

The Commonwealth of Massachusetts
Massachusetts Gaming Commission

Meeting Minutes

Date: June 5, 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 and stated that the meeting is being streamed live.

Approval of Minutes:

See transcript pages 2-3.

Commissioner McHugh stated that the May 29, 2012, minutes have been posted on the Commission's website and circulated to the Commission members. Commissioner Zuniga asked that an amendment be made to the minutes under the discussion of a hiring policy.

Motion made by Commissioner McHugh to adopt the minutes of May 29, 2012, subject to Commissioner Zuniga's amendments. Motion seconded. The motion passed unanimously by a 5-0-0 vote.

Administration:

See transcript pages 3-22.

Executive Search Firm Update – Commissioner Zuniga stated that the search process is in the question period, which ends on June 6, 2012. The answers to the questions must be posted by June 8, 2012. Two questions have been received, one is straight forward, but he would like to discuss the second question with the Commission. The question was whether the salary of the Executive Director would be in the area of \$125,000. The question may have been asked because search firms typically receive a fee that approximates 30% of the first year salary for the position. He stated that the Commission has been silent on the level of compensation, but it may be incumbent upon the Commission to discuss it. Chairman Crosby stated that the salary will be

competitive with whatever it takes to get the best people, assuming that the salary is in line with comparable positions across the country and the search firm's compensation will not necessarily be tied to 30% of whatever salary that is. The Commission agreed to respond to the question in that fashion.

Additional Hires – Chairman Crosby stated that the Commission agreed at its last meeting that he was authorized to move forward as the hiring manager for a senior administrative person, subject to drafting and approval of a job description. Commissioner Zuniga and Chairman Crosby worked on a job description which has been submitted to the Commission for approval. He stated that it has been made clear to all the candidates that the Commission would prefer this be an interim position. It was agreed to adopt this job description and Chairman Crosby stated that he will move forward with the hiring process for this position right away.

Discussion of MGC Internal Policies – Commissioner Zuniga stated that he has done research on policies that may be available for inclusion in employee handbooks. He provided the Commissioners with the table of contents from the Mass Technology Collaborative's handbook, which appears to be a holistic and thoughtful compilation of policies. He stated that several of these policies could be easily adopted by the Commission. Chairman Crosby asked if the Commission is bound by state policies with regard to vacation and other policies, or if the Commission has discretion with respect to those policies. Commissioner Zuniga stated that the Mass Technology Collaborative has a 40 hour week, but the State currently has a 37.5 hour week to which the Commission will be adhering and that it will generally adhere to statewide policies. Commissioner McHugh stated that in addition to these policies, the Commission also has received comprehensive policies from the Treasurer's and Attorney General's Offices. He stated that the Commission could create from those a group of policies to consider, highlighting those components that require special consideration. It was agreed that Commissioner Zuniga would compile a set of policies to present to the Commission for consideration at a future meeting.

Chapter 268A Disclosures – Commissioner McHugh stated that under Chapter 268A, Section 6, a provision of the State Ethics Law, all state employees are prohibited from participating in a particular matter in which they have a financial interest. He has a set of disclosures made by Anderson & Krieger regarding the work they have been asked to do on enhanced ethics rules, as those rules may restrict investments they may make or other financial dealings in which they may engage. The Commission also needs to consider employees who may be involved in the same effort. He proposed that the Commission authorize Chairman Crosby to make the determinations required by Chapter 268A, Section 6, that the interests were appropriately disclosed on the appropriate form and are insubstantial enough to permit the employees to continue working on the particular matter involved. Chairman Crosby stated that Commissioner McHugh has a sensitivity to issues of this nature that is finer than the other Commissioners and he would have more confidence in Commissioner McHugh handling this responsibility.

Motion made by Commissioner Zuniga that the determinations required by G.L. c. 268A, §6, be made by Commissioner McHugh on behalf of the Commission with reference made by Commissioner McHugh to the full Commission in those instances he deems appropriate. Motion seconded by Commissioner Cameron. The motion passed unanimously by a 5-0-0 vote.

