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NATIONAL INDIAN GAMING COMMISSION
PUBLIC MEETING

Reporter's Transcript of Proceedings

Mystic Lake Casino and Resort
Prior Lake, Minnesota

Taken May 23, 2012
Commencing at 3:00 p.m.

Taken by: Kelley E. Zilles, RPR

Job No. NJ395756

1 APPEARANCES

2
3 National Indian Gaming Commission:

4 Tracie Stevens, Chairwoman

5 Daniel Little, Commissioner

6 Steffani Cochran, Vice-Chairwoman

7 Paxton Myers, Chief of Staff

8 Eric Shepard, Assoc. General Counsel

9 Sarah Murray, Counselor to Chair

10 Ben Buck, Compliance Officer

11 Linda Durbin, Act. Region Director

12 Shawna Ellis, Compliance Officer

13
14 Brooke Peltier, Compliance Officer, Spirit

15 Lake Tribe

16 Joe Webster, Attorney, Hobbs Straus Dean &

17 Walker, LLP

18 Virgil Perez, Chairman, IIPAY Nation of Santa Ysabel

19 Michael Devine, DD Member, IIPAY Nation Development

20 Marsha Kelly, Consultant, MN Indian Gaming Assoc.

21 Leah Porth, SMSCGC

22 Paul Siemers, SMSCGC

23 Lil Pherson, SMSCGC

24 Vince Cook, LTBB

25 Lenor Scheffler, Partner, Best & Flanagan

P R O C E E D I N G S

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3 CHAIRWOMAN STEVENS: Okay. Good afternoon,
4 everyone. I want to welcome you to the National Indian
5 Gaming Commission public meeting here at Mystic Lake.
6 We've been undertaking these public meetings in an
7 effort to inform the public and tribes of our general
8 business activities and getting sort of an insight on,
9 on the internal agency operations process. Before we
10 begin I want to offer both commissioners any opening
11 remarks, if any.

12 MR. LITTLE: Good afternoon, everyone. My
13 name is Dan Little, I'm assistant commissioner here. I
14 just want to welcome everybody here today to beautiful
15 Mystic Lake. You know, these public meetings are very
16 important to, to me personally because I feel it's
17 really important that the, the tribes that fund this
18 organization get to see what's going on. I know when I
19 was on the other side working for a tribe I always
20 wondered about the inner workings of the commission and
21 I feel it is, you know, us adequately showing what we're
22 doing and providing some transparency to the system in
23 the process here. So I want to welcome everybody here.
24 And I'm very happy that the commission does these public
25 meetings and we will continue to do them and hopefully

1 set a trend for future commissions because I think
2 they're really important for the tribes and for the
3 commission. So thank you, everybody.

4 MS. COCHRAN: Good afternoon. My name is
5 Steffani Cochran and I'm the vice chairwoman of the
6 National Indian Gaming Commission and I am Chickasaw.
7 It's always a pleasure to do these public meetings and
8 to come out and talk about some of the internal workings
9 of the agency and also to talk about where we're at in
10 general in terms of our priorities. So I won't delay us
11 any further, but thank you for joining us and I look
12 forward to a productive meeting.

13 CHAIRWOMAN STEVENS: Thank you, vice
14 chairwoman and commissioner. We'll go ahead and get
15 started on our agenda. Hopefully everybody has their
16 agenda in front of them. Before I begin though, I do
17 want to recognize our regional staff here. Linda Durbin
18 is our regional director, and if you all are from this
19 area, you're familiar with Linda right here; Ben Buck
20 who is the compliance officer from the area, he's right
21 here; and Shawna Ellis who's also one of our compliance
22 officers. If you're not familiar with them, please do
23 feel free to introduce yourself to them. And I want to
24 thank them for all their hard work in helping us arrange
25 these regional meetings and so much more that they do.

1 So thank you very much.

2 Also at the end of the table here we have Paxton
3 Myers, our chief of staff; Sarah Murray, our counselor
4 to the chair; and Eric Shepard who is our associate
5 general counsel. I want to welcome Eric, he's new to
6 our agency, he comes from the Colorado River Indian
7 Tribe, general counsel office. So we want to introduce
8 everybody to them.

9 Just for some housekeeping, I do want to let
10 everybody know that we are being transcribed and it will
11 be posted on the Web site. And during the first part of
12 the meeting we'll be going through some information
13 sharing from the staff to the commission with regards to
14 the items on the agenda. Public comment is not intended
15 during this time. Public comment is saved for the end
16 and at No. 5 on the agenda there will be an opportunity
17 to speak if the public has anything that they'd like to
18 share with the commission, so that will come up at the
19 end of the meeting here. If you do wish to make a
20 comment in the public comment section of the agenda,
21 there is a sign-up sheet right over here, and feel free
22 to if there is anything you'd like to say during that
23 time period.

24 With that we'll go ahead to move to item No. 2,
25 chief of staff report. And we'll turn that over to

1 chief of staff, Paxton Myers.

2 MR. MYERS: Thank you, Chairwoman. Good
3 afternoon, I'm Paxton Myers, chief of staff of the
4 National Gaming Commission, member of the Eastern Band
5 of Cherokee Indians.

6 I'm going to start off with the chief of staff
7 report, we're going to start with the training and
8 technical assistance. Year-to-date we have had 1,069
9 attendees who are tribal training and technical
10 assistance. To date we've had 132 different tribes
11 participate in our training, trainings throughout the,
12 throughout the different regions. We're continuing to
13 outreach, all tribes offer training and technical
14 assistance. We've also issued a new directive to the
15 NIGC auditors, so they will going out on site visits
16 with our regional staff to offer technical assistance
17 and training for on-the-spot trainings that might occur
18 when they're on a site visit. They will also be
19 involved for any kind of assistance to the casino staff
20 there during a site visit and also offer assistance to
21 the regional staff if they have any questions that arise
22 on any questions.

