

The Commonwealth of Massachusetts
Massachusetts Gaming Commission

Meeting Minutes

Date: July 10, 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 pages 2-3.

Commissioner McHugh stated that the minutes for July 2 have been distributed. Commissioners Zuniga and Stebbins suggested changes to the minutes.

Motion made by Commissioner McHugh to approve the minutes of July 2, 2012 as amended. Motion seconded by Commissioner Cameron. The motion passed by a 5-0-0 vote.

Administration:

See transcript pages 3-49.

Executive Search Firm Update – Commissioner Zuniga stated that, as discussed during the last Commission meeting, JuriStaff has been selected to help with the search for the Executive Director and representatives are here today to introduce themselves. Jim LaRosa and Jennifer Romain from JuriStaff then addressed the Commission. Mr. LaRosa stated that the firm understands the corresponding priorities of finding highly qualified candidates and moving as quickly as possible. He stated that the next step for JuriStaff will be interviewing each Commissioner separately to learn what the Commission envisions the position to be, what to expect in candidates for the position, the executive director’s job responsibilities and what

individuals in what positions he or she will oversee. At that point, they will develop a job description which will be approved by the Commission and then they will begin the search.

Chairman Crosby stated that the Commission's gaming consultants had created a draft job description and are in the process of developing organization charts, all of which are available to JuriStaff. Chairman Crosby suggested, however, that the firm begin to let the public know of the availability of the position and begin to generate leads immediately, even before finishing a job description. Mr. LaRosa responded by stating that the more information they have in the first phone conversation with a candidate the better chance they have of keeping good candidates in the mix, so their preference would be to have as much information as possible before reaching out to individual candidates. Mr. LaRosa stated that, as an example, in dealing with other executive directors in the gaming industry one of the first questions they are likely to ask concerns whether they can bring their pensions with them and they do not want to stumble over questions like that.

Commissioner Cameron stated that it is critical that the Commission move as quickly as possible with search process and she recommended selecting one Commissioner to work with the consultant and the gaming consultants on the search. She recommended Commissioner Stebbins for this role. Commissioner McHugh stated that it is important to get JuriStaff the information they need as quickly as possible. Before deciding on a single Commissioner or a subcommittee, however, further inquiry will be needed with respect to the degree to which candidates can enter the applicant pool with an assurance of confidentiality. Chairman Crosby recommended appointing a point person to work with JuriStaff immediately and perhaps later creating a subcommittee.

Mr. LaRosa stated that it is important to be able to let the candidates know that their name will not be released, especially candidates who are currently working, as they would tend to not pursue the position if their identities were to become public. He stated that under the Open Meeting Law once the field is narrowed down to finalists the interview process will have to become public. Commissioner Zuniga recommended talking to each of the Commissioners individually to get a sense of what each one is looking for in this position. Commissioner McHugh stated that there is some value in having Mr. LaRosa or Ms. Romain spend a little time with each Commissioner and determine whether there are any significant differences in their view of the executive director position. Then they could return next week to discuss those differences, and other aspects of the search, with the Commission.

Chairman Crosby stated that the Commission is going to need a super manager who will be driving the operations of the Commission. He sees the Commissioners' responsibility as driving policy. Chairman Crosby also stated that the Commission would put a very high premium on the diversity of candidate pool, noting that it was inconceivable that there had to be women and minorities who would be first-rate candidates for the position. Commissioner Stebbins stated that having an executive summary of the legislation would probably be helpful to candidates so that they know deadlines and operational expectations going forward. Commissioner Cameron stated that the Executive Director should do the bulk of hiring, identifying critical staff, and understanding what it will take for each unit to be staffed properly. She stated that the candidate

will need leadership skills in supervising personnel and very good leaders have strong management skills. Commissioner McHugh stated that the candidate has to be somebody well versed in the industry to be able to make recommendations to keep the Commission on the cutting edge and develop a culture of high performance and integrity. After further discussion, Commissioner Stebbins was selected as the point person to work with JuriStaff initially.

Additional Hires – Chairman Crosby stated that Heather Fong started today as receptionist for the Commission. He announced the hiring of Eileen Glovsky, who is presently a Deputy Treasurer, to be the Director of Administrative Services. She will be starting on July 23, 2012. Janice Reilly introduced Max Ortwein, a summer intern who started with the Commission today and will be assisting on a variety of tasks. Commissioner McHugh stated that he has been speaking with Commissioner Cameron about getting some legal assistance. Commissioner Cameron stated that moving forward there will be more issues requiring legal assistance and this position is something that should be considered in the near future.

Discussion of MGC Internal Policies – Commissioner Zuniga stated that he has a finished draft of six chapters of the employee manual. Commissioner McHugh is reviewing the last two chapters for quality assurance and stated that he will be completing his review within the next couple of days. Commissioner Zuniga stated that he will highlight those sections that are straight forward so the Commissioners can review the manual and discuss it at the next Commission meeting.

A brief recess was taken.

