



---

## Meeting Minutes

---

**Date/Time:** October 3, 2013 – 9:30 a.m.

**Place:** Boston Convention and Exhibition Center  
415 Summer Street, Room 156A  
Boston, Massachusetts

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

**Absent:** None

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

### Call to Order

See transcript pages 2.

9:30 a.m. Chairman Crosby opened the 78th public meeting.

### Mass Gaming & Entertainment LLC Suitability Hearing

See transcript pages 2-74.

9:31 a.m. Director Wells provided information on the IEB's investigation of Mohegan Sun Massachusetts and presented the IEB's suitability report to the Commission.

9:59 a.m. Mr. Kevin Conroy, outside counsel to Mohegan Sun Massachusetts, along with Mitchell Etess, CEO of Mohegan Sun, Patrick Kelly, President and CEO of Brigade Capital Management, and Doug Pardon, Partner at Brigade Capital Management, provided background information on the applicant's history and current Massachusetts application.

10:13 a.m. The Commission discussed certain issues regarding Mohegan Sun Massachusetts LLC including training for Mohegan board members, the transition from tribal to

commercial gaming, the compliance hotline for employees, the specifics of Brigade's investment as an early equity partner, and the compliance and audit functions.

10:33 a.m. *Motion made by Commissioner McHugh that the Commission adopt the finding of suitability for Mohegan Sun Massachusetts LLC as read by Commissioner McHugh and included with the minutes of this hearing. Motion seconded by Commissioner Cameron. The motion passed unanimously.*

10:38 a.m. The Commission took a brief recess.

### **Approval of Minutes**

See transcript page 74-76.

10:54 a.m. Commissioner McHugh stated that the minutes for the September 19 public meeting are ready for approval.

*Motion made by Commissioner McHugh that the minutes of September 19, 2013 be accepted subject to any mechanical or typographical corrections that may later be found. Motion seconded by Commissioner Stebbins. The motion passed unanimously.*

### **Legal**

See transcript pages 76-87.

10:56 a.m. Commissioner Zuniga discussed the Commission's legislative report for FY 2013 and recommended that the Commission approve the report.

10:58 a.m. *Motion made by Commissioner Zuniga that the Commission approve the 2013 legislative report as drafted and send it to the legislature and Governor's office. Motion seconded by Commissioner Cameron. The motion passed unanimously.*

10:58 a.m. General Counsel Blue provided the Commission with an overview of the policy questions that the Commission will be answering over the coming meetings.

11:02 a.m. Commissioner Zuniga discussed the issue of payment of fees and stipends to independent evaluators who have been selected to assist the Commission in reviewing the RFA-2 applications. The Commission will vote on the method and amount of payment at the following public meeting.

11:06 a.m. Commissioner McHugh raised the issue of when applicants must sign an agreement with the State Lottery. Although the Commission considered requiring a signed lottery agreement as part of the RFA-2 application, submitting one was never a requirement. The Commission will require an applicant to enter into a lottery agreement prior to award of the license.

**Ombudsman Report**

Report by Ombudsman Ziemba. See transcript pages 87-156.

- 11:13 a.m. Ombudsman Ziemba discussed the issue of applicants entering into surrounding community agreements. None of the applicants, whether Category 1 or 2, have entered into surrounding community agreements. Ombudsman Ziemba recommended that the Commission ask all Category 2 applicants to provide further details on the status of their negotiations at the next public meeting. He also recommended granting a 16 day extension beyond the original 10 days specified in 205 CMR 125.01(2) during which a community impacted by a Category 2 applicant may petition the Commission to become a surrounding community.
- 11:23 a.m. General Counsel Blue discussed the legal requirements for the extension and the four factors in 205 CMR 102.3(4) that the Commission must consider when granting a variance. The Commission discussed the issue and Commissioner McHugh summarized the Commission's findings pursuant to 205 CMR 102.3(4).
- 11:36 a.m. *Motion made by Commissioner McHugh that the Commission adopt the 205 CMR 102.3(4) findings summarized and grant the variance to extend the deadline by 16 days for petitions pursuant to 205 CMR 125.01(2) to become a surrounding community with respect to a Category 2 applicant. Motion seconded by Commissioner Zuniga. The motion passed unanimously.*
- 11:37 a.m. Ombudsman Ziemba discussed PPE's request that the Commission allow applicants to submit certified host community election results after the RFA-2 application deadline if an uncertified copy of the results is submitted with the RFA-2 application prior to the deadline. Ombudsman Ziemba summarized the public comments received. The Commission discussed the issue and Commissioner McHugh summarized the Commission's findings pursuant to 205 CMR 102.3(4).
- 11:41 a.m. *Motion made by Commissioner McHugh that the Commission adopt the 205 CMR 102.3(4) findings summarized and grant the variance to allow submission of certified election results after the application deadline conditional upon submission of the uncertified results prior to the deadline. Motion seconded by Commissioner Stebbins. The motion passed unanimously.*
- 11:44 a.m. Ombudsman Ziemba discussed the City of Boston's request for a waiver to the sequencing requirement in 205 CMR 115.05(6)(a). The City of Boston formally approved holding the election prior to a positive determination of suitability but, contrary to the requirement in 205 CMR 115.05(6)(a), did so after the applicant requested the election. The Commission discussed the issue and Commissioner McHugh summarized the Commission's findings pursuant to 205 CMR 102.3(4).
- 12:10 p.m. *Motion made by Commissioner McHugh that the Commission adopt the 205 CMR 102.3(4) findings summarized and grant the variance to the sequencing requirement*

*in 205 CMR 115.05(6)(a) for the City of Boston's approval of Sterling Suffolk Racecourse LLC's election. Motion seconded by Commissioner Cameron. The motion passed unanimously.*

12:16 p.m. The Commission took a recess for lunch.

