



The Commonwealth of Massachusetts

Massachusetts Gaming Commission

NOTICE OF MEETING and AGENDA

February 14, 2013 Meeting

Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25, notice is hereby given of a meeting of the Massachusetts Gaming Commission. The meeting will take place:

Thursday, February 14, 2013

1:00 p.m.

Division of Insurance

1000 Washington Street

1st Floor, Meeting Room 1-E

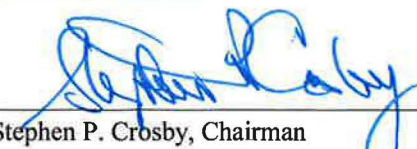
Boston, Massachusetts

PUBLIC MEETING - #52

1. Call to order
2. Approval of Minutes
 - a. February 7, 2013 Meeting
3. Administration
 - a. Master schedule
 - b. Personnel update
 - c. License fee discussion
4. Public Education and Information
 - a. Report from Ombudsman
 - b. Discussion of preliminary evaluation criteria matrix
5. Regulation Update
 - a. Key policy questions; posting
 - b. Other
6. IEB Report
 - a. Scope of licensing
 - b. Investigations status report
 - c. Discussion of processing public records requests for applications
7. Racing
 - a. Administrative Update
 - b. Legislative review update and discussion
8. Other business – reserved for matters the Chair did not reasonably anticipate at the time of posting

I certify that on this date, this Notice was posted as "Gaming Commission Meeting" at www.mass.gov/gaming/meetings, and emailed to: regs@sec.state.ma.us, melissa.andrade@state.ma.us, brian.gosselin@state.ma.us.

2/11/13
(date)


Stephen P. Crosby, Chairman

Date Posted to Website: February 12, 2013 at 1:00 p.m.

The Commonwealth of Massachusetts
Massachusetts Gaming Commission

Meeting Minutes

Date: February 7, 2013

Time: 1:00 p.m.

Place: Division of Insurance
1000 Washington Street
1st Floor, Meeting Room 1-E
Boston, Massachusetts

Present: Commissioner Stephen P. Crosby, Chairman
Commissioner Gayle Cameron
Commissioner James F. McHugh
Commissioner Bruce Stebbins
Commissioner Enrique Zuniga

Absent: None

Call to Order:

Chairman Crosby opened the 51st public meeting.

Approval of Minutes:

See transcript pages 2-5.

Commissioner McHugh stated that he has provided the Commissioners with the January 17, 24, and 31, 2013 minutes for approval. Commissioner Stebbins noted two typographical errors in the January 17 minutes.

Motion made by Commissioner McHugh that the minutes of January 17, 2013 be approved as written, with corrections of two typographical errors. Motion seconded by Commissioner Zuniga. The motion passed unanimously by a 5-0-0 vote.

Motion made by Commissioner McHugh that the minutes of January 24, 2013 be approved as written. Motion seconded by Commissioner Cameron. The motion passed unanimously by a 5-0-0 vote.

Motion made by Commissioner McHugh that the minutes of January 31, 2013 be approved as written. Motion seconded by Commissioner Zuniga. The motion passed unanimously by a 5-0-0 vote.

Administration:

See transcript pages 5-84.

Master Schedule – Chairman Crosby reviewed the Commission’s Master Schedule. He stated that the Commission can move date for the award of the Category 2 slots license from December 2, 2013 to September 1, 2013. He stated that after the IEB completes Phase 1 background checks, the Commission will be receiving the Phase 2 applications and determining to whom to grant a license. He stated that the Commission will engage in a multistep process of accumulating criteria and weighing those criteria. Commissioner Zuniga asked the Commission to consider how much of the evaluation criteria the Commission will include in the draft regulations completed by March 14, 2013. Chairman Crosby asked if the Commission could include a portion of the criteria in the regulations and later lay out the specifics of the evaluation process in order to have more time to work on the process.

Commissioner McHugh stated that he is working under the assumption that all the criteria will be included in the regulations. He stated that he and Commissioner Zuniga are working on a matrix of principles that can be ready for discussion at the Commission’s next meeting. He proposed including the criteria in the regulations, with the evaluation of the criteria to follow. Commissioner McHugh stated that he has been working with Attorney Grossman on how to handle the issue of involuntary surrounding communities and anticipates having a proposed plan ready for discussion in two weeks.

Chairman Crosby reviewed the progress made on Commission hires. Commissioner Stebbins stated that the Workforce Development and Diversity position hiring process is ongoing. He stated that the Commission is in the first round of interviews with 16 to 17 candidates. Chairman Crosby stated that candidates are submitting resumes for the Director of Research and Problem Gambling position. He stated that the Director of Licensing position is slated to be filled by June 3, 2013. However, the Commission needs to fill this position earlier. Commissioner Cameron stated that she has distributed a draft job description for the Director of Research and Problem Gambling position and would welcome comments.

