

The Commonwealth of Massachusetts
Massachusetts Gaming Commission

Meeting Minutes

Date: June 12, 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.

He stated that the meeting is being streamed live.

Approval of Minutes:

See transcript pages 2-3.

Commissioner McHugh stated that the minutes for June 5 were posted late this morning in draft form, and he would like to approve them at the next meeting. Chairman Crosby had one suggested change to the minutes.

Administration:

See transcript pages 3-21.

Executive Search Firm Update – Commissioner Zuniga stated that there is nothing new to report. Responses are due tomorrow. Answers to the questions received were answered by the deadline and posted on the Commission website and Comm-Pass.

Additional Hires – Chairman Crosby asked about the status of intern hiring. Commissioner Zuniga stated that hiring was subject to finalizing background checks but that a general job description had been drafted. He recommended moving forward with one intern. Commissioner McHugh stated that he would also like to hire a legal co-op student from one of the local law schools.

Chairman Crosby asked about the status of a project management tool or firm. Commissioner Zuniga stated that it is his opinion the Commission should schedule demonstrations of the software programs that are available. He has installed Microsoft Project on his computer and has started entering the major milestones. Commissioner McHugh asked if the Commission should consider getting the project management tool first, or consider the option of hiring a temporary employee or firm to manage it, as discussed at the last meeting. Commissioner Zuniga stated that there are temporary agencies under contract with the state that may be able to supply a person, but when he spoke with them they asked what project management skills the Commission was seeking and he decided it would be best to learn what software is available.

Chairman Crosby stated that there are three hires in the pipeline and background checks are being conducted. The goal is to have those checks completed and the prospective employees hired in the next couple of weeks.

Discussion of MGC Internal Policies – Commissioner Cameron stated that to be consistent with other gaming commission best practices, as well as the background investigations conducted by the Governor’s office and the Attorney General, she recommended two levels of background investigation. The higher level investigation, which would be used for all top-level employees, is comprehensive, including criminal checks, employment and education verification, tax, civil suits, personal information, driving record, seven years of address, spouse information, conflict of interest, complete financial investigations, business associations, professional licenses, and ethics violations. When hiring lower level staff, the investigation will be comprehensive, but need to not include as much in depth information. Both levels of investigation include a drug screen and fingerprinting. Commissioner Cameron said that she met with personnel employed by a medical laboratory that would be able to conduct the drug screen testing. This facility is under a current state contract so the Commission can enter into an agreement quickly. She stated that she is finalizing with the State Police the ability to use one of their units to do fingerprinting. Chairman Crosby asked what method of drug testing would be used and what the Commission’s policy would be should a test come back positive. Commissioner Cameron stated that the best method to utilize would be urine testing, and, in her opinion, the Commission should not hire an individual whose test comes back positive. She stated that she is working with Commissioner Zuniga to put the Commission's approach to drug testing, and its consequences, into the form of a written policy. Chairman Crosby asked about the overall status of the employment policies. Commissioner Zuniga replied that they are a work in steady progress.

Speaking Engagements – Chairman Crosby stated that he is speaking to the Central Mass Regional Planning Commission in Worcester. Commissioner Zuniga asked what the practice is when a speaking invitation is received. Chairman Crosby stated that every invitation should be run by Elaine Driscoll. If a particular invitation raises any issues that are out of the ordinary, they should be run by Commissioner McHugh, who can determine whether involvement of the Ethics Commission would be appropriate.

Project Work Plan:

See transcript pages 21-36.

Consultant Status Report – Commissioner McHugh stated that he met with Kathleen O’Toole and Kristen Gooch to establish a process that will include a weekly chart showing the status of a variety of tasks in which the consultants are working. Each week the deliverables that are ready will be sent to Commissioner McHugh for initial screening. He will decide if more work is required before circulation. When memorandum or other deliverable is ready, it will be circulated by Monday at noon. Ms. Gooch will be able to upload the weekly chart into the many of the project management tools available for the Commission's selection. Commissioner McHugh stated that he believes that the Commission will be heavily involved in drafting regulations mid July.

Kathleen O’Toole, representing the consultants, Spectrum Gaming and Michael and Carroll, addressed the Commission. She stated that she will discuss at the Commissions weekly meetings the deliverables that are due that week, along with any work that is in the pipeline. The deliverables provided this week were the draft list of regulations required for the RFA Phase 1 process, recommendations for near term hires, and the scope of licensing memo. During the week, the consulting team also initiated several new activities, including anti-money laundering provisions and required compliance with applicable federal regulations, table of organization options, draft of the actual Phase 1 regulations, and the Massachusetts Supplemental Application form. The team also is working on finalizing a proposed Phase I RFA timeline and related regulations, reviewing the multi-jurisdictional background form and determining the required Massachusetts adjustments, documenting and providing best practices commentary regarding for requirements set forth by the Act, including all mandatory hires, revenue sources, and the hearings and appeals process. They have identified the agencies requiring MOU’s and are continuing to work with Anderson and Kreiger to integrate their legal interpretations. Deliverables to be expected for the coming week are the draft memo detailing revenue sources, and the draft memo detailing mandatory job positions.

