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December 23, 2015

Stephen Crosby, Chairman
Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, MA 02110

RE: Open Meeting Law Review

Dear Chairman Crosby:

On July 7, the Massachusetts Gaming Commission (the Commission) requested that the Attorney General review certain Commission practices and offer an opinion as to whether or not they comply with the Commonwealth's Open Meeting Law, G.L. c. 30A, §§ 18-25. In particular, the Commission asked the Attorney General to examine the Commissioners' practice of gathering over lunch for informal discussions (the Commissioners Lunches), as well as the Commission's practice of holding regular staff meetings during which a quorum of the Commissioners is present (the Staff Meetings). Both practices were the subject of earlier press reports.¹

In light of the Commission's request and the substantial public interest in the questions posed, the Attorney General's Division of Open Government initiated a review aimed at providing guidance to the Commission.² While the Commission initially asked us to review the Commissioners Lunches and the Staff Meetings, our examination of the Commissioners' Outlook calendars raised questions about potential deliberation during certain other non-public meetings. We therefore reviewed these meetings as well.³ Following our review, we conclude that, during both the Commissioners Lunches and the Staff Meetings, certain non-public deliberation occurred concerning the operation and management of the Commission that should have occurred in an open meeting. These conversations did not concern the evaluation and award of gaming licenses. While it is clear that the Commissioners believed they were permitted to discuss the operation and

¹ See Chris Cassidy, *Gaming Commission racks up 100 hours in secret meetings*, THE BOSTON HERALD (July 6, 2015).

² The Division of Open Government is charged with interpretation and enforcement the Open Meeting Law. G.L. c. 30A, §§ 19(a), 25. The Division educates public officials and members of the public on the Open Meeting Law's requirements, and it also investigates alleged violations of the Open Meeting Law, bringing enforcement actions where necessary. G.L. c. 30A, §§ 19(b), 23.

³ Because it is not our practice to conduct broad reviews of generalized allegations, we did not review allegations of serial deliberation raised in various civil lawsuits focused principally on other legal issues.

management of a state agency, as well as sensitive subjects like employee morale in private, such discussions should have occurred in the open.

As a general matter, from its inception the Commission, through its Commissioners and counsel, gave careful attention to the Open Meeting Law and sought to establish systems and structures to ensure compliance. Based on our review, these efforts have resulted in broad compliance with the Open Meeting Law. However, certain aspects of the law proved particularly challenging for a start-up agency where the Commissioners themselves conduct the full-time work of the agency. Those issues with respect to Open Meeting Law compliance, in particular with respect to Commissioners Lunches and Staff Meetings, are identified in this letter.

BACKGROUND

At all times relevant to this letter, the Commission consisted of five members: Chairman Stephen Crosby; Bruce Stebbins; Enrique Zuniga; James McHugh; and Gayle Cameron.⁴ These Commissioners were all initially appointed in 2012.⁵ The Commission's goal is to create a fair, transparent, and participatory process for implementing the Expanded Gaming Act, see St. 2011, c. 294. In their role as chief executives of the Commission, the Commissioners are also responsible for overseeing the day-to-day operations of the Commission. The Executive Director reports to the Commissioners, who each have responsibility for a particular area of the Commission. For example, Commissioner Cameron oversees the Commission's Investigations and Enforcement Bureau and Commissioner Zuniga oversees financial matters.

We conducted a review consistent with our standard procedure for reviewing complaints. This procedure is less formal than litigation, with the ultimate goal of achieving compliance with the Open Meeting Law. Accordingly, documents are provided informally and a limited group of individuals is interviewed. These interviews are not conducted under oath. Here, we reviewed copies of the documents provided to *The Boston Herald* in advance of its July 6 article. We also reviewed documents and information provided to our office by the Commission in response to our own request, which we received on August 25. We spoke by telephone with Commission General Counsel Catherine Blue and with former Commission Executive Director Rick Day. In August and September we conducted individual, in-person interviews each of the five Commissioners. Finally, we reviewed additional information from Ms. Blue, sent to us by e-mail on August 31; September 16; and October 21.

We acknowledge that the Commission faces a unique set of challenges in its efforts to comply with the Open Meeting Law. Outside observers have noted in the press that the Gaming Commission's statutorily-defined structure — where the Commissioners are full-time employees who all work out of the same office — is problematic. This sentiment was echoed by each of the Commissioners during our individual interviews and by Commission staff, who stressed the difficulty of operating in such an environment. The Commissioners emphasized that they are always thinking about the Open Meeting Law during their daily interactions and try to be cautious not to violate it, but that it is challenging to avoid inadvertent violations of the law when they

⁴ For the sake of clarity, we will refer to you in the third person.

