

# The Commonwealth of Massachusetts

## Massachusetts Gaming Commission

### Meeting Minutes

- Date:** April 17, 2012
- Time:** 2:00 p.m.
- Place:** Division of Insurance, 1<sup>st</sup> Floor Meeting Room E  
1000 Washington Street, Boston, Massachusetts
- Present:** Commissioner Stephen P. Crosby, Chairman  
Commissioner James F. McHugh  
Commissioner Bruce Stebbins  
Commissioner Enrique Zuniga
- Not Present:** Commissioner Gayle Cameron

Chairman Crosby opened the meeting. He announced that Commissioner Cameron would not be present due to a prior commitment. He stated today's agenda will cover some important organizational items. He indicated the Commission hopes to have a regular meeting schedule prepared for next week's meeting. During regular Commission meetings, the public will be invited to watch, but there will be no public comment. There will, however, be many additional meetings scheduled with an opportunity for public comment. The commission will try to have all future meetings streamed live on the web. Chairman Crosby stated a transcript and minutes from this meeting will be posted on the website so there will be a complete record of what is being undertaken. See transcript pages 2-5.

#### **Administration:**

Search for Executive Director – Commissioner Stebbins indicated the Commission has drafted an RFR for services from a recruitment firm, and hopes to award a contract with a value of not more than \$80,000 to such a firm by the end of May so that a search can begin. Chairman Crosby stated the legislation authorizes the Commission to hire an acting Executive Director. Commissioner Stebbins stated several resumes have been submitted for the position of Acting Executive Director, and the Commission will begin to reach out to the applicants in the next week or two.

Interim Bookkeeper – Commissioner Crosby indicated the Comptroller's office will continue to handle the Commission's financial record keeping for the time being.

HR Process – Commissioner Zuniga indicated he has distributed a copy of a hiring policy he is familiar with from the Treasurer’s Office. He would like to consider drafting a similar hiring policy, which will be an important first step for future hiring. Commissioner McHugh stated that he believes promulgation of such a policy is a high priority and is included on outside counsel’s task list. Chairman Crosby stated that the Commission is planning to recruit for several positions and will soon have these positions posted on the website.

Public Information Officer – Chairman Crosby stated the Commission is searching for a full-time Director of Communications. The position is posted in the state’s HR system and the Commission hopes to have someone on board as quickly as possible.

Outside Counsel and Gaming Consultants – Chairman Crosby indicated the Commission is prequalifying the proposal from Michael & Carroll and Spectrum Gaming for gaming consulting services. Both teams have agreed to have Kathleen O’Toole coordinate their efforts and the way they will work together. A plan will be forthcoming. Commissioner McHugh stated that the Commission has asked Anderson and Kreiger to serve as outside counsel. He circulated a plan containing the general areas in which the firm will work and asked for Commissioners to volunteer to work with the firm in each of those areas. The Commission has also consulted with the Attorney General about how to coordinate responsibility for preparation of regulations. Chairman Crosby indicated he hopes they can borrow from other gaming commissions and not have to rewrite everything. It was decided to have each Commissioner submit areas of interest to Commissioner McHugh, then he and Chairman Crosby will meeting and finalize a plan for approval at a future meeting.

Briefing for Commissioners – Chairman Crosby indicated there are a number of agencies scheduled to talk to the Commissioners and key staff on items such as Open Meeting Law, Campaign Finance, and Public Records.

Record Keeping – Commissioner McHugh indicated the Commission is trying to find a mechanism that will allow it to store, share and keep track of documents electronically to the fullest extent possible. He stated that the Commission may need a consultant to help with selection and installation of such a system. Commissioner Zuniga stated that the system should be indexed so that information can be easily searched.

Commissioner Areas of Responsibility - Chairman Crosby stated that, to allow the Commission to work at maximum efficiency, division of primary responsibilities is essential. He will be primarily responsible for overall coordination and communication, Commissioner Cameron for law enforcement and compliance, as well as the State Racing Commission, Commissioner Stebbins for economic development and municipal relations, Commissioner Zuniga for finance, real estate, and HR and Commissioner McHugh for legal affairs, regulations, documentation, and internal compliance.

See transcript pages 5-26.

**Public Information:**

May 3, 2012 Conference – Chairman Crosby announced that on May 3, 2012, the Commission will hold an educational training session with a number of experts, mostly from New Jersey and

Pennsylvania, to help the Commission focus on key issues the Commission is likely to face as time proceeds. The session will take the form of an all-day conference held at the Boston Convention Center and will be streamed live on the Internet.

