



Meeting Minutes

Date/Time: October 13, 2016 – 10:00 a.m.

Place: Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, Massachusetts

Present: Chairman Stephen P. Crosby
Commissioner Gayle Cameron
Commissioner Lloyd Macdonald
Commissioner Bruce Stebbins
Commissioner Enrique Zuniga

**Time entries are linked to
corresponding section in
Commission meeting video**

Call to Order

See transcript page 2

[10:02 a.m.](#) Chairman Crosby called to order the 201st Commission meeting.

Approval of Minutes

See transcript pages 2-3

[10:02 a.m.](#) *Commissioner Macdonald moved for the approval of the September 8, 2016 Commission meeting minutes subject to any corrections, typographical errors, or other nonmaterial matters. Motion seconded by Commissioner Cameron. Motion passed unanimously.*

Commissioner Macdonald moved for the approval of the September 22, 2016 Commission meeting minutes subject to any corrections, typographical errors, or other nonmaterial matters. Motion seconded by Commissioner Cameron. Motion passed unanimously.

Administrative Update

See transcript pages 4-42

[10:03 a.m.](#) Executive Director Edward Bedrosian, Jr. introduced a new employee, Shara Bedard, who is a Paralegal in the Investigations and Enforcement Bureau. He also

reported that our licensees have a duty to reinvest proceeds in their capital expenditures. He stated that our licensee Penn has contacted the Commission on this matter and it should be resolved and presented to the Commission by the end of the year.

10:05 a.m. Commissioner Zuniga provided an update on the compliance and internal audit group. He stated that the group will meet monthly and will focus on three areas: (1) external (what our licensees are required to do) and internal (what we are required to do) compliance, (2) risk assessment, and (3) audit plan. Executive Director Bedrosian stated that the benefit of a monthly meeting keeps the issue at the forefront. Commissioner Zuniga stated that we may need to designate or hire a compliance manager at some point.

10:15 a.m. Commissioner Macdonald stated that at conferences he recently attended they emphasized, and he was struck by, the anti-money laundering obligations of our licensees. He noted that the federal agency FinCEN (Financial Crimes Enforcement Network) has been aggressive with enforcement actions against casinos. He stated that he hopes to develop more knowledge in this area.

10:20 a.m. Executive Director Bedrosian provided an update on Region C and reported the following: on July 28th in federal court, Judge Young issued a ruling reversing the land in trust determination by the federal government; on August 24th the government filed a motion for reconsideration, which is still under advisement; and the Mashpee tribe filed a motion to intervene as a party to the litigation which was allowed. He stated that the tribal matter is currently in limbo. Chairman Crosby stated that there is nothing more for the Commission to do but to see how the legal situation is resolved.

Commissioner Macdonald noted that the tribe's motion to intervene as a party is a significant development. He stated that he is in favor of waiting for the judge's decision on the motion for reconsideration. He also noted that Region C is one of the most economically disadvantaged regions in the Commonwealth and once the legal landscape is clarified, we should diligently respond to the interests of this region – tribal or otherwise.

10:29 a.m. CFAO Derek Lennon presented on Wynn Resorts change to their approved slot machines and gaming positions. He recommended that licensees come to the Commission to request any changes in slot machines and gaming positions and get approval. Executive Director Bedrosian noted that changes should be discussed before the next fiscal year budget so it does not result in collateral budget consequences. Chairman Crosby stated that we should consider limiting the number of changes a licensee can make. Commissioner Zuniga stated that we could wait to see if there is a trend. Executive Director Bedrosian stated that we could rely on a level of good faith. Commissioner Stebbins stated that our licensees are looking at every dollar before opening and he likes the approach of having the licensees come to the Commission to request any changes. Commission Cameron stated that we need to anticipate that the industry is changing.

Ombudsman Report

See transcript pages 42-57

[10:44 a.m.](#) Ombudsman John Ziemba reported on the guidelines for the 2017 community mitigation fund program. He stated that the final guidelines will be issued no later than December and applications are due by February 1st. He stated that he will be reconvening the local community mitigation advisory committees and subcommittees to solicit input on the guidelines. He also stated that they developed a list of questions to be given to the committees for discussion and he asked the Commissioners if they had any questions they would like explored. He also stated that he will report back to the Commission with any input received and for approval of a final draft.