⁵ We note that Commissioner McHugh retired from the Commission effective October 30, 2015, and Judge Lloyd Macdonald was appointed to fill the resulting vacancy. Commissioner Stebbins was re-appointed to the Commission in 2015.

work in such close quarters and are charged with collaborating to run a state agency. Our review demonstrated that this difficulty was most acute during the Commission's early years before it was fully staffed. As time went on and the Commission added staff, compliance with the law appears to have substantially improved. Further, we acknowledge that, in an effort to be transparent about its work, during the past three years the Commission has held more than 170 public meetings and posted more than 110,000 pages of documentation online. Despite these steps to ensure transparency, our review demonstrated that some violations of the law nevertheless occurred. We therefore offer this letter to the Commission as guidance in its future efforts to comply with the law.

COMMISSIONERS LUNCHES

Beginning in May 2013 and continuing until the present day, the five Commissioners have held weekly private lunches in the Commission offices.⁶ The original goal of the Commissioners Lunches was to provide an opportunity for the Commissioners to get to know one another, so that trust and relationships could develop between new co-workers. Thus, the topics of lunchtime conversation primarily concerned non-work subjects – for example, family, sports, or books. However, over time, discussion of matters related to the operation of the Commission appears to have become a regular part of the lunches. The following items related to Commission business have been discussed during Commissioners Lunches:

Employee morale and work duties. During certain lunches, the Commissioners discussed staff morale in light of pending litigation and news coverage of the Commission.⁷ These discussions touched on whether changes should be made to certain employees' reporting structures and/or workload, as well as how the Commissioners should address the issue of morale agency-wide.

Reports on conferences, meetings, and events. If an individual Commissioner attended a conference, it was common practice for that Commissioner to give a report on the conference to the other Commissioners during one of the Commissioners Lunches. For example, the Commissioners recalled that Commissioner McHugh reported during a lunch on an internet gaming conference he attended, and that Chairman Crosby reported on a problem gaming conference he attended in Canada.⁸ These reports were often anecdotal in nature, with an emphasis on humorous stories; however, at least one Commissioner noted that they were all trying to educate themselves about gaming policy at the time and used these lunches as a chance to share substantive knowledge acquired at conferences and events. The Commissioners also occasionally reported to one another during these lunches on plans to make site visits or meetings with outside parties. During a Commissioners Lunch held on February 4, 2015, Chairman Crosby reported to the other Commissioners on a conversation he planned to have with the Executive Director of the Massachusetts Municipal Association about how gaming revenue would affect the amount of local

⁶ The Commissioners held two private dinners in late 2012, which were the precursors to the Commissioners Lunches. When scheduling dinners proved difficult, the Commissioners decided to meet during lunchtime. The purpose and nature of discussion during these dinners mirrored that of the lunches discussed herein.

⁷ While all Commissioners agreed that the issue of employee morale was discussed during the Commissioners Lunches, they could not recall specific dates on which this took place.

⁸ While the dates of these conversations are unclear, the majority of Commissioners agreed that these conversations took place.

aid from the state lottery. The topic of visiting Plainridge Park Casino was also discussed. While the Commissioners could not recall whether this discussion concerned an upcoming site visit or a report on a visit that had already taken place, the construction taking place at Plainridge Park Casino was discussed in some context.

The make-up of the Commission. During two Commissioners Lunches, held in August 2014 and January 2015, the Commissioners discussed issues related to Commissioner Stebbins' reappointment. This discussion included Commissioner Stebbins' strengths, introducing him to the newly-elected officials responsible for his reappointment, and a contingency plan in the event he was not reappointed. Similarly, Commissioner McHugh announced at another lunch that he would be resigning from the Commission.

Appointments to the Gaming Policy Advisory Committee. During a Commissioners Lunch held on January 7, 2015, Chairman Crosby reported on his decision to add members to the Gaming Policy Advisory Committee ("GPAC"). GPAC is a body that advises the Commission on its work and provides policy feedback. The Chairman indicated during the lunch that this decision reflected his desire to have some GPAC members who represented the anti-casino gaming interests.

