

**The Commonwealth of Massachusetts**  
**Massachusetts Gaming Commission**

**Meeting Minutes**

**Date:** December 11, 2012

**Time:** 9:00 a.m.

**Place:** Division of Insurance  
1000 Washington Street  
1<sup>st</sup> 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 39<sup>th</sup> public meeting.

He stated the purpose of this meeting is to begin discussion on key policy questions. These questions encompass issues the Commission needs to resolve soon in order to get the regulations written properly and to allow the applicants and municipalities to understand the rules. The questions have been sequenced in priorities 1, 2, and 3 and the goal is to get the high and mid priority questions answered. Individual questions have been assigned to each Commissioner, who in turn have taken the lead on reviewing and making a recommendation. Chairman Crosby stated four of the Commission's consultants are present to assist with this discussion. Anderson & Kreiger, legal consultants, are tracking the discussion on-line and will be available for questions.

Commissioner McHugh stated he spent two days meeting with the Louisiana Gaming Commission last week. He presented highlights of his meetings and stated he will be preparing a full report for the Commission.

**Key Policy Question No. 16: Should the Commission confirm through a formal policy that no host community agreement should be executed or referendums held before the relevant applicant is qualified through RFA-1?**

See transcript pages 7-67.

Chairman Crosby stated the most critical portion is the referendum. Host community agreements can be reopened at any time, but since the host community agreement will be based on the referendum the two fit together. He stated it is his recommendation that the Commission stick with this standard and no agreement be finally signed or referendum held until the applicant in question has passed the suitability test. Commissioner Zuniga stated local control is well preserved throughout the process and he agrees with Chairman Crosby's recommendation.

Commissioner McHugh stated the Commission is committed to proceeding as quickly as possible but at the same time the qualification process is critically important. He stated he is also in full agreement that an election not be held before the qualification process is completed.

Mike Pollock, Spectrum Gaming, addressed the Commission. He stated putting the suitability investigation first would relieve pressure on the Commission. In instances where a vote has already been taken there is tremendous public pressure to make a decision.

John Stefanini, representing Sterling Racecourse LLC, spoke against requiring an applicant to go through the RFA-1 process prior to the execution of a host community agreement or referendum.

Commissioner McHugh reminded everyone that the Commission is establishing a policy that will be embodied in regulations and in the process of publishing the regulations the public will have an opportunity to comment on the content of the regulation.

*Motion made by Commissioner McHugh that the Commission adopt as a policy a vote on a host community agreement pursuant to General Laws 33K, Section 15.13 may not take place before the Commission has made a decision on qualifications of the applicant. Motion seconded by Commissioner Cameron. The motion passed by a 4-1-0 vote. (Chairman Crosby opposed).*

Chairman Crosby asked if the Commission wants to vote to extend this policy to the host community agreement. Commissioner McHugh stated host communities can begin discussions and have everything in place to have the vote shortly after the qualification decision is made, rather than signing the agreement after the host community decision is made and having to wait 60 days to have an election. Commissioner Zuniga stated the execution of the agreement should wait until the suitability determination.

Commissioner Cameron asked that the consultants comment on the nature of the investigative process and how clear the IEB can make it that an investigation is coming to a conclusion. Fred Gush, from Michael & Carroll, stated there will be steps taken locally in the Commonwealth and the IEB will be part of the process, as will the State Police, with biweekly reports so there should be no surprises during the course of the investigation. Commissioner Cameron stated there could be a way of communicating to a host community, without revealing details, that the investigation is proceeding so if they wanted to try to cut some time from the 60 day period it would be a possibility to do so. Ombudsman Ziemba stated the Commission may want to table discussion of this until it addresses other policy questions that will have a direct impact on this decision. Commissioner McHugh stated he would like to move forward with a vote on this issue, recognizing that this is the best judgment at the moment and could change by week's end.

*Motion made by Commissioner McHugh that the Commission adopt as a policy that the host community and the perspective applicant need not wait until the completion of the RFA-1 process before signing a host community agreement if they choose to do so. Motion seconded by Commissioner Cameron. The motion passed by a 4-1-0 vote (Commissioner Zuniga opposed).*

*A brief recess was taken.*

Chairman Crosby reconvened the 39<sup>th</sup> meeting.

**Key Policy Question No. 19 & 8: Should the Commission make casino licensing decisions region by region, or simultaneously for all regions? How would the Commission consider the strategic implications of when, how, and where to issue licenses, including the slots license, in the context of other license issuing decisions so as to maximize the benefits to the Commonwealth as a whole? Should the slots license applicants be investigated first and to what degree should resources for both investigations and drafting regulations be allocated to the slots license anticipation on or after January 15 in order to expedite the slots license award?**

See transcript pages 67-84.

