itself said we had to vary our assumptions based on a couple different factors. Location clearly matters because the closer you are to population centers like MA the more access you have to resources and people who are likely to gamble. The type of facility matters considerably because it's generally considered more economically feasible to have a facility that has both VLT's and table games because table games bring other folks in to the VLT's which is generally where the gambling industry makes its money. Size has an impact. The gaming commission asked us to estimate the impact of a \$100 million facility versus a \$500 million facility. Finally, we were asked to simulate the impact as to what would happen if MA implemented expanded. There are facilities in Bangor Maine, upstate New York and throughout New York, and there is nothing in NH, VT and MA. For purposes of understanding the impact on the economy: revenue to the state, crime, and potential social costs to NH and local communities. Talked about a map of the location and placement of a facility in Seabrook, we use drive time analysis which is the standard approach in retail models to understand who is going to go to what. They generally believe that their 30, 60, 90 minute boundaries that determine how frequently someone is going to come visit a particular site. This really drives the entire analysis. Those within 30 minutes are most likely to go, 60 minutes less likely, and 90 minutes slightly less likely still. What is interesting about this particular map and you should note that most of the market area for this particular facility would be in MA. Most of the population that would be likely to go to a facility in NH particularly around the southern part of the border would be MA as well. This approach was tested the North East and were fairly good at predicting where people went. We also did markets in the northern part of the state. In the north country there is only one avenue to get to Berlin from the south, that's Route 16, from east to west it's Route 2, so the markets are different simply because of transportation. In the southern part of the state there are multiple avenues to get to every individual place. The commission wanted to make sure our results were tested against something because everybody has a particular model they bring in. We tested our market work against the existing markets in the mid Atlantic. We tested our economic development implications using Wynn's (???) and the revenue model. The chart shows the impact of a \$500 million facility in various places across the state. In the great north woods which is the Berlin area that would obviously have a big impact because the economy is relatively small. It would increase by 2.6%. In the southern part of the state it would be a relatively small economic impact and the reason for that is because the southern NH economy is much, much larger. The Lakes Region, ski country, again notably smaller economies, therefore a bigger economic impact. This means that the need for infrastructure management is greater in these areas than it is in the southern part of the state.

Debra Douglas: There is a study from a gentlemen from Harvard that suggest that the percentage of people who are addicted to gambling doesn't change when you move a facility into a state, so therefore if MA has it's gambling and we don't then they get the benefit and we get the social cost.

Steve Norton: First the impact is not solely local. We discussed 30, 60 and 90 minutes drives on placement of a facility in southern NH, southwest NH, Lakes Region, seacoast area and the great North Woods. There you would see the people with addictions. What you see in the southern NH model within 30 minutes you would see a low estimate, about 2,000 new induced gamblers. 30-60 minutes (largely Manchester and south to the MA border, you see a significantly higher level, and that's because the population is greater in those areas. This is a chart that points out the economic benefits are local and the social implications are not, which has an implication for the regulatory structure or how you think about an approval process. One of the things they did in Maine is they have a referendum so that the community itself, not Bangor alone, can make a decision about moving forward. This may be something you want to think about because the economic benefits, in terms of jobs, sometimes are extremely local, but the social implications are not. What would happen if MA did something and we didn't? The first thing that would happen is that we would see a net loss in revenue. There's a general belief that when you put gambling in there is some impact on lottery and there's some impact on room and meals. So if MA acted and we didn't (using \$500 million facility in Springfield as an example) we would see a net revenue loss. We'd also see a net increase in the social cost for the state. That is the private cost born by individuals who had a gaming disorder of some sort but also the social cost associated with the regulatory structure that would be required. Number 2 would be the services that would have to be provided to those people with gambling disorders. The net benefits to the state would be a net \$75 million reduction. We did a simulation of a southern NH model, when you look at the total possibility there is approx. \$223 million that could come to the state under the full set of assumptions. If MA were to expand that would cut that significantly because some people would go to MA instead of NH and would cut our revenue by almost \$75 million. With all those assumptions there is about a \$100 million benefit to the state of moving forward with a large \$500 million facility in southern NH. This would be slightly revised downward now because of the changes in the industry. We have seen a decline in gambling activity versus a year ago. We have seen a 10% reduction in gambling activity across the country. In the Lakes Region, based on a \$500 million facility, a revenue net of all the social costs and MA activity was about \$2 million. The reason for that is it is a lot harder to get to Gilford than it is to the southern part of the state. Where the biggest part of the population is in Massachusetts and the biggest portion of the population again is within the 90 minute guide time. The other major finding is that the facility size has a very large impact on net benefit. The two places in the state where there is a significant economic benefit were ski country and the southern part of the state along the southwestern part of the state because of access to the population of Massachusetts. If you build a small facility, \$100 million, you see relatively low net benefit. You have to get up to a relatively large facility to bring the really large revenue numbers to the state. That obviously has implications, for the same reasons as before, the larger the facility, the larger the impact, the larger the regional implications, and the larger regulatory effort that is required to manage the activities. The one thing that we did not model is timing and this seems particularly relevant to the authority. Steve sits on the Concord zoning board and has been in some economic development cases that we say no to, and they go back and forth. Just like there is a timeline in which it would be implemented, 18 months to 2 years is generally the beginning point for that, there is going to be a regulatory timeline. There may be challenges to the regional implications decision making process, or there may be challenges to whether there is a regulatory structure that is appropriated in the courts.

