

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

**Meeting Minutes**

**Date:** February 7, 2013

**Time:** 1:00 p.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 51<sup>st</sup> public meeting.

**Approval of Minutes:**

See transcript pages 2-5.

Commissioner McHugh stated that he has provided the Commissioners with the January 17, 24, and 31, 2013 minutes for approval. Commissioner Stebbins noted two typographical errors in the January 17 minutes.

*Motion made by Commissioner McHugh that the minutes of January 17, 2013 be approved as written, with corrections of two typographical errors. Motion seconded by Commissioner Zuniga. The motion passed unanimously by a 5-0-0 vote.*

*Motion made by Commissioner McHugh that the minutes of January 24, 2013 be approved as written. Motion seconded by Commissioner Cameron. The motion passed unanimously by a 5-0-0 vote.*

*Motion made by Commissioner McHugh that the minutes of January 31, 2013 be approved as written. Motion seconded by Commissioner Zuniga. The motion passed unanimously by a 5-0-0 vote.*

**Administration:**

See transcript pages 5-84.

Master Schedule – Chairman Crosby reviewed the Commission’s Master Schedule. He stated that the Commission can move date for the award of the Category 2 slots license from December 2, 2013 to September 1, 2013. He stated that after the IEB completes Phase 1 background checks, the Commission will be receiving the Phase 2 applications and determining to whom to grant a license. He stated that the Commission will engage in a multistep process of accumulating criteria and weighing those criteria. Commissioner Zuniga asked the Commission to consider how much of the evaluation criteria the Commission will include in the draft regulations completed by March 14, 2013. Chairman Crosby asked if the Commission could include a portion of the criteria in the regulations and later lay out the specifics of the evaluation process in order to have more time to work on the process.

Commissioner McHugh stated that he is working under the assumption that all the criteria will be included in the regulations. He stated that he and Commissioner Zuniga are working on a matrix of principles that can be ready for discussion at the Commission’s next meeting. He proposed including the criteria in the regulations, with the evaluation of the criteria to follow. Commissioner McHugh stated that he has been working with Attorney Grossman on how to handle the issue of involuntary surrounding communities and anticipates having a proposed plan ready for discussion in two weeks.

Chairman Crosby reviewed the progress made on Commission hires. Commissioner Stebbins stated that the Workforce Development and Diversity position hiring process is ongoing. He stated that the Commission is in the first round of interviews with 16 to 17 candidates. Chairman Crosby stated that candidates are submitting resumes for the Director of Research and Problem Gambling position. He stated that the Director of Licensing position is slated to be filled by June 3, 2013. However, the Commission needs to fill this position earlier. Commissioner Cameron stated that she has distributed a draft job description for the Director of Research and Problem Gambling position and would welcome comments.

Commissioner McHugh asked where the Commission should draw the line of responsibility between the IEB and the Director of Licensing as far as casinos are concerned. Then followed a discussion focusing on the need for the Director of Licensing to begin work on creating the licensing infrastructure that will be necessary for processing license applications for a wide range of positions in the slots parlor and casinos. If there is need to issue a casino license after the first round of licenses, the Director of Licensing will play a role but for the first round the IEB and the Commission will play the major roles. Commissioner Cameron stated that she prefers a checks and balances system to ensure that everything is in order. She stated that she has had discussions with other jurisdictions where the licensing department works hand in hand with the investigations department. Commissioner Cameron stated that she would modify the draft job description to incorporate the concerns expressed and Chairman Crosby stated that he would assist her with this modification. Chairman Crosby expressed concern with the requirement in the draft job description requiring that the candidate have a bachelor’s degree, as this

requirement may preclude a good candidate without a college degree from applying. Commissioner Zuniga recommended using language that would require a bachelor's degree or equivalent professional experience. The Commission agreed to appoint Commissioner Cameron as hiring manager for this position.

*A brief recess was taken.*

Chairman Crosby reconvened the 51<sup>st</sup> meeting.

Interview with Executive Director Candidate – Chairman Crosby reviewed the hiring process that led the Commission to this point in the interview process. He read from the minutes of the Commission's August 7, 2012 meeting, during which this process was adopted. He stated that the Commission defined a finalist in the formal hiring process as a candidate who has gone through the vetting process by the hiring manager, passed all the background check criteria, and informed the Commission that he or she would accept a position if offered.

