



NOTICE OF MEETING and AGENDA

April 11, 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, April 11, 2013
1:00 p.m.
Division of Insurance
1000 Washington Street
1st Floor, Meeting Room 1-E
Boston, Massachusetts

PUBLIC MEETING - #63

1. Call to order
2. Approval of Minutes
 - a. March 21, 2013
 - b. March 25, 2013
 - c. March 28, 2013
3. Administration
 - a. Master schedule
4. IEB Report
5. Public Education and Information
 - a. Report from the Ombudsman
 - b. Host Community Referendum emergency regulation – VOTE
 - c. Notice of Public Hearing and SBIS
6. Administration
 - a. Master schedule
 - b. Finance Report
7. Racing Division
 - a. Administrative update
 - b. Approval of split sample laboratories for 2013
 - c. Approval of 2011 outs payments




Massachusetts Gaming Commission

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.massgaming.com and emailed to: rcgs@sec.state.ma.us, melissa.andrade@state.ma.us, brian.gosselin@state.ma.us

4/9/13
(date)



Stephen P. Crosby, Chairman

Date Posted to Website: April 9, 2013 at 1:00 p.m.



Massachusetts Gaming Commission



Meeting Minutes

Date: March 21, 2013

Time: 4:00 p.m.

Place: Bristol Community College
Commonwealth College Center
777 Elsbree Street
Fall River, 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 59th public meeting.

He introduced Dr. John Sbrega, President of Bristol Community College, and thanked him for hosting this meeting. Dr. Sbrega welcomed the Commission and briefly provided background information about the college.

Approval of Minutes:

See transcript pages 3-4.

Commissioner McHugh stated that the minutes for February 28, 2013 are ready for approval.

Motion made by Commissioner McHugh to approve the minutes. Motion seconded by Commissioner Zuniga. The motion passed unanimously by a 5-0-0 vote.

Public Education and Information:

See transcript pages 4-8.

Report from the Ombudsman: Ombudsman Ziemba stated that he has reached out to nine of the eleven existing applicants to determine whether they will be interested in utilizing the assistance of the regional planning agencies and has asked that they respond within a week. Chairman

Crosby stated that he received a call from the director of a regional planning agency who was under the impression that if a surrounding community or potential surrounding community does not participate in the RPA process, then that community would not have access to any monies to help it assess mitigation or negotiate with the developer. Mr. Ziemba indicated that this understanding is incorrect. The RPA process is voluntary for applicants as well as communities and they can choose among many different avenues for assistance.

Regulation Update:

See transcript pages 8-11.

Regulation Update – Commissioner McHugh stated that the Commission is in the final stages of writing the regulations for a formal approval process. He stated that the Commission will conduct a final review of the draft regulations at Monday’s public meeting. At the meeting the Commission will discuss the evaluation criteria and the process for receiving applications. He stated that the Commission will hold a public hearing on the regulations and set aside a period for public comment. The Commission will make final adjustments to the regulations, with a goal of promulgating the final version no later than June 7, 2013.

Research Agenda:

See transcript pages 11-28.

Chairman Crosby stated that the legislation mandates that the Commission conduct a comprehensive research project on the socioeconomic impacts of introducing expanded gaming into the Commonwealth. The research project would include a comprehensive baseline study of the preexisting conditions before the casinos or slot parlors open and another study after they open. He stated that the Commission conducted an RFP process to determine a vendor who could perform the studies and he asked Commissioner Zuniga to provide an update.

Commissioner Zuniga stated that the Commission received four thoughtful responses to the RFP and narrowed those four finalists down to two. He stated that the procurement team struggled at deciding between the finalists because they are both very capable. He stated that the procurement team is currently split in its recommendation. Chairman Crosby stated that one bidder, Cambridge Health Alliance, wanted to perform a baseline study of 6,000 people and study those people forever, even if they moved out of Massachusetts. The second group, headquartered at University of Massachusetts Amherst, proposed using a 17,000 person sample and would take a snapshot of those people, representing the whole population of Massachusetts. Every few years that proposal would aggregate data on a new sample so that researchers could study what happened to a larger community, not what happened to a cohort of people. Commissioner Zuniga stated that the former study would cost \$1.2 million more to conduct.

Commissioner McHugh recommended that the Commission invite presentations by the two finalists so that the Commission has an opportunity to learn more about their proposals and ask questions. Commissioner Zuniga agreed with this recommendation. Chairman Crosby stated that these proposals are complicated and the project management team spent hours discussing the proposals with two experts in research and problem gaming and they could not come to a

decision without the help of an outside consultant. He expressed concern that a presentation would not provide an opportunity to get to the level of depth and analysis that is required to make this determination. He stated that the Commission could make a better judgment with the help of outside consultants. Commissioner Cameron stated that she agrees with Chairman Crosby's recommendation. Commissioner Stebbins recommended asking UMass to come in and make a recommendation to the full Commission prior to negotiating a contract, mirroring the process the Commission has been using for hiring in which the final candidate comes before the Commission for questions. The Commission agreed with this recommendation.

Motion made by Commissioner Zuniga that the Commission authorize him to begin the process of further refining the scope of work and undertake contract negotiation with a team of UMass Amherst as part of the response to the research RFP, subject to their further presentation about scope to this Commission. Motion seconded by Commissioner Stebbins. The motion passed unanimously by a 5-0-0 vote.

Region C Discussion:

See transcript pages 28-157.

Chairman Crosby stated that the Commission is committed to a process that is participatory, transparent, and fair. He stated that the Commission is facing a situation in Region C that has conflicting interests, but the legislation has given the Commission some tools to reconcile those interests. He stated that the Commission knows that parties have strong interests, strong rights, strong economic impacts, and strong emotions on many sides of this issue and is taking this decision very seriously. He stated that interested parties can still submit comments on the Commission's website at any time and the Commission has already provided an opportunity for public officials to sign up to speak at this meeting. He stated that the Commission has scheduled fifteen speakers to speak for 10 minutes each.

Cedric Cromwell, Tribal Council Chair, Mashpee Wampanoag Tribe

See transcript pages 30-40.

Chairman Cromwell provided background information on the Wampanoag Tribe and its rights under Federal law. He stated that the Tribe has the right to pursue gaming as an economic development tool and the Commonwealth fully recognized these rights with the passage of the Expanded Gaming Act. He stated that the Commission does not need to open Region C for commercial gaming license applications because the Tribe's project is on track and it has made historic and swift progress toward taking land in trust. He stated that the Tribe is years ahead of any other project in the Commonwealth and is poised to bring thousands of jobs and hundreds of millions of dollars in economic growth to Southeastern Massachusetts in the very near future. He stated that the Tribe expects that the Department of Interior will take its land into trust this year and will have shovels in the ground by this time next year. Opening of a gaming facility is scheduled for early 2015.