Standard Talking Point Presentation – Chairman Crosby stated he has put together a draft that will provide standard talking points. He believes that Commissioners should be prepared to talk to as many groups as possible about the Commission’s work and the draft will provide helpful answers to frequently asked questions.

Contacts by Interested Parties/Providing Information to Communities – Commissioner McHugh stated that the Commission is beginning to receive questions from cities and towns regarding process. The Commission has to decide how to respond to these inquiries because, with respect to many areas of inquiry, the Commission has not yet formulated firm policies. Commissioner McHugh stated that the Commission should, among other things, post on its web site some general guidelines describing how the expanded gaming statute works. He also stated that the Commission should work with municipal associations and try to hold meetings periodically with interested representatives of cities and towns. He also stated that the Commission should post representative questions emailed or otherwise presented to the Commission with appropriate answers so that everyone has access to the same information. Commissioner Zuniga stated that the legislation allows for local communities to establish regional committees, although the exact process for establishing these committees is unclear. Chairman Crosby stated that that aspect of the legislation may apply to policy committees after licenses are awarded.

Chairman Crosby stated that various groups and individuals are interested in speaking to Commissioners on various subjects. He stated that discussions of that sort should take place, but only with two Commissioners present. Commissioner Zuniga stated that the Commission needs to determine what questions are local level questions and what questions should be addressed at the state level. He recommended consulting with counsel on this. Chairman Crosby indicated that any municipal inquiry should be referred to Commissioner McHugh, and they will brainstorm how to handle this going forward.

See transcript pages 26-42.

### **Racing Commission:**

Status – Commissioner McHugh said that the statute requires the Gaming Commission to assume the duties of the Racing Commission on May 20, 2012, and the Commissioners are concerned that taking on Racing Commission responsibilities will seriously delay their ability to do the rest of their work. Postponing the May 20 date, therefore, is the Commission’s preferred approach, although it is moving on a parallel track so that assumption of Racing Commission responsibilities will proceed smoothly if the date is not altered. The Commission has issued an RFR for a consultant who is familiar with the racing industry and who can provide an objective view of issues that require consideration. Commissioner McHugh indicated he has spoken with the Racing Commission personnel who indicated the best time of year for a takeover to occur would be in late November or early December.

Payments from Racing Stabilization Fund – Commissioner Zuniga stated certain payments are due from the Racing Stabilization Fund to former dog owners and kennel owners. These

payments were authorized by the Legislature to provide compensation for those who had their livelihood eliminated when dog racing was eliminated in the state. He stated the Commission will have to decide whether to replicate the current methodology being used for these payments, or create a new methodology. He stated the legislation transferred ownership of this fund to the Gaming Commission, but he has spoken to the Comptroller's office about entering into an Interagency Service Agreement (ISA) with the Department of Public Licensure and the Office of Consumer Affairs so that the latter can continue to make payments from the fund on the Commission's behalf and in accordance with the existing criteria.

*Motion made by Commissioner Zuniga to adopt the methodology for payment for the former dog owners, lessees, and kennel owners previously developed by the Department of Public Licensure and the Office of Consumer Affairs, to continue making the payments from the Racing Stabilization Fund as scheduled, subject to the drafting and authorization of an Interagency Service Agreement with the Office of Consumer Affairs. Motion seconded by Commissioner McHugh. The motion passed unanimously by a 4-0-0 vote.*

See transcript pages 42-55.

### **Charitable Gaming:**

Status – Commissioner McHugh stated he has spoken with the Attorney General's office, which has provided him with the names of groups in the charitable community who are affected G.L. c. 271, § 7A, the statute regulating certain kinds of gambling by charitable organizations. Before the Commission makes recommendations to the Legislature, it should solicit comments from those groups and then formulate proposals for desired changes, if any, for discussion at a future meeting. According to the Office of the State Treasurer, the gross gambling revenues by groups operating under § 7A approximate \$75 million annually, of which \$18 million goes to the charities. Under the expanded gaming statute, the Commission will assume some responsibility for gambling by charitable organizations on July 31, 2012. Chairman Crosby stated that obtaining the information necessary to make an informed recommendation might require a significant amount of work and he recommended that the Commission hire someone to assist Commissioner McHugh. Commissioner McHugh stated this may be the way to go, but he would like more time to put a plan together.

See transcript pages 55-59.