Commissioner Stebbins outlined the search conducted during the past six months in conjunction with the recruiting firm JuriStaff. He stated that JuriStaff contacted over 100 individuals about this position and he personally reviewed 21 candidates. He stated that one of the obstacles he encountered in this process was finding a candidate willing to relocate to Massachusetts. Also, some of the candidates were not comfortable with being interviewed publicly. He stated that he narrowed the pool of applicants down to two potential finalists. One of the two, Jennifer Reske, who is the Deputy Director at the Indiana Gaming Commission, declined the Commission's invitation to be a finalist for family reasons.

Commissioner Stebbins introduced the finalist candidate, Mr. Rick Day, Director of the Washington State Gambling Commission. He stated that Mr. Day has run an agency similar in size with respect to the number of employees Massachusetts expects to employ and has a background in law enforcement. Mr. Day addressed the Commission and answered questions relative to his background and the Executive Director position. The Commission was in enthusiastic agreement that Mr. Day was well qualified to assume the position of Executive Director.

*Motion made by Commissioner Stebbins that the Commission approve the hiring of Mr. Rick Day to be the first Executive Director and charge Commissioner Stebbins with completing any of the financial terms and arrangements needed to be concluded prior to his starting officially. Motion seconded by Commissioner McHugh. The motion passed unanimously by a 5-0-0 vote.*

### **Public Education and Information:**

See transcript pages 84-101.

Report from the Ombudsman – Ombudsman Ziembra stated that he has had numerous conversations with communities over the last several weeks, focusing on establishing procedures with host and surrounding communities so that everyone understands the Commission's process.

He stated that his discussions have focused on how the regional planning agencies can help facilitate the process. He stated that he has received many questions relative to timeline, and communities are working very hard to determine when they need to get involved. He stated that over the next couple of weeks he will be refining the Commission's approach to distributing information to all interested parties.

Mr. Ziembra stated that the Commission has posted the community disbursement form on its website and he anticipates several communities will be utilizing this form very soon. He encouraged anyone who has comments for the Commission to send them in at any time, and the Commission will review all comments during the regulation review period. He announced that Springfield may make its decisions on February 11, 2013, and the Board of Selectmen in the town of Danvers will discuss the issue of a potential facility on March 5, 2013.

Mr. Ziembra stated that a number of applicants have asked about how the Commission is going to treat public records requests and confidential information submitted as part of the application. The commission will address this question later in today's meeting.

### **Regulation Update:**

See transcript pages 101-106.

Attorney Grossman stated that the process of drafting regulations is ongoing. He stated that the Commissioners have discussed a number of topics today that are in areas where the Commission is actively writing regulations that should be ready within the next several weeks. He stated that as this process moves forward, the Commission should decide whether it needs a full day in early March to review the regulations. Chairman Crosby asked if March 14, 2013 was still a plausible deadline. Attorney Grossman stated that they are working on the most difficult areas of the regulations and have made good progress. Meeting this deadline is realistic goal.

### **IEB Report:**

See transcript pages 106-134.

Scope of Licensing – Director Wells stated that the IEB has made determinations about qualifiers and the applicants have provided the IEB with most of the required information. She stated that she expects that the applicants will submit the remaining information this week. The IEB will require that any applicant with outstanding information after this week provide an explanation to the IEB. After receiving the information, the IEB, bearing in mind that the Commission is on a very tight time schedule, will determine whether to grant additional time.

Investigation Status Report – Director Wells stated that the Commission has begun background investigations for 10 of the 11 applicants. The Commission will start investigations on the final applicant upon receipt of supplemental information that is expected shortly.

Processing of Public Record Requests for Applications and Review of Requests for Confidentiality – Director Wells stated that the Commission has received public records requests

for applications and more may be forthcoming. She stated that the regulations require applicants to submit a second redacted version of the application according to a specimen form posted on the Commission's website. The IEB has received the majority of the redacted versions and allowed additional time to several applicants, with all redactions expected to be in by the end of next week. The IEB is reviewing redacted versions to ensure that they are in compliance with the specimen requirements before any public disclosure. Any applicant who has an additional request for confidentiality may submit a petition in writing and the legal department will review the petition. Any applicant who is not satisfied with the decision of the legal department has the right to appeal that decision to the full Commission.