Hiring consultants. In 2012, the Commissioners hired an outside consultant named Jack Derby. During an overnight "retreat," also in 2012, Mr. Derby advised the Commissioners on management techniques, as well as strategies for dealing with varying temperaments in the workplace. During a Commissioners Lunch held on August 20, 2014, Chairman Crosby stated that he wanted to retain Mr. Derby's services again in order to clarify responsibilities and lines of communication for the now-expanded Commission. During this same meeting, he stated that the Executive Director would benefit from attending the training with Mr. Derby.

After-action report. During the August 20, 2014 lunch, the Commissioners discussed the need to conduct an after-action report on the Region A gaming license. The discussion primarily concerned the need to conduct the report, rather than the content of that review. However, during this conversation Commissioner Zuniga expressed a concern that the Commission promulgated too many regulations during the Region A process.

The 2014 referendum. During a Commissioners Lunch held on August 20, 2014, Chairman Crosby raised the topic of the upcoming November 2014 referendum vote on the Expanded Gaming Act. Chairman Crosby stated that the Commissioners needed to be thinking about what would happen if the referendum passed, and particularly how they would wind down the Commission. During this same lunch, Chairman Crosby reported on discussions with the Executive Director about postponing employee performance reviews until after the November 2014 referendum on the Expanded Gaming Act.

Representation by the Attorney General's Office. In late April or early May of 2015, Commissioners Crosby and McHugh reported to the other Commissioners on discussions that had taken place with the Attorney General's Office about litigation against the Commission.⁹

⁹ G.L. c. 30A, § 21(a)(3) allows a public body to discuss strategy with respect to litigation in executive session, if the public body declares that an open meeting may have a detrimental effect on its litigating position. The discussion that

Analysis of the Commissioners Lunches

The Open Meeting Law was enacted “to eliminate much of the secrecy surrounding deliberations and decisions on which public policy is based.” Ghiglione v. School Committee of Southbridge, 376 Mass. 70, 72 (1978). The law requires that meetings of a public body be properly noticed and open to members of the public, unless an executive session is convened. See G.L. c. 30A, §§ 20(a)-(b), 21. The Open Meeting Law defines a “meeting” as “a deliberation by a public body with respect to any matter within the body’s jurisdiction.” G.L. c. 30A, § 18. A “deliberation” is defined as “an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction; provided, however, that ‘deliberation’ shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed.” Id. Generally, for the purposes of the Open Meeting Law, a “quorum” is a simple majority of the members of the public body. Id. Here, three members of the five-member Commission constitute a quorum.

A quorum of the Commission—and, indeed, the entire Commission—may meet socially for lunch or other occasions without violating the Open Meeting Law, provided that their conversation does not concern topics within the jurisdiction of the Commission. See G.L. c. 30A, § 18; OML 2012-21.¹⁰ Here, the Commissioners’ statutory jurisdiction encompasses not only the process of awarding casino licenses, but also the day-to-day management of a state agency in their role as the Commission’s chief executives. Based on our discussions with them, it is evident that the Commissioners believed that staff morale and organizational matters were not public business, and therefore discussions about these matters did not constitute deliberation. For the reasons stated below, we disagree.

Discussions regarding procedural or administrative matters may relate to public business within a body’s jurisdiction, such as when the body discusses its own organization and leadership, assignments, rules or bylaws for the body, and whether the body should consider or take action on specific topics at a future meeting. See OML 2013-27; OML 2011-38. To put it more plainly, discussion of a public body’s operation *is* public business within the body’s jurisdiction. For example, the Commissioners’ discussions of staff morale included debate over whether the burden on certain employees could be relieved by reassigning tasks or changing reporting structure. Because this discussion related to the daily operation of the Commission, it was business within the Commission’s jurisdiction and should have been discussed by a quorum of the Commission only at a properly noticed meeting. The same holds true for the other Commissioners Lunch topics listed above—whether to hire a consultant; whether to conduct an after-action report; how to prepare for potential consequences of the referendum, etc. Because these topics relate to the operation of the Commission, they constitute matters within the jurisdiction of the Commission and should have been discussed during a meeting. By discussing them during a private lunch, the Commissioners violated the Open Meeting Law.

occurred during this lunch likely would have been appropriate for executive session under this purpose, had it been held during a posted meeting.

¹⁰ Open Meeting Law determinations may be found at the Attorney General’s website, www.mass.gov/ago/openmeeting.