Commissioner McHugh asked where the Commission should draw the line of responsibility between the IEB and the Director of Licensing as far as casinos are concerned. Then followed a discussion focusing on the need for the Director of Licensing to begin work on creating the licensing infrastructure that will be necessary for processing license applications for a wide range of positions in the slots parlor and casinos. If there is need to issue a casino license after the first round of licenses, the Director of Licensing will play a role but for the first round the IEB and the Commission will play the major roles. Commissioner Cameron stated that she prefers a checks and balances system to ensure that everything is in order. She stated that she has had discussions with other jurisdictions where the licensing department works hand in hand with the investigations department. Commissioner Cameron stated that she would modify the draft job description to incorporate the concerns expressed and Chairman Crosby stated that he would assist her with this modification. Chairman Crosby expressed concern with the requirement in the draft job description requiring that the candidate have a bachelor’s degree, as this

requirement may preclude a good candidate without a college degree from applying. Commissioner Zuniga recommended using language that would require a bachelor's degree or equivalent professional experience. The Commission agreed to appoint Commissioner Cameron as hiring manager for this position.

A brief recess was taken.

Chairman Crosby reconvened the 51st meeting.

Interview with Executive Director Candidate – Chairman Crosby reviewed the hiring process that led the Commission to this point in the interview process. He read from the minutes of the Commission's August 7, 2012 meeting, during which this process was adopted. He stated that the Commission defined a finalist in the formal hiring process as a candidate who has gone through the vetting process by the hiring manager, passed all the background check criteria, and informed the Commission that he or she would accept a position if offered.

Commissioner Stebbins outlined the search conducted during the past six months in conjunction with the recruiting firm JuriStaff. He stated that JuriStaff contacted over 100 individuals about this position and he personally reviewed 21 candidates. He stated that one of the obstacles he encountered in this process was finding a candidate willing to relocate to Massachusetts. Also, some of the candidates were not comfortable with being interviewed publicly. He stated that he narrowed the pool of applicants down to two potential finalists, one of whom declined the Commission's invitation to be a finalist for family reasons.

Commissioner Stebbins introduced the finalist candidate, Mr. Rick Day, Director of the Washington State Gambling Commission. He stated that Mr. Day has run an agency similar in size with respect to the number of employees Massachusetts expects to employ and has a background in law enforcement. Mr. Day addressed the Commission and answered questions relative to his background and the Executive Director position. The Commission was in enthusiastic agreement that Mr. Day was well qualified to assume the position of Executive Director.

Motion made by Commissioner Stebbins that the Commission approve the hiring of Mr. Rick Day to be the first Executive Director and charge Commissioner Stebbins with completing any of the financial terms and arrangements needed to be concluded prior to his starting officially. Motion seconded by Commissioner McHugh. The motion passed unanimously by a 5-0-0 vote.

Public Education and Information:

See transcript pages 84-101.

Report from the Ombudsman – Ombudsman Ziembra stated that he has had numerous conversations with communities over the last several weeks, focusing on establishing procedures with host and surrounding communities so that everyone understands the Commission's process. He stated that his discussions have focused on how the regional planning agencies can help

facilitate the process. He stated that he has received many questions relative to timeline, and communities are working very hard to determine when they need to get involved. He stated that over the next couple of weeks he will be refining the Commission's approach to distributing information to all interested parties.

Mr. Ziembra stated that the Commission has posted the community disbursement form on its website and he anticipates several communities will be utilizing this form very soon. He encouraged anyone who has comments for the Commission to send them in at any time, and the Commission will review all comments during the regulation review period. He announced that Springfield may make its decisions on February 11, 2013, and the Board of Selectmen in the town of Danvers will discuss the issue of a potential facility on March 5, 2013.

Mr. Ziembra stated that a number of applicants have asked about how the Commission is going to treat public records requests and confidential information submitted as part of the application. The commission will address this question later in today's meeting.

Regulation Update:

See transcript pages 101-106.

Attorney Grossman stated that the process of drafting regulations is ongoing. He stated that the Commissioners have discussed a number of topics today that are in areas where the Commission is actively writing regulations that should be ready within the next several weeks. He stated that as this process moves forward, the Commission should decide whether it needs a full day in early March to review the regulations. Chairman Crosby asked if March 14, 2013 was still a plausible deadline. Attorney Grossman stated that they are working on the most difficult areas of the regulations and have made good progress. Meeting this deadline is realistic goal.