Project Management Consultant – Commissioner Zuniga stated that Scott Libby from PMA is present to provide an overview of the tool the Commission will be using for project management. Scott Libby, principal of PMA, introduced himself. He thanked the Commission for allowing the firm to respond to the solicitation for project management and scheduling services. He introduced Eric Lowther and Angel Arbelo, who will be assisting in the management and scheduling services for this assignment. He provided a brief overview of his company. Eric Lowther and Angel Arbelo provided an overview of the work they will perform and the software they will utilize. The tool is proprietary but, under the contract, PMA will train Commission employees to take over its use and operation.

Racing Division:

See transcript pages 49-61.

Status Report – Commissioner Cameron stated that she has two tentative decisions to file with the full Commission. These will not be discussed or voted on at today's meeting.

The first was the matter of Richard Retamoza. She conducted a formal adjudicatory proceeding on June 21 on the appeal of Mr. Retamoza. He was a patron at Suffolk Downs and was ejected by the State Police on November 17, 2011. He was present at the hearing and was not represented by counsel. She provided details of the case and stated that she found the ejection

was appropriate. Appropriate sanctions would be to uphold the exclusion from the racetrack until the appellant has made restitution of the \$2700 he owes in this case. She recommended the full Commission uphold this ejection, which would be lifted upon the State Police receiving satisfactory confirmation that the appellant has repaid the \$2700 in question. This decision will be sent to the appellant in writing and along with notice that he has the right to seek reconsideration of this tentative decision by filing written objections within 30 days.

The second matter was a tentative decision in the matter of Walter Case. Commissioner Cameron conducted a formal adjudicatory proceeding on June 21, 2012 pursuant to an appeal by Walter Case, an applicant for a driver's license. The applicant was denied a license by the Plainridge Racecourse judge who found that the appellant lacked the requisite integrity. The appellant was present at the hearing and represented by counsel. Commissioner Cameron provided details of the case. She recommended the Commission uphold the denial of the licensure of the appellant based on the severe nature of the appellant's criminal record. This decision will be sent to the appellant in writing and he has the right to seek reconsideration of this tentative decision by filing written objections within 30 days.

Chairman Crosby asked about the status of the racing consultant's report. Commissioner Cameron stated that the consultant is preparing a draft report for the full Commission to review and will be ready as soon as next week to come before the Commission to report on her findings.

Project Work Plan:

See transcript pages 61-119.

Notice of Proposed Rulemaking – Commissioner McHugh stated that the end date for comments was July 7. A total of six comments were received, two of which have been circulated to the Commission for discussion. One comment was from the Suffolk Downs interests and the second from the MGM interests. He reviewed these comments with the Commissioners.

Consultant Status Report – Guy Michael, Robert Carroll, and Bernard Murphy from Michael & Carroll, and Frederic Gushin and Michael Epps from Spectrum Gaming addressed the Commission. Mr. Michael stated that they have completed the initial draft of the regulations for Phase 1, which are subject to further review by the consultants as well as the Commission. He stated that there were several areas where they had questions and these were reviewed with the Commission. An extensive discussion was held on the following items: development of a regulation to provide financial assistance to communities before a developer files an application; portions of the regulations containing alternative approaches to the same issue and the reasons for including those alternatives; whether the IEB Phase 1 investigation should stop as soon as a disqualifying circumstance was discovered in the application or whether the investigation should proceed to conclusion with all disqualifying events listed in the final report; elimination of an enhanced code of ethics from the regulatory scheme and promulgation of the code as a Commission policy; whether there ought to be some flexibility regarding application deadlines that was triggered by extraordinary circumstances; and the circumstances under which a developer would be permitted to withdraw an application. The Commission stated its preference

for a regulation that permitted extension of application deadlines for extraordinary circumstances. Chairman Crosby stated that there was a tepid majority view that the Commission should have some kind of control over withdrawal and asked the consultants to work on regulatory language to reflect that view.

Mr. Carroll stated that the last question to be addressed is the application fee and where it should be paid when a prospective applicant received an application or when the applicant filed the completed application with the Commission. Mr. Michael indicated in most jurisdictions an entity becomes an applicant once they file the application and the fee is paid at the time the application is filed. Commissioner McHugh suggested establishing a window of time during which a developer could pay the application fee. The latest date for payment would be the date on which the developer filed the application but he or she would also be able to pay the fee at an earlier date along with a certificate stating that he or she intended to become an applicant and understood that the fee was nonrefundable. Such a procedure would put the decision regarding when to pay the fee in the hands of the developer, who, upon payment, would become an applicant with access to various permit-granting authorities but who would have to run the risk that Commission regulations, when promulgated, would contain provisions the developer had not anticipated. Chairman Crosby stated that he would like to use the date of issuance of the RFA-1 regulations as the early date which any developer would be able to pay the application fee and use the date on which the completed RFA-1 was submitted as the deadline for paying that fee.

Mr. Michael stated that the Commission can decide when applicants and licensees have the opportunity to go to the Commission to receive determinations on interpretations of the rules. Some jurisdictions allow delegation of some decisions to Commission staff, with appeals to the full Commission. Mr. Carroll stated that they have drafted a declaratory procedure and will revise the procedure, presenting all options to the Commission for its consideration.