We note that, in many instances, the “discussion” at issue consisted of a single Commissioner making a report. Even so, communication on any matter within the public body’s jurisdiction, when it reaches a quorum of the body, is deliberation that needs to occur at a properly noticed meeting. See G.L. c. 30A, § 18; OML 2014-148 (communication by one public body member to a quorum of the body on matters within its jurisdiction is deliberation, even if no other member responds). Accordingly, it violated the Open Meeting Law when a single Commissioner made statements on matters within the Commission’s jurisdiction to a quorum of the body.

STAFF MEETINGS

When the Commission was first formed, it had two employees in addition to the five Commissioners. Each Commissioner had an assigned area of responsibility, and the five Commissioners held regular, short meetings to keep one another informed about their activities. During these brief “stand-up” meetings, so called because everyone stood for the approximately fifteen-minute discussion, it was common for the Commissioners to discuss projects each individual Commissioner was working on and with whom they were meeting.

It is evident from our review that the Commissioners felt a need to speak to each other in order to handle the minutiae of getting a fledgling state agency up and running. However, this motivation does not excuse violations of the Open Meeting Law. As discussed above, the agency’s operation is a matter within the Commission’s jurisdiction, and should therefore have been discussed only during a posted open meeting. Here, the initial iteration of the staff meetings consisted of a quorum of the Commissioners discussing the assignment and progress of projects among themselves and their small staff. This certainly constituted business within the Commission’s jurisdiction and it was therefore not appropriate for the Commissioners to discuss these matters outside of a meeting. See OML 2013-186.

In 2013, the Commission hired an Executive Director, Mr. Day. The Executive Director’s role included tracking staff assignments in order to ensure that issues were ready for review during a properly noticed Commission meeting. To this end, in 2014 the Commission transitioned to a two-part meeting structure consisting of an agenda-planning discussion, during which the Commissioners would be present, and an operational meeting, during which the Commissioners would typically not be present.¹¹ These meetings were led by the Executive Director. During the agenda-planning portion, directors would update the Commissioners on their activities and the agenda for the upcoming meeting would be set. The Commissioners were primarily listeners during these updates, although they sometimes made comments. These comments ranged from stating that a certain topic should be on an agenda, to asking why a particular project was delayed. Commission Counsel regularly attended these meetings and played an active role in ensuring that substantive discussion of topics did not take place. In early 2015, the Commission transitioned to just one weekly meeting, combining the two previously separated discussions.

Currently, the Commissioners attend the agenda-setting portion of the Commission’s staff meetings as passive observers. The presence of a quorum of the Commissioners during this

¹¹ While Staff Meetings were automatically listed on all Commissioners’ Outlook calendars, all Commissioners did not necessarily attend all meetings. However, it was generally the practice of all Commissioners to attend whenever possible.

portion of the meeting does not violate the Open Meeting Law. See G.L. c. 30A, § 18 (defining “deliberation” as communication between or among a quorum of the public body). It is permissible for them to attend and receive progress reports from staff, and they may even ask questions about whether an item is ready for inclusion on the agenda, since such questions arguably concern “scheduling information” that is exempt from the definition of “deliberation.” Id. When a quorum of the Commissioners is present, however, Commission members must be cautious to avoid asking questions that communicate their opinion on any matter within the jurisdiction of the Commission. Thus, for example, while it is permissible for a Commissioner to inquire whether an item is ready for inclusion on the agenda, it is not permissible for the Commissioner to follow up that question with a statement about why it is important that the item be addressed by a certain date, or to comment on whether or not staff action to prepare the topic for public discussion has been adequate.¹²

We did not interview everyone who presently attends the Commission’s regular agenda setting meetings, and no written, audio, or video record of them exists. Therefore, we cannot say with certainty that no improper deliberation took place during any of these more recent agenda setting meetings. Based on the statements of those we did interview, however, it appears that the Staff Meetings, in their current form, comply with the Open Meeting Law. We caution the Commissioners to be diligent in ensuring that no discussion of matters within the Commission’s jurisdiction takes place between or among a quorum of the Commissioners during any agenda-setting meeting.