IEB Report:

See transcript pages 106-134.

Scope of Licensing – Director Wells stated that the IEB has made determinations about qualifiers and the applicants have provided the IEB with most of the required information. She stated that she expects that the applicants will submit the remaining information this week. The IEB will require that any applicant with outstanding information after this week provide an explanation to the IEB. After receiving the information, the IEB, bearing in mind that the Commission is on a very tight time schedule, will determine whether to grant additional time.

Investigation Status Report – Director Wells stated that the Commission has begun background investigations for 10 of the 11 applicants. The Commission will start investigations on the final applicant upon receipt of supplemental information that is expected shortly.

Processing of Public Record Requests for Applications and Review of Requests for Confidentiality – Director Wells stated that the Commission has received public records requests for applications and more may be forthcoming. She stated that the regulations require applicants

to submit a second redacted version of the application according to a specimen form posted on the Commission's website. The IEB has received the majority of the redacted versions and allowed additional time to several applicants, with all redactions expected to be in by the end of next week. The IEB is reviewing redacted versions to ensure that they are in compliance with the specimen requirements before any public disclosure. Any applicant who has an additional request for confidentiality may submit a petition in writing and the legal department will review the petition. Any applicant who is not satisfied with the decision of the legal department has the right to appeal that decision to the full Commission. She stated that the Commission will need to decide whether it will respond to individual public record requests one by one or disseminate the redacted applications all at once.

Commissioner McHugh stated that the original idea was to post the redacted version of the application on the web for public review and he recommended that the Commission take the initiative and move forward with posting this information. Commissioner Cameron stated that she would be in favor of having a week for public comment on the redaction and public dissemination process.

License Category Declaration Requirement – Director Wells stated that two applicants have yet to declare whether they are seeking a Category 1 or Category 2 license. Given that the Commission has decided to prioritize the Category 2 license the IEB will need to know which applicants to prioritize in investigations. She stated that she will be sending letters to the two applicants indicating that they must declare by February 15, 2013 which category of license they are seeking..

Commissioner McHugh recommended that the Commission require any applicant that chooses to pursue a slots license to commit to accepting that license if awarded. Commissioner Cameron stated that she was concerned that, if the Commission awarded a license and an applicant were to refuse because it was keeping another option open, prioritizing that applicant's investigations would have been disadvantageous, and therefore she agrees with Commissioner McHugh's recommendation. Commissioner Zuniga questioned whether the Commission needs to force the applicant to decide or whether the application process already creates enough incentive because an applicant that has not developed a viable option for Category 2 runs the risk of not being able to respond on its own to the RFA-2. Commissioner Cameron stated that in her experience, unless the Commission sets a deadline, the applicants will want more time and take more time, and the delays will impact communities that are trying to make decisions. Chairman Crosby expressed concern that requiring the applicant to commit to taking a license may not be enforceable and Commissioner McHugh was in agreement. The commission determined that Director Wells would send out a letter with a one week deadline for choosing whether to pursue a Category I or a Category II gaming license.

Chairman Crosby raised question relative to conditional licenses and when the Commission would collect the license fees. Commissioner Cameron stated that she is aware of other jurisdictions that collect the license fee upfront. Commissioner McHugh recommended that the Commission conduct further research on this question and hold a discussion at a future meeting. Commissioner Zuniga stated that one of the fundamental conditions of receiving a license is paying the fee to the Commission, and he sees it as an upfront requirement.

Racing Division:

See transcript pages 134-143.

Administrative Update – Director Durenberger stated that the Racing Division still has several ongoing issues with the financial recording system software program. IT staff has been working on the problem and has assured her that the data needed to proceed exists but cannot be accessed at the moment. She stated that not being able to retrieve this data impacts the local aid payment process and payments to greyhound licensees. She stated that the software in question is a proprietary system that is serviced by its creator, and the IT staff that is helping the Commission is also committed to other agencies. Commissioner McHugh expressed concern that town meetings are coming up and communities will need this information. He stated that he would like to invest more resources to expedite a solution to this problem. Commissioner Zuniga recommended making provisional payments based on a percentage of prior payments. Chairman Crosby agreed that if this technological delay is impacting the lives of people, the Commission should pursue these two options.

Director Durenberger stated that the Racing Division is inventorying the old files dating back to 1935. She stated that the Racing Division will hire a library science intern in the fall to help archive the minutes from the old meetings, as there is tremendous racing history in Massachusetts. She stated that they are in the process of seasonal staff recruitment as racing will be starting in April. She stated that David Murray will be attending the next Commission meeting to provide an update on the legislative review. She reminded everyone that the proposed changes to 205 CMR 3.00 and 4.00 are on the website and public comment is welcome. She stated that the Commission has scheduled a public hearing for Monday, February 25, 2013 at 1:00 p.m.