11:00 a.m. The Commission took a brief recess.

11:09 a.m. The meeting resumed.

Racing Division

See transcript pages 58-152

[11:09 a.m.](#) Douglas O'Donnell, Senior Financial Analyst, reported on a request for consideration from Suffolk Downs Capital Improvement Trust Fund. He reported that 20 projects were performed in 2013 for a total of \$365,619.19. He also noted a discrepancy in an invoice and the correct amount.

[11:15 a.m.](#) *Commissioner Stebbins moved that the Commission approve the request for consideration from Suffolk Downs for a total of \$365,619.99 from the Suffolk Downs Capital and Improvement Trust Fund. Motion seconded by Commissioner Macdonald. Motion passed unanimously.*

[11:16 a.m.](#) Dr. Alexandra Lightbown, Director of Racing, presented on Plainridge Park Casino's request to replace three cancelled racing dates. They intend to add the following live racing dates: November 25th, December 1st and 2nd.

Commissioner Cameron moved that the Commission approve the request by Plainridge Park Casino to replace the three canceled days with live racing on November 25th, December 1st and 2nd with a post time of 1:00 p.m. Motion seconded by Commissioner Stebbins. Motion passed unanimously.

[11:18 a.m.](#) General Counsel Catherine Blue stated that Attorney Bruce Barnett, representing Suffolk Downs, and Attorneys Michael Morizio and Patrick Dinardo, representing Raynham Park, will present their positions on the simulcast payment matter. She stated that the Commission has received their briefs and a comment letter received from the NEHBPA (New England Horsemen's Benevolent and Protective Association).

[11:18 a.m.](#) Attorney Barnett noted that Chip Tuttle is out of town and not able to be at this meeting. He stated that Suffolk Downs has petitioned the Commission to enforce the premium obligation of Raynham Park from October 2014 – June 2015. He noted that the statute that governs simulcasting says that Raynham Park shall pay to the running horse meeting licensee in Suffolk County, which is Suffolk Downs, a three percent premium on simulcasts received outside of Massachusetts. He stated

that the obligation to pay the premiums is a condition of Raynham's right to simulcast. He contends that Suffolk Downs was a licensee during this time and that the Commission has authority to enforce the racing statutes.

[11:28 a.m.](#) Attorney Dinardo stated that Suffolk's petition seeks an adjudicatory proceeding to revoke or suspend Raynham Park's license for failure to pay a disputed claim. Attorney Dinardo stated that he thinks the claim belongs in Superior Court, where there is an opportunity for discovery. He also stated that they do not believe that the Commission has the jurisdiction to take on this claim. He also stated that Suffolk intends to use the premiums to pay the New England Horsemen's Association. He noted that the statute states that the premiums are to be used for purses. He stated that there were no races at Suffolk Downs during this period and therefore, no purses. He stated that he doesn't believe that Suffolk Downs has a right to the premiums.

[11:33 a.m.](#) Attorney Morizio cited the definition of a racing meeting licensee and stated that the Commission never considered an application from Suffolk for live racing in 2014. He also stated that it is legally impossible for the Commission to give a calendar year license. Attorney Morizio provided a brief synopsis of the racing legislative history.

[11:46 a.m.](#) General Counsel Blue stated that in 2014 Suffolk Downs had a live racing meeting license and in 2015 the legislature extended their license and they remained licensed.

[11:49 a.m.](#) Attorney Barnett referenced the Acts of 2015 and stated that Suffolk Downs is the racing meeting licensee and they must file a supplemental license application, which they have done. He responded to the claim that this matter should be taken up in Superior Court and he expects there would be an issue with exhaustion of administrative remedies. He also responded to the matter of how the money will be used and he stated that it is a long recognized practice that statutory purse money can be used to support the horsemen as winnings, benefits and operating expenses. Attorney Morizio stated that Attorney Barnett's outline is not accurate. The Commissioners inquired about the obligation of Raynham Park to pay the simulcast premiums. Attorney Dinardo stated that the obligation to pay is to someone who holds a valid racing license and they do not believe that Suffolk Downs had a valid license.

