



# The Commonwealth of Massachusetts

## Massachusetts Gaming Commission

### NOTICE OF MEETING and AGENDA

September 11, 2012 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:

Tuesday, September 11, 2012

1:00 p.m.

Springfield Technical Community College

Scibelli Hall Auditorium

Springfield, Massachusetts

#### **PUBLIC MEETING - #26**

1. Call to order
2. Approval of minutes
  - a. August 28, 2012 Meeting
  - b. September 4, 2012 Meeting
3. Springfield schedule and process
4. Administration
  - a. Executive Director search update
  - b. Additional Hires: General Counsel, Staff Attorney, Deputy Director IEB
  - c. Report from Director of Administration
  - d. Project Management Consultant
    - i. Status report
5. Finance/Budget
  - a. Update
  - b. Commission personnel policy
6. Racing Division
  - a. Operations Update
  - b. Director of Racing search
  - c. EPA suit, Suffolk Downs
7. Project Work Plan
  - a. Consultant status report
    - i. Review of consultant schedule and scope
    - ii. Strategic Plan draft
  - b. Phase I regulations – September 10<sup>th</sup> Hearing
8. Public Education and Information
  - a. Community and/or Developer outreach/responses to requests for information
    - i. Chelsea questions
  - b. Acting Ombudsman Report
  - c. Ombudsman search update

- d. Discussion of Diversity/Inclusion Forum September 19<sup>th</sup>
- e. AIA Massachusetts Proposal

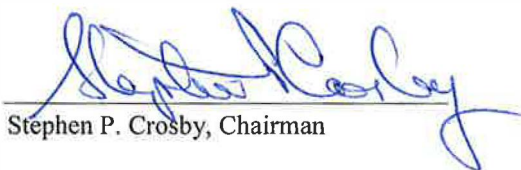
9. Research Agenda

- a. Status report
- b. Partners for a Healthier Community

10. 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](http://www.mass.gov/gaming/meetings), and emailed to: [regs@sec.state.ma.us](mailto:regs@sec.state.ma.us), [melissa.andrade@state.ma.us](mailto:melissa.andrade@state.ma.us), [brian.gosselin@state.ma.us](mailto:brian.gosselin@state.ma.us).

9/7/12  
(date)

  
Stephen P. Crosby, Chairman

**Date Posted to Website:** September 7, 2012 at 1:00 p.m.

The Commonwealth of Massachusetts  
Massachusetts Gaming Commission

**Meeting Minutes**

**Date:** August 28, 2012

**Time:** 1:00 p.m.

**Place:** Division of Insurance  
1000 Washington Street  
1<sup>st</sup> 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 24<sup>th</sup> public meeting.

**Approval of Minutes:**

See transcript pages 2-8.

Chairman Crosby stated that there are three sets of minutes for review: August 8, 14, and 21, 2012. He stated that, in reviewing the minutes, he thought about what the Commission could do to maximize the focus on casinos as resort destinations. He stated that he would like to discuss at a future meeting whether there is any strategic work the Commission can perform or facilitate to try to ensure that the facilities are truly destination focused.

*Motion made by Commissioner Stebbins to approve the minutes from the August 8 meeting at Western New England University. Motion seconded by Commissioner McHugh. The motion passed by a 5-0-0 vote.*

*Motion made by Commissioner Zuniga to approve the minutes of August 14, 2012 as amended. Motion seconded by Commissioner Cameron. The motion passed by a 5-0-0 vote.*

*Motion made by Commissioner Cameron to approve the minutes of August 21, 2012. Motion seconded by Commissioner Stebbins. The motion passed by a 4-0-1 vote, Commissioner Zuniga abstaining.*

**Administration:**

See transcript pages 8-61.

Executive Director Search Update – Commissioner Stebbins stated that the posting for Executive Director will close on September 7, 2012. He spoke with a potential candidate yesterday and is getting a number of initial referrals from JuriStaff. Most of the candidates to date have been from out of state given the Commission's preference for finding someone with previous gaming commission experience. He stated that with out of state candidates it will be the Commission's responsibility to sell this opportunity and the excitement of living in Massachusetts. He has a few more introductory phone calls set up and will move ahead with scheduling candidates for interviews in Boston. Chairman Crosby stated that he would like to reiterate to JuriStaff that the Commission is looking for a diverse group of candidates.

Commissioner Zuniga stated that a question has been raised by JuriStaff about receiving compensation for additional hires that may result from their search for an Executive Director. Their current contract does not contain any provision dealing with hiring of that type. He stated that it is industry practice to provide some compensation in this situation. The Commission authorized Commissioner Zuniga to work out an agreement for JuriStaff and bring it back before the full Commission for approval.

Additional Hires – Commissioner McHugh stated that a job description has been developed for the General Counsel position. The description is included in the meeting packet and he welcomed comments on it from other Commissioners. After discussion, he recommended leaving the posting for the position open until it is filled but having an initial application deadline of mid-October. The Commission agreed. He also asked for feedback from the Commission on whether selection of a final candidate should wait until the Executive Director is hired. The Commission agreed, with the caveat that the issue could be revisited if the Executive Director search took longer than anticipated. The Commission also agreed that Commissioner McHugh would screen the candidates for this position, with help from one of the search firms so that he could present finalists to the Commission, and hopefully the new Executive Director, for a final selection.

Commissioners McHugh and Cameron discussed additional positions the Commission will need. Commissioner Cameron has had discussions with an individual with racing regulation experience who may be able to assist the Commission as a consultant to help with preparation of a report on pari-mutuel racing and simulcasting that the legislation requires the Commission to file by January 1, 2013. She also has in mind an individual with a law degree and racing background who could work as a paralegal and help with some of the ongoing regulatory matters affecting the racing component of the Commission's work. Commissioner McHugh stated that Boston University has a fellowship program in which a recent law school graduate is hired on a contract basis for one year and could assist with regulatory compliance, minutes, tracking deadlines, and any other legal work of that type the Commission requires. Commissioner Zuniga asked if one of these individuals could assist with racing financial matters and analysis of the flow of funds for racing. Commissioner McHugh stated that the paralegal could undoubtedly

help with the flow of funds and the Boston University Fellow could assist with the legislative history and other research that recent law school graduates have an excellent ability to perform. The Commission agreed that Commissioner Cameron and Commissioner McHugh should pursue that lineup of individuals and report back to the Commission before finalizing the details.

Commissioner Cameron provided a copy of a job description for the Deputy Director of IEB and recommended this job be posted as soon as possible. She stated that she would like to post the position for six weeks and have the Executive Director weigh in on the final candidates. She is willing to take the lead on the screening process. She would like to have a law enforcement executive assist with the process and bring the final candidates before the full Commission. Chairman Crosby asked if she would like to utilize the search firms to assist in screening resumes. Commissioner Cameron stated that she would like to have that flexibility based on the number of resumes received.

Commissioner Zuniga stated that the Commission should consider hiring a staff accountant and he would like to draft a job description as the need for an accountant is becoming more and more pressing. Chairman Crosby stated that the position appears to fall under the Director of Administration and that any search process should be coordinated with Director Glovsky.

Discussion of MGC Internal Policies – Commissioner Zuniga stated that he has not yet made the changes discussed at the last meeting as he has been on vacation. Chairman Crosby stated that an HR training and raining is scheduled for September 5, 2012, to assist the Commission in understanding what the legislation calls for and how to deal with certain segments of the Commission's future employees.

Report from Director of Administration –Director Glovsky stated that she will be acting as liaison between the Commission and the project management and gaming consultants. She stated that she distributed the strategic plan outline to the Commissioners and would welcome feedback. Commissioner Zuniga asked why section 4B of the outline deals with the potential for internet gaming and sports betting. Steve Ingis from Spectrum Gaming, who was in attendance to assist Director Glovsky with questions directly pertaining to the plan's content, stated that there have been preliminary discussions regarding whether these topics should be included in the regulations the Commission ultimately promulgates. In that regard, he stated, there will be discussions in the RFA-2 process about various aspects of the application process and, at present, the topic of Internet gaming and sports betting is in the draft essentially a placeholder. Then followed a discussion about promulgation of the details of the strategic plan and the RFA-2 in a manner that provides a timely opportunity for policy decisions in which all of the Commissioners participate. The Commission agreed that a thoughtful process for providing those opportunities was a key element of a viable strategic plan and RFA-2 process. Commissioner McHugh then asked if it would be possible for the Commission to have read-only access to the current electronic version of the plan as it was updated so that the Commissioners would always have current information regarding deadlines and the context in which the deadlines were occurring. Director Glovsky stated that she would have to look into that issue but was certain that that kind of information could be provided in some fashion. At that point, Mr. Ingis reported that the gaming consultant team has been working on a number of items relating to RFA-1, completion

of the strategic plan, finalizing the RFA-1 application form and completing the RFA-1 instructions that are designed to accompany the RFA-1 application packet, which should be ready for delivery to the Commission by the end of the week. In that regard, the consultants are developing a timeline and table of organization, preparing budget estimates based on the timeline and table of organization, expanding the RFA-2 regulations to include the policy decisions that will be needed for each regulation, and are developing and documenting a protocol for interactions with the Commission and legal consultants about planning, drafting, and review of the Phase-2 regulation process. They are also completing sections of the strategic plan and are on schedule to file the completed plan with the Commission on September 10, 2012. Commissioner McHugh stated that the full Phase-1 application forms to which Mr. Ingis referred will be available at the Commission's September 4 meeting. In addition, the Commission will have to decide on September 4 on its final plans for conducting the multi-location hearing on September 10, 2012.

### **Racing Division:**

See transcript pages 61-80.

Update – Commissioner Cameron provided an update on hearings that she held earlier this month. The first matter was relative to Abad Cabassa, a licensed jockey who appealed a Suffolk Downs steward ruling that, in a race on July 4, 2012, his horse altered course and crowded another horse forcing it to alter its path. Her tentative decision is that the respondent's conduct constitutes a violation of 205 CMR 4.11(6)(e)(3)(a), (b) and (c) and to uphold the decision of the Suffolk Downs Board of Stewards suspending the jockey license of the appellant for seven calendar days. The appellant will be notified of this tentative decision and his right to appeal to the full commission within a 30 day period.

The second matter was relative to Marco Chavez who appealed a State Police ejection. The appellant was formerly licensed as an exercise rider at Suffolk Downs. In May, 2004, the appellant was ejected due to an altercation that occurred on April 10, 2004. The appellant continued to receive licenses to work at Suffolk Downs, most recently during the 2007 racing season. On July 2, 2007, the appellant was again ejected from Suffolk Downs for using a false social security number and false date of birth and for not being in the United States legally. In 2010, the appellant appealed that ejection but failed to appear at the scheduled hearing, resulting in the appeal being dismissed with prejudice. The conclusion was the appellant's conduct constitutes a valid ground for ejection. Commissioner Cameron's tentative decision is to uphold the ejection of the appellant. The appellant will be notified of this tentative decision and his right to appeal within a 30 day period.

The third matter was relative to Jose Morales Marcano who also appealed a State Police ejection. The appellant was formerly licensed as a jockey at Suffolk Downs. On October 2, 2009, the appellant was in a vehicle with Mr. Joel Villaneuva at the back of Suffolk Downs racetrack and was observed with a number of pills that required a prescription. Criminal charges were filed against the appellant but the charges were dismissed. The appellant stated that he had prescriptions but not for all of the pills. Commissioner Cameron's tentative decision is to uphold

the ejection of the appellant but that the ejection should be lifted immediately due the appellant's forthrightness and to his possession of only one pill for which he did not have an appropriate prescription. The stewards may also consider the appellant's conduct when and if he seeks a license. The appellant will be notified of this tentative decision and his right to appeal to the full Commission within a 30 day period.

The fourth matter concerned Commissioner Cameron's prior tentative decision regarding Walter Case. That tentative decision upheld the steward's ruling that Mr. Case should not be licensed. Thereafter, Mr. Case's attorney requested that the Commission allow Mr. Case to withdraw his appeal and that the Commission remove her tentative decision from the publications in which it appeared. Commissioner Cameron recommended that the Commission deny the request. The Commission discussed whether to vote on the issue immediately and ultimately decided to provide the appellant with notice that it would act on the matter at an upcoming meeting.

Commissioner Cameron addressed the subject of Suffolk Downs fines that were made public this week. Suffolk Downs officials are cooperating with EPA to ensure compliance in meeting applicable environmental standards and she will continue to monitor their progress on behalf of the Commission. Chairman Crosby stated that the Commission should have a briefing from the EPA on the situation at Suffolk Downs. Commissioner McHugh suggested that the Commission first obtain the papers that were filed in court and review them. If, after doing so, the Commission decided that it needed further information it could invite a representative of the EPA to appear and discuss the matter.

Commissioner Cameron stated that additional work for the Commission's racing consultant is being finalized. She will be facilitating a working group relative to implementing best racing practices and a roadmap for doing so. Chairman Crosby asked if the interagency financing had been worked out. Commissioner Cameron stated that this is being worked on, but there is no final resolution to the matter yet. Chairman Crosby asked about the cash flow situation in the absence of an appropriation. Commissioner Zuniga stated that this has not been fully resolved. Due to the absence of an appropriation, the Commission may be required to use money from the trust but there will be a surcharge for doing so.