Ms. O’Toole stated that the draft regulations for Phase I will be available in early July, the Commission will have approximately three weeks to review them, and then a public hearing process will take place. Chairman Crosby clarified that, at the beginning of the Phase I Request for Applications, the Commission will ask anyone who is interested in being a bidder to come to the Commissioner formally, pay the application fee, and become applicants.

Racing Division:

See transcript pages 36-63.

Status Report – Commissioner Cameron stated that the racing consultant has been conducting a review of racing procedures in the Commonwealth. At some point during this racing season recommendations will be made to the full Commission about a strategic plan, including changes that may be necessary, a timeline, and budget. The first Racing Commission meeting has been scheduled for June 21 to address pending track matters, and she will be presiding as the hearing

officer for appeals which have been submitted since the State Racing Commission was disbanded. She stated that there are decisions the Commission will have to make regarding the Racing Development Trust fund so there will be enough money to cover all operating expenses through FY 2013. Chairman Crosby recommended designating Commissioner Cameron to make decisions as she sees fit. Commissioner Zuniga was in agreement and recommended that this include the ability for her to make financial decisions.

Motion made by Commissioner McHugh to designate Commissioner Cameron as the Commission's agent to make such changes and take such steps as are necessary to assure that the racing activities, over which this Commission has jurisdiction, are maintained in a stable operating condition through the end of this racing season, and that she report periodically to the Commission on her activities and on the tasks and issues she deems appropriate for the Commission to approve in advance of her action. Motion seconded by Commissioner Zuniga. The motion passed unanimously by a 5-0-0 vote.

Commissioner Zuniga stated that, historically, racing operations were funded through a line item, as well as through the Racing Development Trust, into which taxes from all racing operations flowed. After expenditures were made from the trust, remaining funds went back to the general fund. Next fiscal year there will not be a line item in the budget to provide cash flow. Gray Holmes, CFO for the Office of Consumer Affairs, addressed the Commission. He stated that without this line item, operations will have to be funded from the Trust. Expenditures from the Trust are currently capped at \$1,080,000. He stated that one way to resolve the cap issue would be to seek legislation that removes the cap. At present, the Trust receives approximately 2.6 million in revenues annually. Of that, \$1.6 million is expended for operations and \$1 million is paid to the cities and towns that host racing establishments. Because there is no appropriation from the Legislature this year, an additional \$500,000 is needed to pay benefits, bringing operating expenses to \$2.1 million and increasing to \$3.1 million the overall need for revenues. Chairman Crosby asked if the revenue figures are reliable. Mr. Holmes stated that there has been a trend toward a 10% annual decrease in revenue at the tracks, and current estimates project another 10% decrease. However, for the first time in a long time there has been an increase in revenue for 2012.

Chairman Crosby recommended a solution of switching the cash flow to the Gaming Commission, eliminating the need to go to the Legislature. Commissioner Zuniga stated that he would have to clarify with the Comptroller's office the Commission's ability to be reimbursed from the Trust. Chairman Crosby stated that another option would be to have the cash flow from the tracks go directly to the Commission rather than into the Trust. Commissioner McHugh suggested asking the Legislature to remove the language in G.L. c. 128A, § 5(h)(2) stating that the amount set aside to fund racing commission operations goes to the general fund, which may be easier than trying to lift the cap of the \$1,080,000. It was decided that Commissioner McHugh and Commissioner Zuniga would look into the legal aspects of this situation. Chairman Crosby asked Mr. Holmes to provide the Commission with a P&L and balance sheet for the Racing Commission and any established trusts.

Field Trips – Commissioner Cameron stated that there is a trip to Plainridge scheduled for the afternoon of June 21.

Project Work Plan (Continued):

See transcript pages 63-85.

Applicant Relations With State Agencies – Chairman Crosby stated that he, along with Commissioner McHugh, is working with state agencies to set up a process by which state agencies can filter all the requests for information from people who are not yet applicants but who may want to become applicants. A draft protocol has been developed and there should be a process in place very shortly that will give a clear set of directions about how prospective bidders can work with state agencies to get decisions on items such as permitting and licensing.

Notice of Proposed Rulemaking – Commissioner McHugh stated that a press release will be issued today containing a request for public comment on the Commission's decision to conduct the RFA process in two phases. This comment period will remain open for one month and will provide information the consultants and the Commission can take into account in the initial drafting of regulations. The public comment process is designed to help the Commission think through the two-phase process and get some fresh opinions from the outside on what this process should look like. He stated that the Commission welcomes comments for everyone who is interested in the process.