OTHER MEETINGS

Personal gatherings. The Commissioners participated in several other types of non-public meetings beyond the Commissioners Lunches and Staff Meetings. For instance, the Commissioners held several meetings for strictly personal purposes. On November 3, 2014, all Commissioners attended a meeting at Chairman Crosby’s home in order to discuss interpersonal dynamics between the Commissioners. All Commissioners stated that the discussions during this meeting concerned strictly personal matters and that no Commission business was discussed. The Commissioners also indicated that no Commission business was discussed during a December 10, 2014 meeting between the Commissioners and the Executive Director.¹³ Because a quorum of the Commission may discuss matters outside of a meeting that do not concern public business within their jurisdiction, these meetings did not violate the Open Meeting Law. See G.L. c. 30A, § 18; OML 2012-21.

Training sessions. Further, the Commissioners attended numerous meetings that they describe as trainings exempt from the Open Meeting Law. Between September and December 2012, the Commissioners attended several meetings with consultants about a “Strategic Plan” for

¹² Following each meeting, the Executive Director would circulate a “follow-up sheet” containing a list of outstanding assignments, who was responsible for completing each task, and a target date of completion. These documents then became the agenda for the next staff meeting and, ultimately, for the Commission’s public meetings. We did not find any evidence that the Commissioners used the follow-up sheets as a means of serially deliberating outside of an open meeting.

¹³ The Commissioners and staff all recalled this meeting as concerning preparations for an agency holiday party, and, in particular, the preferred rules for a Yankee swap. We acknowledge that this is a subject of much disagreement throughout the Commonwealth.

the Commission. All five Commissioners stated to us that these meetings were strictly informational presentations. On January 4, 2013, a quorum of the Commissioners attended a “legislative review training session” conducted by the Commission’s Director of Racing concerning model rules for racing. Again, the Commissioners stated that this was an informational presentation. On July 22, 2013, a quorum of the Commissioners attended a meeting with Attorney Blue where she explained to the Commissioners how the adjudicatory hearing process would work. On September 11, 2013, all Commissioners attended a meeting with an outside consultant to learn how the Commissioners should conduct the “RFA 2” application process. On April 8, 2014, all Commissioners attended an “advisory group brainstorming” event during which the Commissioners were trained on how they could make the best use of the Gaming Policy Advisory Committee. On October 22, 2014, a quorum of the Commissioners attended a lunchtime presentation, which was open to all Commission employees, by a former American Gaming Association leader concerning his opinions on gaming in the United States and his career in politics. On April 21, 2015, all Commissioners attended a presentation called “What to Watch Out for at Launch.” This presentation covered procedural steps the Commissioners should expect leading up to the opening of gaming establishments.

The Open Meeting Law’s definition of a “meeting” excludes “attendance by a quorum of a public body at a... conference or training program... *so long as the members do not deliberate.*” G.L. c. 30A, § 18 (emphasis added). We have not been presented with any facts demonstrating that the meetings listed above were more than informational presentations. All of these were described as educational presentations during which the Commissioners present did not deliberate. While we have no evidence to contradict this assertion, we take this opportunity to remind the Commission that deliberation under the Open Meeting Law is not limited to discussions resulting in some sort of decision or action, and caution that communications between or among a quorum during a training session (including through questions to the presenter) can constitute deliberation if they concern matters within the body’s jurisdiction. See OML 2015-20; OML 2011-38.

Individual or small group meetings. The Commissioners also indicated to us that, on other occasions, while their Outlook calendars suggested they were all present for a certain event, the Commissioners actually attended individually or in pairs.¹⁴ For example, on March 4, 2013, the Commissioners were invited to meet with the FBI to familiarize the Commissioners with FBI personnel and to discuss cooperation between the Commission and law enforcement. The Commissioners stated to us that they met with the FBI personnel in pairs or individually and did not discuss their conversations with each other. On September 19, 2014, after the Region A gaming license had been awarded to Wynn MA, LLC, Mr. Wynn came to the Commission offices to thank the Commission members. He brought samples of bed linens to show the Commissioners their high quality. Again, the Commissioners stated to us that they met with Mr. Wynn individually and did not discuss those conversations with each other. Finally, on September 17, 2014, the Executive Director scheduled a conference call that appeared on the Commissioners’ Outlook calendars as, “Racing Information Sharing & Coordination.” All Commissioners were invited to this conference call, along with the Executive Director; the Chief Financial Officer; the Director of Racing; and the Commission’s General Counsel. The discussion concerned the recent

¹⁴ Additionally, we note that one meeting that initially appeared to be problematic did not, in fact, occur. On June 6, 2013, all Commissioners had listed a “Wynn Appeal Discussion” on their calendars. Commission Counsel informed our office that this meeting was intended to be public, however it was ultimately cancelled and did not take place.

decision that Suffolk Downs would not receive a gaming license, and the subsequent need to create a “closing plan” for the racetrack. It is not clear how many Commissioners, if any, participated in this conference call.¹⁵ Commissioner attendance on the call was not mandatory, and it was principally a discussion among staff.

