

The Commonwealth of Massachusetts
Massachusetts Gaming Commission

Meeting Minutes

Date: June 26, 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 minutes for June 19 are in progress and will be reviewed at the next meeting.

Administration:

See transcript pages 2-17.

Executive Search Firm Update – Commissioner Zuniga stated that he is halfway through the process of reviewing the four firms who responded to the Commission's RFP. The last two interviews are scheduled for tomorrow and he anticipates coming back to the Commission with a recommendation by the next meeting. He stated that several questions have been raised and the Commission needs to think about how the Executive Director will interface with the Commission, how the Commission will be structured, should the candidate be a manager or a leader and should the gaming experience the candidate possesses be regulatory or industry based. He also posed the question of who on the Commission will be responsible for managing the executive search firm project. Chairman Crosby stated that the Commission will need a very strong CEO with regulatory experience. Commissioner Cameron stated that the candidate will be the leader of the organization and the best leaders have great management skills, so she would

look at the Executive Director as a leader possessing excellent management skills. Commissioner McHugh asked if the search firm will be putting together a job description. Commissioner Zuniga stated that the firms will be fine tuning a job description, which is why these questions have been posed. Commissioner Stebbins stated that he would be happy to step in, perhaps with another Commissioner, and manage this process. Commissioner McHugh stated that this will be the Commission's most important hire to date and should be handled more formally by forming a subcommittee. Chairman Crosby stated that if a subcommittee is formed the meetings will have to be public meetings. Commissioner Cameron expressed concern about this because the potential candidates will have current jobs and the interview process will be held in the public. Commissioner McHugh stated that the only public interviews would be with the finalists. It was decided Commissioner McHugh would work on a plan and further discussion would be held at the next Commission meeting.

Additional Hires – Chairman Crosby stated that there are three candidates in the pipeline and the Commission is very close to being able to announce the Director of Administrative Services, Receptionist, and an Executive Assistant.

Discussion of MGC Internal Policies – Commissioner Zuniga stated that he has received comments from Commissioner McHugh on the draft employee handbook he created and will be reviewing the comments tomorrow in anticipation of creating a final version.

Commissioner McHugh stated that under the Open Meeting Law there can be absentee participation at meetings with very specific criteria. In order to allow remote participation, the Commission must vote to allow that form of participation as a general matter.

Motion made by Commissioner McHugh that the Commission authorize the Commission to allow absentee participation under the criteria that the Open Meeting Law permits. Motion seconded by Commissioner Zuniga. The motion passed unanimously by a 5-0-0 vote.

Chairman Crosby announced due to the July 4th holiday the Commission's regular meeting next week will be held on Monday, July 2 at 1:00 p.m. He stated that he will not be present and designated Commissioner McHugh to Chair the meeting.

Racing Division:

See transcript pages 17-19.

Status Report – Commissioner Cameron stated that there is now a financial oversight plan in place. She is continuing to work on an ISA for FY 2013. She conducted the first Gaming Commission's Racing Division meeting/hearing last Thursday. Routine track matters were discussed and three appeals were heard. She will have a recommendation for the full Commission at next week's meeting.

Field Trips – Commissioner Cameron stated that the field trips have not been rescheduled at this time.

Project Work Plan:

See transcript pages 19-86.

Notice of Proposed Rulemaking – Commissioner McHugh stated that two comments have been received from individuals who are not part of the industry. The commentary period remains open.

Consultant Status Report – Guy Michael and Robert Carroll, from Michael & Carroll, addressed the Commission. Mr. Michael presented an update on the work they have been doing. Work continues on a number of different documents. They are in the process of drafting options for a table of organization. They are also developing timelines for the application process and investigation under the Phase 1 process. They are working on various Memoranda of Understanding and, in that connection, have met with various agencies such as the State Police and ABCC. They are completing the application forms, including the multijurisdictional form and the Massachusetts supplement. They are finalizing their timeline on the RFA Phase 1 process. They are hoping to get the draft regulations to the Commission very promptly. They continue to work with Anderson & Krieger to integrate the Massachusetts specific aspects of proposed procedures into the more generalized gaming standards.