### **Problem Gambling Report**

Report by Director Mark Vander Linden. See transcript pages 156-190.

- 1:01 p.m. Director Vander Linden discussed the responsible gaming forum that the Commission will be holding. The forum is designed to form the substance of the Commission's operation model for addressing problem gaming.
- 1:21 p.m. Director Vander Linden discussed the criteria for diagnosing gambling disorders as determined by the Diagnostic and Statistical Manual of Mental Disorders Fifth Edition (DSM-5) and how to identify problem gamblers in general.
- 1:30 p.m. Commissioner Zuniga discussed the progress of the University of Massachusetts Amherst research agenda and the upcoming contract payment that the Commission is required to make. Director Vander Linden provided more details on the status of the project.
- 1:35 p.m. *Motion made by Commissioner Zuniga that the Commission authorize the Finance Department to issue the first scheduled payment to the University of Massachusetts Amherst for the economic and social impact research project for the amount of \$1,037,817.00. Motion seconded by Commissioner McHugh. The motion passed unanimously.*

### **Racing Division**

Report by Director Jennifer Durenberger. See transcript pages 190-255.

- 1:36 p.m. Director Durenberger provided an administrative update. Public comments regarding the proposed changes to 205 CMR 3.29 and 4.52 are due on October 4 with the public hearing scheduled for October 9. The Commission has recently received three applications for racing licenses from Sterling Suffolk Race Course LLC, Springfield Gaming and Redevelopment LLC, and Brockton Racing LLC. The Horse Racing Committee anticipates providing a recommendation on the allocation of funds between thoroughbred and standardbred industries. Director Durenberger conditionally gave approval to four new racing officials pending successful completion of the requisite background checks.
- 1:44 p.m. Director Durenberger discussed her report regarding the future of the racing industry in Massachusetts.

- 1:52 p.m. The Racing Division is hosting a Horse Racing Education Forum to assist in developing regulations and updating the legislation. Director Durenberger discussed the agenda for the forum.
- 2:21 p.m. The Commission discussed updating the occupational licensing fees and whether the Commission should transfer the list of fees from the ANF regulations to 205 CMR.
- 2:24 p.m. Director Durenberger discussed the results of the audit of telephone account wagering and the changes that the Commission should consider to fix existing problems.
- 2:30 p.m. Director Durenberger presented the preliminary draft of the annual racing report and asked that the Commission approve the draft at the next public meeting.
- 2:32 p.m. Director Durenberger discussed the form of approving the racing licenses. She suggested issuing determinations in a “decisional” format similar to the format that will be used to issue the gaming licenses.
- 2:35 p.m. The Commission took a brief recess.

### **Licensing Division**

Report by Director David Acosta. See transcript pages 255-.

- 2:46 p.m. Director Acosta brought before the Commission the question of where applications for key gaming employee licenses, gaming employee licenses, gaming vendor licenses, and gaming service employee registrations should originate: from the gaming licensee or from the employees and vendors. The Commission agreed to conduct licensing through the gaming establishment and then revisiting the issue at a later date if changes were needed.
- 3:09 p.m. Director Acosta asked the Commission to define the Commission’s role in the licensing process for vendors and employees. The Commission anticipates that the IEB will have the primary responsibility for making suitability determinations of the applicants but the Commission will handle appeals and play an active role for certain vendors and employees.
- 3:35 p.m. Director Acosta raised the issue of how the licensing and registration fees will be calculated. The Commission discussed requiring applicants to pay additional application fees if the investigations were more costly than anticipated, but the amount should be capped.
- 3:45 p.m. The Commission discussed the license renewal process, information that would need to be supplied for renewal, and the duration of the license.

3:51 p.m. The Commission discussed whether it will license employees based purely on the successful completion of the background check or also based on a minimum level of education. The education requirement will be left to the licensees to enforce.

### **Workforce Development**

Report by Director Jill Griffin. See transcript pages 115-167.

3:55 p.m. Director Griffin discussed how it will define a small business because the Federal definition captures almost all businesses in Massachusetts. The Commission agreed to put the question up for public comment.

4:13 p.m. Meeting adjourned.

### **List of Documents and Other Items Used**

1. Public Comments Received Relative to Mohegan Sun Massachusetts Suitability
2. IEB Suitability Report Cover Letter For Mohegan Sun Massachusetts
3. IEB Suitability Report Executive Summary for Mohegan Sun Massachusetts
4. IEB Suitability Report Letter For Mohegan Sun Massachusetts
5. Minutes from September 19, 2013
6. Memorandum Relative To Fees/Stipends For Individual Evaluator Assistance
7. Massachusetts Gaming Commission Fy2013 Annual Report
8. Outstanding Policy Questions Relative To Phase 2 Parts 2&3
9. Licensing Schedule Update
10. Public comments Received Relative To The Leominster Slots Parlor Proposal
11. Massachusetts Gaming Commission Forum on Responsible Gaming Agenda
12. Memorandum Relative To First Payment To U-Mass Amherst For The Research Project
13. Massachusetts Gaming Commission Horse Racing Forum Agenda
14. Memorandum Relative To Telephone Account Wagering Audit
15. Independent Accountants' Report On Applying Agreed-Upon Procedures At Plainridge Racecourse
16. Massachusetts Gaming Commission Annual Racing Report
17. Memorandum Relative To Policy Questions On Licensing
18. Memorandum Relative To Small Business Definition
19. Small Business Purchasing Program Handout

/s/ Catherine Blue  
Catherine Blue  
Assistant Secretary