

The Commonwealth of Massachusetts
Massachusetts Gaming Commission

Meeting Minutes

Date: May 22, 2012

Time: 1:00 p.m.

Place: Division of Insurance
1000 Washington Street
1st Floor, Meeting Room 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 meeting.

Approval of Minutes:

See transcript page 2.

Commissioner McHugh stated that the May 15, 2012 minutes have been posted on the Commission's website.

Motion made by Commissioner McHugh to adopt the minutes of May 15, 2012. Motion seconded by Commissioner Cameron.. The motion passed unanimously by a 5-0-0 vote.

Administration:

See transcript pages 2-23.

Executive Search Firm Update – Commissioner Zuniga stated that he has submitted a memo to the Commission and the Procurement File recommending cancellation of the current solicitation for executive search firms and reissuing the solicitation. Two firms responded to the solicitation and a Phase 1 review has been conducted to see if the responses complied with technical requirements. Both did. Nevertheless, Commissioner Zuniga stated that he would have preferred more responses. Commissioner Cameron asked if the two firms that responded properly could be interviewed before starting the search over again. Commissioner Stebbins stated that the Commission now has consultants who are willing to assist in the hiring process and he is reluctant to reissue the RFR without talking to the firms that responded to the RFR in partnership with the consultants. Guy Michael and Robert Carroll, from Michael & Carroll, the

Commission's consulting firm, addressed the Commission. Mr. Michael stated that they are willing to assist in finding a candidate, as there is a limited pool of candidates to draw from, and they have contacts with people who would have the experience to serve as executive director. He stated that Michael & Carroll does not have experience in recruiting, but could work in conjunction with the recruiting firm.

Chairman Crosby asked if the Commission could interview the current respondents as well as reissue the RFR. Commissioner Zuniga recommended against this course of action. He stated that if the RFR is reissued the current applicants could reapply.

Motion made by Commissioner Zuniga to cancel and rebid the solicitation as outlined in his memo/recommendation. Motion seconded by Commissioner McHugh with an amendment that the RFR be issued by the end of the week. The motion passed by a 3-2-0 vote (Commissioners Cameron and Stebbins opposed).

Additional Hires – Chairman Crosby stated that the Commission is seeking two levels of administrative assistant and office management type of help. Janice Reilly is in the process of interviewing people and Commissioner Zuniga and Chairman Crosby will be interviewing five to six candidates for the more senior position by the end of the day on Thursday.

Contract with Polaris – Commissioner Zuniga stated that he submitted a memorandum for the Commissioners and the Procurement File relative to memorialize the nature of the emergency contract with Ms. Schwartzman, doing business as Polaris Public Relations. Her services were procured on an emergency basis and this needs to be documented in the form of a contract. The business case, reason, and a budget have to be attached to the contract. He stated that when Chairman Crosby was appointed to the Commission, he received approval from the Governor's office to procure the assistance of a public relations firm, and reached out to Ms. Schwartzman for these services. She has been working since December 17, 2011 at a billing rate of \$150.00 hour. The total contract will be a \$75,000 commitment plus reasonable expenses, through June 30, 2012. Chairman Crosby stated that a background check was done prior to Ms. Schwartzman being retained.

Motion made by Commissioner Zuniga that the budget and commitment be accepted by the Commission documentation of the procurement of an emergency contract. Motion seconded by Commissioner Cameron. The motion passed by a 5-0-0 vote.

State Racing Commission:

See transcript pages 23-25.

Transition Plan Update – Commissioner Cameron stated that emergency regulations were filed with the Office of the Secretary of the Commonwealth on May 17, 2012. These regulations were adopted to provide for an orderly transition of the regulation of horse racing, pari-mutuel wagering, and simulcasting from the authority of the Massachusetts State Racing Commission to the Massachusetts Gaming Commission. These regulations were effective on May 20, 2012. An interdepartmental service agreement with the Division of Professional Licensure was signed by

Director Mark Kmetz and Commissioner Cameron on May 17, 2012, effective May 20, 2012. The Mass Gaming Commission will be responsible for all adjudicatory functions, policy, recommendations, and approvals. The racing consultant, Ann Allman, will be on board this week to begin her work for the Commission. Commissioner Cameron and Ms. Allman will be meeting with DPL and State Racing Commission employees, and will be visiting Suffolk Downs and Plainridge Race Course to observe operations and meet the employees.

Gaming Consultant/Legal Consultant:

See transcript pages 25-82.

Discuss and Approve Gaming Consultant Contract and Statement of Work - Guy Michael and Robert Carroll, from Michael & Carroll, and William Lahey, Anderson & Kreiger, addressed the Commission. Michael & Carroll, along with Spectrum Gaming, are the Commission's gaming consultants, and Anderson & Kreiger is the Commission's legal consultant. The Commission reviewed the statement of work submitted by the gaming consultants. Commissioner Zuniga stated that he is working on a draft contract for the gaming consultants which is a Commonwealth mandated contract and incorporates the consultants' statement of work. The contract amount is \$500,000.

Motion made by Commissioner Zuniga that the statement of work as drafted between the three parties, two consultants and the Mass Gaming Commission, be approved and the Commission give authority to Chairman Crosby to enter into and execute a contract for a maximum commitment of \$250,000 with each of the gaming consultants. Motion seconded by Commissioner Stebbins. The motion passed by a 5-0-0 vote.