Mr. Carroll reviewed the memorandum prepared relative to the proposed RFA Phase 1 timeline. It is consultants' intention to deliver a set of draft regulations specifically addressing the RFA Phase I process by July 10, 2012. They are projecting a publication date of October 12, 2012. Commissioner McHugh stated that if the regulations are received on July 10, 2012, the schedule affords a three-week period for Commission review and determination regarding whether the regulations are sufficiently complete to proceed with public comment. The next step will be sending the draft regulations to the local government advisory committee and the subsequent public hearing will be held on September 7, 2012.

Mr. Michael stated that the consultants have provided a chart of the potential Commission revenue sources contemplate by the legislation. He described those potential sources. Chairman Crosby asked the consultants to provide information on the potential effective tax rate. Mr. Carroll stated that any such figure would have to be approximate because an effective tax rate is determined by revenues and revenue projections depend on the size of the gaming facility.

Mr. Michael reviewed the scope of licensing. He stated that a casino company is evaluated on the basis of the people and entities that give that company its direction and control. The Commission will be required to determine who those people are. He stated that a question has arisen as to whether the Commission can proceed with an investigation while a determination is being made as to whether everyone who should file has filed. He stated that it is common practice to proceed with investigation on those who clearly are qualifiers, i.e., people whose backgrounds must be investigated, so that the entire process will not be slowed down by the time it takes to determine the necessity to examine individuals whose status is qualifiers is not clear. Commissioner McHugh agreed that allowing the process to move forward would be

helpful. Commissioner Zuniga stated that he agreed with starting the process while other qualifiers may show up later. Commissioner Cameron agreed that this is common practice.

Mr. Carroll reviewed the memorandum on statutory staffing and the Executive Director's salary. He stated that the consultants have looked at other jurisdictions and have determined that the responsibilities of the executive directors in those jurisdictions vary significantly. It is the consultants' recommendation that, given the level of responsibility for the Executive Director the Massachusetts legislation envisions, the Executive Director salary be set near the upper limits of the comparatives. Mr. Carroll also stated that the legislation calls for creation of an Investigation and Enforcement Bureau for (IEB) with a Deputy Director who reports directly to the Chair of the Commission. Mr. Carroll viewed that reporting line as an anomaly and suggested that there should be a direct line of authority between the IEB Deputy Director and the Executive Director. Chairman Crosby stated that this is an interesting issue which the Commission has begun to think about and he welcomed public input. Chairman Crosby asked when the IEB would need to be staffed. Mr. Michael stated it would have to be staffed and operational by the beginning of next year. Mr. Carroll indicated the Deputy Director should have a broad range of investigative and regulatory experience.

Technical and Other Assistance to Communities – Chairman Crosby stated that after the community mitigation open meeting last week the Commission talked about issuing an advisory to communities that contains a timeframe for Commission action they can use to deal with developers and also suggests the type of help will that will be available from or through the Commission. He stated that he has developed a draft document for the Commissioners to review and provide input. Commissioner Zuniga raised concern about potential surrounding communities and how this timeline will be interpreted. Commissioner McHugh stated that he would like to fine tune this document, but asked whether a second document setting out the statutory criteria in a schematic fashion would be a helpful companion to this document. Commissioner Stebbins stated that the Collins Center is trying to do that type of work for the Commission and may be able to help put a document together.

Chairman Crosby stated that the idea of having an ombudsman has been discussed. The ombudsman would act as a single point of contact in the Commission's office for assisting bidders and municipalities in their dealings with other governmental agencies. He stated that he has two people in mind for this position, though he has not spoken to either person, and the Commission might bring the person on as a consultant as it is unknown if the need for an ombudsman will continue to exist after the licensing process concludes. Commissioner Cameron asked whether the ombudsman should be employed by the Commission or an outside party. Commissioner Stebbins stated that someone who is officially seen as part of the Commission is going to have a better ability to interact with other state agencies than a third party. Commissioner McHugh stated that he would like to see a job description and process in place before making a decision. Commissioner Zuniga recommended including the drafting of Phase 2 regulations in the timeline Chairman Crosby has drafted. It was agreed that this draft will be fine tuned, a process document will be prepared, and Chairman Crosby will work on a job description and process for the ombudsman.