In showing a map of racinos and casinos in the mid Atlantic and northeast, there is an absence in the northeast. Our analysis suggests that in order to make it beneficial to the state it needs to be a large facility in the southern part of the state. There will be costs that have to be borne in some fashion by local communities outside of where the facility will be placed.

Tom Ferrini: The concern that we have is as we come up with a regulatory structure, you say how do we as a group design it, we have to understand what the potential magnitudes are of what is likely to be proposed as being economically feasible and that is the premise that put today's presentation together. Our next step will actually be to start actually putting together the nuts and bolts and finding the right policy objectives for the actual drafting of regulatory structures. It may be that we would have questions for Steve or ask to re-review certain parts of this as we drill down into developing the regulatory structure and the legal structure that we need, as well as the operational structure as far as statutes are concerned.

Steve Norton: Not a regulatory expert, one is licensure. If you're licensing and proving a single facility that is very different than if you are licensing 50 facilities or 50 different sites. Not saying that has ever been proposed but how many facilities, the type of scale that you're dealing with is really important.

The question of land use permitting authority is really, really important. The economic benefits tend to be local but the economic impacts from a negative perspective and social cost tend to be regional. When CT was talking about the impacts of the roads and schools, and additional costs for local communities, it was mostly the communities that were 15, 20, 30 minutes away from the facility that were most irritated with what's going. They didn't see the benefit, and they weren't actually included in some of the process that was necessary for certain community well being. The bigger the facility, the more facilities you have, the more people you have gambling. Also the more people you have with social issues, so the size and placement of the facility has a material impact on some of the social service needs of the community. To understand health and human services structures of whether they're able to manage increased case loads associated with gambling disorders would be something to think about. Then the question of scalability – it's in almost every state where gambling has been approved the scale of gambling has increased soon thereafter. When you start with a small \$100 million facility often times they need to compete more effectively with other casinos because other casinos in the market respond. If you're going to build a regulatory structure you need to acknowledge the fact that there will be some degree of expansion either in the number of sights or the number of activities that are engaged. At the least you need to think about creating a structure that is able to grow easily and quickly as the demands for licensure, and accountability, and enforcement increase. The type of facility really does matter! Visited the Bangor ME facility where they had just VLT's and that can be managed by one person in a room, because all the machines are managed by a computer. Generally they have people walking the floor. Table games have significantly higher enforcement requirements and require a much larger structure to manage. The type of facility has a big impact on the type of regulatory structure. Again, while most of the organizations start with VLT's only, often for competitive reasons, in order to maintain they move to table games as well.

Tom Ferrini: Discussed items on our agenda for the next meeting. Members have been provided with the biographies of some that we perhaps we want to reach out to for assistance. Through Charlie McIntyre we have already been in contact with Scott Harshberger, former Attorney General for the State of MA, who is going to come to our next meeting to talk in the broader scope as to how one creates this regulatory structure that we need to get involved in. There are three other attorneys. These are highly experienced people in the areas of gaming. Bob Stocker has agreed to come to our next meeting so that we may speak to him as well. Authority member suggestions would be appreciated. In addition in that next meeting seek to include the names of organizations that are effective trade organizations in the gambling industry that have informational resources that may be available to us that we can consider utilizing as well. I will seek to get those names out to you prior to the next meeting through Cindy or Nancy. Intend to have individuals from those companies present as well. In the next meeting would like to schedule more time for deliberation by the authority to then start to map out how we're going to put together the operational pieces.

Debra Douglas: What extent is Scott is going to be discussing, and Bob?

Tom Ferrini: Has had a preliminary discussion with Bob and intends to hone in on that further as we get closer to Our next meeting. Tom has not yet spoken to Scott. Scott's approach is going to be a broader perspective. Scott is going to speak to enforcement issues and other items that are going to be of interest on the enforcement and investigatory sides. If there are particular questions that you would like to have answered I would be more than happy to direct those to these individuals so they can then be prepared in advance to respond. My understanding is that with Mr. Stocker we would be more inclined to look at and get a little bit closer to operations and how it is we're going to put together regulatory structure, statutory structure, and operational structure.

MEETING ADJOURNED – Tom Ferrini

Next meeting is scheduled for Thursday, October 28, 2010.

EXHIBIT A

GAMING REGULATORY OVERSIGHT AUTHORITY
October 21, 2010

ATTENDEES:

Keith Lohmann, NH Dept of Safety
Paul Sanderson, NH Local Government Center, Concord NH
Warren Leary, NH Gaming Commission
Kory Kanke, The Lodge at Belmont
Bob Clegg, Legislative Solutions (603) 860-3682
Sudhir Naik, NH Racing Commission
Chuck Saia, NH Racing and Charitable Gaming
Dan Callaghan, Devine Millimet (410-1701)
Jim Demers, The Demers Group (228-1498)
Ed Callahan, Rockingham Park (898-2311)
Mike McLaughlin, Shaheen & Gordon (225-7262)
George B. Roberts Jr., Policy Management Association (224-8982)
Susan Paschell, The Dupont Group (228-3322)
David Frydman, NH House
Elizabeth Sargent, Sheehan Phinney Capitol Group
(esargent@sheehan.com – 228-2370 x 6)