23 The types of training that we've had, we've had
24 51 different types of training. 26 have been site
25 specific training which a tribe has requested that

1 training and we've gone to a particular tribe to offer
2 the training. We've had 11 site visit training,
3 on-the-spot trainings, had four regional gaming
4 technology trainings which we train on the class,
5 classification of games and different things of that
6 nature. We've had two trainings by phone, we've also
7 had one training by Web portal, we also continue to have
8 one joint training with the Indian Gaming Work Group out
9 of the Phoenix region, we're also reaching out to other
10 regions to do the partnerships with those types of
11 trainings. We also reached out to the IRS, FBI and
12 different, different other federal agencies to join us
13 in our trainings so we can give a more rounded approach
14 to our trainings to the tribes and we can answer
15 specific questions that each tribe might have with
16 regards to their agencies. We've also had five regional
17 trainings. We will continue to have regional trainings
18 throughout the year.

19 The main objectives for 2012, again to
20 reevaluate the enhanced training catalog, to continue to
21 explore ways to offer joint advanced training classes
22 with different regional organizations out there, whether
23 it be the National Tribal Game & Regulatory Agency or
24 different areas out there in Indian country.

25 We'll also start offering Web portal trainings

1 to tribes that may not have the funding to come in to
2 some of our trainings or offer training to a wider, a
3 wider net. We've had a couple of trainings through the
4 Web portal to do a test, we've done it in a more
5 metropolitan area, we've done it in a more remote area
6 to see how the access would play out, and it has worked.
7 So we're hopefully going to do some more of those
8 trainings on the regional side through Web portal
9 trainings.

10 We've also created a Part 514 which is the fee
11 reg training presentation which we handle through our
12 audit division along with some assistance from the
13 regional staff. Once the reg is filed we will begin
14 starting those trainings which will probably be the
15 first quarter of, of fiscal year 2013, so. And as other
16 regulations become final we will start developing new
17 trainings for, for the tribes on the regs so we can
18 reach out and offer training to the tribes, whatever,
19 whatever the new regs will be.

20 Just to date, some upcoming training dates.
21 June, the St. Paul regional training will be in
22 Billings, Montana the week of June 11th. In July we
23 will have a second regional training in Phoenix. We
24 will be in New Mexico the week of July 9th, we're still
25 working issues out with location when we do, when we'll

1 be in New Mexico. Also in July, Tulsa, we have a
2 regional training which will be in Tulsa, Oklahoma at
3 the Hard Rock Cherokee Nation the week of July 23rd,
4 2012. And in August we have a tentative, another
5 regional training in St. Paul, Rapid City area, which
6 will probably be somewhere in Minnesota. Again, we're
7 still working on the date and the location of that.
8 Also in August, Oklahoma City we'll have a regional
9 gaming technology training. Again, we're working on the
10 location of that, but it will probably be around the
11 week of August 28th of 2012.

12 In September we're having our regional training
13 and for the D.C. region which will either be in
14 Louisiana or Mississippi the week of September 10th.
15 Again, we are still working with different tribes in
16 that, in that region to see where we can offer the
17 training. And again, we will have another regional
18 training in Rapid City, South Dakota the week of
19 September 25th.

20 If anyone needs any further information, please
21 check the NIGC Web site. As more dates become
22 available, more information will be posted there.

23 CHAIRWOMAN STEVENS: Before we move on,
24 Paxton, I'm glad that you brought up that you're working
25 in partnership with the outside organizations. We were

1 just meeting with somebody in the hallway from the
2 Oklahoma Indian Gaming Association and they have offered
3 to partner in terms of data sharing. And so if they
4 have some trainings that they're doing, they'd be happy
5 to coordinate some times with us so that if there's any
6 training that we need, tribes are interested in
7 partnering with them. I know we've done that with NTCR
8 and the Great Plains Indian Gaming Association, but just
9 as a reminder. And in particular with the fees, they
10 were, we will probably get a request from the Oklahoma
11 Indian Gaming Board about coordinating some fee training
12 with regard to the new final roles. So that's all I
13 wanted to say. And if you want to continue.

14 MR. MYERS: Thank you for that. And we
15 have --

16 MR. LITTLE: Just one comment. You know, I
17 think a lot of times we, we, you know, one of our top
18 major priorities is obviously training and technical
19 assistance, and I've in particular been very thrilled in
20 the, in the regulatory review over the last few months.
21 And I just want to really, you know, I appreciate what
22 you and your staff have been doing on training and
23 technical assistance. You obviously have been very busy
24 and your staff has to deal with some different things
25 that they're not accustomed to, but training, and

1 especially the technical assistance portion of that is
2 so important to what this commission does. And I just
3 want to thank you and your staff and, you know, tell you
4 to keep up the great work.

5 MR. MYERS: Thank you, Commissioner Little.
6 And, yes, we're definitely trying to reach out as much
7 as possible to other organizations and then other
8 federal agencies to offer joint trainings. And we're
9 definitely trying to work our trainings around different
10 events that are going on in Indian country and we
11 definitely post those within our training division so we
12 know that we'll need to work around those. And we would
13 welcome any partnerships that we can do with any other
14 tribal organization out there.

15 Moving on. We have the IT transition. As we
16 reported on in the past, we, we are working with the DOI
17 IT and we're trying to improve our IT system that we
18 have at the agency. We do now have an implementation
19 team at DOI who we're meeting with on a weekly basis to
20 discuss certain issues about plugging, basically just
21 plugging into the DOI system, for lack of better words.