[12:01 p.m.](#) Attorney Dinardo stated that he doesn't believe the Commission has the jurisdiction to conduct an adjudicatory proceeding in this matter and it's not in the regulations. General Counsel Blue stated that the Commission has the ability to hold adjudicatory proceedings pursuant to Chapter 30A. Attorney Dinardo also stated that the simulcast license was awarded by legislative action and therefore the Commission does not have the power to revoke or suspend the license. He also stated that the claim is stale because it accrued two years ago and has no current impact. He further stated that the Commission should not take on an adjudicatory proceeding to revoke or suspend a license when it did not award the license.

[12:19 p.m.](#) Chairman Crosby inquired about the issue before the Commission. General Counsel Blue reported that the issue before the Commission is whether they have the authority to take on this matter and to determine if money is owed. She stated

that if a determination is made that money is owed then the Commission may direct payment within a certain timeframe. She also stated that if they fail to pay then an adjudicatory proceeding can commence on whether to revoke or suspend their license.

Commissioner Macdonald moved that the Commission has the authority and the jurisdiction to take on this matter. Motion seconded by Commissioner Stebbins. Motion passed unanimously.

The Commissioners discussed Raynham Park's obligation to pay the premiums.

[12:38 p.m.](#) *Commissioner Macdonald moved that the Commission vote its determination that Raynham owes the three percent of the simulcast revenues that are at issue to be paid to Suffolk Downs. Motion seconded by Commissioner Zuniga. Motion passed unanimously.*

[12:40 p.m.](#) *Commissioner Macdonald moved that the Commission vote to require Raynham to pay over the amounts at issue within 30 days. Motion seconded by Commissioner Zuniga. The Commissioners discussed the number of days. Chairman Crosby and Commissioners Macdonald and Zuniga voted yes. Commissioners Cameron and Stebbins voted no. Motion passed 3 to 2.*

12:43 p.m. The Commission took a brief recess.

12:48 p.m. The meeting resumed.

Legal Division

See transcript pages 153-165

[12:48 p.m.](#) General Counsel Blue presented on the amended small business impact statement and request for final promulgation of amendments, pertaining to fingerprinting, in 205 CMR 134.00: Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations.

[12:49 p.m.](#) *Commissioner Stebbins moved that the Commission approve the amended small business impact statement and final version of 205 CMR 134.13, Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations (fingerprinting) as included in the packet and authorize the staff to take all steps necessary to file the regulation with the Secretary of the Commonwealth and complete the regulation promulgation process. Motion seconded by Commissioner Zuniga. Motion passed unanimously.*

[12:50 p.m.](#) General Counsel Blue reported on the 2017 racing legislation. She stated that the current racing legislation expires on July 31, 2017. She reported that a new legislative session starts in January and a proposed draft racing bill will be filed in November. She noted that she added language that would allow the Commission to drug test jockeys and drivers. She asked the Commissioners to review the draft bill and authorize staff to file it. Commission Cameron stated that drug testing is a best practice and is necessary for the safety of the horses and other riders. General Counsel Blue also noted that the draft bill gives the Commissioners flexibility on what it can do with the Race Horse Development Fund.

[12:56 p.m.](#) *Commissioner Zuniga moved that the Commission approve the language contained in the packet relative to Chapter 128D and instruct staff to submit to the legislature as needed or appropriate. Motion seconded by Commissioner Stebbins. Motion passed unanimously.*

[12:57 p.m.](#) General Counsel Blue presented on the gaming policy advisory committee legislation. She stated that this legislation is needed to be able to get the committees fully staffed without conflict with ethics rules. She noted that this was the same legislation that was filed last year but it ended up in conference.

[12:59 p.m.](#) *Commissioner Macdonald moved that the Commission approve the text of the proposed statute in the materials that's titled "An Act to Enable Municipal and Regional Planning Agency Employees to Fully Participate in Gaming Policy Advisory Committees" be submitted to the legislature as a bill for the upcoming session. Motion seconded by Commissioner Stebbins. Motion passed unanimously.*

Commissioner's Update

See transcript pages 166-186

[12:59 p.m.](#) Commissioner Cameron reported on a conference that she attended which included international regulators. They discussed challenges and opportunities in gaming which included the following subjects: the future of social gaming, player protection, building loyalty with millennials, sports betting, e-sports, integration of new technology, lotteries versus casinos, the evolution of gaming, women in leadership, negative public perception of gaming, and online versus land based gaming.

