



Meeting Minutes

Date: March 14, 2013

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 58th public meeting.

Approval of Minutes:

See transcript page 2.

Chairman Crosby stated that the Commission has no new minutes to review.

Administration:

See transcript pages 2-3.

Category 2 Licensing Schedule – Chairman Crosby stated that the Commission is working hard on the Category 2 license schedule and expects to award the license in early December. He stated that one of the last two applicants without a site has identified the location where it would like to build a slots parlor.

IEB Report:

See transcript pages 3-8.

Investigations Status Report – Director Wells stated that the investigations are proceeding. All eleven applicants are submitting additional documentation that the consultants and State Police are reviewing. She stated that they are developing a strategy going forward to conduct investigations in the most efficient manner possible. Recognizing that the Commission is looking to expedite the Category 2 license, they are prioritizing those investigations and she will provide updates as the process proceeds. She stated that there is some concern about the April 15 deadline. Chairman Crosby commended Director Wells and her staff for the thorough work they are doing.

Public Education and Information:

See transcript pages 8-70.

Report from the Ombudsman: Regional Planning Agency Discussion – Chairman Crosby introduced Steven Smith, Executive Director of the Southeast Regional Planning and Economic District, and Timothy Brennan, Executive Director of Pioneer Valley Planning Commission, who were present to discuss a plan to assist the Commission on questions relating to surrounding communities.

Ombudsman Ziemba thanked the regional planning agencies for the support they have provided over the past couple of months. He stated that they are proposing a plan whereby the regional planning agencies can help on questions relating to potential surrounding communities. The support of the regional planning agencies should be seen as a service that is provided by the Commission and may be voluntarily adopted by applicants and communities if they choose to do so. He stated that the Commission has outlined a draft definition of what a surrounding community is and has recently adopted a process whereby communities could ask for disbursement of money for technical assistance funding if they cannot reach an agreement with an applicant.

Ombudsman Ziemba outlined the services that the regional planning agencies would provide. The first task of the RPA would be to serve as a convener to organize up to two informational forums per region, followed by a series of taskforce meetings for each of the specific gaming facilities. The second phase would be technical analysis and assistance, whereby the RPA would look at the data that the applicants and host communities provide to determine impacts on surrounding communities. He stated that the third step would be to help communities with agreements that they enter into with applicants.

Stephen Smith addressed the Commission. He stated that his agency, the Southeast Regional Planning and Economic District, is located in Region C, which currently has two potential commercial sites and one tribal site. He provided background information on his agency and details on the plan for the region.

Timothy Brennan addressed the Commission. He provided background information on his agency, the Pioneer Valley Planning Commission based in Springfield, and details on the plan for the region.

Joel Barrera of the Metropolitan Area Planning Council addressed the Commission. He provided background information on his agency. He stated that he would welcome this partnership with the Commission.

Chairman Crosby asked if anyone considered making participation in this plan obligatory. Ombudsman Ziemba responded that he was concerned about being challenged on whether or not making this obligatory would contravene the statute. Commissioner McHugh stated that the Commission has an obligation to look at the regional impact of the casinos and expressed concern about what would happen if a community declined to participate in this process and all of its neighboring communities did participate. Ombudsman Ziemba stated that it is up to the applicant to address regional impacts, so if a community does not participate the applicant would be responsible for showing how they will address the regional concerns.

Ombudsman Ziemba stated that one idea he heard, and which he is not recommending, is that rather than conducting impact studies, applicants could donate additional money to the Community Mitigation Fund so that the money can be used for studies conducted after the license is awarded. Commissioner McHugh stated that this idea would not be consistent with the statute, as the legislature envisioned that the fund compensate communities for items not anticipated before the award of the license.

Ombudsman Ziemba stated that the biggest issue he encountered across the state is that creating this RPA process for helping communities to review impacts may actually serve to create false expectations that communities will be surrounding communities at the end of the process. Commissioner McHugh asked how easy it would be for a RPA to say no to a constituent community seeking funds. Mr. Brennan stated that the majority of questions they have received have been relative to understanding the legislation itself, and many communities improperly believe that this process is aimed at providing the community with money, not mitigation. They continuously emphasize that this process seeks to find ways to mitigate the harms from gaming rather than providing compensatory money. Chairman Crosby asked if the applicants see the regional planning agencies as objective third parties. Mr. Smith stated that they do see the RPAs as objective.

Commissioner Stebbins asked if the Commission will have access to the background information to aid in determining whether a community is a surrounding community. Ombudsman Ziemba stated that he anticipates that the Commission will have the necessary information when making its determinations. Commissioner Stebbins stated that he is familiar with the Pioneer Valley's economic development plan and asked whether the other regional planning agencies have similar plans. Mr. Smith stated that his agency does have an economic development plan and it is required to update this plan annually. Mr. Barrera stated that his agency has a plan and also maintains four economic development specialists to assist with economic development concerns.