Chairman Cromwell stated that he and Governor Patrick signed a new compact this week, which the Governor will send to the Legislature for approval. He expects to receive speedy approval

from the Legislature and the Department of Interior. He believes that it would be unwise for the Commission to accept applications and nonrefundable \$400,000 fees from commercial applicants to Region C. He stated that the legislation states that the Commission may not award a commercial license in Region C unless it is determined that the Secretary of the Department of Interior shall not take the Tribe's land into trust. He stated that if the Tribe is unsuccessful in its plans to build and operate a casino under the compact, the Tribe will still build and operate a Class 2 Indian gaming casino in Taunton and will not pay any revenue to the Commonwealth. However, the Tribe has chosen to negotiate a compact in good faith with Governor Patrick because it wishes to be partners with the Commonwealth.

Commissioner McHugh stated that he spoke to Secretary Washburn today, as it is the Commission's obligation to reach out to all participants in this forum. Secretary Washburn said that the Bureau of Indian Affairs has provided both the Commonwealth and the Tribe substantial technical assistance and it is the Bureau's policy not to reject compacts if possible. He said that the Solicitor's office is currently looking at the Carcieri issue, which stems from the Supreme Court decision saying that the federal government cannot take land into trust unless the tribe was under federal jurisdiction in 1934, when the relevant statute was passed. Mr. Washburn also stated that the land in trust issue is proceeding and the environmental process is ongoing, but he was unable to give an estimate as to when the processes would conclude.

Representative Robert Koczera, 11th Bristol District

See transcript pages 40-48.

Representative Koczera stated that the Commission should vote today on whether or not to issue a request for applications for a commercial casino license in Region C. He stated that delay in issuing a Category 1 license in Region C is costing the Commonwealth revenue and the region jobs. He stated that the timeframe noted in Chapter 194 of the Acts of 2011 for Indian gaming preference in Massachusetts has passed, the Department of the Interior rejected the compact, and the Tribe faces insurmountable obstacles to getting land placed in trust due to the 2009 Carcieri Supreme Court decision. He stated that the Mashpee Wampanoag Tribe did not receive federal recognition until 2007. He stated that the Commission must act to ensure that Region C will derive the same benefits from casino gaming as the other two regions of the Commonwealth. He emphasized that the legislation clearly calls for three regional destination resort casinos and the Commission should not disadvantage Region C in the service of good intentions. He stated that the Commission could not reasonably expect a timely resolution to the land in trust issue and urged the Commission to take action today.

Chairman Crosby clarified that the Commission will not vote on the Region C issue today, as the purpose of this meeting is to listen, take the comments under advisement, and vote at a subsequent meeting in the coming weeks.

Representative Keiko Orrall, 12th Bristol District

See transcript pages 48-55.

Representative Orrall stated that she represents the district that includes the proposed tribal casino. She stated that the communities in this district continue to be concerned about mitigation funds for towns surrounding the tribal casino proposed for Taunton. The renegotiated compact includes mitigation for surrounding communities, but the communities have not determined whether this amount will be sufficient to meet their need. She stated that it is not clear to her how the Commission will make its determination as to which communities will receive mitigation assistance or the extent of the assistance the Commission will authorize. She stated that since the Commission's December 4, 2012 meeting, the Tribe has only addressed one of the concerns raised at that meeting by Commissioner McHugh and the Legislature has not yet approved the compact. She expressed concern about the Tribe's ability to get land in trust. She stated that the Secretary of the Interior does not have the authority to take land into trust for any tribe not recognized and under federal jurisdiction in 1934. Current federal law does not allow this tribe to have any land in trust.

Chairman Crosby stated that that the Legislature was very respectful of the rights of surrounding communities and set up resources for them and the Commission. However, these resources do not exist at present for a tribal casino. Commissioner McHugh stated that the federal government put in place safeguards for surrounding communities under the NEPA process, although these safeguards may not be as strong as the safeguards for communities surrounding a proposed commercial gaming establishment.

Representative Alan Silvia, 7th Bristol District

See transcript pages 55-60.

Representative Silvia stated that over the years the residents of Fall River and the south coast have strongly supported several ballot initiatives favoring the establishment of casino gaming, and since the early 1980's they have been told that a tribal casino was right around the corner. He stated that it is incredibly disheartening and unfair that while other regions of the Commonwealth finally get to benefit from casino gaming, the one region pursuing it for thirty years is pushed to the side. He stated that the Commission should not provide the residents of Fall River less opportunity than provided to other regions. He stated that by the time the courts review the land in trust issue and arrive at what is an obvious conclusion based on precedent, many years will pass and gaming facilities in other areas of the Commonwealth will be well established, generating millions in tax revenue and creating thousands of jobs, while Region C will still be told that gaming is just around the corner.

He stated that his district has the highest unemployment rate in the Commonwealth and a commercial gaming license in Region C starts the process of creating the economic environment that generates jobs. He stated that taxing one group less than 25% of that which every other commercial gaming entity has to pay is not okay. He stated that the notion that you cannot have two casinos, a commercial and tribal, in the same region is complete nonsense, as the gaming customer will patronize the facility with the best value, entertainment, and experience. He asked that the Commission open Region C to a commercial gaming license process now and provide the people in the entire south coast area the same benefits given to the rest of the Commonwealth: an equal process to pursue a commercial gaming license and jobs for the people.

Representative Shauna O'Connell, 3rd Bristol District

See transcript pages 60-66.

Representative O'Connell stated that at the hearing in December the Commission correctly delayed a decision on whether to open up the bidding process in order to give the Tribe time to make adequate progress. She stated that the Expanded Gaming Act recognizes and protects the federal rights of the Tribe to conduct gaming in southeastern Massachusetts and it is the Commission's obligation to follow that law. She stated that the Tribe continues to make progress and meet the requirements of that legislation in a timely manner and is on track to open their destination resort casino sooner than the opening of any casino by a commercial developer. She stated that the economic benefits are numerous for Taunton as well as the surrounding communities. The casino will employ over 2500 people with good paying jobs, averaging about \$35,000 a year with benefits. She stated that the Commission should allow the Tribe to continue along its process as the Expanded Gaming Act envisioned, ensuring that there is one successful casino in Region C and that casino opens in a timely manner.

Commissioner McHugh stated that one of the things that divides Representative O'Connell and her colleagues is not the desirability of the tribal casino but how likely it is to arrive and how long everyone will have to wait to figure out whether the Tribe will be able to build the casino. He asked her if she had a recommendation on how long the Commission should wait. Representative O'Connell stated that as long as the Tribe is making progress, the Commission should allow the progress to move forward. She stated that she wants one successful casino in this region, not two.

Representative Antonio Cabral, 13th Bristol District

See transcript pages 66-73.

Representative Cabral urged the Commission to act today to allow Region C potential bidders to join the RFA-1 process currently underway in Regions A and B and to consider proposals from across Massachusetts equally. He stated that the Legislature crafted the Expanded Gaming Act to allow a tribe a very brief window to explore the opportunity for casino development. It did so recognizing the substantial hurdles any tribe would face in receiving federal approval to build a casino on nontribal land and understanding the importance placed on ensuring that Region C has equal opportunity to explore casino development. He stated that it is unlikely that the tribal applicant could justify any other reading of the Gaming Act and it would be irresponsible to drag out his process any longer. He stated that the only tribal candidate in Massachusetts is really a Malaysian investment group that is financing the efforts of the Mashpee Wampanoag Tribe.

