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## Meeting Minutes

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**Date:** June 13, 2013

**Time:** 9:30 a.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 Enrique Zuniga

**Absent:** Commissioner Bruce Stebbins

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 69th public meeting.

### **Approval of Minutes**

See transcript pages 4-5.

9:33 a.m. Commissioner McHugh stated that the minutes for the May 30 meeting are ready for approval. Commissioner Crosby recommended one correction to the minutes.

*Motion made by Commissioner McHugh that the minutes of May 30, 2013 be accepted with the one correction discussed. Motion seconded by Commissioner Zuniga. The motion passed 4-0.*

**Administration**

Report by Executive Director Day. See transcript pages 5-47.

- 9:35 a.m. Executive Director Day stated that the next Commission meeting will primarily involve discussion on the suitability of Category 2 applicants. In regard to hiring matters, the Commission has started interviewing for the Chief Information Officer position. The RFR responses for the financial advisor are due June 28, the building and site design RFR will be released June 21, the economic development RFR will be released by June 28, and the project manager RFR will be released on June 14.
- 9:39 a.m. The project manager initially will assist in the selection of additional advisors and will then coordinate among the five evaluation teams. Commissioner Zuniga stated that the project manager may also be a valuable role after the award of the license to oversee the construction of the gaming establishments.
- 9:45 a.m. Commissioner Zuniga described the preliminary budget for the Commission. The budget anticipates the hiring of 14 full time equivalent staff and implementing a licensing system. The costs of the advisors that the Commission will be using to help evaluate the RFA-2 applications will be assessed on the applicants. Due to the new costs for fringe on salaries and audits, the Racing Division is projected to have a slight negative cash flow. Chairman Crosby recommended that the Commission nevertheless allocate a portion of the overhead to racing because the Racing Division may have positive cash flows in the future. The Commission anticipates that it will only spend \$5.6 million of the approved \$6.7 million budget for fiscal year 2013.
- 10:04 a.m. The Commission discussed the financial advisor for the RFA-2 evaluations, which may be very costly due to the specialized expertise required. The Commission discussed the possibility of reducing costs by hiring fewer consulting firms, with each being skilled in multiple disciplines. The Commission will also be seeking assistance from the Massachusetts Transportation and the Environmental Affairs agencies.
- 10:10 a.m. Executive Director Day introduced Mark Vander Linden, the Commission's new Director of Research and Problem Gambling. The Commission has delegated the power to Executive Director Day to make hiring decisions, and there will be no public interview during this meeting.
- 10:13 a.m. Chairman Crosby left the meeting for a previously scheduled appointment. Commissioner McHugh led the meeting in the Chair's absence.
- 10:13 a.m. Mr. Vander Linden expressed his enthusiasm for the opportunity to promote responsible gambling in the Commonwealth. The Commission approves Executive Director Day's selection and the qualification of Mr. Vander Linden for this position. Mr. Vander Linden's anticipated start date is June 26, 2013.

**RFA-2 Application**

Report by General Counsel Blue and Attorney Grossman. See transcript pages 47-96.

- 10:21 a.m. General Counsel Blue and Attorney Grossman began discussion on the revised steps to licensing and the RFA-2 application. Commissioner McHugh asked for clarification on step 32 in the process, and Attorney Grossman stated that step 32 provides the latest date by which surrounding community and live entertainment venue agreements can be submitted if the arbitration takes the entire time allocated. The public hearing can occur before this date but must occur after the Commission determines what communities are surrounding communities and what live entertainment venues are impacted live entertainment venues.
- 10:27 a.m. Commissioner McHugh highlighted some of the features of the RFA-2 application such as the fact that it can be filled out electronically, segregates sensitive information from non-sensitive information to allow for a rapid process of public release, and contains a mechanism for identifying confidential information.
- 10:30 a.m. The application consists of a form the applicant must complete and a series of attachments the applicant must provide. The application form identifies the attachments that the commission believes may be exempt from public disclosure, but instructions for completing the application require that applicants identify the attachments that actually contain information they claim is exempt from public disclosure. The Commission will respond to public records requests in three phases: first the Commission will release the completed application form, excluding attachments, in its entirety; second the Commission will briefly review the attachments that the applicants did not mark as confidential and release those as well; and lastly the Commission will, on a case-by-case basis, review the content of any attachments marked confidential and release information as required by the public records laws.
- 10:44 a.m. The Commission will also be recommending a pre-application consultation meeting with Executive Director Day to ensure that applicants are aware of their public records requirements and how to properly submit their application materials. Commissioner Zuniga recommended that the Commission consider how long to hold certain materials confidential. Some of the materials may lose their competitive sensitivity after the application process is complete. Commissioner McHugh also emphasized that the Commission should only release information marked confidential after consulting with the applicant.
- 10:49 a.m. Attorney Grossman walked through the changes to the RFA-2 application and the Commissioners provided comment and requests for further changes. Due to storage constraints, the Commission agreed that it will not accept physical models of the proposed casino project as part of the application materials.
- 11:12 a.m. The Commission took a brief recess.