Chairman Crosby asked for a sense of the methodology that the RPAs use in measuring impact. Mr. Brennan stated that there is no simple answer, as the approach RPAs take is very site specific. Commissioner Cameron asked if the RPAs have considered which towns may be impacted after developers complete casino construction. She cited an example in New Jersey of towns that initially felt no impact, but later grew enormously as they provided housing for gaming employees. Mr. Barrera stated that the MEPA process does not consider housing and his

executive director, who is a housing specialist, is very concerned with housing. He stated that the RPAs will be able to see the impacts on housing as they analyze the applicants' proposals.

Omudsman Ziemba stated that participants in the RPA process are concerned about lack of time to fully understand the effects of the applicants' proposals. He recommended that the RPAs work with the applicants and host communities, and that the Commission allow enough time to enable surrounding communities to really understand the impacts. Commissioner McHugh stated that if the Commission endorses the RPA process, then the Commission should allocate enough time for the process to work. Commissioner Stebbins asked that the RPAs provide the Commission with periodic updates as this process evolves.

Motion made by Commissioner Zuniga that the Commission accept this proposal, endorse it, and follow the recommendations as outlined in the memorandum of March 12, 2013. Motion seconded by Commissioner McHugh. The motion passed unanimously by a 5-0-0 vote.

A brief recess was taken.

Chairman Crosby reconvened the 58th public meeting.

Region C Discussion – Chairman Crosby stated that the Commission will hold its regular weekly meeting, which includes discussion of Region C, at 4:00 p.m. on Thursday, March 21 at Bristol Community College in Fall River. He stated that the Commission invites representatives of entities or public officials to speak at the meeting, however, anyone interested in speaking should sign up prior to the meeting.

Regulation Update:

See transcript pages 70-76.

Review of Draft Regulations – Attorney Grossman stated that the Commission is on schedule with the RFA-2 regulation process. He stated that he has circulated updated drafts which include new sections pertaining to fees, transfers of interest, conservatorships, and the issuance of new licenses in the event of circumstances that lead to a licensee not being able to continue holding a license. He stated that the Commission still needs to make several policy decisions and he anticipates circulating the language and summaries to the Local Government Advisory Council by March 29, 2013. He recommended setting time aside on Monday, March 25 for an open meeting to discuss the regulations. Chairman Crosby recommended including in this meeting a discussion on the evaluation criteria.

Racing Division:

See transcript pages 76-84.

Chairman Crosby recognized Director Durenberger for the accolades Massachusetts and the Gaming Commission have been receiving on leading the way with regulations on horse medication in the racing industry.

Administrative Update – Chairman Crosby stated that he would like the Commission to be as involved as possible in the openings of the two racetracks on April 15 and June 1, 2013 and would like to discuss ideas on how the Commission can be most involved.

Proposed Changes to 205 CMR 3.00 and 4.00 – Director Durenberger stated that the Commissioners have in their packets the proposed changes to the regulations, the written comments received, a memorandum discussing where they are in terms of incorporating those comments, and additional staff analysis. She recommended that the Commission vote on these changes today.

Motion made by Commissioner Cameron that the Commission accept Director Durenberger's recommendations and approve the changes, as well as the entire 205 CMR 3.00 and 4.00, and adopt the same as emergency regulations and as permanent regulations simultaneously. Motion seconded by Commissioner Stebbins. The motion passed unanimously by a 5-0-0 vote.

Tentative Decision and Motion for Reconsideration for Occupational Licensee Heard on January 16, 2013 – Commissioner Cameron provided information on two hearings that the Racing Division held to reconsider decisions for occupational licenses. She stated that the Racing Division is notifying the individuals in question of the tentative decision to their motion and that they have 30 days to appeal to the full Commission.

Research Agenda:

See transcript pages 84.

Chairman Crosby stated that there is nothing new to report on the research agenda at this time.

Evaluation Criteria:

See transcript pages 84-90.

Commissioner Zuniga stated that an important component of the evaluation criteria is considering what the market can bear. He stated that the Commission has to be careful as it analyzes these proposals because the biggest proposal may not necessarily be the best. He stated that in the fifth category there is an element of balance that the Commission may need to consider, and having a strong, enduring proposal is something that the Commission should discuss. Commissioner McHugh stated that this idea ties back into the Commission's mission statement to provide a reasonable return to licensees. Chairman Crosby emphasized that the Commission has repeatedly stated that it wants competition in order to push the bidders to perform at their best, short of compromising their financial stability. He stated that when the Commission redrafts Section 5 it should consider including additional language to this purpose. Chairman Crosby stated that Executive Director Day had similar concerns and recommended adding to the evaluation criteria security, cash management, and other items.

Motion made to adjourn, motion seconded and carried unanimously.

List of Documents and Other Items Used at the Meeting

1. Massachusetts Gaming Commission March 14, 2013 Notice of Meeting and Agenda
2. March 12, 2013 Massachusetts Gaming Commission Memorandum Re: Regional Planning Agencies
3. March 14, 2013 Massachusetts Gaming Commission Memorandum Re: Recommendation Regarding Proposed "Phase I" Changes to 205 CMR 3.00 and 4.00
4. Proposed Changes to 205 CMR 3.00 and 4.00

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