22 We've given them four main critical areas right
23 now which are the email server, the Web site, hardware
24 and software upgrades, and communication improvements.
25 We are, again, we're working with the implementation

1 team on various fronts about what services they can
2 offer us now, what services they can offer us a year
3 from now, and so on and so on. We're also working with
4 them on a cost analysis to see what is the total cost
5 of, of plugging into the DOI system as opposed to going
6 out and getting the, getting the, the systems on our
7 own. We definitely need to have that so we can present
8 that to the commission as a cost analysis. So that is
9 kind of where we are with DOI and the IT transition.
10 Any questions?

11 And as many people know, we do, our lease does
12 run out at the current location, the headquarters in
13 D.C. in June 2013, so we are actively working trying to
14 come up with a plan of attack of what that transition
15 will look like. We did complete a tour of several
16 different buildings within the D.C. metropolitan area,
17 options that answer RFP for office relocation. We're
18 also working with the current location where we are to
19 see if it would be an option to stay in the current
20 location. And we just recently took a tour of the main
21 interior building to see if that is a viable option.
22 Again, we're waiting on DOI to come back with a CAD
23 drawing of the actual office space so we can see how we
24 can utilize the space for the existing staff and then
25 for any future growth of the agency, and then also to

1 see what the cost benefit would be to moving into the
2 interior as opposed to going out to the general area of
3 the D.C. metropolitan area. We hope to have that back
4 in a couple of weeks. We did communicate with Mr. Rick
5 Farr this week, he's still working on the analysis and
6 getting us the drawings. So that is where we are right
7 now with the office move. Any questions?

8 MR. LITTLE: Is it, is it still a
9 possibility that the commission could stay in its
10 current location?

11 MR. MYERS: That, that, that is an outside
12 option. We're still working with GSA and several other
13 different agencies to see if that's an option. We do do
14 a sublease from Department of Commerce, so they're
15 actually going through an analysis also of what, what
16 space they need, if, if they're going to move some of
17 their staff back to the actual Department of Commerce.
18 We also share a suite with the Department of Defense,
19 they're also going through the same analysis.

20 I think everyone's lease kind of comes up at the
21 same time, so everyone is kind of scrambling around
22 trying to figure out can we stay here or not stay here.
23 If we do stay in the current location I think we
24 definitely need to make, make sure there will be some
25 improvements done to the building. I think we're having

1 some issues there right now with some of the maintenance
2 agreements that we have in the current location.

3 MR. LITTLE: And this will only affect
4 staff housed at headquarters, correct?

5 MR. MYERS: Correct, this is only for D.C.
6 headquarters.

7 MR. LITTLE: Thank you.

8 MR. MYERS: Moving on. We do have some
9 policies and procedures that will be brought up at the
10 end of the agenda, so I can, I can talk more about those
11 later. But I do want to commend the vice chairwoman for
12 taking a lead on this initiative. It's not fun work,
13 it's long and tedious and many, many hours that she put
14 in with the deputy chief of staff and some other staff,
15 and so I want to commend her for that. But we do have
16 five policies that will be coming up later. I'll just
17 name those real quick. We have the performance
18 appraisal system for the employees, the travel policy,
19 the special pay entitlements, for lack of better words
20 it's overtime and comp time, I don't come up with the
21 names, that's the federal government, the awards and
22 employer recognition, and the transportation subsidy.
23 But I'll go into it in great length when we get on
24 further down the agenda. Any questions regarding,
25 regarding those at this time?

1 CHAIRWOMAN STEVENS: I know that we have
2 had several approved and they're in place now, we're
3 doing five more today. How many more do we anticipate
4 that are sitting sort of on deck?

5 MR. MYERS: I don't want to speak for the
6 vice chairman, but I think we have probably at least
7 eight probably still pending, possibly maybe some, some
8 more.

9 MS. COCHRAN: There, there is at least
10 eight, and those are the ones that are the priority that
11 must be done as quickly as we can possibly get them
12 moving along. But Paxton is correct, there's many more
13 that probably need to be looked at and at least updated.

14 Also I want to say for the other commissioners
15 as well that Paxton's staff, deputy chief of staff were
16 really helpful in that. Yes, there were many, many
17 meetings and it was a lot of time commitment, but I
18 think it is critical to the well-being of our employees
19 and I hope that it will give them some guidance. So
20 there's many more hours yet to come.

21 MR. MYERS: Yes.

22 CHAIRWOMAN STEVENS: And we, we look
23 forward to approving more of those as they get done.
24 And I do want to echo the other commissioners that this
25 is very important. Having come from a management

1 background, it's critical that employees know what the
2 rules are, what's expected and what can be expected of
3 us as, as an agency. I think that overall objective
4 will be to have a new, as these are all being put
5 together, keeping in mind at the end we're going to have
6 an agency manual and that will include these policies
7 and also the chief of staff's manual and the general
8 counsel's manual so that it is a complete package and,
9 and not a patchwork effort. And I do, I do really
10 appreciate Vice Chairwoman Cochran's time working on
11 this. One of the things that you have tried to do, even
12 though you're an attorney, you tried to make these very
13 user friendly in other, and not like the general
14 counsel's office wrote them. So keeping in mind, no
15 offense but, you know, all of our employees need to read
16 these and they need to be clear and simple terms and
17 easily understood. And that's I think a really
18 important thing we need to do for our employees. And so
19 I want to thank you. So go ahead, if you want to
20 continue on other business.

21 MR. MYERS: Thank you. With regard to
22 other business, I'm happy to report for the, on the
23 staffing front we have currently hired two new
24 compliance officers in the Phoenix region. Both have
25 started, hit the ground running, and I applaud Lance for

1 his efforts there. So hopefully the next round I'll
2 have some more to report on how they're doing in the
3 Phoenix region. We have also hired three new staff
4 attorneys, and we also have a new associate general
5 counsel, Mr. Eric Shepard, who has joined our
6 illustrative team here.