Commissioner Cameron stated that the job posting for Director of Racing closes this week and approximately nine applications have been received to date. She has posted interviews for next Thursday and Jen Stark from the Attorney General's office has agreed to assist in the interviews.

### **Project Work Plan:**

See transcript pages 80-83.

Technical Assistance to Communities – Commissioner Stebbins stated that the interviews for the ombudsman have wrapped up he anticipates having the finalists selected by next week. When the finalists are selected, he will provide their names to Chairman Crosby. Chairman Crosby stated that he is serving as interim ombudsman and Suffolk Downs and Ameristar have contacted him. Suffolk Downs wanted to arrange its post-applicant meeting with the Department of

Transportation and to meet with representatives of the Department of Environmental Affairs. Ameristar wanted to arrange its first pre-applicant payment meeting. Commissioner Stebbins stated that Mass Development had offered to be part of the ombudsman interview process because of their experience with large development deals. Their key person was not available to sit in on the interviews but may be utilized to assist with follow-up calls.

### **Finance/Budget Update:**

See transcript pages 83-84.

Commissioner Zuniga stated that he has had discussions with Spectrum Gaming, one of the Commission's gaming consultants, and that the firm is now putting together the budget component of the strategic plan. The firm's preliminary approach is to take what was approved for FY 2013 and make assumptions as to additional expenditures for FY 2014 and FY 2015. Discussions are ongoing.

### **Public Education and Information:**

See transcript pages 84-97.

Community and/or Developer Outreach/Responses to Requests for Information – Commissioner McHugh stated that the commission has received a letter from Charles Blanchard, the Town Manager of Palmer, who raised a concern about fire districts and water districts throughout the state that have an independent governance structure. Mr. Blanchard asked if agreements between applicants for gaming licenses and the independent districts in should be included in the host community agreement or whether they should be the subject of separate negotiations and submissions. Commissioners McHugh and Stebbins have spoken with Mr. Blanchard and told him that the governing statute provided that the host community agreement alone was submitted to the voters of a city or town by the governing municipal authorities. They told him that the statute did not discuss the independent districts and certainly did not contemplate creation of a host community agreement between the applicant and the districts. Commissioner McHugh stated that the Commission could take the position that a single package voted on by the residents of the city or town that included all the elements necessary for successful development would be looked upon favorably. He recommended this information be posted as a frequently asked question on the Commission's website. Commissioner Stebbins agreed with this approach, stating that the legislation is clear that one host community agreement comes forward for a vote and the community must work out the individual agreements necessary to accomplish and informed vote. Commissioner Zuniga recommended consulting with the Department of Public Utilities for their input on this matter. Commissioner McHugh stated that he would contact them and get their response. The Commission decided that it would proceed to post the information discussed by Commissioners McHugh and Stebbins if the DPU had no substantive additions to their analysis.

Chairman Crosby stated that he and Commissioner McHugh have worked on developing a practice for the Commission to follow when individuals or groups who have a vested interest in



an expanded gaming project asked to talk to the Commission is. Chairman Crosby suggested that those groups or individuals submit a request to meet with the Commission, outlining in the request their agenda and the time they thought would be required for a useful discussion. The Commission would then decide whether to invite them for the discussion they proposed but would be clear that no individual or group would be invited if they intended to take an advocacy position for or against any specific proposal. Instead, individuals and groups would only be invited if they wanted to obtain clarifications of a process the Commission was utilizing or if they had suggestions regarding how to make a particular process or procedure work more smoothly. Commissioner McHugh stated that advocacy discussions will be reserved for the time when the concrete application is before the Commission for its action.

Discussion of Diversity/Inclusion Forum, September 19, 2012 – Chairman Crosby stated that the agenda has not been finalized and he asked Janice Reilly to send out a draft agenda for comments.

G2E Conference – Chairman Crosby stated that this is the national trade conference for the American Gaming Association and the Commission has received an invitation to attend the conference. He stated that the Commission will probably send three Commissioners and possibly two staff members.

#### **Research Agenda:**

See transcript pages 97-99.

Chairman Crosby stated that he met with the Secretary of Health and Human Services, who is the trustee of the Public Health Trust, which may fund research, as well as the head of the Department of Public Health to get their thoughts about this research opportunity. Both were very interested and suggested having a research advisory group review the Commission's RFI before it is promulgated. A meeting will be held in the next couple of weeks to begin the review. Chairman Crosby stated that the legislation also calls for the creation of a gaming policy advisory committee and he will be contacting the Governor's office at an appropriate time to get this committee started.

#### **Other Business:**

See transcript pages 99-104.

Chairman Crosby stated that the Commission has been watching what has been happening in Springfield. At this point the Commission has only seen the newspaper reports but is concerned with the transparency of the process and with maximizing the competitive environment for applications for gaming licenses. Commissioner Zuniga stated that he is interested in seeing more detail and whether the Mayor has a plan about a ward being the host community. Commissioner McHugh stated that an open and transparent process is in keeping with the spirit of the statute but that he does not have enough detail to take any position at this point other than to encourage a democratic, transparent process. Commissioner Stebbins stated that the

legislation did not foresee the situation in which Springfield finds itself with multiple entities all wanting to be in one host community and he hopes the process will be transparent and encourage public input. He stated that the Commission would like to see an agreement that benefits the host community and addresses the criteria laid out in the legislation for evaluating a license agreement.

*Motion made to adjourn, motion seconded and carried unanimously.*

### **List of Documents and Other Items Used at the Meeting**

1. Massachusetts Gaming Commission August 28, 2012 Notice of Meeting & Agenda
2. August 8, 2012 Meeting Minutes of Massachusetts Gaming Commission
3. August 14, 2012 Meeting Minutes of Massachusetts Gaming Commission
4. August 21, 2012 Meeting Minutes of Massachusetts Gaming Commission
5. Massachusetts Gaming Commission Job Description and Solicitation of Applications for the Position of General Counsel
6. Massachusetts Gaming Commission Director of the Investigations and Enforcement Bureau (IEB) Job Description
7. Massachusetts Gaming Commission Racing Division Suffolk Steward Ruling No. 1016 Final Decision and Order
8. Massachusetts Gaming Commission Racing Division State Police Ejection Tentative Decision – Marco A. Chavez
9. Massachusetts Gaming Commission Racing Division State Police Ejection Tentative Decision – Josue Morales Marcano
10. Massachusetts Gaming Commission Racing Division License Denial Plain Ridge Judge Ruling No.1001-12, Extension for Filing Objections to the Tentative Decision
11. August 10, 2012 Letter from Law Office of Jeffrey R. Pocaro Regarding Walter Case
12. August 27, 2012 Memorandum from Spectrum Gaming Group Regarding Strategic Plan Outline – Working Draft
13. August 8, 2012 Letter from Charles Blanchard, Palmer Town Manager
14. August 17, 2012 Letter from American Gaming Association Regarding Global Gaming Expo (G2E) 2012
15. G2E 2012 Expo Informational Flyers

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

The Commonwealth of Massachusetts  
Massachusetts Gaming Commission

**Meeting Minutes**

**Date:** September 4, 2012

**Time:** 1:00 p.m.

**Place:** Division of Insurance  
1000 Washington Street  
1<sup>st</sup> 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 25<sup>th</sup> public meeting.

**Approval of Minutes:**

See transcript page 2.

Commissioner McHugh stated that the minutes for August 28, 2012 will be ready for approval at the next Commission meeting.

**Administration:**

See transcript pages 2-7.

Executive Director Search Update – Commissioner Stebbins stated that the posting for Executive Director will close on September 7, 2012. JuriStaff continues to make outreach efforts and he suggested to them they not initiate any new contacts after September 7, although they will continue to reach out to people they have previously tried to contact. He has three initial phone interviews scheduled for this week and stated that he is impressed with the pool of candidates.

Additional Hires – Commissioner McHugh stated that he has made revisions to the General Counsel job description approved at the last Commission meeting and one of the prequalified personnel firms will be contacted to provide assistance with the search. Ten resumes are in hand for the Staff Attorney position and selection of the candidates to interview will be done this week. Commissioners McHugh and Cameron will do the screening and provide a final candidate for approval by the Commission. Commissioner McHugh reached out to the internship program

at the Boston University School of Law and will send them a job description for potential candidates for a one year internship.

Commissioner Cameron stated that the job description for the Deputy Director of Investigations and Enforcement was approved at the last Commission meeting. Some corrections have been made and the position will be posted this week. She stated that she has spoken to a number of leaders in law enforcement and public safety who may be able to assist with recruiting some strong candidates for the position.

Project Management Consultant - Commissioner Zuniga stated that a meeting was held with the Commission's consultant, PMA, and the goal is to have a draft of the initial outline of the schedule prepared by September 11, 2012. Receipt of the draft will coincide with delivery of the gaming consultant's timeline component of the strategic plan.

**Racing Division:**

See transcript pages 7-9.

Operations Update – Commissioner Cameron stated that the Commission visited Suffolk Downs last week and now has a better understanding of racing operations. She has received several last-minute applications for the Director of Racing position and is reviewing them. Interviews are being scheduled and will begin this week. Chairman Crosby asked if the legal paperwork regarding Suffolk Downs has been received. Commissioner Cameron stated that she asked the attorney for the racing division to obtain the documents but has not yet received them. When she does, she will give them to Commissioner McHugh for his initial review so that the pertinent portions can be delivered to all of the Commissioners.

**Project Work Plan:**

See transcript pages 9-54.

Consultant Status Report – Kristen Gooch, Project Manager for the gaming consultants, addressed the Board. She stated that over the last week the team delivered the RFA Phase 1 application and instructions, as well as versions of the multijurisdictional form, the Massachusetts supplement, and the business entity disclosure form with annotations designating the responses the Commission plans to consider presumptively exempt from public disclosure. The team continues to work on a number of items relative to RFA-1 and the strategic plan. They are focusing on completing a draft of the strategic plan that will be made available early next week. Commissioner Zuniga stated that a scope of work is being drafted for the RFA-2 services. He stated that he would like to have a future discussion to answer questions relative to the budget component of the strategic plan.

Phase 1 Regulations – Commissioner McHugh stated that three documents are before the Commission for approval: the multistate personal qualification form, the business entity disclosure form, and the Massachusetts supplement to the multistate personal form. Also included are the instructions that will accompany the forms when they are posted. He stated that the length and content of these forms indicates how extensive and detailed the process of determining qualifications is going to be. The investigatory phase is going to take careful monitoring and investigation as required by the governing statute. He stated that the intent is to post these forms in the next day or two for a period of public comment.

*Motion made by Commissioner McHugh to adopt the forms for the purpose of publishing them to see if there are public comments with respect to their content. Motion seconded by Commissioner Cameron. The motion passed unanimously by a 5-0-0 vote.*

Commissioner McHugh stated that the hearing on the draft RFA-1 regulations will take place next Monday and there will likely be comments, so he has proposed a mechanism to process the comments in a timely fashion and obtain input from all concerned. The process would include providing the comments to all the Commissioners, having Anderson and Kreiger array the comments in groups that apply to particular sections of the draft regulations, give them to the gaming and legal consultants for feedback, and then provide the resulting information to the Commission so it can determine which, if any, comments merit changes to the draft. The goal is to meet the deadline of issuing the RFA-1 in mid-October.

Commissioner McHugh stated that the Commission must decide how it will handle Monday's multi-location public hearing. The hearing locations are the Boston Convention and Exhibition Center, Springfield Technical Community College, and Massasoit Community College in Brockton. Commissioner Cameron recommended having two Commissioners present at the Springfield meeting location. Commissioner McHugh stressed that these sessions will be information-gathering sessions, not interactive sessions in which deliberation will be conducted among the Commissioners and the Commissioners will not ask for diverse opinions from the presenters. Chairman Crosby stated that the hearing is scheduled to begin at 4:00 p.m. and could run as late as 7:00 p.m. to allow people who may be working to attend and comment. Commissioner Stebbins and Chairman Crosby will attend the Springfield hearing, Commissioner Cameron the Brockton hearing, and Commissioners McHugh and Zuniga the Boston hearing. The Commission agreed that a set of opening remarks and instructions should be prepared so the same information is presented at each location. Commissioner McHugh recommended having a signup sheet for the speakers at each location.

Technical Assistance to Communities – Commissioner McHugh stated that no pending inquiries require a response from the Commission. Director Driscoll has been handling the incoming questions and this process is up-to-date.

Commissioner Stebbins stated that he is in the process of wrapping up reference and follow-up calls for the ombudsman candidates.

Springfield Schedule and Process – Chairman Crosby stated that there has been a great deal of discussion in western Massachusetts about the Springfield casino selection process and the Mayor of Springfield has submitted a letter requesting advice on the issue of his selection of the law firm of Shefsky & Froelich to act as the city’s advisor with respect to that process. Commissioner McHugh stated that the State Ethics Commission is created for this purpose and the Commission is not qualified or statutorily empowered to answer this type of question. He recommended the State Ethics Commission answer the Mayor’s question formally and in writing. Commissioner Stebbins stated that he agreed with Commissioner McHugh, as the ethical question is beyond the Commission’s purview. Commissioner Zuniga stated that he has many questions for Springfield as it appears they have entered into a contractual agreement and are issuing an RFQ. Commissioner Cameron stated that the Commission does not have enough information to opine on this matter and cannot move forward without a direct conversation with officials in Springfield. Chairman Crosby stated that there were some media reports and some perceptions to the effect that the Mayor was following a process directed or approved by the Commission. Commissioner McHugh stated that he would like to see a written State Ethics Commission opinion to see the Commission’s reasoning and whether there are any issues the Gaming Commission ought to pursue.