Representative Cabral stated that the Legislature is about to begin its annual budget process, potentially leading to many months of delay before it considers this revised compact. He expressed concern with the Tribe's ability to take land into trust. He stated that the residents of New Bedford have twice voted to express their desire for casino development and the Legislature passed the Act because it expected that economic development would quickly follow. He urged the Commission to allow his region to join the rest of the Commonwealth to investigate casino

development opportunities. He stated that if at some point in the future the Tribe does have land in federal trust, it is still able to build its casino and deal with the marketplace and free enterprise.

Hon. William Flanagan, Mayor of Fall River

See pages 73-78.

Mayor Flanagan strongly urged the Commission to end the exclusive rights of the Mashpee Wampanoag in Region C. He stated that the longer the Tribe has exclusivity to a gaming license in Region C the less likely there will be a casino opening in this region. He stated that he believes that the Legislature will approve the compact, but the current draft of the compact effectively prohibits a commercial casino from opening in Region C, because if it does, the Tribe will not have to provide any revenue to the Commonwealth. He stated that the compact also significantly diminishes the opportunity for a racino in Southeastern Massachusetts because of the lower percentage of profits that the Tribe would have to give to the Commonwealth. He expressed concern with the Tribe's ability to take land into trust. He stated that he was an advocate for the gaming legislation because it was a jobs bill. He stated that by opening up Region C to commercial applications the Commission will not only create competition, but will also increase the likelihood of a developer in this region putting a shovel in the ground to construct a casino and prevent leaving behind the people of the region.

Hon. Tom Hoye, Mayor of Taunton

See transcript pages 78-88.

Mayor Hoye stated that one year ago the City of Taunton and the Mashpee Wampanoag Tribe announced that they were commencing discussions about the possibility of developing a casino in Taunton that would bring much needed jobs, development, and economic opportunity. He stated that they knew that developing a Tribal casino would be difficult given the significant number of steps that the Governor and Tribe had to complete under the Expanded Gaming Act. The Expanded Gaming Act gave the Governor and the Tribe until July 31, 2012, to secure all necessary land, enter into a mutually agreed upon compact, obtain a general court's approval of the compact, enter into an intergovernmental agreement between the Tribe and the City, and obtain approval of both the City Council and residents by way of a referendum. He stated that the Governor accomplished all these steps on time in a true partnership with tribal leadership. He stated that the land in trust process is complex and cumbersome and the Tribe is making substantial progress. The Commission has no evidence before it that could lead it to conclude that the Tribe will not have its land taken into trust. He respectfully requested that the Commission not commence the process of soliciting bids for commercial casinos in Region C.

A brief recess was taken.

Chairman Crosby reconvened the 59th public meeting.

Senator Marc Pacheco

See transcript pages 88-97.

Senator Pacheco stated that he has represented Region C for 25 years and at his very first meeting as a House member, the members discussed the possibility of expanded gaming in the Commonwealth. He stated that the legislature put its trust in the Commission that whatever the Commission determines is not only in the best interest of the region, but also in the best interest of the Commonwealth as a whole. He stated that under the compact, if both a commercial and tribal casino open in the region the state will not receive any additional tax revenue from the Tribe. He asked the Commission to give this issue due time and consideration before moving down the road. He stated that if the Legislature wanted to put a time certain in the legislation it would have done so. He stated that the legislative intent was to create jobs. He stated that prior to the recession the southeast region was the fastest growing region in the northeast part of the United States, and as the economy recovers he predicts that the tribal casino will bring more money to the state than a commercial casino in western Massachusetts will bring.

Chairman Crosby asked that Senator Pacheco provide feedback from the Legislature on this situation when they are reviewing the compact.

David Alves, Councilor At-Large, City of New Bedford

See transcript pages 97-105.

Councilor Alves stated that present with him is Councilor Joseph Lopes. He stated that he is Chairman of the city's gaming committee and has been a city councilor for 20 years. He stated that he is here to seek support for opening the region to commercial bidders. He stated that he intends no disrespect to the Tribe and supported the first major effort in the Commonwealth to introduce tribal gaming. He stated that he is here for the opportunity to fight for economic and employment opportunities in his community. He requested that the Commission not lock his community, or any community in Region C, out of the opportunity to open fair competition to apply for a license. He pointed out that some have stated that no developer would want to apply for a casino in Region C knowing that the Tribe may open a competing casino. However, he is aware of a developer who is interested in the region and has already spent over \$5 million in studies. He stated that the Governor is committed to providing the Tribe with an opportunity. Many people are also committed to ensuring that the opportunity is not restricted, limited, or discriminatory, but rather open, above board and fair for everyone. He asked the Commission to open Region C to all applicants, as the fate of his community's employment and economic development opportunities, and those of other cities and towns in Region C, are in the Commission's hands.

Allin Frawley, Vice Chairman Middleborough Board of Selectmen

See pages 105-114.

Selectman Frawley stated that he is here to ask the Commission to consider opening Region C to commercial bids in a parallel track with the Tribe for a gaming license. He stated that Middleborough has been dealing with the issue of tribal gaming for over six years, longer than any other municipality in the state. He stated that the town has learned quite a bit about this

Tribe and tribal gaming on a local, state, and federal level. He stated that in 2007 Middleborough negotiated an intergovernmental agreement with the Tribe and passed a local referendum vote in support of a tribal casino by almost 2:1. In the fall of 2007 the Tribe submitted its first land into trust application to the BIA, and in a notice dated January 19, 2012, the BIA returned the application as incomplete and no longer under consideration. He stated that the Tribe never notified its tribal members of that decision, nor did it notify the Town of Middleborough.

He stated that as of June 1, 1934 the federal government had not officially recognized the Mashpee Wampanoag Tribe as being under federal jurisdiction. He read a letter from the Department of Interior on the case of the Mashpee Wampanoag versus New Seabury Corporation for the return of their native lands dated October 2, 1937. He stated that no federal public lands exist in the original thirteen colonies and the Department of the Interior could not establish otherwise. He expressed concern that the Tribe is excluding surrounding communities from the tribal casino process and stated that, in the negotiation of the first and second state tribal compact, the Tribe did not contact a single community regarding the potential impacts.

Selectman Frawley stated that, in reading the Commission's mission statement, he is confused at how communities surrounding the Tribe's proposed casino have fewer protections than communities surrounding a proposed commercial casino have. He expressed concern that the tribal casino enterprise will not go through any of the background checks that the Commission requires of other applicants. He asked that the Commission consider the numerous hurdles that this Tribe will face in its pursuit, the significant risk of the land in trust acquisition failing, and the possibility that any tribal casino be encumbered by numerous, valid, and time-consuming lawsuits. He stated that this Tribe, eight months after the initial deadline, does not have a valid state tribal compact and is no closer to receiving land in trust today than it was in January 2012.

Kerri Babin, President & CEO of the Taunton Area Chamber

See transcript pages 114-115.