Discussion of Protocol for Managing Developer/State Agency Relations – Chairman Crosby stated that the proposed protocol is an outgrowth of a conversation he and Commissioner McHugh had with the Governor’s office and secretariats. The protocol states that between now and the time a developer becomes an applicant, any developer who wants to work on a project can have one meeting with as many state agency key contacts as it desires in order to talk about issues involved in their proposal. After the developer becomes an applicant, it can have as many meetings with state agencies as it reasonably needs, and those meetings will be coordinated by the Commission’s ombudsman with a designated single point of contact at each of the various agencies. Once they become a licensee, they can interact directly with the state agencies on their own, not through the Commission. Commissioner McHugh stated that one of the issues raised with the secretariats focused on what happens after the license has been issued, as there will be various permitting requirements. It has not been resolved whether the Commission can work with the secretariats to develop a post license process.

Charitable Gaming:

See transcript pages 86-87.

Status Report – Commissioner McHugh stated that a solicitation for public comment on charitable gaming is now posted on the website. He met with Donna Hooper, the Lexington Town Clerk, who is head of the Town Clerks Association. Clerk Hooper was very helpful and forthcoming. He has a meeting scheduled with Lottery officials to get their views, and has spoken with personnel in the Attorney General’s office to get their views. He stated that there should be a comprehensive report by the deadline of July 31, 2012. On July 31, 2012, the Commission becomes responsible for regulating bazaars governed by Chapter 271A, Sec. 7, which are a portion of all bazaars conducted in Massachusetts.

Finance/Budget Update:

See transcript pages 87-89.

Commissioner Zuniga stated that he prepared a memo relative to establishing a threshold for approval of certain expenses. For incidental expenses, he recommended that the Commission mirror the \$5000 threshold in the public procurement procedures. Up to that level, he would approve of the expenditures even if they are unbudgeted.

Motion made by Commissioner Zuniga for approval of the recommendation stated in his memorandum to establish a threshold of certain incidental expenses under which such expenses will be approved by one Commissioner, and eventually by the Commission’s chief financial officer. Such threshold is recommended to be established at \$5,000 for any particular expenditure, and the Treasurer be the designated Commissioner. Motion seconded by Commissioner McHugh. The motion passed unanimously by a 5-0-0 vote.

Public Education and Information:

See transcript pages 89-115.

Discussion of June 19th Compulsive Gambling Meeting – Commissioner Cameron attended this meeting and provided an overview. She stated that this is more of a working group with members of the industry. Many of the same topics discussed at the Commission’s forum were discussed at this meeting also.

Discussion of June 25th Compulsive Gambling Meeting – Chairman Crosby stated that everyone was impressed with the Commission’s four hour educational forum on the issue of problem gambling. Commissioner Zuniga stated that it will be important for the Commission to establish alliances with the Council on Compulsive Gambling, healthcare professionals, and networks early on. Commissioner Stebbins was impressed with the discussion of self exclusion. Chairman Crosby stated that he will try to arrange a meeting with Secretary Bigby from DOHHS, and Commissioner John Auerbach, who heads the Department of Public Health, to begin talking about policies and creating a productive collaboration. Commissioner McHugh stated that the Commission should consider having a person on staff at an executive level who is responsible for dealing with compulsive gambling.

