

The Commonwealth of Massachusetts
Massachusetts Gaming Commission

Meeting Minutes

Date: July 17, 2012

Time: 12:00 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: Chairman Crosby (after 3:30 PM)

Call to Order:

Chairman Crosby opened the 16th Commission meeting. He explained the meeting format, beginning with the usual Commission meeting, a break to address the press, reconvening of the meeting, and a public hearing on Racing Regulations.

Approval of Minutes:

See transcript pages 3-4.

Commissioner McHugh stated that the minutes for July 10 were distributed. Chairman Crosby recommended one revision to the minutes designed to note his belief in the importance of diversity in the search for the Commission's executive director.

*Motion made by Commissioner Stebbins to approve the minutes of July 10, 2012 as amended.
Motion seconded by Commissioner Cameron. The motion passed by a 5-0-0 vote.*

Administration:

See transcript pages 4-36.

Executive Director Search Update – Commissioner Stebbins stated that Jim LaRosa and Jennifer Romain from JuriStaff were present to provide an update. Mr. LaRosa stated that since the last meeting they were able to get a copy of the draft job description, which was very well prepared and thorough, though he did make some changes based on information he gathered during the course of his discussions during the preceding week. On Thursday he went to Linwood, New Jersey to meet with consultant Fred Gushin to get his feedback as to what the Executive Director

position should look like and what states they should look at for candidates. Ms. Romain had an opportunity to speak with each of the Commissioners and was able to get good insight into what is needed for this position. Mr. LaRosa stated that the general consensus among the Commissioners is to try to hire someone from another gaming commission. It was also discussed that it would not be wrong to give consideration to candidates that did not come from a gaming background if they had regulatory experience or other experience that would be transferrable, but this was not the preference. Commissioner Stebbins recommended that each Commissioner look at the job description and forward any changes to him so he can forward them to JuriStaff, with the goal of providing final approval at the next meeting. Mr. LaRosa stated that they will be targeting other agencies and commissions for candidates. If, however, they see strong candidates from the casino industry or outside, they will vet them and present them. Commissioner McHugh asked how this position will be presented to candidates in order to stress that this is an exciting opportunity. Mr. LaRosa stated that the candidate will be provided with marketing materials selling the position. Ms. Romain stated that when she calls a candidate she will have information available to use as selling points and she could craft this information in conjunction with the Commission. Commissioner Zuniga pointed out the statutory requirement prohibiting the Commission from hiring an individual who has worked for a licensee within three years of hiring. He noted that this requirement will have to be given consideration even though the Commission does not know who the licensees will be at this point.

Mr. LaRosa stated that three casino industry publications have been identified as good sources to advertise for this position. He stated that typically someone looking for a position will go to the employment ad section of a publication. However, none of them, however, has traditional employment ads and none is typically used to advertise for open positions, so a display ad would have to be used. He presented several options for advertising and asked the Commission to let him know how to proceed with advertising the position. Chairman Crosby stated that a display ad would have to be done professionally. Mr. LaRosa stated that he works with several ad agencies that can create an ad for an approximate cost of between \$1000 and \$3000. Commissioner Stebbins recommended coordinating this advertising with the Commission's Director of Communications and Outreach, who is working on branding, so that the advertisement is consistent with that branding.

Mr. LaRosa stated that the next step is to start reaching out to candidates who have already been identified. He stated that a decision has to be made about when the candidates name will become public and whether to give candidates an opportunity to opt out if they become a finalist. Commissioner McHugh stated that two scenarios have been drafted, one for a single Commissioner screening the interviews, and one for a subcommittee screening interviews. He is awaiting feedback from other agencies on confidentiality, and is working toward having a proposal for the next Commission meeting.

Additional Hires – Commissioner McHugh stated that Commissioner Cameron and he are both of the opinion that the Commission should hire a full-time staff attorney promptly. He stated that a job description should be drafted to bring back to the full Commission and move forward with finding someone. Commissioner Zuniga volunteered to draft this job description. Chairman Crosby stated that the search is ongoing for an additional Executive Assistant.

Discussion of MGC Internal Policies – Commissioner Zuniga stated that he distributed the first draft of the employee manual which consists of six chapters that have been edited by Commissioner McHugh. He asked the Commission to review this and get back to him with any comments, with the goal of approving this at the next Commission meeting.

Project Management Consultant – Commissioner Zuniga stated that he met with PMA to start planning for an integrated session. Relative timelines and stakeholders were reviewed and insightful questions were asked regarding policies that will have an effect on the overall timeline and schedule.

Racing Division:

See transcript pages 36-66.