Chairman Crosby reviewed answers to these questions which were submitted by the public. He stated that locating two licenses close together is suboptimal and the legislative intent to move as quickly as possible to generate jobs for economic benefits serves the greater good. He recommended making the license decisions on Regions A and B at approximately the same time, and not sequence them consciously. He stated the benefits of spreading the licenses around the Commonwealth to maximize economic return and service the most people conveniently should be considered. He stated the slots license should not be held artificially in abeyance until after the casino decisions are made and the Category 1 license should be moved forward.

Commissioner Cameron stated she agrees with these conclusions. She stated the Commission has the investigative resources available to put a team on each applicant so this will not slow down the investigative process. Commissioner Zuniga stated he is in full agreement with Chairman Crosby's recommendation. He stated filling the slots license first would be the way to proceed.

*Motion made by Commissioner Cameron to accept the recommendations as written by Chairman Crosby. Motion seconded by Commissioner Zuniga. The motion passed unanimously by a 5-0-0 vote.*

**Key Policy Question No. 4: What, if any, additional information to that stipulated in Chapter 23K, Subsection 9, should the Commission require Phase 2 applicants to provide as part of the Phase 2 application?**

See transcript pages 84-94.

Commissioner Zuniga stated many of the questions being addressed this week have inference to the response to this question. Commissioner Stebbins stated going forward as the regulations are laid out relative to what should be in the application the Commission should be mindful not to just look at what is requested in Section 9, but ensure it is compatible with the information in Sections 15 and 18 to the extent possible. He recommended opening the application to be more flexible for the applicant and to the benefit of the Commission in assessing license determination. Commissioner Zuniga recommended that information relative to the process that happens locally may be relevant data the Commission should consider. Commissioner Cameron stated her interpretation is that the law is well written and comprehensive and the Commission will have to ensure that each section is addressed and complements one another.

**Key Policy Question No. 5: What, if any, criteria, in addition to those listed in 23K, Sections 15 & 18, would the Commission use in the RFA-2 licensing determination in order to ensure that the license awarded will provide the highest and best value to the Commission and the region in which the gaming establishment is located? How should any criteria, in addition to those listed in 23K, Sections 15 & 18, be weighed, ranked, or scored?**

See transcript pages 94-138.

Commissioner McHugh reviewed answers to these questions which were submitted by the public. He stated the Commission cannot add to Section 15 criteria in terms of statutory authority because they are go/no-go criteria. He stated the Commission can add to Section 18 criteria, as many are so broad consideration is going to have to be given to what is being achieved in the evaluation process in interpreting and applying those criteria. He stated the question is how to articulate the fashion in which the Commission is going to exercise its broad discretion in a way that helps the Commission, applicants, and the public understand the thinking while not stifling the creativity of the process.

Commissioner Zuniga stated he would be in favor of describing the criteria and allowing applicants the ability to have a fair shot. Commissioner McHugh stated his recommendation is to lay out criteria on things the Commission are looking to have the applicant address. Commissioner Stebbins recommended looking at all the criteria set aside in Section 18 and assessing how it matches up with Section 1.

*A brief recess was taken.*

Chairman Crosby reconvened the 39<sup>th</sup> meeting.

Chairman Crosby stated there seems to be a consensus that the Commission would like to pursue clarifying advisories. Commissioner McHugh stated he would like to set a target in which the criteria will be laid out, develop a list, talk about and get some feedback on it, and use this information as the basis for regulations. He stated he would create a first draft on behalf of the Commission.

Commissioner McHugh stated the second part of question 5 deals with how to evaluate the criteria. He reviewed comments received from the public on this topic. He stated there are two models the Commission could consider. One is the Missouri approach which identified four to six economic criteria and graded those responses with a verbal ranking. The other was an approach recommended in Pittsburgh, which was not followed. This involved six factors that dealt with a variety of topics such as economic, aesthetics, and tourism, and subcategories within each category, which were weighted with a point system.

Commissioner McHugh stated in an area where there is competition it would be preferable to have some type of a verbal assessment rather than a numerical ranking. Commissioner Zuniga stated he agrees with having a scoring system and the issue is the relative importance between one criteria and another.

Mr. Pollock advised it would be important to prioritize the criteria and the answer will come down to the ability to effectively and fully articulate the criteria on which this particular application was developed. Commissioner McHugh recommended using the Pittsburgh type approach which has six categories with a number of subcategories and assign some weight to each category, list all the criteria, and use that as the basis for airing out the evaluation. He stated he is not inclined to assign a number ranking but would prefer a verbal assessment of each of the criteria. Commissioner Zuniga stated he does not see any other way but assignment of points in order to differentiate applicants.

Chairman Crosby stated all the agenda topics for today have been covered.

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

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

1. Massachusetts Gaming Commission December 11, 2012 Notice of Meeting Agenda
2. Key Policy Question #16
3. Key Policy Question #8 and #19
4. Key Policy Question #4
5. Key Policy Question #5 (Part 1)
6. Key Policy Question #5 (Part 2)

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