



Meeting Minutes

Date/Time: September 4, 2013 – 9:30 a.m.
September 6, 2013 – 1:30 p.m.

Place: Boston Convention and Exhibition Center
415 Summer Street, Room 151-B
Boston, Massachusetts

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

Absent: Commissioner Gayle Cameron

Clicking on the time posted in the margin will link directly to the appropriate section of the video.

Call to Order – September 4

See transcript pages 2-3.

9:31 a.m. Chairman Crosby opened the 76th public meeting on September 4, 2013. He introduced Mayor DeMaria from Everett and former Governor William Weld, who were both in attendance.

Approval of Minutes

See transcript page 3-4.

9:32 a.m. Commissioner McHugh stated that the minutes for the August 22 meeting are ready for approval.

Motion made by Commissioner McHugh that the minutes of August 22, 2013 be accepted with the correction of typographical errors and the addition of more details to the discussion beginning at 10:13 a.m. Motion seconded by Commissioner Stebbins. The motion passed unanimously by a 4-0-0 vote.

Boston/Wynn Host Community Discussion

See transcript pages 4-83.

- 9:34 a.m. Ombudsman Ziemba introduced the question of whether the City of Boston is a host community with respect to Wynn MA, LLC. General Counsel Blue provided an overview of the legal framework.
- 9:43 a.m. Elizabeth Dello Russo, Executive Director of the Boston Host Community Advisory Committee, joined by counsel Abim Thomas and Larry Kaplan, described the issue and her need for more detailed information from Wynn to make a determination.
- 10:19 a.m. Kim Sinatra, General Counsel for Wynn Resorts, accompanied by Mintz Levin counsel William Weld, Peter Biagetti, and Dan Gaquin, provided background information on the site and described Wynn's plans for locating the casino.
- 10:56 a.m. The Commission requested that Boston and Wynn resolve the host community issue by the end of the week.
- 11:00 a.m. The commission took a brief recess.

Penn National Assumption of Plainville HCA

Report by Ombudsman Ziemba. See transcript pages 83-130.

- 11:15 a.m. Ombudsman Ziemba brought up the issue of Penn National's assumption of the Host Community Agreement between the Town of Plainville and Ourway Realty. The Plainville Board of Selectmen voted unanimously to approve the assignment.
- 11:21 a.m. Steve Snyder, representing Penn National Gaming, along with Jay Snowden, VP of Operations at Penn National; Eric Schippers, Senior VP of Government Affairs at Penn National; Frank Donaghue, VP of Compliance and Regulatory Matters; Walter Sullivan, Penn National's legal representative from Preti Flaherty; and Alex Stolia, VP of Development at Penn National, discussed their intention to apply for a gaming license in Plainville.
- 11:27 a.m. The Commission discussed the issue of whether Penn National, in assuming a host community agreement a week before the referendum rather than signing their own agreement 60 to 90 days prior to the referendum, falls within the statutory requirements of an "applicant." The Commission asked for public comments on the issue before making a final decision at the continuation of the public meeting on Friday. Commissioner McHugh recommended changing the notice to voters to make clear that the Commission will be voting on the matter on Friday.
- 12:07 p.m. *Motion made by Commissioner McHugh that the Commission approve the town of Plainville's notice to voters with respect to the September 10 election, as presented by the town to the Commission, with the addition of a sentence to be worked out with Commission staff that informs the voters that, as of the date the letter is sent,*

the Commission has not yet approved the transfer of the obligations and rights in the host community agreement from Ourway to Penn National, but that the Commission will make a decision on the transfer on Friday. Motion seconded by Commissioner Stebbins. The motion passed unanimously by a 4-0-0 vote.

12:09 p.m. The commission took a brief recess.

Ombudsman Report

Report by Ombudsman Ziemba. See transcript pages 130-135.

1:04 p.m. Ombudsman Ziemba provided an update on questions he was receiving from the public and stated that the Commission does not need to take any action regarding calling off the Host Community Election in Tewksbury.

Administration

Report by Executive Director Day. See transcript pages 135-149.

1:10 p.m. Executive Director Day provided a recommendation for hiring firm of HLT Advisory, Inc. as the Commission's economic development consultant. Commissioner Stebbins provided more information on HLT Advisory.