Chairman Crosby stated that there are two data points to consider; one is that the firm in question was selected and at the same time it is doing work for two of the four bidders. He stated that the Commission is responsible for the integrity of the final selection process and the slightest impropriety by any participant at any point along the way could adversely affect the integrity of the entire process. He stated that he believes that the judgments made in Springfield may not be the right judgments and that those judgments are calling the integrity of the process into question. He stated that if a similar matter had come before the Commission, he would have said we could not use a firm that is currently representing applicants or potential applicants for a casino license and therefore believes that Springfield cannot do so. Commissioner McHugh disagreed with Chairman Crosby on whether the Commission had sufficient data to make a final decision and on his belief that the Commission’s likely approach to a similar conflict issue creates a standard that the Commission should apply to others. He stated that before the Commission weighs in there should be a judgment from the State Ethics Commission.

Commissioner Stebbins stated that he agrees the first step should be a ruling from the State Ethics Commission. If the Mayor of Springfield has already received an ethics opinion the Commission can ask that he share that opinion. If not, the Commission could request that an opinion be sought. He recommended sending a letter to the Mayor asking that their process be stopped until the Commission can meet with him next week. Commissioners Zuniga and Cameron agreed with this recommendation. The Commission agreed to send a letter today asking the Mayor to postpone the Springfield process until the Commission has a chance to meet with them, and inviting them to come to the next Commission meeting on Tuesday, September 11, 2012.

**Public Education and Information:**

See transcript pages 54-79.

Community and/or Developer Outreach/Responses to Requests for Information – Chairman Crosby stated that the Commission has received a series of questions from City Manager Jay Ash of Chelsea which arose from the Western Mass Forum and Commissioner McHugh has drafted answers to those questions. Commissioner McHugh stated that the first question deals with the local capital projects fund. The legislation created a number of funds. The taxes collected from the gaming licensees will go into a fund, out of which disbursements are made to a series of other funds, and disbursements are made from those funds to end users. In most of those funds, the mechanism for distribution is stated in the legislation but the legislation contains no such mechanism for the local projects capital fund. He recommended contacting the Comptroller to see if he has information about this fund and, if he does not, the Commission will need to advise the Legislature that the fund is, in effect, an orphan with respect to which guidance regarding distribution is required. Commissioner Zuniga agreed to follow up with the comptroller.

Commissioner McHugh stated that the second question was whether there is a set percentage of gross gaming receipts that will be shared with the host and surrounding communities. He stated that the answer is no. 6.5% of gross gaming revenues goes into the community mitigation fund, and cities and towns can apply for distributions from the fund, but there is no set percentage that goes to a host or surrounding community. No regulations have been established yet regarding the criteria for distribution of money from the fund. The third question was whether host and surrounding community agreements may include payment for unrestricted local government use or whether payments covered by those agreements had to be directed to mitigating the effects of a gaming establishment. Commissioner McHugh stated that he misinterpreted this question and will have to do further research on the answer.

The fourth question was whether community mitigation funds would be available to the community before construction began or the facility opened. Commissioner McHugh stated that he thought that this question focused on the statutory mitigation fund, not on funds covered by host community agreements. So viewed, the answer is that no statutory funds will be available until there is revenue from the operations of a gaming licensee. He recommended adding to the answer that mitigation funds covered by the host community agreement will be available according to the terms of that agreement. The Commission decided to postpone the discussion of this question until more information is available. Commissioner Stebbins stated that he is meeting with Mr. Ash and will obtain clarification of the questions and provide that information to Commissioner McHugh.

Commissioner McHugh stated that the next question was whether mitigation agreements are contracts and, if so, whether municipalities can legally enter into fifteen year contracts with a casino. Commissioner McHugh stated that the answer to both questions is yes. The next question concerns how will the Gaming Commission determine the social impacts the communities say they are experiencing. Commissioner McHugh stated that this question requires significant thought in which the Commission has not yet begun to engage. The final

question is whether the Commission could create a table listing all gaming revenue sources available to communities and the manner in which the communities could obtain them. The Commission agreed that that creation of such a table is a great idea and that the table should be posted on its website. The commission also agreed that Commissioner McHugh should propose revised answers to the questions which, after Commission approval, can be posted in the FAQ section of the Commission's website for the guidance of all interested individuals, cities and towns.

Chairman Crosby stated that he had received a thoughtful letter from a citizen asking about free and discounted drinks and happy hours at casinos. He recommended the ABCC come to a future Commission meeting to provide an update on licensing, impact on neighboring facilities, and happy hours. Commissioner Cameron stated that she would set this up.

Report from Director of Communications and Outreach – Director Driscoll stated that the website is on track and, after a thorough review of some excellent proposals, a vendor has been identified. She is in the process of finalizing a contract. She issued a press release on the large volume of speaking engagements the Commissioners have over the next six to seven weeks and she will continue to increase awareness of the speakers' bureau. Chairman Crosby asked for an update on enrollment for the Diversity Forum. Director Driscoll stated that she does not have the exact numbers, but Janice Reilly had told her the number of attendees was larger than any other forum the Commission has conducted, with approximately 78 advance registrations..

Acting Ombudsman Report – Chairman Crosby stated that there have been no inquiries apart from those associated with the Springfield situation.

Discussion of Diversity/Inclusion Forum, September 19, 2012 – Chairman Crosby stated that this forum is set up and registration is open for anyone who would like to attend.

Promoting "Destination" Gaming Facilities - Chairman Crosby stated that the Commission would like to ensure that casino operators in the Commonwealth work with other tourism and local business entities to maximize tourism revenues for the Commonwealth. He noted, however, that the Commission has not talked proactively about measures it can take to encourage promotional outreach. He asked if there are ways that other elements could be packaged with casinos to pull in tourist dollars. Commissioner Stebbins stated that the Commission should encourage creation of MOAs between developers and groups in the tourism business in the area where the gaming facility will be located. Those MOAs should be included in the developer's application. He stated that Massachusetts has more of an opportunity than some other states have to connect visitors who come here for gaming with regional amenities involving history, cultural, theater, and sports. Chairman Crosby recommended that the Commission have a brainstorming session on criteria that can be put into the application to use in judging the best applications.

### **Research Agenda:**

See transcript pages 79-81.



Chairman Crosby stated that he has worked with Commissioner Zuniga on creating a draft RFI for the research agenda. In the near future, he and Commissioner Zuniga will meet with an ad hoc group to review the draft with the goal of posting it by September 14, 2012.

*Motion made to adjourn, motion seconded and carried unanimously.*

### **List of Documents and Other Items Used at the Meeting**

1. Massachusetts Gaming Commission September 4, 2012 Notice of Meeting & Agenda
2. August 31, 2012 Email, Subject RFA Phase1 Forms and Instructions
3. Instructions for Applicants for a Gaming License-RFA Phase 1 Application
4. Massachusetts Gaming Commission Multi-Jurisdictional Personal History Disclosure Form
5. Massachusetts Gaming Commission Business Entity Disclosure Form
6. Massachusetts Gaming Commission Massachusetts Supplemental Form to Multi-Jurisdictional Personal History Disclosure Form for Key Gaming Employees and Qualifiers
7. August 29, 2012 Memorandum Regarding Proposed Processing of Comments on Phase 1 Regulations
8. August Western Massachusetts Forum Questions from City of Chelsea
9. City of Springfield August 27, 2012 Press Release

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

# Massachusetts Gaming Commission

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## MEMORANDUM

Date: September 10, 2012  
To: Commissioners  
Cc: Procurement File  
From: Enrique Zuniga  
Re: Recommendation to Contract for Brand Identity and Website Development

---

Recommendation: That the Gaming Commission accept the proposal submitted by Jackrabbit Designs and pursue contractual negotiations and detailed scoping for the services described in their response to the RFR # MGC-Brand- 2012 dated August 22, 2012

This memorandum describes the process undertaken in the procurement, evaluation and current recommendations to contract with Jackrabbit to develop a brand identity, a logo and other graphic elements, as well as printed and electronic media standards and website design.

### *Description of the Procurement Process*

The Commission issued a Request for Responses for the services of a firm with expertise on Brand Identity and Website Development on August 3, 2012. The response deadline was August 22, 2012.

Twelve firms responded to this solicitation prior to the deadline.

Phase One Review: Eileen Glovsky conducted a "Phase 1" review of all responses. This review was undertaken to ensure compliance with administrative provisions of the RFR, and verify the inclusion of mandatory forms and attachments. Some of the respondents were given an opportunity to cure minor omissions to the requirements of the RFR. Respondents were not scored on the Phase 1 review.

Phase Two Review: This phase consisted of the review and evaluation of the technical proposal. The evaluation criteria were put forth in advance (prior to the receipt of the proposals) and it was as follows:

- 20% - Suitability of the Proposal – the proposed solution meets the needs and criteria set forth in the RFR
- 10% - Expertise in recommending and communicating appropriate technical and aesthetic solutions as evidenced by the proposal and references
- 40% - Aesthetic Capabilities – Prior work demonstrates artistic and innovative, user friendly interfaces that engage communities and viewers
- 10% - Firm experience – Firm has successfully completed similar projects and has the qualifications necessary to undertake this project
- 10% - Depth and breadth of Staff – firm has appropriate staff to meet the proposal requirements in the time frame needed
- 10% - Proposal presentation – The information is presented in a clear, logical manner and is well organized

The above figures (add up to 100% of the technical proposal) but together represented 80% of the final score. The Cost Proposal review (phase 3) would represent 20% of the final score.

Phase Three Review. Firms were asked to submit a cost proposal in a separately sealed envelope. Until the technical proposal was completed, the procurement management team moved on to the phase 3 review. The Cost proposals (phase 3) were assigned a weigh of 20% of the overall score.

### *PMT – Evaluation of the Technical Proposal and Oral Presentations*

The Procurement Management Team was comprised of Elaine Driscoll and Brandon Milby. Eileen Glovsky served as an observer, administrator and facilitator of the procedures.

After completion of Phase One and Phase Two, but prior to the undertaking of Phase Three, the PMT had the option to invite all or some of the bidders to make oral presentations, but decided that there was enough clarity in the proposals and opted not to conduct interviews.

The PMT assigned scores on the criteria stipulated above on the following scale:

- 5 = Far exceeds MGCs needs and expectations
- 4 = Exceeds MGCs needs and expectations
- 3 = Fully meets MGCs needs and expectations
- 2 = Partially meets MGCs needs and expectations
- 1 = Minimal provision of MGCs needs and expectations
- 0 = Completely Non-Responsive

Each member of the PMT scored all responses on the criteria of the technical proposal. The PMT met and discussed each of the scores to reach a consensus score on each criteria for each respondent. The scores were then weighted according to the previously determined relative weigh. Results for this phase of the process resulted in scores ranging from 35.2 to 68.8 out of a possible 80 points.

After determination of the points above, the cost proposals were opened and scored, with the lowest total dollar amount receiving all 20 points, and other scores allocated based on the percentage over the lowest. In cases where vendors responded with options or variables in the cost proposal (Lump Sum, Time and Materials, Fee for Services with a Not-To-Exceed), the MGC made a calculation of the “all-in” costs to normalize all proposals.

The Phase 3 points ranged from 1.70 (for the most expensive response) to 20 points for the least expensive.

The total points received (sum of Phase II and Phase III points) ranged from a total of 48.10 to 82.43.

### *Recommendations*

After the phase II and Phase III scoring the firm that ranked the highest was Jackrabbit Designs. Throughout the written proposal process, Jackrabbit demonstrated a good combination of strong experience in the field with artistic, innovative and user friendly interfaces. Further, in their approach, they demonstrated a methodical approach with the ability to perform the work in a cost effective way.

# Massachusetts Gaming Commission

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## MEMORANDUM

Date: September 10, 2012

To: Commissioners

From: Enrique Zuniga

Re: Recommendation to Approve Execution of a Contract for the Search of a General Counsel

---

**Recommendation: That the Gaming Commission approve extension of a contract with Isaacson Miller for the services to conduct an executive search for the General Counsel. The fee is stipulated at \$45,000.**

### *Isaacson Miller Scope of Services Procured and Services to be Rendered*

Isaacson Miller responded to the RFR from the MGC "MGC RFR 2012-003" for the services of a search of an executive director. At the time the Commission decided to prequalify three firms to conduct miscellaneous additional searches as needed.

As the hiring manager for the General Counsel, commissioner McHugh has expressed that among the goals for this particular search, the Commission would benefit from the perspective of another of its qualified executive search firms.

The search for General Counsel assumes a need to look at strong Massachusetts candidates, including those from other state agencies, local governments or local organizations (although the search will not be limited to Massachusetts candidates). Isaacson Miller has a strong presence and relevant experience in Massachusetts and combines that experience with additional offices throughout the country. This recommendation is not a comment on the performance of Juristaff in the services that they currently perform on behalf of the Commission.