Mr. Gushin informed the Commission they are generally on schedule with the strategic plan and will be circulating the first drafts in early September.

Then followed a discussion regarding competition in the eastern Massachusetts region. Chairman Crosby stated that what is considered the smallest market, western Massachusetts, appears to have the largest number of potential developers who are interested in building a casino and wondered why more competition had not yet manifested itself in the eastern sector. Mr. Gushin stated that developers are looking at return on investment, cost of construction and competition. It may be more expensive for a developer to build in the Boston area versus the western part of the state. Some of the larger companies are leaning toward the Asian market, which is becoming the center of the gaming universe. Mr. Carroll stated that the Commission may want to consider reaching out to Wall Street and the investment community to explain the opportunities available in Massachusetts.

A brief recess was taken.

Technical and Other Assistance to Communities – Chairman Crosby stated that he has received suggested changes to the ombudsman job description from Commissioner Stebbins. He has

incorporated those changes and will be circulating the job description in final form. Several candidates will visit with members of the Commission this week to interview for the ombudsman position.

Commissioner McHugh stated that there are a few minor changes to be made to the protocol for interaction with state agencies. He stated that the changes will be completed in time for review at the next Commission meeting.

Charitable Gaming:

See transcript pages 119-122.

Status Report – Commissioner McHugh stated that he has spoken with representatives of the Lottery Commission, the Attorney General’s office, and the State Treasurer’s office. There are four components to charitable gaming in Massachusetts, Beano, pull-tabs, lotteries, and bazaars. The total gross is \$75 million, of which \$18 million ends up with the charity and the rest is prize money, expense money, and taxes. There are currently two regulators. The Lottery Commission regulates beano and pull-tabs and the Attorney General regulates bazaars and lotteries, with the assistance of town clerks and the Executive Office of Public Safety. As of July 31 the statute provides the Commission will regulate bazaars that are not regulated by the Lottery, which will create three regulators for the same set of games. Commissioner McHugh stated that this system does not need another regulator and he has been talking with the Lottery Commission and the Attorney General about how to consolidate regulation. These discussions are ongoing. He is committed to make a report to the legislature by July 31 and he proposes having an outline for the next Commission meeting on the consolidation of regulatory authority, with a draft report for the Legislature ready for review the following week.

Finance/Budget Update:

See transcript pages 122-124.

Commissioner Zuniga stated that he submitted a report from the MMARS system on accounts paid in fiscal year 2012. He stated that certain costs were incurred in fiscal 2012 and are not reflected in this report because they take time to process. He stated that he can provide the Commission with details on any of those costs if necessary.

Public Education and Information:

See transcript pages 124-132.

Community Outreach/Responses to Requests for Information – Commissioner McHugh stated that there are no requests for information to discuss this week.

Report from Director of Communications and Outreach – Elaine Driscoll stated that she has met with several firms and by the beginning of next week will have some proposals to review with

respect to website design and other Commission attributes. Chairman Crosby stated that he has received positive feedback on his upcoming meeting with Representative Orrall and suggested sending a letter to all Representatives and Senators notifying them the Commission is available to meet with them and their constituents. Commissioner Zuniga stated that when discussing website development, he would like to focus on a strong search engine that is easy to use.

Speaking Engagements - Chairman Crosby stated that he has a meeting scheduled on implementing affirmative action and diversity requirements within the workforce of the casinos and the vendors. Commissioner Cameron stated that she, along with Commissioner McHugh, will be attending new racing commissioner training in Saratoga Springs, NY.

Western Mass Forum – Commissioner Stebbins stated that he is working with Senator Candaras who is assisting with hosting this forum. They have narrowed the dates down to either August 2 or August 8. The Commission is partnering with the Pioneer Valley Planning Commission and the topics being discussed are community mitigation, tourism, and workforce development. This will be an afternoon forum.

Research Agenda:

See transcript pages 132-137.

Chairman Crosby stated that he has spoken with Rachel Volberg, who approached the Commission about a research project. The possibility of a planning grant has been discussed and right now is on hold until the Commission determines what the procurement process would be. Commissioner Stebbins stated that he forwarded a document with economic and social categories to the participants in the Worcester forum and has received several comments which he will share after he receives all of the comments he anticipates. He stated that Professor McGowan from BC and Professor Robert Goodman, who were not able to participate in the forum in Worcester, will be speaking at the next Commission meeting. Commissioner Zuniga stated that the Commission should consider whether data from the applicants for casino licenses could be used for the research project. It was agreed to give that questions some additional consideration as the research project discussions move forward.

Motion made to adjourn, motion seconded and carried unanimously.

Next Meeting: The next meeting is scheduled for July 17, 2012 at 12:00 p.m.

List of Documents and Other Items Used at the Meeting

1. Massachusetts Gaming Commission July 10, 2012 Notice of Meeting & Agenda
2. DLA Piper Comments on Proposed Phase 1 of the Gaming License Application Process
3. MGM Resorts International Bifurcation Comments
4. Massachusetts Gaming Commission Expenses FY 2012

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