Generally, a discussion between less than a quorum of the Commissioners (i.e. two members of the five member public body) will not constitute deliberation under the Open Meeting Law. See G.L. c. 30A, § 18. A public body may not engage in a serial deliberation, however, whereby a quorum communicates in a non-contemporaneous manner outside of a meeting on a matter within the public body’s jurisdiction. See McCrea v. Flaherty, 71 Mass. App. Ct. 637, 648-49 (2008). Further, a public body may not use a non-member, such as a staff member, to facilitate communication on matters that the Board would otherwise save for discussion at an open meeting. See District Attorney for the Northern District v. School Committee of Wayland, 451 Mass. 561, 570-571 (2009) (“Governmental bodies may not circumvent the requirements of the open meeting law by conducting deliberations via private messages, whether electronically, in person, over the telephone, or in any other form.”). There is no evidence that either practice occurred during the meetings listed above, however. While structuring briefings so as not to trigger the requirements of the Law is not in itself a violation of the Law, we remind the Commission that public bodies must not employ such efforts to circumvent the Law’s intent. See McRea, 71 Mass. App. Ct. at 648-49; OML 2014-103; OML 2014-63.

Quasi-judicial meetings. The Commissioners also held several “quasi-judicial” meetings. On August 20, 2013 and October 15, 2014, the Commissioners met for “Racing Appeals Deliberations.” During these meetings, a quorum of the Commissioners met in their quasi-judicial capacity to decide whether to uphold a hearing officer’s decision concerning discipline at race tracks. Commissioner Cameron, who served as the hearing officer in the underlying matters, was not present during these meetings. The Open Meeting Law exempts from the definition of “meeting” any “meeting of a quasi-judicial board or commission held for the sole purpose of making a decision required in an adjudicatory proceeding brought before it[.]” G.L. c. 30A, § 18. Accordingly, because the August 20, 2013 and October 15, 2014 discussions were held to make a decision in an adjudicatory proceeding, they fell within the exception to the definition of meeting and the Commission was not required to post or hold open meetings in these instances. See id.

Improper deliberation. Finally, on one occasion, it is clear that a quorum of the Commissioners held a contemporaneous, private discussion on a work-related issue. On May 20, 2014, shortly after Chairman Crosby recused himself from the Region A licensing process, the other four Commissioners met briefly to discuss the need to research strategies for avoiding deadlock in awarding the license. Those strategies, once researched, were discussed during open meetings held on May 15 and May 29, 2014. Because the May 20, 2014 conversation concerned Commission business—namely, how decisions would be made—it should have taken place during a meeting. This private discussion therefore violated the Open Meeting Law.

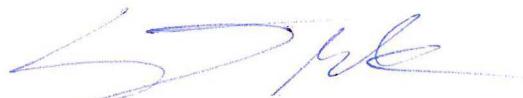
¹⁵ None of the Commissioners recalled being part of this discussion.

CONCLUSION

For the reasons stated above, the Commission violated the Open Meeting Law by deliberating outside of an open meeting during some of the Commissioners Lunches, during early Staff Meetings, and when a quorum of the Commissioners discussed the need to research strategies for avoiding deadlock in issuing the Region A gaming license. With regard to more recent Staff Meetings and certain other meetings involving a quorum of the Commission, we have insufficient evidence to conclude that any violations occurred, but remind the Commission of the need to avoid deliberation during trainings and scheduling discussions. While a quorum of the Commission may meet socially without violating the Open Meeting Law, we advise caution with regard to any future Commissioners Lunches and remind the Commissioners that issues such as those outlined in this letter may only be discussed during a properly noticed meeting.

In addition to the guidance provided in this letter, we believe it would be constructive for the Commissioners and their staff to receive training by our office on the Open Meeting Law. Please contact me at (617) 963 – 2451 to arrange such a training, or if you have any questions regarding this letter.

Sincerely,



Amy L. Nable
Assistant Attorney General
Director, Division of Open Government