Although the Commission discussed having one of the qualified firms help in a "support capacity" for the search of a General Counsel, the major components of a search (outreach, networking, triage, referencing, screening and preliminary interviewing) are still desirable and necessary from a search firm for this kind of position.

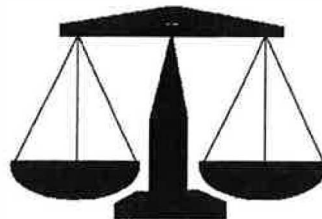
The fee proposed by Isaacson Miller for this particular search is commensurate with fees obtained for these types of searches.

Given the approach above there is a scenario that this commission needs to consider. In the event that candidates from the Executive Director search end up being evaluated for the General Counsel position and eventually one of them selected for this position, the commission would consider Juristaff for a "secondary placement" and pay for a discounted fee for such placement, while at the same time owing Isaacson Miller its duly owed search fee. While this narrow scenario would represent additional monies for this search, a mechanism can be devised to ensure that the search for General Counsel benefits from the objective consideration of all candidates who may be interested in the position, while considering Juristaff for work in identifying certain candidates.

Such mechanism would include asking Juristaff to submit to the Director of Administration a list of those names from the Executive Director search with a strong fit to the General Counsel position. In order to ensure there is no bias towards or against this scenario (however likely or unlikely), only the director of administration would have access to the names submitted by Juristaff.

**Law Office of Jeffrey R. Pocaro**

141 South Avenue, Suite 204  
Fanwood, NJ 07023  
Phone: 908-490-1095  
Fax: 908-490-1099  
Cell: 908-377-2488  
Email: JRPEsq@aol.com



---

August 10, 2012

Mr. John E. Hill  
Massachusetts Gaming Commission  
1000 Washington Street, Suite 710  
Boston, Mass. 02118

**Re: Walter Case**

Dear Mr. Hill:

Please be advised that I represent Mr. Case on the appeal. My client has asked me to make the following request of the Commission based on the history of this case, as outlined below:

- 1) When the judges at Plainridge Race Track originally decided not to license Mr. Case, I was called before the decision was published and a telephone message was left at my office and on my cell phone. At the time of the call, I was on vacation in Mexico and was unable to retrieve messages on my voicemail or make calls on my cell phone. As soon as I returned from my vacation on Saturday, April 28, 2012, I called the judges at the track on April 30, 2012. I was informed by the judges that if I had called the previous week, my client's application could have been withdrawn and the denial would not have been made public. I was then told that since I had not called back to withdraw the application, the denial was now published and my only recourse was an appeal.
- 2) The appeal was then filed, a hearing took place and a tentative decision rendered by Commissioner Gayle Cameron on July 23, 2012. The tentative decision upheld the judges.

My client has asked me to withdraw the appeal and withdraw the application and request that the denial published on the United States Trotting Association website for rulings be withdrawn.

If the tentative decision is made final, it will result in a death knell to my client's chances to ever be licensed ever again in any state in the US, or for that matter in Canada, Australia or New Zealand. Furthermore, if the decision of the judges remains of record at the United States Trotting Association, it will have the same affect and will result, due to reciprocity, in my client being denied a harness driver's license in all other jurisdictions and countries.

I realize that this is an unusual request. But my client's possible future prospects to drive harness horses for a living will be impacted greatly if you do not permit him to withdraw the appeal and then withdraw his application (which would result in the withdrawal of the denial at the United States Trotting Association).

To remedy this situation, the Commission would have to transmit a letter to the United States Trotting Association that the denial ruling is withdrawn because Mr. Case was permitted to withdraw his application.

Upon your receipt of this letter, please call me to discuss the contents. If you have any questions, please do not hesitate to contact me. Thank you for your cooperation.

Very truly yours,

*JR Pocaro*

Jeffrey R. Pocaro

JRP/jrp

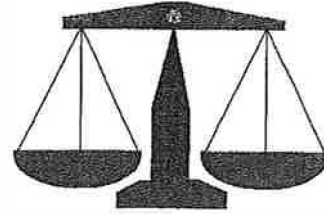
Enclosure(s)

cc: File  
Walter Case



## **Law Office of Jeffrey R. Pocaro**

141 South Avenue, Suite 204  
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Email: JRPEsq@aol.com



---

August 27, 2012

Commissioner Gayle Cameron, Presiding Officer  
Massachusetts Gaming Commission  
1000 Washington Street  
Boston, Mass. 02118

**Re: Walter Case**

Dear Ms. Cameron:

Please be advised that I represent Mr. Case in this matter. I have received your gracious extension for filing objections to the tentative decision issued July 23, 2012. My client is NOT filing any objections to the tentative decision.

Instead, my client seeks the relief sent to you in the Offer of Settlement letter that I previously sent.

If you have any questions, please do not hesitate to contact me. Thank you for your cooperation.

Very truly yours,

*JR Pocaro*

Jeffrey R. Pocaro

JRP/jrp

Enclosure(s)

cc: File  
Walter Case

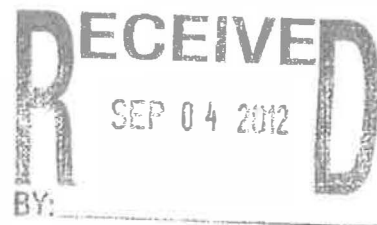
WILLIAM J. GEARY  
Attorney at Law

MASSACHUSETTS  
DISTRICT OF COLUMBIA  
UNITED STATES DISTRICT COURT  
UNITED STATES CIRCUIT COURT OF APPEALS  
UNITED STATES SUPREME COURT

15 KNOLLWOOD ROAD  
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TEL/FAX (888) 396-8816  
EMAIL: WILLIAMJGEARY@COMCAST.NET

9/6  
Commissioners -  
A proposal relative  
to the Seiffelle Downs  
EPA problem. For discussion  
Sept 11.

L.  
cc: Jones



VIA EXPRESS MAIL

September 3, 2012

Honorable Stephen P. Crosby  
Chairman  
Massachusetts Gaming Commission  
84 State Street, Suite 720  
Boston, Massachusetts 02109

Dear Mr. Chairman:

I read this weekend's Globe editorial "Casino panel must monitor racetrack's pollution woes" and believe I can assist the Commission in getting ahead of the curve on this issue, as it will continue to bedevil the racetrack and be a factor in the permitting and construction of a new gaming facility at the site. Indeed, it will also continue to be a cause celebre' for the Globe and a legitimate concern for community and environmental groups if untended

As you know from our last meeting, I am eager to re-engage in public service since my semi-retirement from Clean Harbors. I respectfully propose that the Commission consider appointing me as an independent counsel to monitor and advise the Commission on the environmental problems that led the EPA to recently fine the race track and will be one of the numerous environmental issues subject to permitting review for any development of that site as a casino destination.

I make this proposal because I believe I have unique qualifications that would immediately lend credibility to the Commission's commitment to ensure that its ongoing regulation of the race track and future development as a casino will be sensitive to the environmental concerns of the neighboring communities.

My background includes experience dealing with the very problem Suffolk Downs was fined for. As Metropolitan District Commissioner I built the Belle Isle Marsh Park directly across Bennington Street from the race track. The park provided access to Belle Isle Marsh for the very first time as a passive nature preserve by laying out a pattern of trails and scenic lookouts to appreciate and enjoy Boston's last and largest salt water marsh. A few years ago the Friends of the Belle Isle Marsh invited Governor Dukakis and I to a 20th anniversary re-dedication of the park. The MDC also designated the entire marsh as a scenic Reservation and worked with EOEA to have the entire area formally declared an "Area of Acute Environmental Concern". The park is still heavily used and operated by the MDC's successor DCR.

As a companion project to the construction of the park, as MDC Commissioner I also completed and inaugurated operation of a flood control station on the Suffolk Downs side of Bennington Street at Belle Isle inlet for the specific purpose of preventing storm surges from entering the culvert under Suffolk Downs and washing back into the marsh and bringing with it year's of accumulated contamination from the track's paddock area. This ongoing problem was the very focus of the recent EPA action against the race track.

Additionally, in my capacity as Commissioner of the Metropolitan Police, I created the Metro Police Environmental Enforcement Unit, the first unit of its kind in the state, to vigorously enforce environmental regulations and prosecute illegal dumping with a focus on Belle Isle Marsh. The police unit and enhanced management of the park area led to a dramatic transformation of the area and public awareness of our efforts to protect the environment.

During my tenure as Commissioner, I also restored Revere Beach, implemented regulations that arrested or stopped inappropriate development along the beach, and was fully involved in the resolution of all the environmental issues that brought forth the creation of the MWRA. Accordingly, I have a long standing positive relationship with all the community groups concerned with those issues.

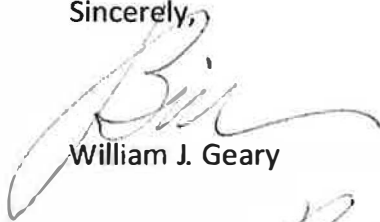
For the past 20+ years as the Chief Legal Officer and Compliance Officer for Clean Harbors, North America's largest environmental clean-up company, I also have long standing and positive relationships with all the regulators involved in reviewing any proposed development at the race track. In sum, I enjoy credibility as an honest and impartial arbiter of environmental issues with virtually all constituencies that will be involved with the review and debate of any casino development at that site.

Page 3

Chairman Crosby

I have enclosed a copy of my most recent vitae for your review. I respectfully request the opportunity to discuss this proposal in greater detail with you or your designee whenever it is convenient for you or your staff to do so. I can be reached by e-mail at [williamjgeary@comcast.net](mailto:williamjgeary@comcast.net) or by telephone at 617-755-2321.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill", written in black ink.

William J. Geary

A handwritten signature in cursive script, appearing to read "Best Regards", written in black ink.

SAT 9-1-2012

# The Boston Globe

Founded 1872

CHRISTOPHER M. MAYER *Publisher*

MARTIN BARON *Editor*

PETER S. CANELLOS *Editor, Editorial Page*

CALEB SOLOMON *Managing Editor*

## Casino panel must monitor racetrack's pollution woes

**B**ECAUSE OF improved water quality in Boston Harbor, the city's waterfront increasingly hums with life during the spring, summer, and fall months. So recent reports that Suffolk Downs inadvertently discharged horse manure, urine, and other pollutants into tributaries of the harbor from as early as 2004 to as recently as 2011 are especially disturbing to the growing number of people who live near and play in the water. The problem, which reflects on the racetrack's relationship with the area around it, deserves careful scrutiny from state gambling commissioners as they consider whether to grant the racetrack one of the state's three casino resort licenses.

According to court records filed by the Environmental Protection Agency last week, the racetrack was fined \$1.5 million in 2008 for contributing a "major source" of pollution to the harbor, threatening water quality and endangering aquatic life. The EPA found that the pollutants were entering the waterway through a creek that cuts through the racetrack's land, and then made their way into the Harbor and the At-

lantic Ocean.

In the track's defense, officials there point out that the discharges were inadvertent, and that they began working to fix the problem as soon as the EPA brought it to their attention in 2008. That solution included the construction of a new \$3.5 million drainage system that went online earlier this year, which will eliminate 193 tons of horse manure, urine, and other pollutants from winding up in the Belle Isle



KAYANA SZYMCZAK FOR THE BOSTON GLOBE

Inlet and Boston Harbor each year.

Still, the case Suffolk Downs has made for why it should be granted a resort-casino license rests heavily on the track's commitment to its East Boston neighbors and its future patrons. That's why track officials have pledged \$40 million to improve nearby roads if their bid is successful, and why they spell out, on the track's glossy website, their commitment to "doing the right things with the right mindset." Casino projects change entire communities even under the best of circumstances. Gambling commissioners should demand that bidders be alert to problems that might threaten their surroundings.

*William J. Geary  
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[williamjgeary@comcast.net](mailto:williamjgeary@comcast.net)*

*Attorney At Law Admitted to The Bar in Massachusetts & Washington, D.C.,  
The US District Court, US First Circuit Court of Appeals, US Supreme Court*

**President, Clean Harbors Development, LLC (2008-2011)**  
**Clean Harbors Environmental Services, Inc.**  
**Executive Vice President and General Counsel (1998 - 2008)**  
**Vice President of Government Relations & Public Affairs (1989-1998)**

Clean Harbors, the leading provider of environmental, energy and industrial services throughout North America, is a publicly traded (NYSE:CLH), multi-Billion dollar international corporation operating in 37 states, 7 Canadian provinces, Mexico, the Caribbean, Europe & the Far East. Held several top tier executive positions for over 22 years, including service as the Chief Legal Officer overseeing all the corporation's legal activities, Regulatory Compliance, Health & Safety Departments, investor relations and coordination of all relations with federal, state and local governments throughout the world as well as all corporate interaction with the press and media. As Chief Ethics Officer, promulgated and enforced the Company's Code of Ethics and ensured compliances with the Sarbanes/Oxley Act. Senior member of the Executive Committee reviewing general management issues and due diligence for acquisitions. Led the corporate subsidiary responsible for developing renewable energy resources at company facilities including a 1.5 megawatt solar array powering the decontamination of groundwater at a closed hazardous waste landfill in New Jersey. Continue to serve on the Board of Clean Harbors Development, LLC and act as external corporate counsel to the parent corporation for various legal and regulatory matters throughout North America.