### **Development:**

Baseline Economic Data – Commissioner Stebbins stated that he was working on organizing a public forum designed to deal with economic development and the role that the expanded gaming legislation will play in that development across the Commonwealth. He is in the early stage of drafting an agenda, with some topics being an update on the initial Spectrum Report and updates on some of the studies that have been done by the Greater Boston Chamber of Commerce and other groups. He is also considering other topics. He would like to have the meeting outside of Route 128 will attempt to have this location available for the next meeting. Chairman Crosby stated he would like to focus on identifying the data they Commission needs to do its work, data such the likely revenues, the kind of capital investment that will be reasonable, the locations that are feasible, they types of jobs that might be generated, and how slots parlors

fit in with casinos. Commissioner McHugh stated that the Commission also needs to build in a process for consistently updating the information they obtain.

Expanded Gaming and Tourism – Chairman Crosby stated he has discussed tourism with Commissioner Stebbins and they would like to have conversations with people from the tourism business from the three different regions to get their sense of what expanded gaming means to their industries, what the concerns are, and what are the ways to be synergetic. Commissioner Stebbins stated he has spoken with the Executive Director of the Massachusetts Office of Travel and Tourism about the various approaches the Commission might take to speak with the various regional tourism counsels and others throughout the Commonwealth.

See transcript pages 59-68.

### **Interagency Relations:**

Internet Gaming – Chairman Crosby stated that language in pending legislation assigns responsibility for oversight of internet gaming to the Gaming Commission. He stated that the expanded gaming legislation was designed to put all gaming, except for the Lottery, under the Gaming Commission. He will arrange a meeting with Treasurer Grossman to determine whether shares that view.

Tribal Gaming – Commissioner McHugh stated they are the defendants, along with others, in a lawsuit brought by developer KG Urban, which owns a piece of property in Fall River it is seeking to use for casino development. Urban has brought a lawsuit in federal court claiming the statutory tribal compact arrangement in the southeastern sector is a violation of the equal protection clause because it is race based. The federal district court determined the legislation was not race based, but politically based and dismissed the suit. The dismissal has been appealed to the First Circuit and arguments will take place during the summer or fall. He stated if the courts agree that the legislation is race based, then the present legislative approach to a tribal compact cannot work. Two tribes are seeking a gaming enterprise in the southeast region, and there may be a third. There are questions as to who qualifies as a tribe, questions about which towns the tribal entities seek as partners, and what the Commission's responsibilities and obligations with respect to the negotiations are. He stated that the Governor's office is negotiating a compact with the Mashpee Wampanoags, but there are other issues that need to be considered going forward.

See transcript pages 68-77.

### **Other Business:**

Chairman Crosby stated the Commission adopted a mission statement at the April 10 meeting that he would like to amend. He would like to replace the words "fair, open, and transparent process" with the words "fair, transparent, and participatory process." Commissioner Stebbins stated that he agrees wholeheartedly with this change, as did Commissioners Zuniga and McHugh.

*Motion made by Commissioner Zuniga to amend the vision statement to read “fair, transparent, and participatory process.” Motion seconded by Commissioner McHugh. The motion passed unanimously by a 4-0-0 vote.*

Commissioner Stebbins asked that a motion be made to issue the RFR for the executive recruitment firm.

*Motion made by Commissioner McHugh to issue RFR MGC2012002 for a search firm for the Executive Director of the Massachusetts Gaming Commission. Motion seconded by Commissioner Stebbins. The motion passed unanimously by a 4-0-0 vote.*

Commissioner Zuniga asked that a motion be made to issue an RFR for audit and consulting review services for the State Racing Commission.

*Motion made by Commissioner Zuniga to issue an RFR for audit and consulting review services for the State Racing Commission. Motion seconded by Commissioner Stebbins. The motion passed unanimously by a 4-0-0 vote.*

See pages 77-80 of the transcript.

**Next Meeting:** The next meeting is scheduled for April 24, 2012, at 2:00 p.m., at the Boston Convention Center.

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

See pages 80-81 of the transcript.

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

1. Agenda
2. Hiring policy of the Treasurer and Receiver General (2 pages)
3. Governance task list (1 page)
4. April 17, 2012 Press Release (2 Pages)
5. April 13, 2012 RFR for Racing Consulting Services (5 Pages)
6. April 17, 2012 RFR for Executive Director Search firm (18 pages)

April 24, 2012

/s/ James F. McHugh  
James F. McHugh