Ms. Babin stated that she is here to advocate for what the proposed casino projects would bring to the region. The Chamber believes that regardless of whether a casino in Region C is tribal or commercial, it will bring much needed jobs. She stated that when considering all proposals the Chamber hopes that the Commission considers the benefits not only to the host community, but also to the surrounding communities. She stated that job creation must be in the forefront of any proposal and the greatest consideration in the decision to award a license.

Marsha Sajer, Attorney Representing KG Urban

See transcript pages 115-127.

Ms. Sajer stated that she has great experience in tribal gaming and land in trust, and her role is typically to advise state governments on these issues. She provided background information on the Constitution as it pertains to tribes. She stated that tribal gaming is not commercial gaming, but rather government gaming that serves as an economic engine to allow the tribal government to support the tribe. She provided detailed background information on the Supreme Court's

Carcieri decision in 2009. She stated that moving forward the Tribe must first overcome a Carcieri hurdle and then pass the NEPA process, which has been running for six years or more. She stated that all the progress that the Tribe has made thus far, including the compact, is without legal effect until and unless the Tribe can get land in trust.

Ms. Sajer stated that KG Urban recognizes that a commercial license in Region C is very valuable. She cited studies that anticipate revenues of about \$600 million annually. She stated that by keeping this region open in the hope that a Tribe may one day build on land that is not now, nor may ever be, Indian land the Commission is imposing a burden on a region that is most in need of economic development. She stated that holding the region open amounts to a loss to the Commonwealth of \$150 million a year, or \$1.5 billion over ten years. She asked on behalf of her client that the Commission open Region C to commercial bidding.

Elias Patoucheas, President of Claremont Corp.

See transcript pages 127-130.

Mr. Patoucheas stated that he is president of a 45-year-old family owned real estate investment company headquartered in Southeastern Massachusetts. He stated that he is here to support competition for commercial gaming in Southeastern Massachusetts. He stated that the obstacles facing the Tribe's land in trust application are insurmountable, and the Commission could wait years before knowing for sure whether the Tribe is able to build a casino. He stated that Southeastern Massachusetts needs the economic stimulus and jobs today. He was concerned that Region C is falling behind while the rest of the state has the opportunity to prosper from commercial gaming. He stated that he has spoken to many of the top gaming companies in the country who are interested in this region but are reluctant to take action until the Commission opens the region to commercial gaming. He stated that the region will benefit from competition in this region.

Chairman Crosby asked if the companies with which Mr. Patoucheas has spoken were concerned with the possibility of having a tribal casino in the same region that would not be subject to the 25% tax burden on Commercial applicants. Mr. Patoucheas stated that gaming is all about risk and these companies are aware of the length of time it will take to get land into trust and are not concerned.

Michelle Littlefield, Chair of Preserve Taunton's Future

See transcript pages 130-143.

Ms. Littlefield stated that she appreciates the transparent and open process that the Commission has provided and she wishes that the political process her community faced a year ago with this Tribe were as transparent. She stated that 32 states, including Massachusetts, signed onto an amicus brief that supported the Carcieri decision, and that is why a Carcieri fix will never pass through the federal legislature. She noted that she is disappointed that the elected officials for Taunton and the Tribe felt the need leave immediately after present their point of view. She stated that others represented that the vote in Taunton passed overwhelmingly. She stated that

the proposed location for this casino, Ward 4, voted overwhelmingly against the project, as did Ward 3.

Ms. Littlefield pointed out that the Tribe's land in trust application is incomplete, as the Federal Register does not list the land as being in trust. She stated that the Tribe has applied for dual reservation status, for land in Taunton and Mashpee, a status that the BIA has never approved. She stated that her organization has retained an attorney and conducted extensive research supporting their opinion that this Tribe does not qualify for land in trust. She read aloud a letter prepared by their attorney, Adam Bond. She stated that the best course of action for the Commission to take at this point regarding Region C would be to bet on a commercial casino, having a 25% tax on gaming revenues and significant community mitigation and regulatory oversight, and let the chips fall where they may with the Tribe.

Thomas Flaherty, Vice President of Sprague Operating Resources

See transcript pages 143-149.

Mr. Flaherty stated that his company is headquartered in Portsmouth, New Hampshire, and owns the property in New Bedford where KG Urban Enterprises intends to construct a gaming facility if it receives a gaming license. He stated that they began to work with KG Urban on this site in 2007 and he provided information on what work completed since that time. He stated that the appeal of the site is its natural beauty and majestic view of the waterfront. He stated that a gaming facility would provide thousands of jobs to the region. He stated that construction on this site could begin very quickly if the Commission grants a commercial license.

Stephen Carroll, Real Estate Manager NSTAR

See transcript pages 149-154.

Mr. Carroll described the history of the site on which KG Urban would like to build. He stated that KG Urban has done all the due diligence on this site and its level of detail and effort is impressive. He stated that NSTAR still needs a location in New Bedford so KG Urban has secured another site for it. He stated that his intention today was to address the readiness and ability of KG Urban to pursue a license in Region C.

David Fenton, Business Manager, Electricians Union Hall

See transcript pages 154-156.

Mr. Fenton stated that he is here to say, "let's get this process going." He stated that the Tribe is on the cusp of overcoming all hurdles to construction and it hopes that the Commission will keep this process going to create jobs.

Chairman Crosby stated that the huge data point is the timing. He stated that the legislative intent was to give the Tribe a chance but not let this process go on forever. The Commission has an important decision to make. He thanked everyone for their participation.

Motion made to adjourn, motion seconded and carried unanimously.

List of Documents and Other Items Used at the Meeting

1. Massachusetts Gaming Commission March 21, 2013 Notice of Meeting and Agenda
2. February 28, 2013 Massachusetts Gaming Commission Minutes
3. March 20, 2013 Memorandum Regarding Recommendation Regarding Research Agenda Responses
4. List of Speakers for March 21, 2013 Public Meeting #59
5. Support for Speaker Requests
6. List of Public Written Comments
7. Public Written Comments

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



Meeting Minutes

Date: March 25, 2013

Time: 1:00 p.m.

Place: Division of Insurance
1000 Washington Street
1st Floor, Meeting Room 1-G
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 60th public meeting.

Chairman Crosby stated that the Commission had placed two major items on the agenda: the evaluation criteria and draft regulations.

Commissioner McHugh stated that the Commissioners have before them three documents: the evaluation criteria, a document entitled "Action", and the draft regulations. He stated that the evaluation criteria are the criteria that the Commission will be looking for when it evaluates the applications, and he formatted the criteria so that they may easily move into the application form itself.

Evaluation Criteria Discussion:

See transcript pages 5-56.

Commissioner McHugh stated that the evaluation criteria are organized into five basic levels: an overview level, a financial level, a design and site level, an economic development level, and a mitigation level. He stated that the Commission has reviewed in some detail everything in this document, except the new overview section, which he inserted after the Commission's last meeting to deal with the overall vision of the project.

