



Meeting Minutes

Date/Time: December 19, 2013 – 9:30 a.m.

Place: Boston Convention and Exhibition Center
415 Summer Street, Room 151
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 page 2.

9:30 a.m. Chairman Crosby opened the 100th public meeting.

Approval of Minutes

See transcript pages 2-5.

9:30 a.m. Commissioner McHugh stated that the minutes for the December 3 and December 10 public meetings are ready for approval. The minutes for December 13 are not yet ready.

Motion made by Commissioner McHugh that the minutes of December 3, 2013 be accepted subject to any mechanical or typographical corrections that may later be found. Motion seconded by Commissioner Cameron. The motion passed unanimously.

Motion made by Commissioner McHugh that the minutes of December 10, 2013 be accepted subject to any mechanical or typographical corrections that may later be found. Motion seconded by Commissioner Stebbins. The motion passed unanimously.

Racing Report

See transcript pages 5-29.

- 9:32 a.m. Director Jennifer Durenberger provided an administrative update and an overview of the conferences that she attended.
- 9:49 a.m. Attorney Danielle Holmes presented the small business impact statement and the final version of 205 CMR 3.29 and 4.52. Attorney Holmes requested that the Commission approve the filing of the regulations and small business impact statement conditional on receiving no adverse comments from the legislature.
- 9:53 a.m. *Motion made by Commissioner McHugh that the Commission authorize the filing of the small business impact statement with the appropriate authorities forthwith. Motion seconded by Commissioner Stebbins. The motion passed unanimously.*
- 9:54 a.m. *Motion made by Commissioner McHugh that the Commission file with the Secretary of State the new versions of 205 CMR 3.29 and 4.52 as soon as the legislature has had the full 60 days to review the regulations and sufficient time elapses after the filing of the small business impact statement. Motion seconded by Commissioner Cameron. The motion passed unanimously.*

Legal Division

See transcript pages 29-78.

- 9:55 a.m. General Counsel Catherine Blue presented Mohegan Sun and Revere's waiver request to the Commission. As the Commission discussed and permitted at the December 10 public meeting, Mohegan Sun Massachusetts, LLC and the City of Revere properly and timely filed a request that the Commission waive its requirement that a positive referendum vote be submitted along with the RFA-2 application.
- 9:58 a.m. *Motion made by Commissioner McHugh that the Commission grant the request by Mohegan Sun Massachusetts, LLC and the City of Revere for a waiver of 205 CMR 119.01(7) to permit the filing of a certified copy of the results of the vote that they have committed to hold after the December 31, 2013 deadline for submission of RFA-2 applications. Motion seconded by Commissioner Stebbins. The motion passed unanimously.*
- 10:00 a.m. The Commission discussed the arbitration guidebook and specifically how to interpret best and final offer, what discretion the arbitrator has to modify the offers, and the applicability of the Uniform Arbitration Act. Commissioner McHugh made an effort to articulate the extent of the arbitrator's discretion in terms of deciding between the two best and final offers: "picking between the one or the other of the offers is the preferred outcome with such changes as are necessary to deal with some provision of the agreement that clearly violates G.L. c. 23K. It is not a broad

empowerment to the arbitrator to impose her own notions of what is fair and reasonable.” The Commission staff will update the arbitrator guidebook to reflect the Commission’s discussion.

- 10:38 a.m. *Motion made by Commissioner McHugh that the Commission adopt the document entitled “Handbook for Binding Arbitration Between an Applicant for a Gaming Establishment License and a Surrounding Community to Reach a Surrounding Community Agreement” with modifications conforming to the discussion the Commission just concluded, and that will be reflected in the transcript of the Commission's meeting. Motion seconded by Commissioner Cameron. The motion passed unanimously.*
- 10:39 a.m. The Commission discussed whether timeframes that are tied to the submission of the Category 1 RFA-2 Applications, such as the 10 day period for filing Surrounding Community petitions, should begin on the December 31, 2013 deadline for submission or on the date the application is in fact filed. The Commission discussed the granting of a variance to allow the timeframes to begin on December 31, 2013 if the application is filed prior to December 31. The Commission considered the four criteria required for granting a variance.
- 10:44 a.m. *Motion made by Commissioner McHugh that the Commission grant a variance from its regulations modifying all timelines that are tied in the Commission’s regulations to the date on which an RFA-2 Application for a Category 1 license is filed such that those timelines commence on December 31, 2013 and not on the earlier date on which the application is in fact filed.*
- 10:46 a.m. The Commission discussed whether Keno machines count against the total number of slot machines that a gaming establishment is authorized by statute to operate. The Commission agreed that Keno machines should not be considered slot machines for this purpose.

Ombudsman Report

See transcript pages 78-95.

- 10:50 a.m. Ombudsman John Ziemba presented the schedule for Category 1 and 2 licenses.
- 11:05 a.m. Ombudsman Ziemba updated the Commission on the status of surrounding community agreements.

Other Matters

See transcript pages 95-99.

- 11:10 a.m. Chairman Crosby discussed the MOU with the Department of Public Health relative to the Public Health Trust Fund and stated that the Commission has agreed to provide some interim financial support to the Department until the trust is running.

11:13 a.m. Meeting adjourned.

List of Documents and Other Items Used

1. Massachusetts Gaming Commission December 19, 2013 Notice of Meeting and Agenda
2. Massachusetts Gaming Commission December 3, 2013 Meeting Minutes
3. Massachusetts Gaming Commission December 10, 2013 Meeting Minutes
4. December 16, 2013 Massachusetts Gaming Commission Memorandum Regarding Changes and Amended Small Business Impact Statement
5. Waiver Request of Mohegan Sun Massachusetts, LLC and the City of Revere of 205 CMR 119.01(7)
6. Draft of Handbook for Binding Arbitration Between an Applicant for a Gaming Establishment License and a Surrounding Community to Reach a Surrounding Community Agreement
7. Massachusetts Gaming Commission 12/17/2013 Licensing Schedule Update

/s/ Catherine Blue
Catherine Blue
Assistant Secretary