7 And as to pending matters, we do have three new
8 directors positions that are ready to be posted.
9 Hopefully within the next month we'll be posting those.
10 After we post those and get those individuals in place
11 we'll move forward with some other hires of some
12 subordinates underneath them such as a training manager,
13 auditing positions. But I'll have more to report on
14 those positions probably at the next public meeting.
15 Any questions regarding that?

16 CHAIRWOMAN STEVENS: I do want to give one
17 other person who's not really new but she's new since
18 the last public meeting, Sarah Murray who's counsel to
19 the chair. She comes to us from the Department of
20 Justice, but she's joined our team as one of our new
21 staff.

22 MR. MYERS: Sorry, Sarah.

23 CHAIRWOMAN STEVENS: I know, she doesn't
24 seem new, she's been here for a couple of months, so.

25 MR. MYERS: Moving on. We do have an

1 update regarding NEPA. I know you have some questions
2 out there regarding NEPA. But we have signed an MOU
3 with the BIA and they will now be handling the majority
4 of our NEPA work. It was very minimal at best and we
5 were kind of actually reviewing their work. So it kind
6 of makes sense that we would go back and just ask the
7 BIA to handle the work that's associated with our
8 management contracts area. So any questions?

9 And lastly, we do have a publication of
10 categorical exclusions. For those out in the public,
11 CEQ does provide for agencies to adopt NEPA procedures.
12 So on December 4th of 2009 we did publish a draft NEPA
13 manual in the Federal Register. That manual did
14 identify several categories of actions taken by the
15 agency that we would exclude for further NEPA review,
16 identified these categories of action. The NIGC relied
17 on its past experience and environmental professional
18 opinion, comparison to other federal agencies that do
19 have categorical excluded issues.

20 To date none of the public comments that were
21 received expressed any concern or objection to the two
22 categories of exclusion. After we considered these, the
23 commission has decided to establish a protocol
24 concerning two categories of exclusions and they were
25 contained in the draft manual. The commission will

1 continue to review these in the remainder of the manual.
2 I can go into what those categories are if, if you would
3 like.

4 CHAIRWOMAN STEVENS: And these are in the
5 register right now?

6 MR. MYERS: Yes.

7 CHAIRWOMAN STEVENS: If you can just
8 briefly say what the two areas are.

9 MR. MYERS: Okay. Category No. 1 is the
10 administrative and routine office activities, personnel,
11 fiscal administrative activities involving personnel,
12 recruiting, hiring, supervising, recordkeeping,
13 preparation of administrative personnel related studies,
14 reports, investigations, routine procurement of goods
15 and services, normal administrative office functions,
16 routine activities, operations conducted from the
17 existing structure that were within the scope of the
18 present functioning building. Lastly, any NIGC training
19 in classrooms, meeting rooms, gaming facilities or the
20 Internet.

21 Category 2, exclusion would be regulation
22 monitoring and oversight of any gaming activity which
23 would be the publication or publication of regulations,
24 procedures, manuals and guidance, documents including
25 NIGC oversight of any gaming facilities or any inner

1 agency, operations of existing facilities, split of
2 compliance and enforcement functions, compliance
3 training for the tribal regulators and managers,
4 classroom, meeting rooms, game facilities, and Internet,
5 preparing or issuing subpoenas, voting hearings, taking
6 depositions for information gathering purposes with
7 administrative enforcement action.

8 CHAIRWOMAN STEVENS: And for more
9 information you can find this I believe on our Web site
10 right now, also on the Federal Register. Thank you. I
11 think that wraps it up for the chief of staff report.
12 Do we have any questions from the commissioners? Okay.
13 Great job. Thank you, Paxton.

14 MS. COCHRAN: Thank you.

15 CHAIRWOMAN STEVENS: We'll move now to item
16 No. 3 on the agenda, the general counsel report. We'll
17 turn that over to Eric Shepard to provide us a summary
18 of our regulatory review that's been taking place.

19 MR. SHEPARD: Good afternoon. Final rule
20 effective dates, in February of 2012 the commission's
21 public rules for Part 514, 523. Part 514 has an
22 effective date of October 1st, 2012 with the
23 implementation of the quarterly submittal worksheets and
24 payments on January 1st, 2013. And Part 523 which is
25 the repeal of review of ordinances enacted by a tribe

1 prior to February 22nd, 1999 has an effective date of,
2 had an effective date of March 5th, 2012, so that's in
3 effect at this point.

4 In addition, in the February 2012 notice the
5 commission published notification for proposed rules
6 regarding facility notifications which is Part 559,
7 appeals which is subchapter H, self regulation of class
8 II gaming which is Part 518. The public comment for
9 these proposed rules closed on April 2nd, 2012, and the
10 commission and staff are reviewing the comments and
11 working to finalize these rules, as well as the Part 556
12 and 558 rules which deal with background investigations
13 and gaming licenses for management officials and key
14 employees.

15 And finally with regard to the regulatory review
16 schedule and consultation. Sorry. Finally the
17 commission is in the process of publishing the Federal
18 Register proposed rule making for Parts 543 and 547, and
19 those should be published shortly. The regulatory
20 review schedule has to deal with primarily those two
21 parts and Part 543 of the movement internal control for
22 class II gaming and 547 the technical standards for
23 gaming equipment used for play of class II games.

24 There are five consultations scheduled to be
25 coming up, June 7th in Green Bay; June 11th in Norman,

1 Oklahoma; June 27th in Chandler, Arizona; July 11th in
2 Brooks, California; and July 19th in Shelton,
3 Washington. In addition to providing comments at the
4 meetings, they can also be submitted by email to
5 reg.review@NIGC.gov or by postal mail.