[1:07 p.m.](#) Commissioner Stebbins reported that he and Director Jill Griffin attended an MGM kickoff event for their recruitment and the launching of the Skill Smart program. He stated that Skill Smart, an on-line tool, will help job seekers identify their skills and gaps and connect to resources. He stated that over 200 people attended the event. He also reported that the Commission and our licensees have been invited to attend the annual training for municipal veteran service officers. He stated that it will be an opportunity to talk about gaming business and employment opportunities for veterans.

[1:11 p.m.](#) Commissioner Zuniga reported that he received an invitation to participate on the finance committee of the National Council on Problem Gambling. He stated that this was a good opportunity for the Commission to participate on the national level.

[1:12 p.m.](#) Chairman Crosby reported that he and Commissioner Zuniga have been working with the New England Consortium on Problem Gambling on developing a regional voluntary self-exclusion list. They will meet in November to see if they can create a package. Chairman Crosby also reported that he attended the G2E conference and our DFS white paper and responsible gaming innovations were frequently mentioned. He stated that the pre-conference was dedicated to clinicians. He also described the different subject panels which included: e-sports data, skilled-based games, corporate social responsibility, and urban environments for casinos.

Other Business Not Reasonably Anticipated

See transcript pages 186-187

1:21 p.m. *Having no further business, a motion to adjourn was made by Commissioner Cameron. Motion seconded by Commissioner Zuniga. Motion passed unanimously.*

List of Documents and Other Items Used

1. Massachusetts Gaming Commission, Notice of Meeting and Agenda dated October 13, 2016
2. Massachusetts Gaming Commission, Draft Meeting Minutes dated September 8, 2016
3. Massachusetts Gaming Commission, Draft Meeting Minutes dated September 22, 2016
4. Massachusetts Gaming Commission, Memorandum dated October 13, 2015 regarding Wynn Approved Slot Machines and Gaming Positions
5. Massachusetts Gaming Commission, Policy Questions for Discussion by the Local Community Mitigation Advisory Committees and the Subcommittee on Community Mitigation Relative to the 2017 Community Mitigation Fund (“CMF”) Guidelines
6. Massachusetts Gaming Commission, 2016 Community Mitigation Fund Guidelines
7. Massachusetts Gaming Commission, Membership of Gaming Policy Advisory Committees
8. Massachusetts Gaming Commission, Roles and Membership of Gaming Policy Advisory Subcommittees on Addiction Services and Public Safety
9. Letter from Bruce Barnett (DLA Piper) to the Massachusetts Gaming Commission, dated September 22, 2016 regarding Petition for Suspension or Revocation of Raynham Taunton Greyhound Licensees’ Simulcasting Authority Due to Failure to Pay Statutorily Required Simulcasting Premiums
10. Letter from Bruce Barnett (DLA Piper) to the Massachusetts Gaming Commission, dated October 7, 2016 regarding Petition for Suspension or Revocation of Raynham Taunton Greyhound Licensees’ Simulcasting Authority Due to Failure to Pay Statutorily Required Simulcasting Premiums, with attachments
11. Raynham Park’s Memorandum in Opposition to Suffolk Downs’ Private Claim for Simulcast Premiums, with attachments
12. Massachusetts Gaming Commission, Racing Division Memorandum dated October 13, 2016 regarding Request for Consideration, Suffolk Downs Capital Improvement Trust Fund, with attachments
13. Massachusetts Gaming Commission, Racing Division Memorandum dated October 7, 2016 regarding Plainridge Park Casino, Rescheduling Live Racing Days, with attachment
14. Amended Small Business Impact Statement and Final Draft of 205 CMR 134.00: Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations (Fingerprinting)
15. An Act Relative to Horse Racing and Wagering, Draft
16. An Act to Enable Municipal and Regional Planning Agency Employees to Fully Participate in Gaming Policy Advisory Committees, Draft

/s/ Catherine Blue
Catherine Blue, Assistant Secretary