Background Check Standards and Process - Chairman Crosby stated that the Commission has made it clear for a long time that background checks will be required for all employees. A decision has also been made not to announce any new employees until those background checks are successfully completed. Commissioner Cameron is in the midst of talking with consultants and doing research on background checks and expects to have a proposal regarding the level of tiering there should be, if any, for background checks. He stated that a discussion has also occurred about whether to require fingerprinting and drug testing for all employees. Chairman Crosby stated that it is his instinct to require this of all employees at every level. Commissioner Cameron stated that she has been doing research and has found that the Commission would be in the minority in requiring initial drug screening, but that it certainly is done in some cases. She stated that she concurs that such testing is not unreasonable and this policy could easily be adopted.

Motion made by Commissioner Cameron to adopt a policy of a comprehensive background investigation, as well as initial fingerprinting and drug screen, for all new employees of the Commission. Motion seconded by Commissioner Stebbins. The motion passed unanimously by a 5-0-0 vote.

Project Work Plan

See transcript pages 22-37.

Consultant Status Report – Kathleen O’Toole and Fred Gushin addressed the Board to provide an update on the activity of the consultants for the past week. The consultants have been working on identifying regulations needed for the Phase 1 Request Application process, including researching regulations from other gaming jurisdictions and drafting a public notice that seeks comment on the proposed bifurcation of the RFA process. The draft has been submitted to the Commission for consideration. The consultants have been documenting national best practices regarding compliance with requirements similar to those contained in the expanded gaming legislation. They are also identifying agencies with which the Commission should enter MOUs. They have had initial meetings dealing with the Massachusetts administrative processes, including HR, IT, and finance. The consultants continue to work with Anderson & Kreiger to integrate Massachusetts legal requirements into their recommendations. Deliverables this week include comments on the gaming act from the gaming consultants. Those comments have been delivered to Anderson & Kreiger for inclusion in their comments repository. Deliverables in final review are the draft list of regulations needed for the Phase 1 RFA process, a draft memo detailing the recommended near term hires, and a draft memo detailing the statutory licensing requirements and best practices followed by other jurisdictions regarding those requirements.

Chairman Crosby asked where the consultants are on the near term hiring process and proposed organization chart. Ms. O’Toole stated that the Commission will have a memo outlining the recommendation in the next few days. Fred Gushing stated that this memo will address what is collectively believed to be the hires that should be considered by the Commission over the course of the next three or four months. This will lead to a broader table of organization which is

being worked on. The positions will have to be given a classification and a salary to determine what the budgetary numbers will be.

Racing Division

See transcript pages 37-45.

Status Report – Commissioner Cameron stated that the Commission’s racing consultant has been interviewing employees and reviewing policies and procedures at both the Division of Public Licensure and the race tracks. Commissioner Cameron and the consultant toured the racing testing laboratory in Jamaica Plain. The consultant will provide recommendations, as need be, by the end of racing season this year.

Field Trips – Commissioner Cameron stated that these are being scheduled.

Permanent Regulations – Commissioner McHugh stated that when the Commission took over the State Racing Commission, it did so with an emergency regulation that allowed quick assumption of responsibility for all Racing Commission functions. The emergency regulation is only effective for 90 days, so a permanent regulation must be issued to keep the existing regulation in place and keep racing activities under the Commission’s supervision until the end of the racing season. The proposed permanent regulation must be sent to the Local Government Advisory Committee, which is a statutory body consisting of approximately 40 people who look at all changes to regulations and statutes and their potential impact on local governments. Commissioner McHugh provided a copy of the proposed regulation and a draft notice to send to the Local Government Advisory Committee.

Motion made by Commissioner McHugh that the Commission proceed with the promulgation of regulations on or before August 17, 2012, to provide for the orderly transition of the regulation of horse racing, harness racing, and all the other functions the State Racing Commission oversaw, from the State Racing Commission to the Gaming Commission in substantially the form the Commission promulgated in emergency regulations on May 17, 2012, and that the Commission authorize Commissioner Cameron to take all the necessary actions to proceed with a public notice and hearing process, including without limitation the filing of the attached notice to the Local Government Advisory Commission. Motion seconded by Commissioner Zuniga. The motion passed unanimously by a 5-0-0 vote.

Project Work Plan (Continued)

See transcript pages 45-62.