6 CHAIRWOMAN STEVENS: Okay. Thank you,
7 Eric. Do we have any questions from the commissioners?
8 Okay. With that we'll move on to Item 4 on the agenda,
9 new business. We do have several personnel policies as
10 the chief of staff mentioned in his presentation earlier
11 that are up for adoption by the commission followed by
12 final rule actions that will be brought up by our
13 general counsel's office. So, Paxton.

14 MR. MYERS: Thank you, Chairwoman. Paxton
15 Myers, chief of staff, National Indian Gaming
16 Commission.

17 We do have five policies and procedures that are
18 up for adoption by the commission. The first one we'll
19 start off with is the employee performance appraisal
20 system. This is a system that provides guidance covered
21 by the performance appraisal system and detailed
22 revisions and responsibilities of each position,
23 eligibility for rating, rating period, progress reviews,
24 and request for reconsideration.

25 This is a four-tier system which will be

1 replacing the pass, fail system that the agency is
2 currently under. Basically this is a way that the
3 supervisors can evaluate their employees. Employees
4 will know what is expected of them and also what's
5 expected of their supervisors. We envision that each
6 supervisor will meet with each employee individually, go
7 over their performance plan at the beginning of each
8 fiscal year with probably five key components of their
9 job and will evaluate them on a six-month and then
10 finally a final evaluation in September at the end of
11 the fiscal year. I'll be happy to answer any questions
12 about it.

13 MR. LITTLE: When will, when will this be
14 implemented?

15 MR. MYERS: It will not be implemented
16 until next fiscal year. We do anticipate time for
17 training of the employees, also training of the
18 supervisors. So I wouldn't envision anything to occur
19 until the fiscal year because we're halfway through this
20 fiscal year now, so.

21 CHAIRWOMAN STEVENS: Thank you. So to
22 clarify, it would be, the application of this policy
23 would not be until the beginning of the next fiscal year
24 or the end of this fiscal year?

25 MR. MYERS: October 1st.

1 CHAIRWOMAN STEVENS: All right.

2 MS. COCHRAN: There's two other provisions
3 in here which might be of particular interest to the
4 commission. One is that our policy does incorporate a
5 dispute mechanism process for the employees should they
6 need to, to dispute any issue that comes up during their
7 appraisal process, which is new to our agency. And the
8 other thing that's in there is, that is new to our
9 agency is that it does clearly link the performance
10 appraisal system to the awards system.

11 MR. MYERS: Right.

12 MS. COCHRAN: So there's a direct link, an
13 ability to go back and forth between the two policies,
14 so.

15 MR. MYERS: Right. Just to piggyback on
16 the vice chairman, it will help determine salaries,
17 awards training requirements, assignments, and other
18 related decisions too.

19 CHAIRWOMAN STEVENS: Okay. Thank you,
20 Paxton. I know that we've been in need of this for some
21 time now, this is a change from an older pass, fail
22 system that is slowly being moved out of the federal
23 government system. And so this would be coming
24 up-to-date with what other agencies are doing, is that
25 correct?

1 MR. MYERS: That's correct.

2 CHAIRWOMAN STEVENS: Okay. So we have this
3 particular personnel policy up for adoption, it is the
4 performance appraisal system. Do I have a motion to
5 approve?

6 MS. COCHRAN: I have a motion to approve.

7 MR. LITTLE: I second.

8 CHAIRWOMAN STEVENS: Okay. There's a
9 motion on the table and a second to adopt the
10 performance appraisal system. Is there any discussion?
11 We've had it. Hearing no objection, all in favor?

12 MS. COCHRAN: Aye.

13 MR. LITTLE: Aye.

14 CHAIRWOMAN STEVENS: Aye. Okay. So we've
15 passed the performance appraisal system. We'll let the
16 chief of staff office and general counsel office proceed
17 on the implementation of that particular policy.

18 MR. MYERS: Thank you. The second policy
19 will be the travel policy. This policy provides further
20 guidance to the process when we're on official
21 government travel, detail and responsibilities, travel
22 authorizations, requirements and restrictions while
23 making travel arrangements, reimbursements, travel
24 vouchers, promotional material, frequent travel
25 programs, and accounting for comp time in other official

1 travel.

2 CHAIRWOMAN STEVENS: If you want to add
3 anything, vice chairwoman, for the benefit of the
4 transcription. We have another policy up for adoption
5 on the table, it's the travel policy. Do I have a
6 motion to approve?

7 MR. LITTLE: So moved.

8 CHAIRWOMAN STEVENS: Do I have a second?

9 MS. COCHRAN: Second.

10 CHAIRWOMAN STEVENS: Is there any
11 discussion or question? No. All in favor of adoption
12 of the travel policy please say aye.

13 MR. LITTLE: Aye.

14 MS. COCHRAN: Aye.

15 CHAIRWOMAN STEVENS: Any noes? So we have
16 now adopted the travel policy, personnel policy for the
17 agency. The next policy, please.

18 MR. MYERS: The next policy is special pay
19 entitlements. Again, this is comp time, premium pay,
20 holiday pay. The policy provides further guidance to
21 the processes for special pay entitlement. I think
22 their other responsibilities include FLFA exemption
23 status, affects coverage, overtime pay, standard comp
24 time, holiday pay, Sunday pay, night pay, maximum per
25 diem cap. So basically it covers when an employee is

1 subject to comp time, holiday pay, travel required on
2 weekends, et cetera.

3 CHAIRWOMAN STEVENS: Anything beyond their
4 usual regular pay.

5 MR. MYERS: Correct.

6 CHAIRWOMAN STEVENS: Okay. On the table
7 for adoption is the special pay entitlement policy. Do
8 I have a motion to approve?

