

The Commonwealth of Massachusetts
Massachusetts Gaming Commission

Meeting Minutes

Date: November 13, 2012

Time: 1:00 p.m.

Place: Division of Insurance
1000 Washington Street
1st 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 35th public meeting.

Approval of Minutes:

See transcript page 2.

Chairman Crosby stated that the Commission has not had an opportunity to review the November 6 meeting minutes so they will be approved at the next meeting.

Project Work Plan:

See transcript pages 3-24.

Investigations Procurement – Director Glovsky stated that the procurement team met several times last week to review submissions from the bidders for the investigation work and have tentatively selected one bidder from among the respondents. Contract negotiations will commence this week with the goal of approving a contract at the next Commission meeting.

Scope of Licensing and RFA-1 Status Report – Director Glovsky stated that the gaming consultants have met with prospective applicants to discuss a comprehensive identification of the individuals who will be required to qualify. They have been examining submissions the applicants provided, preparing responses to inquiries, and conducting research in preparation for their final recommendations. The consultants also have received the chart containing the

Commission's framework for addressing policy questions and are providing guidance to the Commission as necessary in order to facilitate the process for determining what the policies will be. They are also determining which regulatory agencies from other jurisdictions should be contacted and cross-referenced to fully investigate and evaluate the applicant submissions.

Key Policy Questions Status Report – Chairman Crosby stated that the Commission must adopt several high priority policies but will not do so until the three-week comment period has passed. He stated that he has had discussions with the Ombudsman, John Ziemba, as to whether it makes sense to have some type of a public hearing process beyond the solicitation of public comments that has already occurred. Mr. Ziemba addressed the Commission and stated that a public hearing process may be needed for statutory determinations. The Commission decided to think more about the need for public hearings in addition to written comments before adoption of some of the policies, recognizing that public comment will be solicited and public hearings will be held before adoption of new regulations. The comment period and the hearings will afford all who are interested an opportunity to address the policies underlying the regulations as well as the regulations themselves.

Commissioner McHugh recommended that the Commission go through the policy chart and determine whether there are questions that ought to be packaged together through the Ombudsman for feedback from cities and towns. The Commission agreed that Mr. Ziemba would review all of the pending policy questions, identify those with a logical nexus and reach out to cities, towns, and other interested governmental entities for their comments on the various groups of questions.

Administration:

See transcript pages 24-45.

Report from Director of Administration – Director Glovsky stated that the Project Management Chart is something the Commission will start using on a regular basis and it is her intention to update it on Mondays.

She stated that the strategic plan was never formally approved and asked what the Commission would like to do in order to have this document approved. Chairman Crosby stated that the strategic plan is an excellent guideline and he is in favor of approving it now. Commissioner McHugh stated that there were several important policy issues with respect to the Commission's organization that he would like to consider before approving the plan. Commissioner Cameron stated that she does not agree with some of the information on the plan and adoption is not an indication the Commission believes all the information is accurate. Chairman Crosby stated that the Commission should close this phase of the contract with the consultants. Commissioner Zuniga stated that he agrees that from a contractual standpoint the strategic plan in its current form should be adopted and become a living document.

Motion made by Commissioner Zuniga to accept the latest draft of the Strategic Plan as presented to the Commission. Motion seconded by Commissioner Stebbins. The motion passed unanimously by a 5-0-0 vote.

Personnel Searches – Director Glovsky stated that two new employees have started with the Commission today. Todd Grossman has been hired as staff attorney and Ellen Cassidy has been hired as executive assistant to Commissioners Stebbins and Cameron. She stated that she is continuing the search for the business analyst and generalist.

Employee Manual, Chapters One and Three – Commissioner Zuniga stated that he has provided the Commissioners with the latest drafts of Chapters One and Three of the employee manual for their review and approval at a subsequent meeting. Chairman Crosby asked that more research be done on the issue of when during the hiring process letters of recommendation can be considered.

Racing Division:

See transcript pages 45-92.

Report from Director of Racing Division – Director Durenberger addressed the Commission. She introduced legal assistant Danielle Holmes. Commissioner Cameron stated that an application process for licensing of racetracks is required every year. Applications for the 2013 racing meets and the required fees were received from Ourway Realty LLC (Plainridge Racecourse), and Sterling Suffolk Racecourse LLC (Suffolk Downs) prior to October 1, the statutory deadline. Public hearings on the applications were held in Boston and Plainville on October 18, 2012 and produced no objections to renewal of the licenses. During the course of the hearings, supplemental information was requested and both tracks provided that information. She stated that the Commission must act on the renewal applications before November 15. Director Durenberger reviewed in detail the supplemental information that was provided by both tracks.

Director Durenberger stated that changes in the license application form may be implemented next year but this year's form is exactly the same as the form that has been used in prior years. Chairman Crosby said that he was concerned about the financial stability of both racetrack if they did not receive a gaming license for which they both had signified their intention to apply. Commissioner Zuniga stated they each had posted a \$100,000 bond to guard against financial difficulties. An extensive discussion was held on the issue and the Commission ultimately decided to move ahead with a vote on approval of the licenses.