**Chairman & CEO, Metropolitan District Commission, Commonwealth of  
Massachusetts. Metropolitan Police Commissioner, Boston, MA, 1983-1989**

Chief Executive Officer of a multi-jurisdictional regional state government agency with a combined 1989 operating and capital budget of \$ 500+ Million. The Agency's 5,000+ employees provided a multitude of essential services including New England's third largest police force, The Metropolitan Police. The Agency operated and maintained Billions of dollars of critical public infrastructure including the metropolitan area's extensive parkway and bridge system, drinking water system, flood control, nationally renowned parks, beaches, historic sites, rivers, ponds, reservoirs, zoos, recreational facilities and transportation/construction services serving millions of residents and visitors throughout fifty communities in the Metropolitan Boston area. Received wide spread public recognition for reforming the Department and improving public safety and the delivery of essential services throughout the metropolitan region.

**Government Relations/Public Affairs Counsel  
1979 - 1983 and 1989-Present**

Counsel to numerous respected corporations, public institutions and public officials including:

- Boston Beer Company, Brewers of World Famous Sam Adams Lager Beer.
- \* Legal Sea Foods, The leading quality seafood restaurants on the East Coast.
- ViaCord, a nationally pre-eminent biotechnology company.
- Harvard Design & Mapping (HDM), a leading G.I.S. systems designer.
- Office of The President of the United States, White House, Washington. D.C.
- Various Members of The House and Senate of The United States Congress.
- \* Advertising Council of Greater Boston

Provided counsel on communications, regulatory, political and legal issues. Devised strategies to enact and amend federal and state legislation, reduce regulatory burdens, secure permits, resolve conflicts and improve public and government relations for clients. Successfully represented national organizations in several major cases saving the clients millions of dollars in avoided costs and regulatory burdens. Formulated and executed numerous successful crisis communications programs and branding and image enhancement programs.

**Commonwealth of Massachusetts, 1975- 1979**

**First Deputy Secretary of State, 1979**

Constitutional Chief Executive Officer in charge of administration and finance for the Department of State Secretary. Responsible for state regulation of Corporations and publicly traded securities. Selected by an independent Blue Ribbon Committee.

**Special Assistant to the Governor, 1975 - 1978**

Director of all gubernatorial appointments and background investigations within The Executive Branch. Reporting directly to the Governor, led the Administration's integrity initiatives including the creation of the Ethics Commission, coordinated internal investigations of government operations and implemented reforms.

**Assistant Cabinet Secretary of Consumer Affairs, 1975**

Oversaw several operating agencies regulating business activities in the state, including banking, insurance, utilities and various professions.

**BOARDS OF DIRECTORS:**

- \* New England Council - presently
- \* Chairman, City of Quincy Planning Board - presently
- \* University of Massachusetts/Boston, Board of Visitors - presently
- Boston Harbor Association – 1996 to 2003
- Ford Hall Forum, Vice President – 1993-1999
- Harvard Design & Mapping, Inc. – 1989-1999
- Freedom Trail Foundation, 1992 - 1996
- Environmental Business Council of New England, 1993 - 1996

- South Shore Chamber of Commerce, 1992 – 1995
- Boston Museum of Science, 1983 - 1990
- Harvard University, Visiting Committee for the Arnold Arboretum
- Boston Convention and Visitors Bureau, 1984 - 1989
- Quincy Historical Society, 1989

**PROFESSIONAL, CIVIC & COMMUNITY AWARDS:**

- University of Massachusetts/Boston, Alumni Award as Outstanding Environmentalist, 1990
- Chevron Award For Outstanding Contributions to the Environment, 1989
- Commonwealth Award, Boston Society of Architects, 1988
- Public Servant of the Year, Boston Harbor Association, 1988
- Leadership Award, National Historic Neighborhood Foundation
- Designated an Outstanding Alumna, Northeastern University, Suffolk University and University of Massachusetts
- Ten Outstanding Young Leaders, Boston Jaycees, 1983

**TEACHING EXPERIENCE:**

***Suffolk University, Graduate School of Management, 1976 - 1983***

- Master Adjunct Professor of Management, MBA & MPA Programs
- Director of the Business/Government Forum

***Guest Lecturer:***

- M.I.T., U.C.L.A., Harvard University, (Kennedy School of Government, Graduate School of Design, School of Public Health). Bentley University, Stonehill College, Emerson College, Northeastern University, Universities of New Hampshire and Massachusetts, *Inc.* Magazine,

**EDUCATION:**

- Harvard University, Loeb Fellow in Advanced Environmental Studies, 1988
- Harvard University, Kennedy School of Government, Senior Executives, 1985
- Suffolk University Law School, Juris Doctor Degree, 1980
- Northeastern University, Masters Degree in Public Management & American Government, 1973, Awarded Northeastern University Research Fellowship
- UMass/Boston, Bachelor of Science, History & Political Science, 1972

**AFFILIATIONS:**

Governance Fellow, National Association of Corporate Directors (NACD)  
 Massachusetts Bar Association  
 District of Columbia Bar  
 Harvard Faculty Club



Attachment C

Case 1:12-cv-11556-JLT Document 3 Filed 08/22/12 Page 1 of 55

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____		)
UNITED STATES OF AMERICA,		)
		)
Plaintiff,		)
		)
v.		)
		)
STERLING SUFFOLK RACECOURSE LLC,		)
		)
Defendant.		)
_____		)

CIVIL ACTION NO.

CONSENT DECREE

U.S. v. Sterling Suffolk Racecourse LLC  
Consent Decree  
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10. Defendant shall pay the civil penalty due by FedWire Electronic Funds Transfer (“EFT”) to the U.S. Department of Justice in accordance with written instructions to be provided to Defendant, following lodging of the Consent Decree, by the United States Attorney’s Office for the District of Massachusetts, Financial Litigation Unit, Boston, Massachusetts. The costs of such EFT shall be the responsibility of Defendant. At the time of payment, Defendant shall send a copy of the EFT authorization form and the EFT transaction record, together with a transmittal letter, which shall state that the payment is for the civil penalty owed pursuant to the Consent Decree in *United States of America v. Sterling Suffolk Racecourse LLC*, and shall reference the civil action number and DOJ case number 90-5-1-1-09639, to EPA and the United States Department of Justice in accordance with Section XVI (Notices); by email to [acctsreceivable.CINWD@epa.gov](mailto:acctsreceivable.CINWD@epa.gov); and by mail to:

EPA Cincinnati Finance Office  
26 Martin Luther King Drive  
Cincinnati, Ohio 45268

11. Defendant shall not deduct any penalties paid under this Decree pursuant to this Section or Section X (Stipulated Penalties) in calculating its federal income tax.

#### VI. COMPLIANCE REQUIREMENTS

12. Pollution Prevention Measures (“PPM”) Plan. Beginning on the Effective Date, Defendant shall implement the PPM Plan, which is in Defendant’s NSMP (Appendix A). The PPM Plan is intended to comply with the requirements in 40 C.F.R. § 122.42(e)(1). Until the Effective Date, Defendant shall continue to implement the current Interim Pollution Prevention Measures Plan, which was submitted by Defendant pursuant to the Administrative Order, and which was conditionally approved by EPA.

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13. Production Area Roof Runoff Separation ("PARRS") Plan. Defendant shall implement the PARRS Plan and Operation and Maintenance ("O&M") requirements for the PARRS Plan, all of which are in the NSMP (Appendix A). Defendant shall implement construction under the PARRS Plan in accordance with the Compliance Measures Construction Schedule (which provides for the implementation of the required remedial measures as expeditiously as possible), attached hereto as Appendix B. All construction under the PARRS Plan shall be completed by June 15, 2012. Upon completion of all construction under the PARRS Plan, Defendant shall implement the O&M requirements for the PARRS Plan. The PARRS Plan and O&M requirements for the PARRS Plan include, but are not limited to, the following components:

a. The PARRS Plan provides for the installation of gutters and downspouts on Production Area buildings and provides for the direction of roof runoff to existing or new drainage infrastructure in order that the roof runoff shall be completely separated from process wastewater (including non-roof runoff) to the maximum extent practicable. The PARRS Plan and O&M requirements for the PARRS Plan include Best Management Practices ("BMPs") in the design, construction, operation, and maintenance of the separated roof runoff system. Such BMPs in the PARRS Plan include, to the extent feasible, the use of all appropriate currently available Green Infrastructure techniques.

b. The PARRS Plan includes the requirement that Defendant undertake a thorough cleaning of existing drainage infrastructure, including all piping, that will be used for any separated roof runoff, once the process wastewater has been separated from such drainage infrastructure, in order to remove any accumulated contaminated sediments. Such cleaning

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procedures include the collection and proper disposal of all dislodged sediments, debris, and process wastewater.

14. Production Area Process Wastewater Management ("PAPWM") Plan. Defendant shall implement the PAPWM Plan and O&M requirements for PAPWM Plan components, all of which are in the NSMP (Appendix A). Defendant shall implement construction under the PAPWM Plan in accordance with the Compliance Measures Construction Schedule (which provides for the implementation of the required remedial measures as expeditiously as possible), attached hereto as Appendix B. All construction under the PAPWM Plan shall be completed by June 15, 2012. Upon completion of all construction under the PAPWM Plan, Defendant shall implement the O&M requirements for the PAPWM Plan. The PAPWM Plan and O&M requirements for PAPWM Plan components include plans for the design, construction, operation, and maintenance of remedial measures to contain all process wastewater, including the runoff from a 25-year, 24-hour rainfall event. The PAPWM Plan and O&M requirements for PAPWM Plan components include, but are not limited to, the following components:

a. Storage Pond - The PAPWM Plan and O&M requirements for PAPWM Plan components require that a storage pond in the track infield ("Storage Pond") be designed, constructed, operated, and maintained to store the volume of all process wastewater from the Production Area, including the runoff from a 25-year, 24-hour rainfall event, as well as sufficient capacity for sediments, an operational zone, freeboard volume, and additional volume of water that will be generated by CAFO processes and rain events during times when the Land Application Area and the local sewer system cannot accept wastewater. The PAPWM Plan includes BMPs with respect to the discharge from the Storage Pond's emergency spillways

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whenever rainfall events cause an overflow of process wastewater. Such BMPs in the PAPWM Plan include, to the extent feasible, the use of all appropriate currently available Green Infrastructure techniques.

b. New Sewer Infrastructure - The PAPWM Plan and O&M requirements for PAPWM Plan components require the design, construction, operation, and maintenance of sewer infrastructure ("New Sewer Infrastructure") to divert from the Production Area to the Storage Pond all process wastewater, including all runoff not directed to the drainage infrastructure utilized pursuant to the PARRS Plan. The PAPWM Plan and O&M requirements for PAPWM Plan components require that, in conjunction with the sewer pumping station described in Paragraph 14(c) below, the New Sewer Infrastructure be designed, constructed, operated, and maintained to be able to convey process wastewater stored in the Storage Pond to either the Land Application Area or to the local sewer system.

c. Sewer Pumping Station - The PAWPM Plan and O&M requirements for PAPWM Plan components require the design, construction, operation, and maintenance of a pumping station to pump process wastewater stored in the Storage Pond to either:

i. the Land Application Area in compliance with the requirements in 40 C.F.R. § 122.42(e)(1); or

ii. the local sanitary sewer system for conveyance to the Massachusetts Water Resources Authority's ("MWRA") wastewater treatment facilities.

d. Land Application Area - The PAWPM Plan and O&M requirements for PAPWM Plan components require that any Land Application Area be designed, constructed, operated, and maintained in compliance with the requirements in 40 C.F.R. § 122.42(e)(1).

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e. Discharge to Local Sanitary Sewer System for Conveyance to the MWRA -

The PAWPM Plan and O&M requirements for PAPWM Plan components require that when process wastewater from the Storage Pond is not being directed to the Land Application Area, such wastewater shall be discharged to a local sanitary sewer system for conveyance to the MWRA, except during periods deemed not appropriate by the MWRA or the local sanitary sewer system. Once the Storage Pond is operational and the PARRS Plan fully implemented, Defendant shall connect all sanitary and washwater facilities located within the Production Area to the local sanitary sewer system and confirm all such connections through dyed-water testing; provided, however, that Defendant may continue to allow the use of the horse washing areas identified in the PPM Plan so long as Defendant maintains such areas in accordance with the PPM Plan.

15. Non-Production Area Stormwater Management ("NPASM") Plan. Defendant shall implement the NPASM Plan and O&M requirements for the NPASM Plan, all of which are in the NSMP (Appendix A). Defendant shall implement construction under the NPASM Plan in accordance with the Compliance Measures Construction Schedule (which provides for the implementation of the required remedial measures as expeditiously as possible), attached hereto as Appendix B. All construction under the NPASM Plan shall be completed by June 15, 2012. Upon completion of all construction under the NPASM Plan, Defendant shall implement the O&M requirements for the NPASM Plan. The NPASM Plan and O&M requirements for the NPASM Plan include BMPs in the design, construction, operation, and maintenance of the Non-Production Area's stormwater management system. Such BMPs in the NPASM Plan include, to the extent feasible, the use of all appropriate currently available Green Infrastructure techniques.