Community Outreach/Responses to Requests for Information – Chairman Crosby stated that it might be helpful to have the Commission’s ombudsman handle requests for information the Commission receives periodically from cities and towns and to find outside agencies who would actually provide assistance to those cities and towns. One of the organizations the Commission could consider retaining is the Collins Center for Public Management at the McCormack Graduate School, where he was the former Dean. Chairman Crosby indicated because of his relationship with the School, he would step out of the room for any conversation having to do with who is retained to provide these services and what they will be paid. *Chairman Crosby stepped out of the room.*

Commissioner Stebbins stated that in front of the Commission is a draft proposal from the Collins Center for Public Management at UMass Boston. He stated that he has had several conversations with employees of the Collins Center and they have submitted a scope of services proposal suggesting how they can be helpful to the Commission and potential host communities. He stated that after looking at the state regulatory requirements, he is also reaching out to several other entities who may be better experienced in handling this work. He stated that he would appreciate feedback from the Commissioners on the Collins Center proposal. Questions were raised about whether the proposal envisions individual help to specific communities or to whether it envisions a less hands-on, more general approach to recurrent problems. Commissioner Stebbins stated that he will be having further conversations with the Collins Center to answer these questions. *Chairman Crosby returned to the meeting.*

Report from Director of Communications and Outreach – Elaine Driscoll stated that she has three meetings set up the week of July 9th with various companies to discuss how to build out the Commission’s identifying characteristics. She met with Mass.gov personnel to discuss the

website. She stated that it is becoming very clear that the Commission needs a very strong information portal where people can easily find information. She also plans on meeting with each Commissioner to get a sense of what should be represented on the website. She would like the information portal to have polling capabilities. She stated that she has had many media inquiries and is seeing an increased amount of interest in the Commission's activities.

Discussion of Western Massachusetts Forum – Commissioner Stebbins stated that that Tim Brennan, Executive Director of the Pioneer Valley Planning Commission, has expressed interest in helping the Commission organize a forum in western Massachusetts to discuss mitigation concerns and related issues. Additional topics being discussed are workforce development and tourism. He stated that the forum will likely be held in late July or early August.

Research Agenda:

See transcript pages 115-124.

Chairman Crosby stated that a memo has been prepared laying out in detail what he and Commissioner Stebbins have been thinking about in terms of research. Currently, little research is available regarding the socioeconomic consequences of interjecting casino gambling into a community and he believes that the Commission has a unique opportunity to engage in some first-rate research that would fill a significant void. Commissioner Stebbins stated that there is a requirement in the legislation that some of this initial research be completed within two years of passage of the bill, which would make the deadline November, 2013. The Commission has received a proposal from the UMass Amherst School of Public Health to conduct some research of the type he believes is needed. Commissioner Cameron asked if one region could be selected to be the focus of this study. Commissioner Stebbins stated that he would like to take a statewide snapshot followed by a regional snapshot when it is known where licenses are going to be awarded. Commissioner McHugh recommended having the various regional planning commissions work with the researchers, as they have a lot of information that could be included in this study.

Chairman Crosby stated that he received a letter from State Representative Keiko Orrall asking if the Commission would meet with her and individuals from Lakeville, Middleborough, and Berkeley prior to conclusion of compact negotiations. Commissioner McHugh stated that such a meeting would be a good idea, although he is not sure that the Commission will be able to answer all the questions that may be raised. Chairman Crosby stated that he will call Rep. Orrall to ensure that expectations are correctly set before he actually attends a meeting.

Next Meeting: The next meeting is scheduled for July 2, 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 26, 2012 Notice of Meeting & Agenda
2. 6/8/2012 Spectrum Memorandum Regarding Scope of Licensing
3. 6/15/2012 Spectrum Memorandum Regarding Statutory Staffing Positions of the Gaming Commission
4. Chart of Massachusetts Gaming Commission Revenue Funding
5. 6/14/2012 Spectrum Memorandum Regarding Executive Director Salaries
6. 6/12/2012 Consultant Memorandum Regarding Proposed RFA Phase I Timeline
7. Massachusetts Gaming Commission Outline of Licensing Schedule and General Advice and Technical Support to Host and Surrounding Communities
8. 6/23/2012 Memorandum Regarding Recommendation to Establish Threshold for Approval of Certain Incidental Expenses
9. 6/22/2012 Memorandum Regarding Research Agenda
10. Memorandum from University of Massachusetts Amherst, School of Public Health and Health Sciences Regarding Baseline Study Scope and Cost Recommendations
11. Research Project Proposal for Massachusetts Gaming Commission from Collins Center for Public Management

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