Technical Assistance to Communities – Commissioner Zuniga stated that questions have been received from a number of communities regarding information residents of a host community will need to have in order to vote intelligently on a casino gaming proposal. He would like to think about the role the Commission will play in answering those questions. Commissioner McHugh stated that some of the questions will focus on site specific issues, but the Commission will also have to promulgate broader regulations governing the host community voting process so that voters will know what they are voting on. He stated that providing assistance to communities will be a task the Commission needs to think about carefully because if it provides help directly, it will potentially be providing assistance in developing a proposal that it will later have to judge. Commissioner Stebbins suggested creation of a list of questions the communities should be prepared to ask in order to provide them with a better sense of who they need to hire to assist with the development of their agreement. Commissioner McHugh asked how the Commission could facilitate connecting that towns need service with the people who are available and competent to provide it for without injecting the Commission deeply into the process of creating a plan on which it will later have to sit in judgment. Chairman Crosby stated that the Commission has been discussing this issue for a long time and is not really getting anywhere. He stated that the Commission initially decided not to provide assistance directly but instead to turn to outside organizations such as the Collins Center. He asked, however, if the Commission should reconsider doing some of the work itself. Commissioner Cameron stated that in New Jersey there is a separate organization that deals with economic development and assistance to communities. Chairman Crosby suggested he take on the task of working with organizations such as Mass Development, as well as the Collins Center, and see if he can put something together to discuss next week.

Charitable Gaming:

See transcript page 85.

Status Report – Commissioner McHugh stated that he has scheduled meetings with the Attorney General’s office, the Treasurer’s office, and the Chair of the Town Clerks Association to discuss charitable gaming. He may generate a public notice to get thoughts on the subject of charitable gaming from the public. The goal is to provide a report into the Legislature by the end of July.

Finance/Budget Update:

See transcript pages 85-87.

Commissioner Zuniga stated that he has presented budgets for the Commission’s upcoming forums and he would like the Commission to approve them. Commissioner Stebbins stated that the budget for the June 14 forum may be conservative.

Motion made by Commissioner Zuniga to approve the budgets and authorize the approximate expenditures. Motion seconded by Commissioner Stebbins. The motion passed unanimously by a 5-0-0 vote.

Public Education and Information:

See transcript pages 87-98.

Economic Development Forum, June 14, 2012 – Commissioner Stebbins stated that the first of the two June 14 panels will consist of people who worked on some of the key studies that led to the expanded gaming bill. The second panel will consist of experts who have done extensive research on siting and casino license approval. He is also lining up additional speakers who are not able to participate in the June 14 forum to appear at one of the Commission’s regularly scheduled Tuesday meetings. Chairman Crosby suggested at the end of the forum staying for a public meeting to discuss what was learned at the forum.

Community Mitigation Forum, June 18, 2012 – Chairman Crosby stated that he has no information to offer beyond that contained in the agenda which has been distributed.

Compulsive Gambling Meeting, June 19, 2012 – Commissioner Cameron stated that she will be attending this forum. Chairman Crosby stated that the Commission will go ahead with their weekly meeting that day with the remaining four Commissioners.

Report from Director of Communications and Outreach – Elaine Driscoll stated that she has been working on ways to increase attendance at the forums. She is working on defining ways of enhancing social media and increasing the number of followers the Commission has on Twitter. She is reviewing the website to find ways to enhance it, such as with a comprehensive, easy to read calendar. She is developing a speakers’ bureau that will have very specific requirements. The requirements will be posted on the Commission’s website so that groups can write in to

request a speaker. She is researching various companies that can assist the Commission with logo creation and other important branding efforts.

Chairman Crosby stated that he will be meeting with a group of people to discuss affirmative action policies in hiring.

Chairman Crosby stated that Commissioners Zuniga and Stebbins were on the road yesterday and asked if there was anything to report. Commissioner Zuniga stated that they met with the Greater Springfield Visitors Bureau. He was struck by the notion of regional mitigation. Commissioner Stebbins stated that there was good discussion about how to be more proactive with some of the regional organizations to reach out to potential developers. Commissioner Stebbins stated that they met with the Economic Development Council, which is a private sector organization consisting of business leaders, who raised broad regional impact issues. They also met with the Quaboag Hills Chamber of Commerce in Palmer to answer questions about the licensing process. Finally, they met with an organization called Square One to discuss the kinds of child care services that might be available to workers.

Research Agenda:

See transcript pages 98-99.

Commissioner Stebbins stated he plans to create a memo about Chapter 23K, Section 71 which discusses research. He stated that more information helpful to thinking about baseline research will be available after Thursday's forum.

Next Meeting: The next meeting is scheduled for June 19, 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 June 12, 2012 Notice of Meeting & Agenda
2. 6/11/12 Memo Regarding Racing Developmental Trust Issues
3. 6/11/12 Memo Regarding Topics for Discussion: Research Agenda and Technical Assistance to Cities and Towns
4. Budget for Economic Impact Forum, Mitigation Forum, and Compulsive Gambling Forum

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