Section 1 – Commissioner Stebbins made two minor grammatical corrections. He suggested adding a question that asks the applicant to describe how it envisions partnering with the Commission and the Commonwealth to ensure a robust gaming industry that maximizes jobs and revenues. Commissioner Zuniga recommended adding a broad question regarding how an applicant anticipates implementing its plans.

Section 2 – Chairman Crosby asked that the Commission add criteria under financial and capital structure requesting that the applicant demonstrate its capacity to sustain operations in the face of an economic downturn. He recommended asking the applicant to provide a demonstration of diversity, if any, in their ownership and investors. He also suggested adding a question requesting that the applicant provide information on its ability to attract major entertainment acts. Commissioner McHugh agreed but stated that the Commission would have to phrase this question carefully so as not to send mixed signals about impacting existing entertainment venues.

Chairman Crosby asked whether there is any value in asking for demonstrations of the applicant's success in a competitive environment. Commissioner McHugh stated that this information would be hard to define and may not yield useful insights.

Section 3 – Chairman Crosby stated that he would like to add the word “architecture” to the criteria asking for a description of “the relationship, if any, between host facility history and culture of its immediate region.” Commissioner Cameron stated that the additional language under the security section looks very good.

Chairman Crosby stated that under the host community agreement section he would like to ask the applicant to report information on individual contributions rather than the total value of contributions made. Commissioner McHugh agreed. Chairman Crosby also stated that the Commission should not limit the language asking for contributions of money or other things of value received from an elected or appointed public official to only public officials. General Counsel Blue stated that in the draft of 205 CMR 108.03 the language requests information on donations by any person or persons, not just municipal officials, with a dollar value of \$1,000 or more. Commissioner McHugh agreed that this criterion should be consistent with the regulation. Commissioner Stebbins stated that he initially recommended using January 15 as the look back date for donations because that was the date the applications were due, however, since some applicants paid their fee prior to January 15, he recommended changing the language to “from the day you paid your application fee.”

Chairman Crosby recommended changing language under impacted live entertainment venue agreements to read, “describe the applicant's plans for use of and terms of exclusivity agreements.” He recommended asking for demonstration of historic behavior in addressing problem gambling. Commissioner Cameron referenced wording which asks applicants to outline the ethnic diversity of their workforce. She recommended asking for a percentage of the population in the area. Commissioner McHugh recommended asking the applicant for documentation of efforts to achieve ethnic diversity at other locations and the result of those efforts in terms of the composition of the workforce. Commissioner Cameron stated that she agreed.

Commissioner McHugh stated that he will make this last set of changes and try to circulate this document tomorrow for review at the Commission's next meeting.

Review Process Document – Commissioner McHugh stated that this document is designed to help the Commission think through the process, the regulations, the staff support that the Commission will need, and the types of consultants needed for making final license determinations. He stated that the document contemplates that the Commission will receive the RFA-2 applications, check them for administrative completeness, conduct an initial presentation, and go through the task of processing each application. He stated that the Commission is required to have one statutory hearing in the host community for each application processed.

The Commission reviewed the document and addressed specific questions and concerns. Commissioner Zuniga recommended that the Commission use project managers, in addition to architects, for peer review of proposals. Chairman Crosby stated that the Commission will have to discuss the decision-making process for license awards, e.g., whether the award will be made by majority or plurality vote. Commissioner McHugh stated that the Commission should continue discussing the decision making process and other process issues at a future meeting and does not need to come to a decision right now.

Chairman Crosby asked what the next step would be. Commissioner McHugh stated that the Commission will approve the evaluation criteria and draft regulations at the Commission's meeting on Thursday. He and Commissioner Stebbins are continuing to meet with various entities that conduct competitive RFPs to see how they process the proposals they receive. They will work on a report for the full Commission to consider.

A brief recess was taken.

Chairman Crosby reconvened the 60th public meeting.

Review Draft Regulations:

See transcript pages 56-162.

General Counsel Blue and Counsel Todd Grossman joined the Commission for this discussion. Commissioner McHugh stated that the document before the Commission consists of two parts, amendments to the existing regulations and a brand-new set of regulations beginning at Section 118. The Commission conducted an in depth review of the regulations and addressed specific questions and concerns.

Chairman Crosby made reference to Section 102.06, "Matters Not Provided For," and asked whether the Commission has not yet completed this section. Mr. Grossman stated that the section is complete and includes language similar to that in a number of other codes and regulations. He included this section so that the Commission could determine whether it would work in this context. Chairman Crosby asked why petitions for adoption, amendment, or appeal are highlighted in the draft. Mr. Grossman stated that he highlighted those portions to bring them to the Commission's attention.

Chairman Crosby asked how the Commission will handle electronic filing of documents, as he envisions a lot of color plans and other items that the Commission may need in printed form. Commissioner Zuniga stated that the regulations request ten copies of the application. Mr. Grossman stated that the Commission should discuss how many print copies to require. Chairman Crosby stated that he believes that printed copies are important. Commissioner McHugh questioned the need for ten printed copies and stated that the volume of documents would be easier to handle electronically. Chairman Crosby recommended requiring one electronic copy and two printed. Commissioner Zuniga stated that unbound three ring binders would be the easiest to review.

Mr. Grossman brought to the attention of the Commission a specific procedure which the legal staff has designed to deal with the unlikely event that there is money left in a community disbursements account. Ms. Blue stated that in the new regulations Section 118 talks about process and attempts to codify some of the items on the process sheet. Chairman Crosby asked when the application will become public. Ms. Blue stated that certain parts of the application will lend themselves easily to public disclosure, though the Commission will need to review the information for exemptions from the public records statute. Chairman Crosby stated that the application form should have sections that can be redacted and if the applicant has additional information that it wants redacted, it can submit a request. Commissioner Stebbins recommended having consultants who may be reviewing the applications sign a confidentiality agreement. Ms. Blue agreed, but clarified that the Commission does not need to provide for a confidentiality agreement in the regulations.

Commissioner McHugh stated that Section 118.07(1) makes clear that the licensing process is administrative and legislative in nature, not adjudicatory. Commissioner Zuniga referenced Section 119 and asked if the Commission wants an applicant to meet higher LEED standards. Ms. Blue stated that the legal staff drafted this language based on the evaluation criteria and can tweak the language to reflect any updates that the Commission has. Mr. Grossman stated that the Commission should request information from the applicants on workplace safety in subsection 34. Commissioner Zuniga recommended adding a topic on an applicant's cooperation with the problem gaming research project.

Chairman Crosby asked for clarification of Section 120.1 (c). Ombudsman Ziemba stated that this section requires that applicants provide the Secretary's certificate as well as written comments submitted to the MEPA unit. Chairman Crosby stated that the Commission originally agreed to ask that the applicant to provide evidence that it filed the ENF. Ombudsman Ziemba stated that he is comfortable with the current language and it will give the Commission access to the written comments.

Mr. Grossman pointed out that Section 122 distinguishes between a project budget and capital costs. Commissioner Zuniga stated that the more inclusive the regulations are with respect to capital costs, the more financial security the Commission will receive by virtue of the 10% deposit. Commissioner Zuniga stated that, if the Commission counts all the costs outside the property site for the minimum investment requirement, the applicant will need to spend very little within the property, which may not be enough to create a destination resort. He agrees with using AIA's opinion to only allow the cost of construction under capital investment.