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16. Monitoring Plan. Defendant shall implement the Monitoring Plan, which is in the NSMP (Appendix A). The Monitoring Plan includes, but is not limited to, the following components:

a. Weekly Visual Monitoring - From the Effective Date until one year after the completion of all construction described in the PARRS, PAPWM and NPASM Plans and any Revised PARRS, Revised PAPWM and Revised NPASM Plans ("Anniversary Date"), while horses are stabled in the Production Area, Defendant shall conduct weekly visual monitoring of all outfalls to surface waters from the Production Area and Non-Production Area, including, but not limited to, the outfalls near sample locations SD-3, SD-4, SD-5, SD-7 (BMP-1), SD-10 and SD-13 (BMP-5), which are depicted in Figure 2 of the NSMP (Appendix A). Upon Approval by EPA, Defendant may suspend monitoring of any outfall that Defendant has capped or otherwise permanently terminated. Defendant shall maintain a monitoring log containing the following information for each outfall required to be monitored: the date and time of the visual observation; a characterization of any precipitation during the observation (using the terms "none," "light," "moderate," or "heavy"); a characterization of the amount of precipitation in the past 24 hours (using the terms as above); a statement of whether or not a discharge was observed; and the name of the person making the observation. Defendant shall maintain the monitoring records at Defendant's offices until five years after the Anniversary Date and shall make them available for inspection or copying upon request by an authorized representative of EPA or MassDEP.

b. Dry-Weather Monitoring - From the Effective Date through the Anniversary Date, Defendant shall sample once each month all outfalls to surface waters from the Production



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Area and Non-Production Area, including, but not limited to, sample locations SD-3, SD-4, SD-5, SD-7 (BMP-1), SD-10, SD-13 (BMP-5), PWP-1, and PWP-2, which are depicted in Figure 2 of the NSMP (Appendix A). In addition, during each dry-weather sample event, Defendant shall sample upstream and downstream locations in Sales Creek, identified as SD-12 and SD-2 (which are depicted in Figure 2 of the NSMP (Appendix A)). Upon Approval by EPA, Defendant may suspend monitoring of any outfall that Defendant has capped or otherwise permanently terminated. For the purpose of this Paragraph, dry weather is defined as any day selected by Defendant in which no greater than 0.1 inch of precipitation has fallen within the 48 hours preceding the sample event. For each of the locations identified as SD-3, SD-4, SD-5, SD-7 (BMP-1), SD-10, SD-13 (BMP-5), PWP-1 and PWP-2, should there be no discharge on the day Defendant selects for dry-weather sampling, Defendant shall indicate "No Discharge" on the monitoring log for such location and shall not submit a sample for testing from that location. All submitted samples shall be analyzed for E. coli, total suspended solids ("TSS"), nitrogen-ammonia, and total phosphorus, except for SD-7 (BMP-1) and SD-13 (BMP-5), where only TSS need be analyzed.

c. Wet-Weather Monitoring - From the Effective Date through the Anniversary Date, Defendant shall sample each sample location listed in Paragraph 16(b), above, during one rainfall event selected by Defendant per month that is expected to result in precipitation of 0.1 inch or greater. Upon Approval by EPA, Defendant may suspend monitoring of any outfall that Defendant has capped or otherwise permanently terminated. For each of the locations identified as SD-3, SD-4, SD-5, SD-7 (BMP-1), SD-10, SD-13 (BMP-5), PWP-1 and PWP-2, should there be no discharge on the day Defendant selects for wet-weather sampling, Defendant shall indicate

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“No Discharge” on the monitoring log for such location and shall not submit a sample for testing from that location. All submitted samples shall be analyzed for E. coli, TSS, nitrogen-ammonia, and total phosphorus, except for SD-7 (BMP-1) and SD-13 (BMP-5), where only TSS need be analyzed.

d. Storage Pond Monitoring - From the date the Storage Pond becomes operational through the Anniversary Date, Defendant shall sample all drain outlets into the Storage Pond whenever Defendant performs dry-weather or wet-weather monitoring, as described in Paragraphs 16(b) or 16(c), above, respectively. Should a drain outlet not be discharging on the day Defendant selects for sampling, Defendant shall indicate “No Discharge” on the monitoring log for such outlet and shall not submit a sample for testing from that outlet. All submitted samples shall be analyzed for E. coli, TSS, nitrogen-ammonia, and total phosphorus.

17. Revised Plans Following Issuance of CAFO NPDES Permit. Within thirty (30) Days after EPA and MassDEP issue a final CAFO NPDES permit for the Facility, and within thirty (30) Days after EPA and MassDEP issue any modified or reissued CAFO NPDES permit for the Facility, Defendant shall submit for Approval by EPA plans for the design, construction, operation, and maintenance of any additional remedial measures that would be required in order for Defendant to comply with the final CAFO NPDES permit or any modified or reissued CAFO NPDES permit, and the Act, in the form of, if necessary, a Revised PPM Plan, a Revised PARRS Plan, a Revised PAPWM Plan, and a Revised NPASM Plan. If a Revised PPM Plan, a Revised PARRS Plan, a Revised PAPWM Plan, or a Revised NPASM Plan is not necessary, Defendant shall submit for Approval by EPA a letter explaining why such Revised Plan is not necessary.

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Any Revised Plan shall include a schedule that shall provide for the required remedial measures to be performed as expeditiously as possible. Upon Approval by EPA, these Revised Plan(s) shall be incorporated into and become enforceable under this Consent Decree, and Defendant shall implement the requirements of such Revised Plan(s), as Approved by EPA, in accordance with the schedule(s) set forth therein. Defendant shall also submit for Approval by EPA, if necessary, a Revised Monitoring Plan, which shall include any additional monitoring components that are required in order for Defendant to comply with the final CAFO NPDES permit or any modified or reissued CAFO NPDES permit, and the Act. If a Revised Monitoring Plan is not necessary, Defendant shall submit for Approval by EPA a letter explaining why such Revised Plan is not necessary. Upon Approval by EPA, the Revised Monitoring Plan shall be incorporated into and become enforceable under this Consent Decree, and Defendant shall implement the requirements of the revised monitoring requirements as Approved by EPA.

18. Permits. Where any compliance obligation under this Section requires Defendant to obtain a federal, Commonwealth, or local permit or approval, Defendant shall submit timely and complete applications and take all other actions necessary to obtain all such permits or approvals. Defendant shall concurrently submit to EPA copies of all applications for permits or approvals (other than applications for building, plumbing, or electrical permits) in accordance with Section XVI (Notices). Defendant may seek relief under the provisions of Section XI (Force Majeure) for any delay in the performance of any such obligation resulting from a failure to obtain, or a delay in obtaining, any permit or approval required to fulfill such obligation, if Defendant has submitted timely and complete applications and has taken all other actions necessary to obtain all such permits or approvals.

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## VII. SUPPLEMENTAL ENVIRONMENTAL PROJECTS

19. Defendant shall perform and satisfactorily complete three SEPs in accordance with this Consent Decree and the Scopes of Work in Appendices C, D, and E. The first SEP, known as the Mystic River Watershed Water Quality Monitoring SEP, is designed to monitor the water quality of the Mystic River Watershed on a monthly basis for three specified years. The second SEP, known as the Saugus River Watershed Water Quality Monitoring SEP, is designed to monitor the water quality of the Saugus River watershed four times a year for four years. The third SEP, known as the Belle Isle Marsh Habitat Protection SEP, is designed to allow a fragile salt marsh to recover naturally from Defendant's discharges by providing access to the marsh in an ecologically protective manner. Defendant may employ or work with contractors, consultants or other entities to plan and implement the SEPs; provided, however, Defendant shall be solely responsible for the implementation and satisfactory completion of the SEPs.

20. Defendant has selected the Mystic River Watershed Association ("MyRWA") to implement the Mystic River Watershed Water Quality Monitoring SEP. Within sixty (60) Days after the Effective Date, Defendant will enter into a contract with its selected contractor under which MyRWA agrees to undertake supervision and implementation of this SEP, and Defendant is obligated to ensure implementation and satisfactory completion of this SEP in accordance with the Scope of Work in Appendix C. Said contract shall specify and identify the specific work to be undertaken in accordance with Appendix C. Defendant shall provide a copy of the contract to EPA within ten (10) Days of its execution.

21. Defendant has selected the Saugus River Watershed Council ("SRWC") to implement the Saugus River Watershed Water Quality Monitoring SEP. Within sixty (60) Days

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after the Effective Date, Defendant will enter into a contract with its selected contractor under which SRWC agrees to undertake supervision and implementation of this SEP, and Defendant is obligated to ensure implementation and satisfactory completion of this SEP in accordance with the Scope of Work in Appendix D. Said contract shall specify and identify the specific work to be undertaken in accordance with Appendix D. Defendant shall provide a copy of the contract to EPA within ten (10) Days of its execution.

22. Defendant shall implement and satisfactorily complete the Belle Isle Marsh Habitat Protection SEP in accordance with the Scope of Work in Appendix E; provided, however, that if the Massachusetts Department of Conservation and Recreation (“DCR”), or any other permit-granting authority, does not allow Suffolk to complete the Scope of Work described in Appendix E despite Defendant’s reasonable best efforts to obtain the approval of such authority (a “Disapproval Event”), (a) Defendant shall give EPA notice of the Disapproval Event within ten (10) Days of that event, along with a description of Defendant’s understanding of the reasons for the Disapproval Event and an itemization of the costs Defendant has incurred for this SEP through the date of the Disapproval Event (the “Disapproval Notice”), and (b) the provisions of Paragraph 32 shall govern. For purposes of this Paragraph and Paragraph 32, “reasonable best efforts to obtain the approval of such authority” shall not include agreeing to requests by DCR or any other permit-granting authority to (a) perform work in addition to that described in Appendix E, or (b) provide funding beyond that reasonably necessary to complete the Scope of Work described in Appendix E.

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23. With regard to the SEPs, Defendant certifies the truth and accuracy of each of the following:

a. that all cost information provided to EPA in connection with EPA's approval of the SEPs is complete and accurate and that Defendant in good faith estimates that the cost to implement the SEPs is at least \$742,000;

b. that, as of the date of executing this Decree, Defendant is not required to perform or develop the SEPs by any federal, state, or local law or regulation, and is not required to perform or develop the SEPs by agreement, grant, or as injunctive relief awarded in any other action in any forum;

c. that the SEPs are not projects that Defendant was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this Decree;

d. that Defendant has not received and will not receive credit for the SEPs in any other enforcement action;

e. that Defendant will not receive any reimbursement for any portion of the SEPs from any other person; and

f. that Defendant is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEPs. To the best of Defendant's knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEPs, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date of this settlement (unless the project was barred from funding as statutorily ineligible). For the purposes of this Paragraph, the terms

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“open federal financial assistance transaction” refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not yet expired.

24. Defendant shall supply SEP progress reports to EPA as required by Section VIII (Reporting Requirements). Each report shall contain:

a. A summary of the current status of each SEP for which EPA has not notified Defendant that Defendant has satisfactorily completed such SEP in accordance with Paragraph 27 below (a “Remaining SEP”);

b. A description of the activities undertaken to implement each Remaining SEP during the relevant Reporting Period (defined below), with specific reference to any implementation deadlines occurring in the Reporting Period;

c. Copies of any reports generated in implementing each Remaining SEP during the Reporting Period;

d. An explanation of any difficulties or delays in the implementation of each Remaining SEP; and

e. A summary, with copies of supporting documentation, of the costs expended on each Remaining SEP during the Reporting Period.

25. Within sixty (60) Days after the completion of each SEP, Defendant shall submit a SEP Completion Report to the United States, in accordance with Section XVI (Notices). Each SEP Completion Report shall contain the following information:

a. A detailed description of the SEP as implemented;

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b. A description of any problems encountered in completing the SEP and the solutions thereto;

c. An itemized list of all SEP costs expended. In itemizing its costs in each SEP Completion Report, Defendant shall clearly identify and provide acceptable documentation for all SEP costs. Where the SEP Completion Report includes costs unrelated to the SEP, those costs must be clearly identified as such. For the purpose of this Paragraph, "acceptable documentation" includes invoices, purchase orders or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made;

d. Certification that the SEP has been fully implemented pursuant to the provisions of this Decree; and

e. A description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).

26. EPA may, in its sole discretion, require information in addition to that described in the preceding Paragraph, in order to evaluate Defendant's SEP Completion Reports.

27. After receiving the SEP Completion Report for each SEP, the United States shall notify Defendant whether or not Defendant has satisfactorily completed the particular SEP. If Defendant has not completed the SEP in accordance with this Consent Decree, stipulated penalties may be assessed under Section X of this Consent Decree.



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28. Disputes concerning the satisfactory performance of the SEPs and the amount of SEP costs may be resolved under Section XII (Dispute Resolution). No other disputes arising under this Section shall be subject to Dispute Resolution.

29. Each submission required under this Section shall be signed by an official with knowledge of the SEP and shall bear the certification language set forth in Paragraph 84.

30. For federal income tax purposes, Defendant agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing any of the SEPs.