Motion made to adjourn, motion seconded and carried unanimously.

List of Documents and Other Items Used at the Meeting

1. Massachusetts Gaming Commission February 7, 2013 Notice of Meeting and Agenda
2. January 17, 2013 Massachusetts Gaming Commission Meeting Minutes
3. January 24, 2013 Massachusetts Gaming Commission Meeting Minutes
4. January 31, 2013 Massachusetts Gaming Commission Meeting Minutes
5. Resume of Rick Day

/s/ James F. McHugh
James F. McHugh
Secretary

Massachusetts Gaming Commission				
Draft Evaluation Criteria				
Update Date: February 12, 2013				
		Minimum requirements under G.L. c. 23K, § 15		
		Considerations required by G.L. c. 23K, § 18		
		Commission factors		
Criteria Grouped by Topic	Sub-topic	Second sub-topic	Required Evidence	Evaluation
I	REVENUE GENERATION			
	PREREQUISITES			
	(4) (11) Pay license deposit			
	(5) Demonstrate ability to pay license fee			
	(2) Invest not less than required capital into the gaming establishment			
	(3) Own land within 60 days of license issuance			
	EVALUATION CRITERIA			
	(3) Realize maximum capital investment exclusive of land and infrastructure			
		Financing structure and plan		
		Financial strength (equity participation & other factors)		
	(7) Market analysis showing benefits of the site location and the estimated recapture rate of gaming-related spending by residents travelling to out-of-state gaming establishments			
	(11) Maximize revenues to the Commonwealth			
		Construction costs		
			Labor	
			Suppliers	
		Gaming revenue (Casino)		
			MA	
			Tourist	
		Non-gaming operating revenue (Casino facilities)		
			MA	
			Tourist	
		Tax revenue (Casino & casino facilities)		
			Gaming	
			Non-gaming	

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		Commission factors		
	Criteria Grouped by Topic	Sub-topic	Second sub-topic	Required Evidence
		Revenue generated outside casino complex		
			Build on regional culture and existing tourist attractions to increase overall revenues	
			Local agreements designed to expand casino draw	
	(13) Offer highest and best value to create secure and robust gaming market			
	Business Plan			
		Describe how applicant will meet revenue generation plans in the near term and over time		
	History of meeting economic projections in other jurisdictions where operating			

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Criteria Grouped by Topic	Sub-topic	Second sub-topic	Required Evidence	Evaluation
II	CREATION & MAINTAINANCE OF EMPLOMENT OPPORTUNITY			
	PREREQUISITES			
	(16) formulate affirmative action plan			
	(6) demonstrate plan for workforce development as set forth in memoranda of understanding			
	EVALUATION CRITERIA			
	(2) Promote local businesses in host and surrounding communities			
	(4) Implement workforce development plan that utilizes and enhances existing labor force and			
		(12) provides high number of quality jobs inside casino		
		17(i) incorporates an affirmative action program that includes people with disabilities		
		17 (ii) utilizes the existing labor force in the commonwealth;		
		17(iv) identifies the establishment's workforce training programs		
		17(v) identifies the methods for accessing employment		
			Focus on areas and demographics of high unemployment	
	(9) Establish, fund and maintain HR practices that promote development of skilled and diverse workforce			
		(i) Establish transparent career paths		
		(ii) Provide means for employee training and education necessary for advancement		

Massachusetts Gaming Commission				
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		Commission factors		
Criteria Grouped by Topic	Sub-topic	Second sub-topic	Required Evidence	Evaluation
(18) Have contracts with and support from organized labor and	(iii) Provide on-site day care			
	(i) show in application the number of jobs and the rate of pay for them			
	(ii) show the total investment in the facility and infrastructure			
	(iii) completed economic studies as required by the Commission including economic benefits to the Commonwealth and the region			
	(iv) show plans for labor harmony			
	17(iii) estimate the number of construction jobs and provide equal employment opportunities for them			
	History of labor relations over last 10 years			