1:13 p.m. *Motion made by Commissioner Stebbins that Commission accept the proposal submitted by HLT Advisory, Inc. and pursue contract negotiations and detailed scoping of the services described in their response to the RFR MGC-EDC-2013 for advisory services, dated August 7, 2013; that the Commission pre-qualify the Center for Policy Analysis and the team of REMI/Spectrum Gaming to provide services to the Commission if needed; and that the Commission extend the pre-qualification of the same firms to provide services to any host and/or surrounding community that may so choose as part of their efforts to negotiate and/or evaluate agreements with applicants, subject to executing a letter of agreement with the respective applicant. Motion seconded by Commissioner Zuniga. The motion passed unanimously by a 4-0-0 vote.*

1:13 p.m. Commissioner Stebbins provided recommendations for hiring a team led by McFarland Johnson as the Commission's building and site design consultant. McFarland Johnson is conflicted out of evaluating the Mohegan application. The McFarland Johnson team will perform advisory services only for the Category 2 application review and the Commission will issue a new RFR focused on team responses for Category 1 review. McFarland Johnson also agreed to cease any work it is doing for Mohegan during the Category 2 evaluation process.

1:23 p.m. *Motion made by Commissioner Stebbins that the Commission accept the proposal submitted by the McFarland Johnson team for advisory services for Category 2 evaluations; that the Commission require as a condition of awarding the contract to McFarland Johnson, that members of the team cease work for Mohegan until the*

team has completed all work for the Commission or until December 31, 2013, whichever comes later; and that the Commission issue a procurement to secure similar services for Category 1 evaluations by September 6, 2013. Motion seconded by Commissioner Zuniga. The motion passed unanimously by a 4-0-0 vote.

RFA-2 Evaluation Process

See transcript pages 149-226.

1:24 p.m. Jennifer Pinck from the Commission's project management company Pinck & Co. presented her thoughts on organizing the RFA-2 evaluation process. The Commissioners had several comments and proposed changes to the process. Ms. Pinck agreed to make the necessary changes in preparation for the evaluation training session on September 11.

2:56 p.m. The commission took a brief recess.

Supplier and Workforce Development Presentation

Report by Director Griffin. See transcript pages 226-245.

3:03 p.m. Director Griffin presented her thoughts on setting up a vendor and supplier task force. The Commission provided several comments and suggestions for additional members of the task force.

Other Matters

See transcript pages 245-257.

3:28 p.m. The Commission discussed matters remaining for the public meeting on Friday. Penn National and the Town of Plainville will provide their opinion regarding whether Penn National adheres to all the statutory requirements for assuming the host community agreement and the Commission will allow the public to sign up to provide comments. The Commission will also make any determinations necessary regarding whether Boston is a host community to Wynn MA's application.

3:36 p.m. Chairman Crosby left the meeting to attend a previously scheduled engagement. Commissioner McHugh accepted the role of Chair for the duration of the meeting.

3:37 p.m. The Commission discussed the small business impact statement regarding the proposed revisions to the racing regulations on medication and prohibited substances and proposed one change to item five.

3:39 p.m. *Motion made by Commissioner Stebbins to accept and authorize the filing with the Secretary of State of the small business impact statement with the one addition discussed. Motion seconded by Commissioner Zuniga. The motion passed unanimously by a 3-0-0 vote.*

3:40 p.m. The Commission will postpone discussion of the Phase 3 regulations until Friday.

3:41 p.m. The commission recessed the meeting until Friday, September 6, 2013 at 1:30pm.

Reconvene Public Meeting – September 6

See transcript page 2.

1:34 p.m. Chairman Crosby reconvened the 76th public meeting on September 6, 2013.

Penn National Assumption of Plainville HCA

See transcript pages 2-86.

1:34 p.m. Ombudsman Ziembra stated that the Commission has received many public comments on the issue of whether Penn National may assume the Plainville host community agreement. There were 13 comments against assumption, 23 comments recommending a delay of the referendum, and 36 comments favoring assumption. Ombudsman Ziembra summarized the contents of the comments.