Applicant Relations With State Agencies – Commissioner McHugh stated that the Commission must consider what happens after a license is issued. A number of permitting issues are going to arise and a permitting process will have to be created to allow movement from a licensed casino to something one that is operating. He and Chairman Crosby have begun to raise with the various state agencies, at the secretariat level, the thought of having a consolidated process for handling the permitting. The idea would be to have a process modeled on Chapter 40D

broadened to include other agencies and move forward. Chairman Crosby asked if the Commission can set the standards of how concrete the developer's plans need to be before getting the host community vote. Commissioner Zuniga stated that in his experience with the School Building Authority, they picked a midpoint between a detailed schematic design and detailed construction documents and the choice has been successful. He stated that it is incumbent upon the Commission to require an enhanced level of schematic design prior to approving the first step of a license. Commissioner Stebbins stated that this process would also help the Commission get to a point of understanding designation of impact to surrounding communities. Commissioner McHugh stated that he believes the Commission has broad discretion with respect to what the agreement must contain.

Notice of Proposed Rulemaking – Commissioner McHugh stated that the consultants recommended the Commission send to all interested parties, and post on the website, a notice of an intent to promulgate rules regarding a two-part application process. He provided a draft Notice of Proposed Rulemaking for the Commission to review. Commissioner Cameron stated that she thought this was a good idea. Commissioner Zuniga asked if these comments would be submitted in writing or as part of a public forum. Commissioner McHugh stated that the comments would be submitted in writing, but as the process of rulemaking moves forward there will be the opportunity for public hearings. Chairman Crosby recommended conducting a meeting to solicit input on the proposed regulations in response to criticism that the Commission is not moving quickly enough.

Motion made by Commissioner McHugh to authorize Chairman Crosby to issue and distribute a notice seeking public comment on the Commission's plan to proceed with a bifurcated application process under Chapter 23K that would allow for the determination of background qualifications and suitability of applicants for casino licenses in advance of determining an applicant's entire application. Motion seconded by Commissioner Cameron. The motion passed unanimously by a 5-0-0 vote.

Finance/Budget Update:

See transcript pages 62-63.

Commissioner Zuniga stated that an internal controls questionnaire has been submitted to the Comptroller's office, as was required of all agencies prior to the end of the fiscal year.

Public Education and Information:

See transcript pages 63-86.

Economic Development Forum, June 14, 2012 – Commissioner Stebbins stated that there has been a last minute change on the agenda as one of the panelists cannot attend. This forum will be held at Quinsigamond Community College in Worcester. He recommended the Commission set aside some time at the regular business meeting on June 26 to allow people who were not able to participate in June 14 forum to attend and speak.

Community Mitigation Forum, June 18, 2012 – Chairman Crosby stated that he has distributed e-mail outlining the forum agenda. The Metropolitan Area Planning Council, which has taken charge of this forum, has a good group of people in place and is working on the content. This forum will be held in Framingham.

Compulsive Gambling Forum, June 25, 2012 – Chairman Crosby stated that this forum will be held at North Shore Community College in Lynn, from 1:00-4:30 p.m. A tentative agenda has been distributed to the Commission.

Compulsive Gambling Meetings – Chairman Crosby stated that Commissioners Zuniga and Stebbins attended a symposium on compulsive gambling that was held on June 1. Commissioner Zuniga stated that the symposium was hosted by the Mass Council on Compulsive Gambling. The majority of attendees were social workers, therapists, and those who treat patients with various addictions, including gambling. There is a debate among the medical community as to whether gambling is a mental disorder or an addiction. He stated that the symposium was a very educational experience for him. Commissioner Stebbins stated that the focus of the symposium was on building capacity to deal with those who suffer from gambling addiction. Commissioner Zuniga stated that the legislation gives this Commission many tools to address problem gambling that other jurisdictions have been wrestling with. The general sense from the medical community is that the Massachusetts Legislature was very progressive relative to understanding the issue and allowing the Commission to address the problems.

Chairman Crosby stated that on June 19 there is another forum hosted by the Massachusetts Partnership for Responsible Gambling which the Commission is invited to attend. Commissioners Cameron and McHugh volunteered to attend the forum. The forum, however, will be held on a Tuesday and attendance may interfere with the Commission's weekly meeting. Chairman Crosby indicated that the Commission can make a decision regarding attendance after determining the content of the Commission's June 19 agenda. .