Director Wells stated that the Commission will need to decide whether it will respond to individual public record requests one by one or disseminate the redacted applications all at once. Commissioner McHugh expressed the view that posting a redacted version of the application on the Commission's website would be the best way to handle the large volume of requests and responses. He recommended that the Commission proceed with the posting. Commissioner Cameron stated that she would be in favor of having a week for public comment on the redaction and public dissemination process. The Commission agreed to allow a comment period.

License Category Declaration Requirement – Director Wells stated that two applicants have yet to declare whether they are seeking a Category 1 or Category 2 license. Given that the Commission has decided to prioritize the Category 2 license the IEB will need to know which applicants to prioritize in investigations. She stated that she will be sending letters to the two applicants indicating that they must declare by February 15, 2013 which category of license they are seeking.

Commissioner McHugh recommended that the Commission require any applicant that chooses to pursue a slots license to commit to accepting that license if awarded. Commissioner Cameron stated that she was concerned that, if the Commission awarded a license and an applicant were to refuse because it was keeping another option open, prioritizing that applicant's investigations would have been disadvantageous, and therefore she agrees with Commissioner McHugh's recommendation. Commissioner Zuniga questioned whether the Commission needs to force the applicant to decide or whether the application process already creates enough incentive because an applicant that has not developed a viable option for Category 2 runs the risk of not being able to respond on its own to the RFA-2. Commissioner Cameron stated that in her experience, unless the Commission sets a deadline, the applicants will want more time and take more time, and the delays will impact communities that are trying to make decisions. Chairman Crosby expressed concern that requiring the applicant to commit to taking a license may not be enforceable and Commissioner McHugh was in agreement. The commission determined that Director Wells would send out a letter with a one week deadline for choosing whether to pursue a Category I or a Category II gaming license.

Chairman Crosby raised question relative to conditional licenses and when the Commission would collect the license fees. Commissioner Cameron stated that she is aware of other jurisdictions that collect the license fee upfront. Commissioner McHugh recommended that the Commission conduct further research on this question and hold a discussion at a future meeting.

Commissioner Zuniga stated that one of the fundamental conditions of receiving a license is paying the fee to the Commission, and he sees it as an upfront requirement.

**Racing Division:**

See transcript pages 134-143.

Administrative Update – Director Durenberger stated that the Racing Division still has several ongoing issues with the financial recording system software program. IT staff has been working on the problem and has assured her that the data needed to proceed exists but cannot be accessed at the moment. She stated that not being able to retrieve this data impacts the local aid payment process and payments to greyhound licensees. She stated that the software in question is a proprietary system that is serviced by its creator, and the IT staff that is helping the Commission is also committed to other agencies. Commissioner McHugh expressed concern that town meetings are coming up and communities will need this information. He stated that he would like to invest more resources to expedite a solution to this problem. Commissioner Zuniga recommended making provisional payments based on a percentage of prior payments. Chairman Crosby agreed that if this technological delay is impacting the lives of people, the Commission should pursue these two options.

Director Durenberger stated that the Racing Division is inventorying the old files dating back to 1935. She stated that the Racing Division will hire a library science intern in the fall to help archive the minutes from the old meetings, as there is tremendous racing history in Massachusetts. She stated that they are in the process of seasonal staff recruitment as racing will be starting in April. She stated that David Murray will be attending the next Commission meeting to provide an update on the legislative review. She reminded everyone that the proposed changes to 205 CMR 3.00 and 4.00 are on the website and public comment is welcome. She stated that the Commission has scheduled a public hearing for Monday, February 25, 2013 at 1:00 p.m.

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

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

1. Massachusetts Gaming Commission February 7, 2013 Notice of Meeting and Agenda
2. January 17, 2013 Massachusetts Gaming Commission Meeting Minutes
3. January 24, 2013 Massachusetts Gaming Commission Meeting Minutes
4. January 31, 2013 Massachusetts Gaming Commission Meeting Minutes
5. Resume of Rick Day

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