9 MR. LITTLE: So moved.

10 CHAIRWOMAN STEVENS: Do I have a second?

11 MS. COCHRAN: Second.

12 CHAIRWOMAN STEVENS: Is there any
13 discussion or question?

14 MS. COCHRAN: I have a question. Thank
15 you. Paxton, could you just really briefly touch on the
16 interplay, if any, between this policy and alternative
17 work schedule, does it provide some clarity.

18 MR. MYERS: Thank you for the question,
19 vice chairwoman. That is a good point. It does provide
20 additional clarification in regards to the alternative
21 work schedule and how that applies to comp time, travel
22 comp and special pay. We did adopt an AWS system in
23 place to hopefully help alleviate some of the burden of
24 comp time on the agency by folks out in the field who
25 may be able to adjust their schedules to meet the work

1 demands as opposed to having to go overtime or to comp
2 time status.

3 CHAIRWOMAN STEVENS: Thank you. Hearing no
4 other questions, all in favor of this adopting the
5 special pay entitlement policy, please say aye.

6 MR. LITTLE: Aye.

7 MS. COCHRAN: Aye.

8 CHAIRWOMAN STEVENS: Aye. Those opposed
9 please say no. We now have adopted the special pay
10 entitlement personnel policy for the agency. Next on
11 the list is the awards policy.

12 MR. MYERS: Thank you. Again, this is the
13 awards and employee recognition policy. This provides
14 further guidance on how the agency may award or
15 recognize employees for exemplary service to the agency.
16 It provides further guidance to the, to the award of the
17 employer recognition process by detailing the awards
18 that are available to a supervisor. It also lays out
19 the approval process which will be on two tracks, either
20 up through the chief of staff or up through the general
21 counsel.

22 There was some issue with the approval process
23 and the other policies so we provided a clear guidance
24 on how awards are submitted and also how they are
25 approved. We also provided guidance on the types of

1 awards for the monetary or time off awards or other
2 special, special awards the agency might see fit for
3 their employees.

4 CHAIRWOMAN STEVENS: Up for adoption is the
5 awards and employee recognition program policy. Do I
6 have a motion to approve?

7 MS. COCHRAN: I have a motion to approve.

8 MR. LITTLE: Second.

9 CHAIRWOMAN STEVENS: Are there any, is
10 there any discussion or questions? All in favor of
11 adoption of the awards and employee recognition program,
12 please say aye.

13 MR. LITTLE: Aye.

14 MS. COCHRAN: Aye.

15 CHAIRWOMAN STEVENS: Aye. Those opposed
16 no. The motion is adopted. We have now adopted the
17 awards and employee recognition program for the agency.
18 Next up is the transportation subsidy policy.

19 MR. MYERS: Thank you. The transportation
20 subsidy policy again will provide further guidance upon
21 this program, operates for eligible employees and
22 interns would want to participate in the program at the
23 agency. It details a mass transit, van pool
24 transportation subsidy program, the bicycle community
25 benefit program, qualified parking benefits, and

1 continued participation and employer responsibilities.
2 Again, it further outlines the policies for employees
3 that do take mass transportation to and from work or
4 those employees that do bike commute to work, we do
5 offer a subsidy to those individuals to cover partial
6 cost of that transportation.

7 CHAIRWOMAN STEVENS: Thank you. Up for
8 adoption is the transportation subsidy policy. Do I
9 have a motion to approve?

10 MR. LITTLE: So moved.

11 CHAIRWOMAN STEVENS: Second?

12 MS. COCHRAN: Second.

13 CHAIRWOMAN STEVENS: Any question on the
14 matter, any discussion, further discussion or questions
15 on this?

16 MS. COCHRAN: Madam Chairwoman, I do want
17 to point out for those who may not be familiar with the
18 transportation subsidy program within the federal
19 government. It does encourage the use of mass
20 transportation by our employees and it's something
21 that's been supported by Congress, although the amount
22 of the subsidy of course is decreasing. But I want to
23 point out also that our agency is only one of three to
24 my knowledge that we could find who also encourages the
25 use of bicycles. And we do provide, it's a small

1 subsidy, but it does provide some benefit to those of
2 our employees that will use a bicycle to come in to
3 work. And I think that that is a, that's quite an
4 achievement and something we should be proud of because
5 we do have employees that use it, so.

6 CHAIRWOMAN STEVENS: Thank you. Any other
7 questions? All in favor say aye.

8 MR. LITTLE: Aye.

9 MS. COCHRAN: Aye.

10 CHAIRWOMAN STEVENS: Any opposed? The
11 motion is adopted. That takes care of our personnel
12 policies that were up for adoption, there were five of
13 them. We've adopted the personnel appraisal system, the
14 travel policy, special pay entitlement, awards and
15 employee recognition program, and the transportation
16 subsidy. Thank you, Paxton.

17 Next up we will be going over final rules that
18 are up for adoption. The first on the list is Part 502,
19 definitions of enforcement action. Do I have a motion
20 to approve?

21 MR. LITTLE: So moved.

22 CHAIRWOMAN STEVENS: Do I have a second?

23 MS. COCHRAN: Second.

24 CHAIRWOMAN STEVENS: There is a motion on
25 the table and a second to adopt Part 502, definitions of

1 enforcement action. Is there any discussion? We can
2 have Eric give us a briefing, please.

3 MR. SHEPARD: Sure. Part 502 adds the
4 definition of enforcement action. The definition was
5 necessary to supplement the proposed amendment to Part
6 573, which are also on the agenda today. In the
7 response to comments the definition is clarified so that
8 enforcement action does not include any action taken by
9 the commission or staff, including but not limited to,
10 the issuance of a letter of concern under 573.3.