31. Any public statement, oral or written, in print, film, or other media, made by Defendant making reference to any SEP under this Decree shall include the following language: “This project was undertaken in connection with the settlement of an enforcement action, United States v. Sterling Suffolk Racecourse LLC, taken on behalf of the U.S. Environmental Protection Agency under the Clean Water Act.”

32. If Defendant (a) satisfactorily completes the Belle Isle Marsh Habitat Protection SEP or (b) submits a Disapproval Notice, but in neither event spends \$157,000 or more in Undisputed Costs (defined below) on such SEP, Defendant shall extend the SEPs described in Paragraphs 20 and 21 above by providing additional funding in the amount of half of the difference between \$157,000 and the Undisputed Costs (“Additional Funding”) to the Mystic River Watershed Water Quality Monitoring SEP, and an equal amount of Additional Funding to the Saugus River Watershed Water Quality Monitoring SEP. For purposes of this Paragraph, “Undisputed Costs” means, in the case of clause “a” of the preceding sentence, such SEP costs listed in the SEP Completion Report for the Belle Isle Marsh Habitat Protection SEP, as Approved by EPA, plus any additional SEP costs as determined following Dispute Resolution pursuant to Paragraph 28

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above; or, in the case of clause “b” of the preceding sentence, such SEP costs listed in the Disapproval Notice, as Approved by EPA, plus any additional SEP costs as determined following Dispute Resolution pursuant to Paragraph 28 above. Defendant shall give notice to EPA, MyRWA, and SRWC of any Additional Funding within sixty (60) Days of receiving notice under Paragraph 27 of completion of the Belle Isle Marsh Habitat Protection SEP or sixty (60) Days of Approval by EPA of the Disapproval Notice, unless such notice or approval is subject to Dispute Resolution, in which case Defendant shall provide notice to EPA, MyRWA, and SRWC of any Additional Funding within thirty (30) Days after the completion of Dispute Resolution.

#### VIII. REPORTING REQUIREMENTS

33. Within thirty (30) Days after each Reporting Period (defined below), Defendant shall submit to EPA for review Compliance Reports, with a copy to MassDEP. From the Effective Date through the close of the calendar quarter in which Defendant has fully implemented (apart from continuing operational, maintenance or monitoring requirements) the PARRS, PAPWM and NPASM Plans or the Revised PARRS, Revised PAPWM and Revised NPASM Plans, the Reporting Periods shall be three-month periods ending on March 31st, June 30th, September 30th, and December 31st. Subsequently, until the termination of this Decree in accordance with Section XX (Termination), the Reporting Periods shall be six-month periods ending on June 30th and December 31st. Each Compliance Report shall include, at a minimum, the following items:

- a. A description of the activities undertaken during the Reporting Period directed at achieving compliance with this Consent Decree;
- b. A description of any proposed changes to the remedial measures prescribed in plans Approved by EPA;

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c. An identification of all plans, reports, and other submissions required by this Consent Decree that Defendant completed and submitted during the Reporting Period;

d. A listing of all samples collected and corresponding analytical results, organized chronologically by discharge, of sampling conducted in accordance with the monitoring required by Paragraphs 16(b), 16 (c), and 16 (d);

e. A description of the performance of each BMP or group of BMPs, including a description of any maintenance activities performed during the Reporting Period;

f. A description of the activities Defendant plans to undertake during the next Reporting Period in order to achieve compliance with this Consent Decree; and

g. An identification of any noncompliance with the requirements of this Consent Decree. If any noncompliance is reported, the notification shall include the following information:

i. A description of the noncompliance;

ii. A description of any actions taken or proposed by Defendant to comply with any lapsed requirements;

iii. A description of any factors that tend to explain or mitigate the noncompliance; and

iv. For any actions proposed by Defendant to comply with any lapsed requirements, the date by which Defendant will perform such proposed action.

34. Until Defendant satisfactorily completes all SEPs, within thirty (30) Days after each Reporting Period, Defendant shall submit to EPA for review a progress report regarding the performance of the SEPs required by Section VII and Appendices C, D, and E.

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35. Whenever any violation of this Consent Decree or any other event affecting Defendant's performance under this Decree, or the operation of the Production Area, Non-Production Area or Land Application Area, may pose an immediate threat to the public health or welfare or the environment, Defendant shall notify EPA orally or by electronic or facsimile transmission as soon as possible, but no later than 24 hours after Defendant first knew of the violation or event. This procedure is in addition to the requirements set forth in the preceding Paragraph.

36. All reports shall be submitted to the persons at EPA designated in Section XVI (Notices).

37. The reporting requirements set forth in this Section do not relieve Defendant of its obligation to submit any other reports or information as required by the Clean Water Act or implementing regulations, or by any other federal, Commonwealth or local law, regulation, permit, or other requirement.

38. Any information provided pursuant to this Consent Decree may be used by the United States in any proceeding to enforce the provisions of this Consent Decree and as otherwise permitted by law. With respect to information asserted by Defendant as required to be protected as CBI, such information will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B.

#### IX. APPROVAL OF SUBMISSIONS

39. After review of any plan, schedule, report, or other item that is required to be submitted for Approval by EPA pursuant to this Consent Decree, including but not limited to Plans required by Section VI of this Consent Decree, EPA shall in writing: (a) approve, in whole

8e

cc: Commissioner



**AIA MASSACHUSETTS**

290 Congress Street, Suite 200 • Boston MA 02110 • 617-951-1433 x.263 • Fax: 617-951-0845

I think this is a good suggestion & would like to meet w/ them to develop it further -

**RECEIVED**  
AUG 30 2012  
BY: \_\_\_\_\_

August 27, 2012

Stephen Crosby, Chair  
Massachusetts Gaming Commission  
84 State Street, Suite 720  
Boston MA 02109

Dear Chairman Crosby,

As a follow-up to our letter to your Commission on April 20, 2012 in which we shared some observations and recommendations about casino development in Massachusetts based on the professional knowledge and experience of our members (see attached), I write to suggest a potential collaboration between our two organizations.

CCO going to Com at open meeting Sept 11

Since its inception in November 2011, it has been clear that the Massachusetts Gaming Commission has endeavored to create a fair, transparent, and participatory process for implementing the expanded gaming law. To that end we applaud the many public meetings the Commission has held along with its numerous public forums. It is in the realm of the public forum that we believe a collaborative opportunity may exist for our two organizations.

To date your Commission has held forums focused on Best Practices and Lessons Learned, Economic Impacts, Problem Gambling, and Community Mitigation and Workforce Development. These are all issues well worth the Commission's time in engaging the public in discourse. We propose a similar public forum to address issues of physical planning and design including:

- Overall quality of design, integration with local landscape, harmony of scale with surroundings.
- Sustainable location and siting: Urban, brownfield, or other smart growth location, with minimal traffic impacts and maximum public transit options, and with siting to maximize solar orientation for heating and cooling and to minimize stormwater impacts.
- Sustainable energy use: A goal of as close to net zero energy as possible, including opportunities to harness sun, wind and geothermal energy generation, co-generation, and distribution.
- Sustainable water use: Store, use, and reuse water resources with goal of net zero stormwater.
- Sustainable construction & materials use: Ways to exceed LEED standards on construction waste & local materials.
- Accessibility design: application of Universal Design principles, which welcomes all visitors and exceeds minimal accessibility requirements.
- Local services: Goals of significant local labor and preferences for Mass. design and construction firms either ( as lead firms, or as local partners in teams with lead national firms).

*AIA Massachusetts is the consortium of the Boston Society of Architects, the Central Massachusetts Chapter of the AIA and the Western Massachusetts Chapter of the AIA*



## AIA MASSACHUSETTS

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We would like to engage with you and your staff to synthesize the ideas above into a forum which the Commission feels would be beneficial to both its members and the general public. We would be interested in working with you in an arrangement much like that which existed between the Commission and the Metropolitan Area Planning Council (MA PC) for your "Community Mitigation" forum. As we understand it, in that collaboration, MAPC was asked by the Commission to organize the event around the particular topic of Mitigation. In return for MAPC's involvement, the Commission promoted the event to the general public while also reimbursing MAPC for its organizational costs. This is a format that AIA Massachusetts sees as both beneficial to the Commission and MAPC, and most importantly to the public at large.

We hope that you will consider this offer of collaboration. Please feel free to contact me at your earliest convenience if you have any questions, comments or concerns.

Thank you.

John Nunnari  
Executive Director, AIA Massachusetts

Cc Janice Reilly, Chief of Staff



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April 20, 2012

Stephen Crosby, Chair  
Massachusetts Gaming Commission  
84 State Street, Suite 720  
Boston MA 02109

Dear Chairman Crosby,

We represent both the Massachusetts chapter of the American Institute of Architects, and its largest component, the Boston Society of Architects. We are writing today to share with the Gaming Commission some observations and recommendations about casino development in Massachusetts based on the professional knowledge and experience of our members.

AIA Massachusetts views the plans for three casinos in our state as an exciting opportunity to embrace new thinking for this type of development. In addition to generating revenue, Massachusetts casinos can be models of sustainability and quality design in harmony with local settings and resources. We believe that proposed casino developments should reflect the leadership of the Commonwealth in the area of sustainability, as reflected in the American Council for an Energy-Efficient Economy's (ACEEE) recent ranking of Massachusetts as the number one state in terms of energy efficiency.

It may also interest you to know that Michael Davis FAIA, President-elect of the Boston Society of Architects, will be a panelist for The Boston Globe forum, *Building a Better Commonwealth: MassVegas*, on Thursday evening, April 26, at the World Trade Center.

We ask that you take time to review the enclosed *AIA Massachusetts Statement on Casinos* and to call upon the Massachusetts architectural community as a resource as planning for these facilities progresses. We look forward to helping the Commonwealth maximize the opportunities presented by this type of development.

Thank you.

A. Vernon Woodworth AIA  
President, AIA Massachusetts

Laura Wernick AIA  
President, Boston Society of Architects

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the Central Massachusetts Chapter of the AIA and the Western Massachusetts Chapter of the AIA*



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# AIA Massachusetts Statement on Casinos: The Opportunity for a New Model of Sustainability and of Quality Design in Harmony with Local Communities and Resources

### 1. Executive Summary.

The Massachusetts Chapter of the American Institute of Architects (AIA MA) believes the plans for three casinos in Massachusetts present an exciting opportunity to create a new model for casinos. Massachusetts can and should require casinos that are successful not only in terms of gambling revenues but also as models of sustainability and of quality design in harmony with local landscapes and community resources.

Massachusetts is not Las Vegas or Connecticut. Let's create exciting casinos that are "green" and sustainable (high-performance buildings whose reduced energy and water use produce long-term cost savings, smart growth siting with minimal negative greenhouse gas and traffic impacts and maximum public transit options and use of renewable energy and local materials, and stormwater and construction waste impacts close to net zero). And let's ensure that the casinos enhance and strengthen our local communities (coordinating casino designs and functions with our historic town centers and existing cultural institutions, highlighting local and regional natural and historic resources, requiring quality design that fits the scale and character of our cities and landscapes, and preferences for Massachusetts design and construction firms and local labor).

### 2. Discussion.

With all the issues and emotions at play related to the casinos, regulators and the public should not lose sight of the design criteria required by the Gaming Commission legislation. Section 5(a)(3) of new MGL c.23K requires the Commission to issue regulations that prescribe criteria for evaluation of applications for a casino, including *"an evaluation of architectural design and concept excellence, integration of the establishment into its surroundings, potential access to multi-modal means of transportation, tourism appeal"* as well as an applicant's financial strength.

The BSA proposes interested stakeholders prepare specific design criteria for the location, siting, design, construction, and operation of casinos that reflect the Massachusetts commitments to sustainability and local resources, and then present those criteria to the Massachusetts Gaming Commission and Commonwealth agencies that will make permitting and other decisions about the casinos. These criteria should be ambitious but feasible, with measurable long-term benefits to host communities and the Commonwealth as well as to the casino developers and operators.

### 3. AIA MA recommends the following to frame the discussion about casino design criteria:

#### A. SET AMBITIOUS SUSTAINABILITY GOALS

Given the major environmental, energy, and climate change impacts of buildings, the casino buildings and landscapes should **not only meet current minimal sustainability standards such as LEED but should go beyond them**. Locating new casinos on sites that will minimize

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traffic and construction of new roads, enable the public to travel by public transit, and protect existing forests and wetlands will demonstrate our ability to foster major new developments without trading away air quality or the beauty of our landscapes. Sustainable building technologies and systems have made remarkable advances in recent years, and costs to achieve high levels of sustainability are often comparable to costs for standard building practices (if designed early in the process). **Sustainable buildings provide major savings in operating costs**, so Massachusetts casinos can be a model for the rest of the world on how casinos can be **both sustainable and profitable**.

### **B. STRENGTHEN LOCAL COMMUNITIES, BUSINESSES, INSTITUTIONS**

Massachusetts should require casinos to do more than not harm local communities (by not burdening them with traffic, demands for police and fire services, and other negative impacts). Casinos should provide positive benefits to local communities. The design, construction, and operation of a gaming facility can strengthen local and regional businesses (not just avoid negative impacts) **by requiring local purchases and other partnering arrangements with local businesses**. The **casino design** and on-going **entertainment programming** should reflect and publicize **local or regional cultural institutions** as well as **historic and natural resources**.