Consultant Report – Commissioner Cameron introduced Annie Allman from Last Frontier Consulting. She has worked in conjunction with Spectrum Gaming to prepare a report on racing in Massachusetts. Ms. Allman addressed the Commission. She stated that this report was prepared by looking at the Massachusetts racing industry from the perspective of new Commissioners who are interested in becoming familiar quickly with key issues. To prepare the report, she conducted interviews with staff and stakeholders, as well as with industry experts. She also reviewed publically available data consisting of Racing Commission reports, statistics, and media coverage.

Ms. Allman stated that the racing industry in Massachusetts has been in a decline in the five year period ending in 2011, a decline primarily driven by the removal of greyhound racing. There has also been a decline in workload for the Racing Commission, and it has lost much of its dedicated leadership. She stated that the former Racing Commission has a very engaged staff that is passionate about racing but is looking for direction and more leadership with specific racing knowledge. The staff is working without updated resources and is unable to perform at the level they would like to. At present, the tracks and horsemen are very focused on their gaming application. Ms. Allman strongly encouraged the Commonwealth to consider adopting the Association of Racing Commissioner International Model Rules of Racing to update the regulatory framework and outlined steps that could be taken immediately. She stated that the Commission should upgrade its audit or financial system, as there are still field auditors doing manual input. She stated that the financial system could be automated using an FTP site and utilizing appropriate software. She also stated that there is a need to upgrade the licensing system and technology to allow data to be imported or exported to and from some of the national data bases. She advised that these changes be treated expeditiously if they are to be implemented and ready for the 2013 racing season.

Chairman Crosby stated that the legislation is clear in its intent to reinvigorate the racing industry in Massachusetts, and the Commission's mandate is to ensure the industry is ready to compete in a new environment that includes expanded gaming. He asked Ms. Allman what her recommendation would be for the leadership structure of the Racing Division. She responded

that that was somewhat out of the scope of her review, but stated that it is clear a senior manager is needed who is dedicated to the regulation of racing. Chairman Crosby stated that the Commission has spoken to Auditor Suzanne Bump to have a transition audit done as soon as possible and she has assigned a representative of her staff to begin this process. Questions and comments from the Commissioners were addressed. Chairman Crosby asked whether implementation of the changes proposed in Ms. Allman's report would result in a state of the art regulatory process capable of protecting the integrity of racing in the Commonwealth. Ms. Allman stated that she believes that implementation of the recommendations would have that result.

Chairman Crosby stated that the Commission should get a search started soon for a director for the racing division. Commissioner Cameron stated that she has a plan which can be discussed. She recommended the Commission accept the report, the findings, and the plan of action which would be to immediately put together a working group which will be charged with looking at all the recommendations and implementing them by next racing season. Chairman Crosby stated that there is a press conference scheduled for 2:00 p.m. where questions can be addressed by Commissioner Cameron or Ms. Allman.

Project Work Plan:

See transcript pages 66-82.

Consultant Status Report – Kathleen O'Toole was present to provide an update on the gaming consultants' work. She stated that the consultants have been drafting regulations for the RFA Phase 1 and will continue to interact with Anderson & Kreiger, Commissioner McHugh and other Commissioners are required over the next few weeks to bring the regulations to final form. The consultants have also submitted three documents: a preliminary review of the Tribal State Compact, a follow-up to the discussion last week of the possibility of the Commission engaging in meetings with the investment community, and information on Commission budget and investigative requirements. Commissioner McHugh addressed the steps that ought to move forward effectively with assessment of the proposed regulations. He stated that several policy decisions remain outstanding. He would like to work with Anderson and Kreiger to identify these policy questions, prepare a short memorandum, and send it to Ms. O'Toole and the Commission for their judgment and advice regarding which policies ought to be adopted. He has also asked Anderson and Kreiger to go through the regulations with an eye toward making the language conform to that customarily used in Massachusetts regulations. His goal is to have this work finished and back to the consultants by the end of next week. Chairman Crosby asked where the Commission will be and what will need to be done next when the consultants are finished. Ms. O'Toole stated that the work plan does go through October, but the work of the consultants will be completed in September. Both consulting groups have informed her they will not walk away if the work is not complete within sixteen weeks and are prepared to complete the tasks included in the work plan. Ms. O'Toole stated that the scope of licensing, investigations, and RFA-2 regulations are the next steps. Chairman Crosby stated that the Commission will need a team to help draft RFA-2, resolve allied policy issues and help investigate the returned RFA-1 forms. He stated that a decision will have to be made whether to expand the contract with the

existing consultants, issue an RFP for additional help, or engage in a combination of both. Commissioner Cameron stated that with the team of existing consultants, the Commission is well prepared to continue to use them for all three of these items.