11 CHAIRWOMAN STEVENS: Thank you, Eric. So
12 the question before the commission at this time is the
13 adoption of Part 502, definitions of enforcement action,
14 and it was explained by Eric. All of those in favor of
15 adoption of the policy please say aye.

16 MR. LITTLE: Aye.

17 MS. COCHRAN: Aye.

18 CHAIRWOMAN STEVENS: Those opposed say no.
19 The motion is adopted. We will move Part 502,
20 definitions of enforcement action to the Federal
21 Register. Next item up for adoption is Part 537,
22 management contract, background investigations. Do I
23 have a motion to approve?

24 MR. LITTLE: So moved.

25 CHAIRWOMAN STEVENS: A second?

1 MS. COCHRAN: Second.

2 CHAIRWOMAN STEVENS: There's a motion on
3 the table and a second to adopt Part 537, management
4 contract, background investigations. Is there any
5 discussion?

6 MR. LITTLE: Madam Chair, I request that
7 the associate general counsel further discuss this
8 issue.

9 CHAIRWOMAN STEVENS: Eric.

10 MR. SHEPARD: Part 537 currently requires
11 certain persons and entities with management contracts
12 to undergo a background investigation. The amendment
13 expands the list of entities that may qualify for
14 reduced background investigation to include wholly-owned
15 tribal entities and national banks.

16 The commission, it also clarifies the commission
17 cannot accept bonds or letters of credit to pay for the
18 cost of background investigations under 537, and the
19 amendment removes those as acceptable methods of
20 payment. Finally, the amendment clarifies that any
21 remaining balance of a deposit as provided by a
22 management contractor will be returned to the management
23 contractor when all bills have been paid and the
24 investigation is completed or terminated.

25 CHAIRWOMAN STEVENS: Thank you, Eric. So

1 the question before the commission is the adoption of
2 Part 537, management contract, background
3 investigations. All of those in favor of the adoption
4 of the final rule, please say aye.

5 MR. LITTLE: Aye.

6 MS. COCHRAN: Aye.

7 CHAIRWOMAN STEVENS: Aye. Those opposed
8 say nay. The motion is adopted. We will move Part 537,
9 the management contract, background investigations as a
10 final rule to the Federal Register. Next up on the
11 table for adoption is Part 571, issuance of
12 investigation of completion letters. Do I have a motion
13 to approve?

14 MS. COCHRAN: Motion to approve.

15 CHAIRWOMAN STEVENS: All right. A second?

16 MR. LITTLE: Second.

17 CHAIRWOMAN STEVENS: There's a motion on
18 the table and a second to adopt Part 571, issuance of
19 investigation of completion letters. Is there any
20 discussion?

21 MR. LITTLE: Madam Chair, I would request
22 the associate general counsel explain this Part.

23 CHAIRWOMAN STEVENS: Please proceed.

24 MR. SHEPARD: This amendment adds a new
25 Part 571.4 which authorizes the issuance of an

1 investigation of a completion letter where a staff has
2 concluded the investigation of a particular matter and
3 will not recommend commencement of the proceedings.
4 However, the issuance of an investigation of a
5 completion letter does not preclude the reopening of an
6 investigation or the initiation of enforcement action by
7 the chair.

8 CHAIRWOMAN STEVENS: Thank you, Eric. The
9 question for the commission is the adoption of Part 571,
10 issuance of investigation of completion letters as a
11 final rule. All of those in favor of adoption of Part
12 571 please say aye.

13 MS. COCHRAN: Aye.

14 MR. LITTLE: Aye.

15 CHAIRWOMAN STEVENS: Aye. Those opposed
16 please say nay. The motion is adopted, we will move
17 Part 571, issuance of investigation of completion
18 letters to the Federal Register as a final rule.
19 Lastly, up on the table for adoption is Part 573,
20 enforcement actions. Do I have a motion to approve?

21 MR. LITTLE: So moved.

22 CHAIRWOMAN STEVENS: Second?

23 MS. COCHRAN: Second.

24 CHAIRWOMAN STEVENS: There's a motion on
25 the table and a second to adopt Part 573, enforcement

1 actions. Is there any discussion?

2 MR. LITTLE: Madam Chair, I would request
3 that the associate general counsel briefly explain this
4 part.

5 CHAIRWOMAN STEVENS: Please proceed.

6 MR. SHEPARD: Part 573 provides for a
7 letter of concern to be issued prior to taking an
8 enforcement action, but maintains the chair's discretion
9 as an enforcement action which is the letter of concern.
10 The amendment also clarifies what is meant by final
11 agency action for purposes of appeal. In response to
12 public comment, the commission eliminated the warning
13 letter from Part 573.

14 CHAIRWOMAN STEVENS: Thank you. The
15 question for the commission is the adoption of Part 573,
16 enforcement actions as a final rule. All of those in
17 favor of the adoption at Part 573 as final, please say
18 aye.

19 MR. LITTLE: Aye.

20 MS. COCHRAN: Aye.

21 CHAIRWOMAN STEVENS: Aye. Those opposed
22 say nay. The motion is adopted. Part 573, enforcement
23 actions, will be moved to the Federal Register as a
24 final rule. That concludes our new business and actions
25 that we are making here today.

1 Last on the agenda is public comment, which this
2 is intended for individuals to make brief statements to
3 the commissioners supported by fact or current issues
4 which are within the jurisdiction of an agency. It's
5 not intended to be an open forum for debate, however,
6 the commission may choose to address any issues or
7 comments that may be raised. We'll work off the sign-in
8 sheet if anyone has signed in to make a public comment.
9 Please keep in mind that the proceedings are being
10 transcribed and so we would need anyone to state their
11 name and the organization that they represent on the
12 record before making your statement. Do we have anyone
13 that's signed up for public comment? It looks like we
14 may have a taker. And when you're finished signing in,
15 if you could just step up to a microphone.