Chairman Crosby expressed concern with losing a potential applicant, particularly a slots parlor, by not including the cost of investments outside the site. He stated that by including investments outside the site, the size of the bond would increase, the security of the investment would increase, and it would be easier for applicants to get past the minimum capital investment threshold. Commissioner Cameron stated that she does not believe that an applicant will fail at this stage because it cannot meet the minimum investment requirement. Mr. Grossman clarified that the statute does not allow the slots applicants to include in its capital investment traffic mitigation or costs related to improvements necessary to increase visitor capacity. Commissioner McHugh recommended leaving the language as it stands and letting the public provide comments. Chairman Crosby was in agreement.

Mr. Grossman stated that under Section 122.05 the Commission must determine whether it wants to allow posting of a deposit bond as opposed to accepting a cash deposit. He stated that the statute leaves this question to the discretion of the Commission. Chairman Crosby asked whether the Commission would be able to easily liquidate a bond. Ms. Blue stated that the Commission would need to carefully review the bond and the issuer to make this determination.

Commissioner Stebbins stated that Section 124.05(1) has a conflict in the number of hours that a polling place must remain open. The Commission agreed to change the language to read, "the polls will close no earlier than 8:00 p.m." Mr. Grossman asked the Commission to consider the question of what would happen if a ballot contained more than one applicant. Commissioner Stebbins stated that each question would appear on the ballot, just like any other election with referendum questions. Chairman Crosby asked whether the Commission should develop a process to allow an applicant the opportunity to stay in the competition even if it loses a ballot vote. Commissioner McHugh stated that his instincts say no, but he would like to hear outside comment on this question. Allowing a second vote would hold up license issuance for an entire region due to the 180 day window that the legislature mandates before holding a second vote. Mr. Grossman also asked the Commission to consider whether a summary of the host community agreement on the ballot would be sufficient to inform voters or whether it wants to require additional pamphlets or postings. Commissioner McHugh recommended leaving the language in the regulations as it currently reads and requesting additional comments from the communities.

Commissioner Stebbins asked whether Section 125.01 states that the Commission will only temporarily designate communities as surrounding communities during the construction period. Chairman Crosby stated that a community could become a surrounding community simply by virtue of a temporary impact such as construction.

A brief recess was taken.

Chairman Crosby reconvened the 60th public meeting.

Commissioner Stebbins referenced the provision that states, "the Commission may evaluate whether the positive impacts on the community that may result in the development and operation of a gaming establishment are of such a nature to outweigh any negative impacts." He noted that the Commission removed language from this section and asked for an explanation. Mr. Grossman stated that he removed this language due to concern that requiring a balancing test

would invite scrutiny as to whether the licensing process is adjudicatory. He stated that the language as written allows the Commission to consider whether there are any negative impacts and determine that, although a community may be affected by a gaming establishment, it will not be adversely impacted.

Commissioner Zuniga asked for clarification of language regarding the significant material and adverse impact with respect to reopening host or surrounding community agreements. Ms. Blue stated that the language focuses less on the magnitude of the impact and more on lack of foreseeability and control by the parties. Ms. Blue stated that the negotiated host community agreement can contain language specifying that the parties may reopen the agreement under certain conditions without an additional community vote. Commissioner McHugh stated that this issue may also need public comment.

Chairman Crosby asked for clarification of Section 129.01(h), which states that “in the event there is a transfer the Commission may require the transferor, or both, to pay a commission to the Commission for the Commonwealth’s share of the increased value of the transferred licenses.” Mr. Grossman stated that the “Commonwealth’s share” language comes from the statute and he does not understand what it means. Commissioner Zuniga stated that this language may refer to the initial value of the license being \$85 million, and over time the value of the license will increase. If the licensee transfers the license the value would be more than the initial value and the statute says that the buyer would compensate the Commonwealth for the difference. Commissioner McHugh stated that the Commission needs to interpret the statute in its regulations. He suggested establishing a formula that calculates the initial value and then using the same mechanism to calculate the transfer value to determine the delta. Chairman Crosby pointed out that the statute says that the Commission “may” require this additional payment and recommended tabling this discussion and trying to determine what the Legislature’s intent was. Commissioner McHugh stated that the Commission will not resolve this question by Friday so the version of the regulations that it sends out for comment will contain the provision as written.

Chairman Crosby asked for clarification on language stating, “if a bona fide institution becomes a substantial party of interest they are not a transferee.” Commissioner McHugh recommended that the Commission ask the Legislature for clarification on this issue as well, because the statute does not define “substantial party of interest.” Chairman Crosby stated that Section 129.02(1) says, “proposed sale, assignment, transfer, or other disposition of any security offered by a corporation of a direct or indirect interest shall require approval.” He recommended adding a standard of materiality to this section.

Chairman Crosby asked for clarification of language stating that “the new licensee shall pay to the prior licensee the lesser of the depreciated investment and the fair market value.” Commissioner Zuniga stated that this language tries to find the fair market value of the license. Chairman Crosby recommended establishing an arbitration process that the Commission could mandate.

Ms. Blue stated that the legal team will update the draft regulations in light of the day’s discussion.

Motion made to adjourn, motion seconded and carried unanimously.

List of Documents and Other Items Used at the Meeting

1. Massachusetts Gaming Commission March 25, 2013 Notice of Meeting and Agenda
2. Massachusetts Gaming Commission Draft Evaluation Criteria
3. 205 CMR: Massachusetts Gaming Commission Regulation Amendments
4. 205 CMR: Massachusetts Gaming Commission RFA-2 Draft Regulations
5. Massachusetts Gaming Commission License Application Process Worksheet

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

205 CMR: MASSACHUSETTS GAMING COMMISSION
205 CMR 115.00: PHASE 1 SUITABILITY DETERMINATION, STANDARDS AND
PROCEDURES

115.05: Phase 1 Determination by the Commission

(1) After the proceedings under 205 CMR 115.04, the commission shall issue a written determination of suitability pursuant to M.G.L. c. 23K, §§ 4(15), 12 and 17.

(2) Negative Determination. If the commission finds that an applicant failed to meet its burden of demonstrating compliance with the suitability standards in M.G.L. c. 23K and 205 CMR 115.00, the commission shall issue a negative determination of suitability.

(3) Positive Determination. If the commission finds that an applicant has met its burden of demonstrating compliance with the suitability in M.G.L. c. 23K and 205 CMR 115.00, the commission shall issue a positive determination of suitability which may include conditions and restrictions.

(4) The commission shall not entertain a Phase 2 application for any applicant unless and until the commission has issued a positive suitability determination on that applicant.

(5) No appeal from Commission's Determination of Suitability. Pursuant to M.L.G. c. 23K, § 17(g) the applicant shall not be entitled to any further review.

(6) A host community may not hold an election in accordance with M.G.L. c.23, §15(13) until the commission has issued a positive determination of suitability to the applicant in accordance with 205 CMR 115.05(3).