Report from Director of Communications and Outreach – Elaine Driscoll provided a review of her first five days in her new position. She stated that she conducted an audit of the website to determine community accessibility and how user friendly the site is. She began to develop a social media plan to increase awareness of the Commission's rules and responsibilities, to highlight upcoming meetings and forums, promote a number of speaking engagements and media appearances, and promote community engagement. She has activated a Twitter account and has actively started using it. She has activated a You Tube channel with all the prior meetings and educational forums. A Facebook page and Instagram access have been created. These social medial applications have been tagged to the Commission website. She recommended adding a community calendar on the website which clearly and easily marks the important dates that are coming up, speaking engagements, or other milestone dates relative to casino business. She stated that it is critical that Commission members get out into the community and she will be developing a speakers' bureau. She would also like to develop a blogging area on the website. She has developed a comprehensive list of Commission accomplishments which will be provided to all Commission members. Her long-term goal is to create a comprehensive communications plan. She is working on outreach to increase participation and attendance in the upcoming Commission forums. Commissioner Zuniga

expressed concern with individual Commission members posting comments on Twitter and Facebook. He asked Ms. Driscoll what her intention is with utilization of this social media. Ms. Driscoll responded that this will be part of the overall comprehensive plan, but as an example she stated that live comments have been posted via Twitter during today's meeting to keep the public updated. As part of the education process she will be sending Tweets about the law.

Speaking Engagements – Chairman Crosby stated that he is speaking at the Mt. Washington Bank annual meeting on Thursday, June 7, and at the Mass Municipal Association/Mass Selectmen Association annual meeting on Saturday, June 9.

Other Business:

See transcript pages 86-103.

Commissioner Zuniga stated that he has submitted a memorandum regarding project management options. One option would be to go forward with soliciting and hiring a project management firm. Another option would be to reach out to a temporary staffing firm that specializes in technical people. A third option would be to hire someone in-house. He stated that the Commission needs to look at two phases, the planning phase and then the phase in which plans are executed. He stated that the first two options would be very effective in the planning phase but having someone on the staff would be helpful with implementation and monitoring. Commissioner McHugh stated that the Commission needs to engage someone as quickly as possible in order to manage the work immediately before the Commission. Commissioner Zuniga stated that the planning phase of Commission operations has already started but the Commission needs someone with project management expertise to implement the execution plan after planning is complete. Commissioner Cameron asked if the Commission could explore bringing in an intern. She expressed concern with making a permanent hire prior to reviewing the consultants' ideas on the table of organization. Commissioner Zuniga stated that he would prefer hiring someone with project management experience rather than an intern.

Chairman Crosby suggested contacting a staffing firm and trying to get a person on board quickly. At the same time, a project management firm could be solicited and if a staffing agency could not provide an individual quickly a firm could be engaged. Commissioner McHugh agreed that this is the best approach and could be done quickly.

Chairman Crosby stated that there had been a press inquiry relative to contributions to political campaigns and asked for an update. Elaine Driscoll stated that the Office of Campaign and Political Finance is rewriting a rule that would require town clerks to post on their website any information for individuals who were seeking gaming licenses and who may have contributed to local politicians. The question was whether the Commission would also consider posting the same disclosures on its website. Commissioner McHugh stated that the issue is governed by Sections 46 & 47 of chapter 23K. He said that the Office of Campaign and Political Finance is going to engage in rulemaking and the Commission is waiting to hear from that agency on how its rules will interface with the Commission's. He stated that the statute requires disclosures by a person who has filed an application and thus far no one has filed an application.

Chairman Crosby stated that he and Commissioner Stebbins are struck by the mandate in the law for broad research projects and the fact that there has not been a great deal of high quality research about socioeconomic impacts of expanded gambling on a community. He stated that the Commission has an opportunity to undertake a very serious study of this type that would add greatly to the existing body of knowledge. He stated such work would be a major project requiring serious academic expertise and oversight. Commissioner Stebbins stated that some initial research must be completed within two years of the enactment of the legislation, which would be November, 2013.

Next Meeting: The next meeting is scheduled for June 12, 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 5, 2012, Notice of Meeting & Agenda
2. Employee Manual Table of Contents (MTC)
3. 268A Disclosure Form
4. Draft Job Description, Director of Administrative Services/Transition Start-Up Manager
5. 6/4/2012 E-Mail regarding forum on June 18
6. 6/4/2012 E-Mail regarding forum on June 25
7. 6/5/12 Memorandum Regarding Project Management and Scheduling Resource Procurement

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