16 MS. SCHEFFLER: Good afternoon. I just,
17 since you usually hear all kinds of other comments, I
18 thought I would give you a positive. I'm Lenor
19 Scheffler, I'm an enrolled member of the Lower Sioux,
20 I'm a partner of Best & Flanagan here in Minneapolis.

21 We had finished two financings at the beginning
22 of the year, one in particular was done on a short
23 timeline. I just want to compliment your general
24 counsel's office. The attorneys were professional and
25 prompt, firm if they needed to be, which we respected,

1 but they just really set a very good example for the
2 commission and we appreciated the opportunity to work
3 with them and their professionalism.

4 CHAIRWOMAN STEVENS: Thank you very much.
5 We appreciate the kudos. And I do want to also
6 acknowledge our general counsel's office and our folks
7 in our management contracts, we do have some other folks
8 that work on, on those financial documents. We
9 appreciate your tribe and other tribes who give us
10 advanced notice when negotiating these financial
11 instruments. This does help our staff in terms of
12 workload because we, we were able to schedule them in
13 with our regular work, but also understand that
14 generally there's some tight timelines when negotiating
15 these instruments. So I appreciate you stepping up and
16 praising our staff. We certainly couldn't do the work
17 that we do without the good work of our staff. So thank
18 you very much.

19 Any others comments from the public? If not,
20 let's move to item No. 5, announcements and adjournment.
21 As our office of general counsel mentioned in his
22 earlier statement, we do have upcoming consultations.
23 And I'll actually ask Sarah Murray to give us those
24 dates again for the record.

25 MS. MURRAY: Thank you, Madam Chairwoman.

1 Our next consultation will occur on June 7th in Green
2 Bay, Wisconsin. The following consultation will be June
3 11th in Norman, Oklahoma; then June 27th in Chandler,
4 Arizona; July 11th in Brooks, California; and July 19th
5 in Shelton, Washington.

6 CHAIRWOMAN STEVENS: And these will be to
7 cover Part 543 and Part 547?

8 MS. MURRAY: That is correct.

9 CHAIRWOMAN STEVENS: All of this
10 information can be found on our Web site at www.nigc.gov
11 at the conversation tab. Also we have upcoming training
12 events. If you could just, Paxton, share at least June
13 and July as a reminder.

14 MR. MYERS: Thank you, Chairwoman. Again,
15 in June we are having our regional training for the
16 St. Paul, Rapid City region in Billings, Montana which
17 will be the week of June 11, 2012; in July we'll have
18 two trainings, one will be in the Phoenix region, site
19 to be determined, but it will be in New Mexico, it will
20 be the week of July 9, 2012. Also, we'll have another
21 regional training in the Tulsa region which will be held
22 in Tulsa, Oklahoma at the Cherokee Hard Rock Casino
23 Hotel the week of July 23rd, 2012.

24 CHAIRWOMAN STEVENS: Thank you again. All
25 of our training dates can be found at the NIGC Web site,

1 it's under training and technical systems, but it's also
2 under the schedule of events, two tabs. If any, any
3 tribe or operation is seeking technical assistance in
4 training there's also a request form that can be found
5 on the Web site.

6 With that, we will meet again we're hoping I
7 think in September, we have yet to determine the
8 location, and by that time we will have many other
9 issues that will be coming up for approval, more
10 personnel policies I would imagine, possibly budget
11 issues as well. So that will be posted on our Web site.
12 Any closing comments from the commission?

13 MS. COCHRAN: No, I'm good. Thank you.

14 MR. LITTLE: You know, I wanted to thank,
15 was it Lenor, for your comments because, you know, I
16 firmly believe that one of our greatest assets of this
17 commission is our staff. And, you know, we get a lot of
18 things to do and they do it very well. We have some of
19 the greatest professionals in the industry and very are
20 proud of them and it's always good to see that our
21 partners in this regulatory process, you know, recognize
22 that, so thank you for raising that. Thanks everybody
23 for coming today.

24 CHAIRWOMAN STEVENS: With that, I'll accept
25 a motion to adjourn.

1 MR. LITTLE: So moved.

2 MS. COCHRAN: Seconded.

3 CHAIRWOMAN STEVENS: All in favor say aye.

4 MS. COCHRAN: Aye.

5 MR. LITTLE: Aye.

6 CHAIRWOMAN STEVENS: We will adjourn and we
7 will see you at the next public meeting in September.

8 Thank you very much.

9 (Proceedings concluded at 4:01 p.m.)

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REPORTER'S CERTIFICATE

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3
4 STATE OF MINNESOTA)
5) ss.
6 COUNTY OF WASHINGTON)

7 I hereby certify that I reported the public meeting
8 proceedings on the 23rd day of May 2012, in Prior Lake,
9 Minnesota;

10 That the testimony was transcribed by me and is a
11 true record of the testimony of the witness;

12 That the cost of the original has been charged to
13 the party who noticed the deposition, and that all
14 parties who ordered copies have been charged at the same
15 rate for such copies;

16 That I am not a relative or employee or attorney or
17 counsel of any of the parties, or a relative or employee
18 of such attorney or counsel;

19 That I am not financially interested in the action
20 and have no contract with the parties, attorneys, or
21 persons with an interest in the action that affects or
22 has a substantial tendency to affect my impartiality;

23
24 WITNESS MY HAND AND SEAL THIS 23rd day of May 2012.
25

Kelley E. Zilles, RPR
Notary Public, Washington County, Minnesota
My commission expires 1-31-2015

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