4.c

SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission (“Commission”) hereby files this small business impact statement in accordance with G.L. c.30A, §2 relative to the proposed new regulations (205 CMR 118.00 through 131.00) and changes to the existing language of 205 CMR 102.00 through 117.00 notice of which was this day filed with the Secretary of the Commonwealth. These proposals were developed as part of the second phase of the Commission’s overall regulation promulgation process and are largely designed to govern the regulatory process culminating in the licensure of gaming establishments in the Commonwealth. As provided in G.L. c.23K, §1 *et. seq.*, the Gaming Act was enacted for purposes of enhancing the economy of the Commonwealth including local small businesses. Necessarily, some small businesses will likely be impacted by the construction and operation of the subject gaming establishments. The impacts, though, will principally be a product of the governing statutes and not these proposed regulations.

To account for any prospective impacts on local small businesses, G.L. c.23K directs the Commission to consider a number of mitigation related factors in determining which applicants will be awarded a gaming license. The Commission has incorporated these statutory requirements into its proposed application process. See 205 CMR 119.00. For example, as part of its application for a gaming license, an applicant must: (1) provide the Commission with completed studies and reports that contain an examination of the proposed gaming establishment’s “impact on the local and regional economy, including the impact on cultural institutions and on small businesses in the host community and surrounding communities” See G.L. c.23K, §9(a)(13); and (2) provide a description as to how it proposes to “promot[e] local businesses in host and surrounding communities, including developing cross-marketing strategies with local restaurants, small businesses, hotels, retail outlets and impacted live entertainment venues” See G.L. c.23K, §18(2). Accordingly, while the proposed regulations do, consistent with the aforementioned statutes, contain provisions designed to ensure proper consideration of impacts on small businesses and companion mitigation efforts by the applicants, they do not directly create any such impacts.

With the exception of any venue that may be designated by the Commission to be an impacted live entertainment venue, there are not any small businesses that are subject to any of the proposed regulations. The Commission is aware of approximately 7 venues that may potentially meet the statutory definition and be designated as an impacted live entertainment venue. Otherwise, the proposed regulations largely pertain to the applicants for a gaming license and to any municipality that is either a host community or a prospective surrounding community; none of which are small businesses. A venue will only be affected by the proposed regulations to the extent that it subjects itself to them.



Massachusetts Gaming Commission

That is, to avail itself of a mitigation agreement with an applicant, a venue must voluntarily subject itself to the Commission's proposed regulations. There are not any reporting or recordkeeping costs required for compliance with the proposed regulations by any venue that is designated an impacted live entertainment venue. The only administrative costs that a venue may face would be those associated with the negotiation of a mitigation agreement in accordance with 205 CMR 126.01(4). None of the proposed regulations as they relate to small businesses implicate an evaluation of the propriety of performance standards versus design standards. While there is interplay between these draft regulations and those promulgated by other governmental entities, none are duplicative or in conflict. See e.g. 205 CMR 120.00.

As discussed above, G.L. c.23K was enacted to create a new industry in the Commonwealth and to promote local small businesses and the tourism industry, including the development of new and existing small business and tourism amenities such as lodging, dining, retail and cultural and social facilities. The proposed regulations are designed to effectuate those intentions and to encourage the formation of new businesses in the Commonwealth.

Massachusetts Gaming Commission
By:

Todd M. Grossman
Staff Attorney

DATED: April 12, 2013



Massachusetts Gaming Commission

(6) A host community may not hold an election in accordance with M.G.L. c.23, §15(13) until the commission has issued a positive determination of suitability to the applicant in accordance with 205 CMR 115.05(3) unless the following conditions are satisfied:

- a) Prior to the request by the applicant for an election in accordance with 205 CMR 124.02(1), the governing body of the community formally approves of holding the election prior to a positive determination of suitability having been issued to the applicant by the commission; and
- b) at the expense of the applicant, the community has conducted a process for informing the community about the commission's determination of suitability standards and procedures, which shall include, but not be limited to, the provision of a notice designed to be received by voting households within the community informing such households that an election is to be held for which the applicant has yet to be issued a positive determination of suitability, that the commission will make its determination of suitability after completing a thorough background investigation of the applicant, its principal operating officers and investors, and that the commission will not permit the applicant or its principal operating officers or investors to proceed with the application unless it determines that they are suitable to operate a gaming facility in Massachusetts. The content of the notice shall be forwarded to the commission for approval prior to dissemination. A description of other methods to so inform the community about the commission's determination of suitability standards and procedures shall also be forwarded to the commission prior to holding of the election. Any failure to issue the notice to one or more voting households shall not be deemed by the commission to be a failure to meet the requirements of this section, provided that a community demonstrates reasonable efforts to comply with the requirements of this section.

City of Everett

Office of the Mayor

Carlo DeMaria, Jr.
MAYOR



Everett City Hall
484 Broadway
Everett, MA 02149-3694
Phone: (617) 394-2270
Fax: (617) 381-1150

April 8, 2013

Via Facsimile and First Class Mail

Mr. Stephen Crosby
Chairman, Massachusetts Gaming Commission
84 State Street, 10th Floor
Boston, MA 02109

Re: Scheduling of Referendum Elections

Dear Chairman Crosby,

I write to you regarding the Commission's recent discussions and proposed regulation that a host community election on a destination resort casino cannot take place until the Commission completes its suitability investigation. I strongly disagree with the Commission's position that the duly elected city government of the City of Everett is not authorized to hold a valid election on a ballot question that I believe is in the best interest of Everett and its citizens.

As you know, our community is working with Wynn Resorts, a company that is prepared to invest over \$1 billion in Everett. This opportunity for our city is unprecedented and if Wynn is granted a license and allowed to invest in Everett, opportunities will be realized that were previously impossible. An abandoned, polluted site will be revitalized, our citizens will have hiring preference for over 8,000 permanent and construction jobs, and our tax revenues will increase by tens of millions of dollars each year. This is a once-in-a-generation opportunity and as Mayor, it is my duty to do everything to help it become a reality for Everett.

The gaming legislation requires Everett and Wynn to execute a Host Community Agreement. That Agreement, by law, must include all the stipulations for a destination resort casino in Everett, including Wynn's obligation to mitigate impacts. As Mayor and chief executive officer of Everett, it is my responsibility to negotiate what is best for Everett. We have been negotiating openly and in good faith with Wynn Resorts to come to a beneficial agreement; a final document to present to the people of Everett is imminent.

It is the Everett voters' right to have the opportunity to vote on the Host Community Agreement. There is nothing in the gaming law that requires suitability investigations to be one-hundred percent completed prior to an election taking place.

Mr. Stephen Crosby
April 8, 2013
Page 2

I understand and appreciate the Commission's desire to protect the process. However, the positions articulated by the Commission reduce the host community's ability to exercise control over a local election – a process reserved for cities and towns. The scheduling of a local election for a ballot question, a process undertaken by numerous municipalities every year, will in no way impede the hard work already begun by the Commission and will provide insight to the Commissioners on the municipality's sentiment regarding projects to be sited within their borders.