Chairman Crosby stated that the time is 2:00 p.m. and the meeting will be suspended for a scheduled press conference and will reconvene when the press conference is completed.

Motion made by Commissioner McHugh to suspend this meeting until 2:30 p.m. Motion seconded by Commissioner Zuniga. The motion passed by a 5-0-0 vote.

Reconvening of Meeting: Chairman Crosby reconvened the 16th Commission meeting.

Project Work Plan (continued):

See transcript pages 82-107

Commissioner Cameron stated that the consultants have some very good ideas on how to assist the Commission moving forward with investigations. Commissioner Zuniga stated that the investigation portion was not part of the original consultant contract, and because the dollar amount could be substantial, the Commission would need to consider an open RFR. Commissioner McHugh stated that the Commission needs to determine the components of the tasks and then figure out if the contract can be extended or if a new RFR is necessary. Ms. O'Toole stated that the consultants have provided information about the services they are capable of rendering as the Commission's work proceeds, but will defer to the Commission on procurement procedure.

Chairman Crosby stated that he and Commissioner Zuniga have spoken with an investment banking advisor who may be able to assist the Commission with dealing with Wall Street in the future, and may also be able to assist with the competitive environment. Commissioner Zuniga stated that the firm has not provided any cost related information at this point. He stated that the Commission should write a scope of what is required and a solicitation should be written.

Technical and Other Assistance to Communities – Chairman Crosby stated that the ombudsman position has been finalized and posted. He stated that at the last Commission meeting there was an agreement that a bidder could become a formal applicant by the completion of a document and delivery of a \$400,000 check, either when the RFA is launched in the middle of October, or when the RFA is completed. After that meeting, however, the Commission received information that one prospective bidder had had discussions with the DOT and that other bidders were concerned that they might be placed at a competitive disadvantage if they were precluded from having similar conversations. He stated that the Commission has spoken with officials at the DOT who stated that a bidder had submitted forms to them for a prospective project but that no discussions with the bidder had taken place. Commissioner Stebbins has recommended at the Western Mass Forum on August 8 the one page applicant form be released and from that point forward anyone who completes the form and pays \$400,000 can begin discussions with state agencies. Commissioner Zuniga stated that he has a meeting scheduled with the Comptroller to

set up the account and the proper that must be in place before the Commission can accept money from outside entities. It was decided to draft a form and resume the discussion at the next Commission meeting.

Chairman Crosby stated that the community advisory document has been completed and is posted on the Commission website.

Chairman Crosby stated that the time is 3:00 p.m. and the 16th meeting will be suspended to convene the 17th meeting.

Motion made by Commissioner McHugh to suspend this meeting for the purposes of conducting Commission meeting 17. Motion seconded by Commissioner Cameron. The motion passed by a 5-0-0 vote.

Reconvening of Meeting: Chairman Crosby reconvened the 16th Commission meeting.

Charitable Gaming:

See transcript pages 107-111.

Status Report – Chairman Crosby stated that Commissioner McHugh has submitted an excellent outline of a report to the Legislative leadership on the subject of charitable gambling. Commissioner McHugh stated that he would like to use the outline to create a narrative draft report which he will circulate by the beginning of next week for consideration at the next Commission meeting. After that meeting, he will make any necessary changes, and the Commission can vote on it on the 31st and submit it to the legislature on the same day.

Chairman Crosby stated that he has a 4:00 p.m. appointment and will have to leave the meeting. He asked Commissioner McHugh to Chair the remainder of the meeting.

Finance/Budget Update:

See transcript pages 111-115.

Commissioner Zuniga stated that he submitted to the Commission a preliminary budget for FY 2013 and requested comments. He stated that at the end of the document he culled out line items 7, 8, 9, & 10, because he does not have enough information at present to be precise about the amounts those are likely to involve. Commissioner Cameron thanked Commissioner Zuniga for this easy to read, comprehensive document and stated that she would review it more thoroughly and submit any questions she may have. Commissioner Stebbins stated that it would be helpful to have more revenue projections or sources of funds going forward.

Public Education and Information:

See transcript pages 115-126.