Discussion of Gaming Consultant RFQ/RFP Proposal and Draft Work Plan – Chairman Crosby stated that the Commission is considering bifurcation of the RFP process for gaming licenses by using an initial Request for Qualifications (RFQ) process that would prequalify anyone who wants to be a bidder for a license. All who were qualified would be eligible to respond to the RFP for a specific project. Mr. Michael explained the details of the RFP/RFQ process. He stated that Anderson & Kreiger would be responsible for determining what portion of the preparation would require regulations, and whether the regulations should be done on an emergency or regular basis. Mr. Carroll stated that the Commission has the authority to set up a fee structure for the RFQ in compliance with the statute, which provides for a minimum application fee of \$400,000, \$350,000 of which is earmarked for Commission use and \$50,000 is to be set aside for local communities. The statute also allows for replenishment of the fee as necessary during the course of the investigation. Mr. Carroll recommended that the fee be nonrefundable, put into escrow, and drawn upon as the investigation requires. He stated that there is ongoing discussion with Anderson & Kreiger on the merits of emergency regulations versus permanent regulations. A lengthy discussion was held.

During the course of the discussion, Mr. Michael stated that the length of time it would take to promulgate RFQ regulations would depend on whether the regulations were issued on an emergency or non-emergency basis. Mr. Lahey stated that the Commission would have to show there is a public necessity for the promulgation of emergency regulations but, when that showing

was made, promulgation could be done within 24 hours after the regulations were drafted. Promulgation of regulations on a non-emergency basis would take at least 75 days. After discussion Chairman Crosby stated that the Commission consensus is to go forward with the non-emergency process as recommended by the gaming and legal consultants.

Integration of Work Plans; Development of Project Management Chart – Chairman Crosby asked for clarification on the revenue projections component of the work plan. Kristin Gooch, Project Manager for the consultant, addressed the Board. She stated that there was conversation at some point about potentially updating the revenue projections Spectrum had done four years ago based on changes in the economy. Commissioner Zuniga stated that he would like to see the interim deliverables included in the work plan. Chairman Crosby stated that the Commissioners would like to see everything the Commission has to do included in this work plan, including the state racing commission, communications and outreach, and to have all operations be governed with an effective project management tool. He stated that the consultants recommended that the Commission engage somebody who knows how to use project management software and charge him or her with creating and maintaining an overall project management plan that includes all aspects of the Commission's work.

Chairman Crosby asked the consultants if there are any positions the Commission needs in place in order to interface properly with the consultants. Mr. Carroll stated that the Executive Director and Director of Investigation and Enforcement Bureau would be helpful, as well as investigative staffing.

Finance/Budget Update:

See transcript pages 82-84.

Commissioner Zuniga stated that the Commission has entered into an ISA agreement with the Department of Public Licensure for a total amount of \$3,280,728, most of which consists of funds appropriated by the Legislature for the State Racing Commission's use. He has reviewed the amount and found it to be reasonable. This agreement extends through June 30, 2012, the end of this fiscal year, at which point another ISA for the remainder of the racing season will be signed. Chairman Crosby asked about the Racing Stabilization Fund payments. Commissioner Cameron stated that she has a meeting tomorrow and hopes to have an update on that process.

A brief recess was taken.

Public Education and Information:

See transcript pages 84-87.

Economic Development Forum – Commissioner Stebbins stated that he is finalizing one more speaker and hopes to have the agenda completed for next week's meeting. He tried to create a good sense of balance from the speakers. The forum is posted on the Commission website and attendees can register on-line. The forum will be held June 14, 2012 at Quinsigamond Community College in Worcester, 8:30 a.m. registration and 9:00 a.m. start.

Community Mitigation/Compulsive Gambling Forum – Chairman Crosby stated that a community mitigation forum, which is being led by the Metropolitan Area Planning Council, is scheduled for June 18, 2012 and will be held in Framingham. It has been decided not to combine that forum with the compulsive gambling, so the June 18 session will be a full morning just on community mitigation. Chairman Crosby and Commissioner Stebbins have met with the groups involved with compulsive gambling, who are very interested in a half day forum on compulsive gambling issues. This is currently scheduled for June 25, 2012.

Other Business:

See transcript pages 87-93.

Commissioner Stebbins stated that Section 71 of the legislation describes benchmark research that the Commission must conduct and the results of which it must transmit to the Legislature by November 21, 2013. He stated that he would like to have a discussion on the nature of the research the Commission wants to have done. Chairman Crosby stated that the Commission has an opportunity to do significant research on the topic of what happens to a community when expanded gaming is introduced. He stated that the Commission may need to consider hiring a research director.

Next Meeting: The next meeting is scheduled for May 29, 2012, 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 May 22, 2012 Notice of Meeting & Agenda
2. May 16, 2012 Memorandum, Recommendation to Cancel Current Solicitation and Re-Bid for the Services of an Executive Search Firm
3. May 16, 2012 Memorandum, Contract with Karen Schwartzman d/b/a Polaris Public Relations
4. May 20, 2012 Memorandum, Timing and Impact of the Proposed RFQ Process
5. Statement of Work
6. Massachusetts Gaming Commission 16-Week Plan

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