1:41 p.m. Steve Snyder, VP of Corporate Development at Penn National, along with John Albano from Bingham McCutchen, Joseph Fernandes from the Town of Plainville, and Jonathan Silverstein from Kopelman and Paige argued for the assumption of the host community agreement.

Commissioner McHugh disclosed that he was a partner at the same law firm as Mr. Albano but he has had no connection with the firm since his appointment to the Superior Court in 1985.

2:16 p.m. Mary-Ann Greanier, representing the organization No Plainville Racino, presented her views on the issue.

2:24 p.m. Bill Abdelnour from the New England Amateur Harness Drivers Club presented his views on the issue.

2:29 p.m. Michael Perpall, president of the Horesman's Association, presented his views on the issue.

2:34 p.m. Grace Lee, attorney for Raynham Park LLC, presented comments on the issue.

2:50 p.m. Ned Merrick, resident of Plainville, presented his views on the issue.

2:56 p.m. Leo Brem, resident of Plainville, presented his views on the issue.

2:59 p.m. The Commission considered all of the comments received and discussed whether to allow Penn National to assume the host community agreement with Plainville.

3:13 p.m. *Motion made by Commissioner McHugh that the Commission, without prejudice to any of its rights, responsibilities or obligations during the course of the suitability*

investigation, approve the substitution of Penn National for Ourway Racing as the responsible party under the host community agreement, which is to be voted on by the town of Plainville on September 10, 2013. Motion seconded by Commissioner Stebbins. The motion passed unanimously by a 4-0-0 vote.

3:14 p.m. The commission took a brief recess.

Ombudsman Report

Report by Ombudsman Ziembra. See transcript pages 86-111.

3:24 p.m. Ombudsman Ziembra presented a joint statement from Wynn and Boston. The parties have begun discussion on Boston's status as a surrounding community.

3:26 p.m. Ombudsman Ziembra discussed the possible policy questions and refinements necessary for the RFA-2 application. The Commission agreed not to make any substantive changes to the Category 2 application but to consider making changes to the Category 1 application.

3:41 p.m. The Commission has received numerous questions from Category 2 applicants regarding the RFA-2 application and staff will be issuing a document with all of the questions and answers formally presented. The staff will bring several questions for discussion before the Commission at the next meeting.

Phase 3 Regulations

See transcript pages 111-124.

3:51 p.m. General Counsel Blue and Executive Director Day presented several policy questions that the Commission will need to address prior to drafting the third phase of regulations. The Commission requested that staff provide a formal analysis of the issues for the Commission to review at the following public meeting.

4:04 p.m. Meeting adjourned.

List of Documents and Other Items Used at the September 4 Meeting

1. Massachusetts Gaming Commission September 4, 2013 Notice of Meeting and Agenda
2. Massachusetts Gaming Commission August 22, 2013 Meeting Minutes
3. Massachusetts Gaming Commission Host Community and Gaming Establishment Definitions, Surrounding Community Definition, Excerpt MGL C.23K §15.13
4. August 23, 2013 email
5. Plainville Citizen Notification
6. September 3, 2013 PretiFlaherty letter
7. Option and Purchase Agreement and Exhibits

8. August 29, 2013 Massachusetts Gaming Commission Memorandum Regarding Recommendation for Economic Development Consultant
9. August 29, 2013 Massachusetts Gaming Commission Memorandum Regarding Recommendation for Building, Site Design and Mitigation Consultant
10. Pinck and Company Summary of Review Process
11. Massachusetts Gaming Commission Workforce, Supplier and Diversity Development Report to Commissioners
12. Massachusetts Gaming Commission Small Impact Business Statement
13. August 30, 2013 Massachusetts Gaming Commission Memorandum Regarding Policy Questions Pertaining to Employee and Vendor Licensing

List of Documents and Other Items Used at the September 6 Meeting

1. Pinck and Co. Inc. Comments on RFA-2 Application for a Category 1 or Category 2 Gaming License - Draft
2. Summary of RFA-2 Application
3. Comments Regarding Penn National Gaming Option and Host Community Agreement

/s/ Catherine Blue
Catherine Blue
Assistant Secretary