Moreover, the tone of messages from groups seeking to support their positions and the proliferation of rumors are a part of any campaign. Unavoidable and sometimes unfortunate, rumors, innuendo and conjecture will be present, notwithstanding any actions taken by the Commission.

Wynn's proposed project has been receiving overwhelming support in our community. I believe the project and the provisions of the Host Community Agreement will be very beneficial to our city; and I would like to schedule the election for early June. I believe that Wynn, a publicly-traded company that is licensed internationally for gaming, will ultimately pass the suitability investigations and be eligible to apply for a gaming license in Massachusetts. I'm willing to assume the risk on behalf of the people that elected me to represent them. If it turns out that I am wrong, the voters of the City of Everett have an opportunity to voice their opinions the next time my name appears on the city-wide ballot for reelection.

I strongly urge the Commission to allow the host community and the potential applicants to establish the timing of elections. I further request that this correspondence be added to the official record of the Commission's next regularly scheduled meeting.

Thank you for your kind attention to this important matter. I am available at your convenience to discuss this matter further with you or any other Commissioners.

Sincerely,



Carlo DeMaria, Jr.
Mayor
City of Everett, Massachusetts

cc: Commission Members
Mr. John Ziemia, Massachusetts Gaming Commission (via Electronic Delivery)
Mr. Steve Wynn, CEO and Chairman, Wynn Resorts
Ms. Kim Sinatra, General Counsel, Wynn Resorts

Massachusetts Gaming Commission
 Approved Budget FY 2013
 3rd Quarter Budget to Actual Expenditure Report

Item	Description	FY2013 Amount A	Prorated Budget B=A*(3/4)	Expenditures as of 3rd Qtr C	Under / (Over) D=B-C	Percent Unspent E=D/B	Notes
1	Salaries and Fringe	\$ 2,735,896	\$ 2,051,922	\$ 1,282,934	\$ 768,988	37%	(1)
2	Consulting / Advisors / Service Providers	\$ 2,986,809	\$ 2,240,107	\$ 1,913,582	\$ 326,525	15%	
3	Rent / Office; chargebacks	\$ 685,460	\$ 514,095	\$ 553,848	\$ (39,753)	-8%	
4	Capitalized Costs	\$ 245,000	\$ 183,750	\$ -	\$ 183,750	100%	(2)
5	Events / Hearings / Travel	\$ 84,700	\$ 63,525	\$ 157,821	\$ (94,296)	-148%	
	Subtotal	\$ 6,737,865	\$ 5,053,399	\$ 3,908,185	\$ 1,145,214	23%	
	Statewide Allocation Percentage	\$ 673,787		\$ 234,711			
	Subtotal Approved Budget	\$ 7,411,652 (3)	\$ 5,558,739	\$ 4,142,896			

Notes

- (1) Certain salaries (ED, GC, IEB, etc.) were assumed at 50 - 70 % for the year.
- (2) The buildout of additional space, and associated fitout and equipment expenses was budgeted but not yet incurred
- (3) Approved budget figure did not include (a) research agenda, (b) incremental costs for investigations (c) racing operations or (d) Cities & Towns grant agreements for HCA

Investigations	Initial Funds	Costs	Notes
Initial Application Fees	\$ 4,400,000		(1)
Total Costs Paid to Date (4/1/2013)		\$ (1,215,033)	(2)
Investigator Costs Accrued (not paid) to Date		\$ (1,224,986)	(3)
Commission Overhead Accrued to Date		\$ (411,631)	
Subtotal		<u>\$ 1,548,350</u>	(4)

Notes

- (1) Initial application fee \$400,000 times eleven applicants
- (2) Costs paid to investigators.
- (3) Costs payable to investigators. These costs were incurred in on March 2013
- (4) Costs incurred do not include monies received or transferred to Cities & Towns for negotiating HCA

6.6



Division of Racing

To: Commissioners

From: Jennifer Durenberger, Director of Racing *J*

Date: 11 April, 2013

Recommendation regarding split sample laboratories for 2013

As part of the Gaming Commission’s new regulatory structure, 205 CMR 3.32(3) and 205 CMR 4.55(3) provide licensed trainers with the ability to send a split sample to a Commission-approved referee laboratory for testing in the event of an alleged medication violation.

The following four laboratories have agreed to work with the Commission to provide split sample testing services for the 2013 season. Each lab is both ISO-17025 accredited and currently undergoing the Racing and Medication Testing Consortium’s (RMTC) accreditation process:

- HFL Sport Science (Lexington, KY)
- Industrial Laboratories (Wheat Ridge, CO)
- Ohio Analytical Toxicology Laboratory (Reynoldsburg, OH)
- University of California-Davis Equine Analytical Chemistry Laboratory (Davis, CA)

Recommendation: That the Commission approve these four laboratories to provide split sample equine drug testing services for 2013.

Respectfully submitted,

Jennifer Durenberger
Director of Racing



Massachusetts Gaming Commission

7c



Division of Racing

To: Commissioners

From: Jennifer Durenberger, Director of Racing JD

Date: 11 April, 2013

Re: Payment of 2011 unclaimed winning wagers to purse accounts

In accordance with M.G.L. c.128A, section 5A: *Recovery of winnings upon wagers; actions; unclaimed winnings; disposition; notice of limitation*), unclaimed winnings on wagers are payable to the Commonwealth within ninety days after December 31 of the year following the year in which the original wager was made. Accordingly, our c. 128A racetrack licensees have submitted the following payments for unclaimed winning wagers placed in 2011:

Sterling Suffolk Downs	\$304,684.28
Plainridge Racecourse	\$176,645.83

Recommendation: Upon your approval, and upon confirmation that all such submitted funds have cleared, payment will be made to the licensees for deposit into their respective purse accounts pursuant to c.128A section 5A (live racing) and c.128C section 3A (simulcast racing).

Respectfully submitted,

Jennifer Durenberger
Director of Racing



Massachusetts Gaming Commission

7c



Division of Racing

To: Commissioners

From: Jennifer Durenberger, Director of Racing JD

Date: 11 April, 2013

Re: Payment of 2011 unclaimed winning wagers to Racing Stabilization Fund


In accordance with M.G.L. c.128A, section 5A: *Recovery of winnings upon wagers; actions; unclaimed winnings; disposition; notice of limitation*), unclaimed winnings on wagers are payable to the Commonwealth within ninety days after December 31 of the year following the year in which the original wager was made. Former c.128A greyhound licensees continue to be licensed as greyhound racing meeting licensees pursuant to the Session Laws of 2011, c.194, section 92.

The following payments for unclaimed winning wagers placed in 2011 have been received by the Commission:

Wonderland Greyhound	\$10,452.10
Raynham Park	\$182,598.88

Recommendation: Upon your approval, and upon confirmation that all such submitted funds have cleared, payment will be made to the licensees for deposit into the Racing Stabilization Fund, pursuant to the Session Laws of 2010, c.86, section 14, subsection 18.

Respectfully submitted,


Jennifer Durenberger
Director of Racing



Massachusetts Gaming Commission