Motion made by Commissioner Cameron to approve the applications of Ourway Realty LLC and Sterling Suffolk Racecourse LLC. racing licenses for the 2013 racing season. Motion seconded by Commissioner Stebbins. The motion passed by a 4-1-0 vote (Crosby nay).

Director Durenberger stated that she has been working with consultant David Murray on a review of Mass. Gen. Laws c. 128A and 128C, the pari-mutuel wagering and simulcast wagering

statutes. She provided the Commission with a proposed table of organization for the racing division and provided a brief overview of her reasons for recommending that organizational framework. She also stated that there are some shared staff issues that have yet to be resolved. She stated that she anticipates existing employees will apply for some of the positions reflected on the organization chart. Chairman Crosby stated that it is not automatic that the current employees will be retaining employment.

Chairman Crosby asked who would be responsible for the lab operations. Director Durenberger stated that an RFP has been issued and she would be the contract manager. Chairman Crosby stressed the importance of having someone responsible for overseeing the laboratory function. He also recommended that the role of the State Police be included in the organization chart. Chairman Crosby asked that at a future meeting Director Durenberger provide the Commission with an explanation of the income and expense structure of the Racing Division.

Commissioner Cameron stated that she conducted a formal adjudicatory proceeding on October 18 in the matter of John Halloran, a licensed owner/trainer at Suffolk Downs. He was ejected by the State Police on September 24, 2012 due to a fight which resulted in his being arrested and charged with assault and battery with a dangerous weapon. The charges are being handled in a criminal court, but undisputed was the fact that there was a physical altercation and there was adequate evidence for the Commission to find that Mr. Halloran started the altercation. She stated that it is her tentative decision that the Commission uphold the ejection order. She said that Mr. Halloran is aware he has 30 days to file with the full Commission any written objections he may have to her tentative decision.

Commissioner Zuniga stated that a meeting was held with the State Auditor to discuss the transition audit of the Division of Professional Licensure's oversight of racing regulatory activity. The audit was conducted at the Commission's request. A draft audit was supplied for informational purposes and there were no findings of irregularity or departure from proper fiscal management so the report will be issued in the next few days. He stated that the Auditor commented that the Commission should consider seeking the advice of the Attorney General with respect to certain payments that were made to cities and towns during fiscal year 2012.

Public Education and Information:

See transcript pages 92-165.

Report from the Ombudsman – Mr. Ziemba stated that he had a series of meetings with city and town representatives over the past week on a number of different matters. One of the prevalent questions had to do with the criteria the Commission will use for defining surrounding communities. Another common issue had to do with the desire for additional guidance regarding how cities and towns could obtain all or a portion of the \$50,000 in each application fee that was statutorily designated for their use in negotiating a host or surrounding community agreement or for mitigating adverse consequences. He stated that he and Commissioner Zuniga met with the Department of Revenue and received helpful information regarding how to make payments to towns where appropriations could only be made by a town meeting. Mr. Ziemba said that he also

met with the Department of Transportation to discuss protocol and how the Commission and the Department can work together as the licensing process moves forward. He also has had some conversations with regional planning agencies and will be soliciting their input for the policy question process.

Mr. Ziamba stated that Springfield has changed to January 3 the deadline for casino license applicants to submit their Phase 2 materials to the city. The original date was December 14. He also stated that Springfield's RFP timeline has the local vote occurring in June. He had a conversation with City representatives about the possibility that Commissions Phase 1 process might not be completed by that time and those representatives stated that the City would not move forward with a vote until it was.

AIA Forum – Commissioner Stebbins stated that the AIA forum is scheduled for December 12 from 8:00 a.m. to 12:00 p.m. and will be held at the BSA offices, 290 Congress Street. The forum has been organized by the Massachusetts Chapter of the American Institute of Architects, the Boston Society of Architects, and the American Council of Engineering Corporations. The proposed title of the forum is Promoting Sustainability, Strengthening Communities, and Achieving Design Excellence, a New Model for Massachusetts Casinos. Commissioner Zuniga asked if the MEPA process could be included on the agenda for this forum. Commissioner Stebbins indicated he would check with the AIA on this.

Discussion of Massachusetts Community Colleges Casino Careers Training Institute Proposal – Commissioner Stebbins stated that several members of the Community Colleges Casino Training Institute were present today to discuss their proposal.

Holyoke Community College President William Messner addressed the Commission. Present with him were Jeffrey Hayden, Robert LePage, and Michael Suzor. He introduced other members of his team who were in the audience. He stated that they would like to discuss today the signing of a memorandum of understanding (MOU) between the Institute and the Commission that would put into place a formal process of planning for training that would lead to licensure and general workforce implementation. This MOU would also recognize the Institute as the exclusive provider of training for licensed gaming positions within the Massachusetts casino industry.