- 11:18 a.m. The Commission resumed discussion of the RFA-2 application and asked Attorney Grossman to make the changes discussed and any minor corrections necessary so that the application will be ready for release on Monday, June 17, 2013.
- 11:23 a.m. Commissioner McHugh brought up the letter of June 12, 2013 from J. Raymond Miyares of Miyares and Harrington. The Commission did not continue discussion of its substance as not everyone had a chance to read it. The question, as it relates to processing the results of the background investigations, will be addressed in the overall plan that Executive Director Day is working on.

### **Racing Division**

Report by Director Durenberger. See transcript pages 96-112.

- 11:26 a.m. Director Durenberger presented a request from Suffolk Downs for the Commission to approve an additional individual to be a racing official. This request is consistent with other requests that the Commission has approved.

*Motion made by Commissioner Cameron to approve Noelle Rand as a racing official, pending the completion of a State Police background investigation. Motion seconded by Commissioner Zuniga. The motion passed 3-0.*

- 11:28 a.m. Director Durenberger discussed the recent changes to the tax law. The federal tax law requires that when winnings are over \$5,000 or from 300 to 1 odds or greater, then a portion of the winnings must be withheld for tax purposes. With the Expanded Gaming Act, winnings over \$600 in Massachusetts now trigger the W-2G reporting requirement and mandatory withholding for state taxes. Unlike federal tax law, Massachusetts does not have exceptions for bingo, Keno, lottery tickets and slot machines, nor does Massachusetts tax law aggregate all losses when deducting against winnings. In Massachusetts, only the cost of the winning ticket is deducted against any winnings from that ticket. Although taxation is outside of the Commission's regulatory domain, the Commission should be aware of the changes as they do affect the racing industry in the Commonwealth.

- 11:35 a.m. General Counsel Blue presented two delegations of authority for the Commission's approval. First, the Commission is asked to delegate certain authority over track matters to the Director of Racing. The second delegation is a delegation of authority to the Executive Director to be able to make payments and approve and enter into any documents that are required under chapter 128A § 5(h).

- 11:39 a.m. *Motion made by Commissioner Zuniga that the Commission delegate, as set forth in the memorandum, to the Director of Racing the authority to approve track matters pertaining to racing licensees to ensure the efficient operation of the racing division and regulation of the racing licensees. Motion seconded by Commissioner Cameron. The motion passed 3-0.*

- 11:40 a.m. *Motion made by Commissioner Zuniga that the Commission approve a delegation of authority, as set forth in the memorandum, to the Executive Director to approve and make payments required under §5 (h) of c. 128A; to negotiate, enter into and execute all necessary agreements and documents to make such payments; and to take all steps necessary to comply with the requirements of §5(h). Motion seconded by Commissioner Cameron. The motion passed 3-0.*
- 11:42 a.m. Meeting adjourned.

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

1. Massachusetts Gaming Commission June 13, 2013 Notice of Meeting and Agenda
2. Massachusetts Gaming Commission May 30, 6 2013 Meeting Minutes
3. June 11, 2013 Massachusetts Gaming Commission Cash Flow Projection with Draft FY'14 Budget
4. Massachusetts Gaming Commission Press Release – Massachusetts Gaming Commission Hires Mark Vander Linden as Director of Research and Problem Gambling
5. Curriculum vitae of Mark Vander Linden
6. Draft 38 Simple Steps to Issue a Gaming License – Category 1 Regions A, B
7. Draft 38 Simple Steps to Issue a Gaming License – Category 1 Region C
8. Draft 37 Simple Steps to Issue a Gaming License – Category 2
9. Massachusetts Gaming Commission RFA-2 Application for Category 1 or Category 2 Gaming License
10. June 12, 2013 Suffolk Downs Memorandum Regarding Approval of a Racing Official
11. Department of Revenue Excerpt Regarding Withholding on Wagering Winnings
12. June 13, 2013 Memorandum Regarding Delegation of Authority to the Director of Racing
13. June 13, 2013 Memorandum Regarding Delegation of Authority to the Executive Director

/s/ Catherine Blue  
Catherine Blue  
Assistant Secretary