### **C. INTEGRATE WITH LOCAL LANDSCAPE (NOT INTERNALLY-FOCUSED)**

Like malls and hospital complexes, casinos are too often internally-focused in that they strive to attract, keep, and entertain patrons inside of their walls for as long as possible. While beneficial for the casino, such internal orientation undermines potential beneficial relationships with the surrounding landscapes and uses, and it diminishes opportunities for place-making. In addition, casinos typically have expansive floor plates with vast amounts of continuous blank facades facing the outside. The casinos should be required to **better integrate the exterior envelope** of the casino with the arrival, drop off and exterior landscape of the context in which it resides.

### **D. HARMONIZE DESIGN WITH LOCAL COMMUNITY (NOT SCALE DISPARITY)**

Casinos are destinations unto themselves. If located on greenfield (undeveloped) sites, their design and iconography help to foster a particular image of the place. When located in more dense and established settings (in urban setting or brownfield sites), a greater burden is placed on them to address the local culture in which they are rooted. When additional uses such as hotels and parking facilities aggregate onto the gaming and retail components, the overall scale impact of the casino project can be immense. Casinos should be required to carefully **calibrate the massing of the gaming facility with adjacent land uses** so as not to erode the existing fabric. "Land-banking" for future casino expansion, initially in the form of surface parking, often accompanies the first phases of development. European casinos successfully operate on main streets – we should find ways to provide the Massachusetts equivalent for our communities.

### **E. EMERGENCY SHELTER**

The creation of casinos in the Commonwealth provides the opportunity to build facilities that the public can benefit from during emergencies. Families displaced during a crisis could

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seek refuge in temporary housing in these complexes, which include hundreds of hotel rooms, complete dining facilities, medical support, and emergency power sources. The tumultuous weather such as the tornado in Springfield and the October snow storm in Western Mass will likely continue in the future, and the casinos can be a physical resource to the communities in which they are located. The solution concepts employed in Sustainable Design are nearly identical to those of Resilient Design, but with a shift in focus from the environment to the safety and security of people. In the event of a disaster, providing safe haven for the people who live near the casinos is not only in the interest of the Commonwealth, it is common sense.

#### **4. AIA MA RECOMMENDED DESIGN CRITERIA**

AIA MA recommends the following as specific design criteria the Gaming Commission should consider, but we welcome full discussion among all interested parties in a transparent process:

- A. Overall quality design, integration with local landscape, harmony of scale with surroundings.
- B. Sustainable location and siting: Urban, brownfield, or other smart growth location, with minimal traffic impacts and maximum public transit options, and with siting to maximize solar orientation for heating and cooling and to minimize stormwater impacts.
- C. Sustainable energy: A goal of as close to net zero energy as possible, including opportunities to harness sun, wind and geothermal energy generation, co-generation, and distribution.
- D. Sustainable water: Store, use, and reuse water resources with goal of net zero stormwater.
- E. Sustainable construction & materials: Exceed LEED on construction waste & local materials.
- F. Accessibility design: Welcomes all visitors and exceeds minimal accessibility requirements.
- G. Local services: Goals of significant local labor and preferences for Mass. design and construction firms (if not as lead firms, then as local partners in teams with lead national firms).

## Casino Health Impact Assessment Partnership

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### Invitation to Participate

Partners for a Healthier Community is interested in responding to a call for proposal on behalf of the local communities to assess the impact of a Casino in Western Massachusetts. The grant making program is entitled – “The Health Impact Project: Advancing Smarter Policies for Healthier Communities”, a collaboration of the Robert Wood Johnson Foundation and The Pew Charitable Trusts, encourages the use of health impact assessments (HIA) to help decision-makers identify the potential health effects of proposed policies, projects, and programs, and make recommendations that enhance their health benefits and minimize their adverse effects and any associated costs<sup>1</sup>. “The HIA is a systematic process that uses a combination of methods, tools, and data sources, including input from stakeholders, to determine the potential health effects of a proposed policy, plan, program, or project on a population and the distribution of those effects to ensure that health impacts are considered in plans, policies, and programs”<sup>2</sup>. HIAs examine potential direct and indirect health effects by determining possible health impact areas and assessing the potential pathways by which these health impact areas might be affected (e.g. economic, social, workforce). As part of this process, HIAs assess how the proposed policy, plan etc. may affect health equity and impact vulnerable populations.

### Significance of Your Involvement

The Casino HIA Partnership would guide intentional assessment planning and policy alignment across the full continuum of health related impacts - social, economic, workforce, built environment. This proposal will advance and strengthen existing assessments by integrating and building on several opportunities. The bulleted opportunities for integration listed below are just illustrations of the potential for alignment between existing assessment work and the HIA process.

- There is a requirement that the applicant shall mitigate the potential negative public health consequences associated with gambling and the operation of a gaming establishment. In this respect, the Gaming Commission has the authority to require an initial and ongoing Health Impact Assessment<sup>i</sup>.

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<sup>1</sup> 2012 Call for Proposals - The Health Impact Project: Advancing Smarter Policies for Healthier Communities

<sup>2</sup> Source: National Research Council [NRC] 2011, CDC 2012b

## Casino Health Impact Assessment Partnership

- Hospitals in Western Massachusetts are in the process of implementing community-benefits related health needs assessments that fit the HIA assessment framework and also, it is aligned with a SODH model (see model below) having assessed potential individual-level issues and environmental issues (built environment, economic impacts).
- There are Regional Employment Board's in Western Massachusetts that have developed Strategic Workforce Development Plans and provide baseline understanding of gaps, needs, and desired outcomes, which can be easily aligned with health related impacts.
- The Pioneer Valley Planning Commission's assessments built environment and "State of the People Reports" include many of the population health factors in the illustration<sup>3</sup> below.

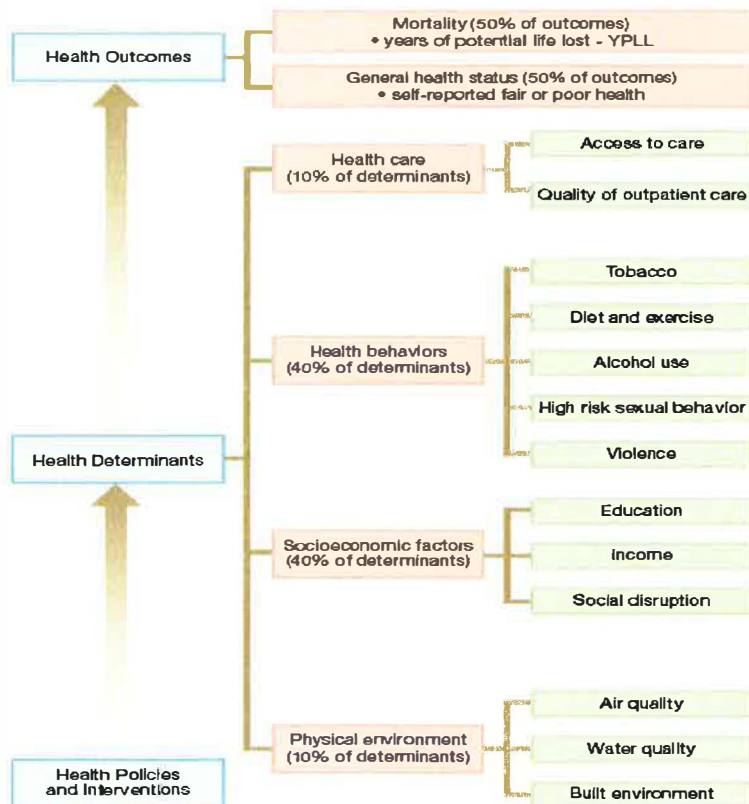


Figure 1 - Social Determinants of Health

<sup>3</sup> Source: University of Wisconsin, population Health Institute

# Casino Health Impact Assessment Partnership

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## Desired Community Outcomes

The HIA will address three critical issues: (1) inform policy decisions and decision makers; (2) identify health issues; and (3) provide timely health data and information to the public.

1. What decision are we trying to inform? - Casino HIA Partnership stakeholders will include diverse cross sector participants and residents to ensure that population health impacts are considered in the decision to accept a Casino and/or consequent need for its mitigation efforts - plans, policies, programs, and projects. In the HIA, the World Health Organization definition of health as the “state of complete physical, mental and social well-being and not merely the absence of disease or infirm” frames this work. There are two consecutive years of Wisconsin County Health Rankings for Massachusetts Counties and these metrics will inform this HIA process as well. The HIA will model changes in the following population health areas.

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### Population Health Measures

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#### Overall Health Outcomes

- Health Outcomes – Mortality
- Health Outcomes – Morbidity

#### Overall Health Factors

- Health Factors – Health behaviors
  - Health Factors – Clinical care
  - Health Factors – Social and economic factors
  - Health Factors – Physical environment
- 

2. What are the health issues? All stakeholders are engaged in intentional planning to get alignment on the health issues of concern across the full continuum of potential health impact areas. The HIA Partnership process itself helps address long term and sustainable changes by supporting the development of community-wide leadership and policy change. The aim is to get agreement across sectors on priority programs and policies that will mitigate the potential negative public health consequences associated with gambling and the operation of a gaming establishment, establish ongoing annual HIA updates, and recommend to the Gaming Commission public health strategies determined by the annual health assessments, which would be aligned with the County Health

## Casino Health Impact Assessment Partnership

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Rankings and Road Map to Health initiative, thus providing all stakeholders with the tools for targeting resources to our region/communities a healthier place to live, learn, work, and play.

3. What is the timing of a HIA and related decision making process? The results of this HIA, if the proposal is awarded in January 2013, could be available to the public in phases. Phase 1: In approximately three months, a rapid review, which is often times just a literature review, can be available. Phase 2: Based on a more precise scope of work determined by Casino HIA Partnership stakeholders a more elaborate assessment would be available six months from the start of the grant award. Together, these products will be influential in outlining likely benefits and mitigation issues to be included in proposals leading up to a referendum activity in November 2013. Initially and on an ongoing annual basis the HIA process will address patterns of health determinants, health outcomes, and policies and interventions (Figure 2).

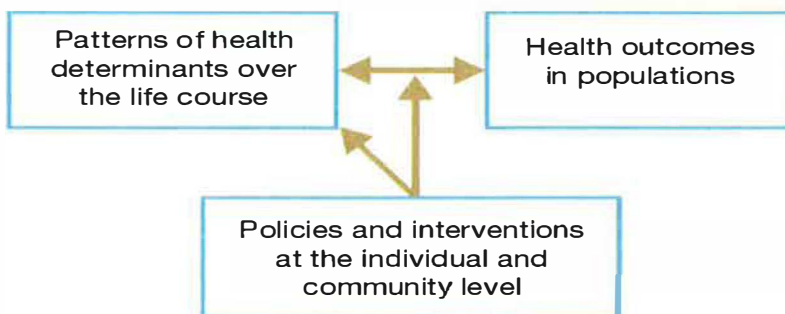


Figure 2 - Annual Outcomes

### Potential Members in the Casino HIA Partnership

The Casino HIA Partnership might include, but not is limited to at least the following key stakeholders:

1. 10 Western Massachusetts Hospitals - (Baystate Franklin Medical Center Health, Baystate Mary Lane Hospital, Baystate Medical Center, Berkshire Medical Center, Cooley Dickinson Hospital, Noble Hospital, Holyoke Hospital, Sisters of Providence Health System (Mercy Medical Center), Wing Memorial Hospital)

## **Casino Health Impact Assessment Partnership**

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2. Chambers of Commerce in Western - Massachusetts (Berkshire Chambers, Hampden County/Greater Springfield Chambers, Quaboag Hills Region, Franklin County)
3. City Governments - (Springfield and others)
4. Community Action (anti-poverty) Agencies in Western Massachusetts
5. Community Based Nonprofits
6. Develop Springfield (Rebuild Springfield)
7. Massachusetts Gaming Commission
8. Pioneer Valley Planning Commission
9. Regional Employment Board
10. Resident Associations (civic associations, neighborhood councils, others)
11. United Ways in Western Massachusetts
12. University of Massachusetts, Public Health and Health Sciences
13. Western Massachusetts Economic Development Council

# Casino Health Impact Assessment Partnership

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## Endnotes:

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<sup>i</sup> Chapter 194 of the Acts of 2011: An Act Establishing Expanded Gaming in the Commonwealth, which was signed into law by Governor Patrick on November 22, 2011.

From CHAPTER 23K.  
THE MASSACHUSETTS GAMING COMMISSION

The General Court finds and declares that:

### SECTION 9(a)

(8) an agreement that the applicant shall mitigate the potential negative public health consequences associated with gambling and the operation of a gaming establishment, including: (i) maintaining a smoke-free environment within the gaming establishment under section 22 of chapter 270; (ii) providing complimentary on-site space for an independent substance abuse and mental health counseling service to be selected by the commission; (iii) prominently displaying information on the signs of problem gambling and how to access assistance; (iv) describing a process for individuals to exclude their names and contact information from a gaming licensee's database or any other list held by the gaming licensee for use in marketing or promotional communications; and (v) instituting other public health strategies as determined by the commission;