Massachusetts Gaming Commission				
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		Commission factors		
Criteria Grouped by Topic	Sub-topic	Second sub-topic	Required Evidence	Evaluation
III PURCHASES OF GOODS AND SERVICES				
PREREQUISITES				
(15) Formulate marketing program with percentage of total dollar amount of overall contracts for utilization of:				
	(i) mbe, wbe, vbe as contractors in the design of the gaming establishment			
	(ii) mbe, wbe, vbe as contractors in the construction of the gaming establishment;			
	(iii) mbe, wbe, vbe as vendors for goods and services to gaming establishments and any businesses operated as part of the gaming establishments;			
EVALUATION CRITERIA				
(16) Implement marketing program that IDs specific goals for utilization of				
	(i) minority, women and veteran businesses as design contractors			
	(ii) minority, women and veteran businesses as building contractors			
	(iii) minority, women and veteran businesses enterprises to participate as vendors for goods and services			
(10) Contract with local business owners for provision of goods and services				
	Develop plans to assist businesses owners ID needed goods and services			

Massachusetts Gaming Commission				
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		Commission factors		
	Criteria Grouped by Topic	Sub-topic	Second sub-topic	Required Evidence
	(15) Purchase domestic slot machines			

Massachusetts Gaming Commission				
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Criteria Grouped by Topic	Sub-topic	Second sub-topic	Required Evidence	Evaluation
IV BUILDING & SITE DESIGN				
PREREQUISITES				
(12) comply with state & local building codes & local ordinances & bylaws				
EVALUATION CRITERIA				
(5) Build a gaming establishment of high caliber with quality amenities in partnership with local facilities				
(8) Utilize sustainable development principles	(i) LEED Gold or Higher			
		Show how building and site comply with LEED-ND, LEED Existing Building; LEED EBOM Water; ISI; & IGCC Standards		
		Describe plan for commissioning audit and periodic audits thereafter		
	(ii) Meet or exceed stretch energy code requirements			
		Exceed code		
	(iii) Mitigate vehicle trips			
	(iv) Conserve water and manage storm water			
		Target use of 40% less water than standard buildings of same size and design promotes reuse and recharge		
		Use ISI techniques to minimize impact of storm water and maximize its reuse		

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Criteria Grouped by Topic	Sub-topic	Second sub-topic	Required Evidence	Evaluation
	(v) EnergyStar electrical and HVAC			
		All gaming equipment conforms to best practices for energy use		
	(vi) 10% of power generated on site from renewables			
		25% generated on site from renewables		
		Obtain off site power from renewables or with renewable energy credits		
	(vii) Submeter and monitor major energy consumers			
		Plan for annual improvement based on monitoring data		
		Use centralized & efficient heating and cooling systems, e.g., co-generation		
		Plan for operation of one 50m ft ² building at net zero energy within 3 years		
Demonstrate creativity in design and overall concept excellence				
	vehicular and pedestrian access			
	parking			
		safe and pleasantly designed if hidden, parking is centrally linked to appearance and function of other design elements		

Massachusetts Gaming Commission				
Draft Evaluation Criteria				
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		Commission factors		
Criteria Grouped by Topic	Sub-topic	Second sub-topic	Required Evidence	Evaluation
	design of building including height, massing, window design, articulation of the facades, material and building details			
		exterior elevations do not present blank facades but contain multiple entry points and storefronts that present an inviting and welcoming streetfront experience		
	plans show creative landscaping and use of open space			
	design contains adequate provisions for loading and trash			
	design makes appropriate use of public art			
	signage is energy-efficient and sensitive to surroundings			
	site is integrated with and provides access to surrounding areas			
	facilities are available as community resources in extreme weather			
	site provides amenities to surroundings that are supported by a dedicated funding stream			
	site design minimizes impact of noise on surroundings			
	access to site takes advantage of all modes of transportation with emphasis on public transit			
	access to site minimizes adverse impact on regional traffic			

Massachusetts Gaming Commission					
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		Considerations required by G.L. c. 23K, § 18			
		Commission factors			
Criteria Grouped by Topic		Sub-topic	Second sub-topic	Required Evidence	Evaluation
V	MITIGATION				
	PREREQUISITES				
	(1) Agree to be lottery agent and not to run competing games				
	(6) demonstrate plan for mitigation of lottery impact and compulsive gambling problems, community development and host and surrounding community impact and mitigation issues as set forth in memoranda of understanding				
	(7) identify the infrastructure costs of the host and surrounding from construction and operation and commit to a mitigation plan				
	(8) (13) provide a signed host community agreement with favorable community vote				
	(9) provide surrounding community agreements				
	(10) provide impacted live entertainment venues agreements				
	(14) Pay agreed upon community impact fee				
	EVALUATION CRITERIA				
	(1) Protect and enhance lottery				
	(6) Implement measures to address problem gambling				
	(19) Obtain public support in host and surrounding communities which may be demonstrated through public comment received by the commission or gaming applicant				
		Quality of host community agreement			
		Quality of surrounding community agreements			
	Quality of impacted live entertainment venue agreements				