President Messner stated that he believes the development of a trained workforce to supply Massachusetts residents for the new casinos is a critical initiative for the Commonwealth and the community colleges will be involved in the development whether or not the Commission recognizes them as the exclusive training provider. He stated that the Institute believes that exclusivity would allow the Commission, developers, and potential job applicants to focus on a single set of training providers. Commissioner Cameron asked about the genesis of the idea that the Institute would be involved in the actual licensure of gaming employees. Mr. LePage stated that the idea was modeled on programs in Delaware and Pennsylvania. President Messner stated that they are asking the Commission to sign an MOU today, with or without exclusivity, that states the Commission will join them in working out the details of the program over the next several months.

Commissioner McHugh asked for clarification on what the license would represent. Mr. Hayden stated that certification would represent employability, background checks, drug testing and basic educational ability. This certification would allow an individual to work in a casino. Licensure would be for a specific job such as a blackjack dealer. Commissioner Cameron asked how they would address the common practice of gaming companies providing training. President Messner stated that they have developed an MOU with developers to address that issue but do not want to pursue that MOU until the relationship between the Institute and the Commission is resolved.

Mr. Joe Tutalo and Mr. Mike Tassoni, owners of the New England Casino Dealer Academy at the Emerald Square Mall in North Attleboro, addressed the Commission. They stated that they use the same curriculum as any casino, have extensive experience and a fully trained staff, and have provided trained staff to Foxwoods, MGM, and Mohegan Sun. They expressed frustration with the plan the Community College Institute has proposed because they fear that the exclusivity component of that plan will push them out of the training process. President Messner responded that the Institute's proposal is for a consortium, not just the 15 community colleges, and the consortium has many partners. He stated that nothing prevented private providers from being part of the consortium. Commissioner McHugh stated that he remains uncertain about what certification and licensure represent and asked for additional information from the Institute about their interpretation of the licensing provisions of the statute.

Commissioner Stebbins stated that it is the responsibility of the Commission to ensure the new Massachusetts casino jobs will be for Massachusetts residents and not an influx of out of state workers. He stated that a relationship with the Institute would be valuable for the Commission and suggested finding someone with workforce development planning and management experience to work with the Institute on implementation of that relationship. Chairman Crosby stated that the exclusivity portion for the time being is off the table. He stated that he would like to give the Institute's proposal more consideration given the concerns raised today and not execute the MOU at this time.

A brief recess was taken.

Chairman Crosby reopened the 35th meeting.

Chairman Crosby stated that during the break he had a discussion with a member of the Department of Professional Licensure who showed him a copy of the racing license application which states the license would be subject to any rules and regulations the Commission issues, even during the term of the license. Commissioner Zuniga clarified that the bond posted by each of the tracks is actually in the amount of \$125,000.

Report from Director of Communication and Outreach – Director Driscoll addressed the Commission. She stated that she has started the process of promoting the upcoming casino design forum and has been working on various ways to publicize the Commission's interest in receiving comments on the proposed policy decisions before the deadline of November 27. She

stated that Jackrabbit, the design firm, modified the proposed Commission logo after receiving last week's comments and she presented the modifications to the Commission for review. After discussion, that Commissioners were unanimous in their selection of one of the proposed logos. Director Driscoll stated that she will be starting a discussion with a possible web host this week and will have to purchase a domain name. She suggested using massgaming.gov or massgaming.org and the Commission was in agreement. Chairman Crosby asked whether someone who logged on to the Commission's present website would be taken to the new website. Director Glovsky stated that redirection would not happen automatically but that a link to the new website would be prominently displayed on the current website.

Research Agenda:

See transcript pages 165-166.

Status Report – Chairman Crosby stated that the RFP for research assistance will be issued within the next few days. Commissioner Zuniga stated that a draft has been created and several issues require review in order to finalize an RFP.

Internet Gaming:

See transcript page 166.

Chairman Crosby stated that he was going to do some further research on the Reid-Kyl bill, which he has not done, so there is nothing to report on this topic today.

Motion made to adjourn, motion seconded and carried unanimously.

List of Documents and Other Items Used at the Meeting

1. Massachusetts Gaming Commission November 13, 2012 Notice of Meeting & Agenda
2. MGC Framework for Addressing Policy Questions
3. MGC 2012-11-06 Summary Schedule Update
4. MGC Employee Handbook Section 3, Compensation
5. State Racing Commission Official Audit Report for the Period July 1, 2011, to May 20, 2012
6. 11/8/12 Memo to Mass Gaming Commission from Jennifer Durenberger
7. Proposed Table of Organization Racing Division
8. Building and Training the Workforce for the Casino Industry
9. Draft Memorandum of Understanding for Western Massachusetts By and Between Massachusetts Casino Careers Training Institute and Developer/Operator
10. Draft Memorandum of Understanding for Casino Careers Licensure Training By and Between Massachusetts Careers Training Institute and the Massachusetts Gaming Commission

11. A Statewide Initiative Addressing the Workforce Needs of the Gaming Industry in
Massachusetts

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