Community Outreach/Responses to Requests for Information – Commissioner McHugh asked if there were any thoughts relative to how to deal with requests to speak with the Commission. Up to this point the Commission’s position has been to speak with anyone in a public forum. He stated that the topic could be included in the protocol for the speakers bureau that Communications Director Driscoll is now formulating. Another approach would be to set aside a portion of one meeting each month to have half an hour for an open forum. Another option would be to have two Commissioners talk with people at the Commission offices and post a summary of the conversation on the Commission website. Commissioner Zuniga stated that the idea of having a periodic open forum for people to come forward goes right along with the Commission’s mission to be transparent and participatory. Commissioner Stebbins stated that when he was on the Springfield City Council, the Council set aside a public participation session at each meeting. Those who wished to address the Council were asked to call ahead to put their name on a list and their comments were kept to a certain timeframe. He stated that the Commission would likely receive many requests to speak at an open portion of the meeting, but with a periodic open portion, a speakers bureau, and field hearings on regulations, the Commission would have mechanisms for routine receipt of information and commentary from the public. Commissioner McHugh asked Commissioner Stebbins to outline in a memorandum the thoughts he just voiced and bring them back to a future meeting for consideration. Commissioner McHugh stated that he would also like the Commission to consider creating an electronic library with information on the gaming industry as an aid to cities to towns.

Report from Director of Communications and Outreach – Elaine Driscoll stated that she has three proposals from various companies for branding, logo creation, and website issues and may solicit two more. At that point she will have to determine a process for having perhaps two Commissioners meet with her and have a presentation. She is working on the speaker’s bureau and that is going well. She will be getting information out on the Western Mass Forum to maximize attendance.

Speaking Engagements - Before leaving the meeting Chairman Crosby stated that Senator Rosenberg has announced to both caucuses in the Senate that the Commission is willing to go to districts to speak to municipal leadership groups. Senator Pacheco has asked that Chairman Crosby speak in his district. Commissioner Stebbins stated that he has one speaking engagement request to address the Western Mass Eldercare Professionals.

Western Mass Forum – Commissioner Stebbins stated that the date for this forum has been confirmed as August 8 in Springfield at Western New England University. The topics will be community mitigation, tourism, and workforce.

Research Agenda:

See transcript pages 126-152.

Commissioner Stebbins stated that Professor Richard McGowan from Boston College, who was scheduled to speak, is not able to attend today's meeting. He introduced Professor Robert Goodman, who has national expertise in the area of gaming. Professor Goodman addressed the Commission to discuss problem gambling and economic development. He provided his background and stated that in the past he was given a grant from the Ford Foundation which he used to study gambling as a strategy for economic development. He stated that there was no serious economic impact study done in Massachusetts. He provided examples from other states and how gaming impacted their economies.

Commissioner McHugh suspended the 16th Commission meeting to continue the 17th Commission meeting.

Reconvening of Meeting: Commissioner McHugh reconvened the 16th Commission meeting.

Professor Goodman continued his presentation. He stated that in many cases, state governments end up subsidizing casinos when they get into trouble in order to protect jobs, as happened in the racing industry in some states. He said that casino revenues will likely be very high in the beginning, the revenues will then decline and even out, especially as other states, such as New Hampshire, consider adding casinos. He stated that aside from economic impacts, another impact is political change that has happened in the states where gaming was legalized. The casino industries in those states became very powerful political players in the state and the state shifted from being a gambling regulator to a gambling promoter. He advised the Commission to halt the whole process until a serious economic analysis is done to determine the impact on other businesses in the state, and the cost of problem gambling.

A brief recess was taken.

Commissioner McHugh asked if there are were any questions for the Professor. Commissioner Zuniga stated that a Harvard professor who spoke at the problem gambling forum talked about the idea of adaptability. As Commissioner Zuniga recalled, she said that when casinos have come into other jurisdictions there has been an increase in the rate of gambling, and an increase in problem gambling, but after a period of time that trend reverses. Her thesis was that, after the introduction of gaming, the population adapts and problems that occur initially are mitigated. Professor Goodman stated that he is not familiar with the professor's thesis of the studies on which it is based, but is skeptical. Commissioner Stebbins stated that there is a provision in the expanded gaming legislation that gives the Commission authority to promulgate regulations regarding design and construction of gaming facilities. He asked if the Professor knew of any guidelines to follow in the creation of such regulations. Professor Goodman stated that he has no experience in the design of casinos.

Other Business: Commissioner McHugh stated that the commission's consultants from Spectrum alerted the Commission that the Rhode Island Lottery has disseminated an RFP for casino consulting services in two phases. The first deals with the review of documents prepared by consultants to Twin River and Newport Grand, two slot parlors that desire to proceed with full table games and other issues. The second phase of the RFP is for consulting services if a

referendum passes allowing expanded casino gaming in Rhode Island. In effect, the RFP seeks services for the same kinds of tasks as Spectrum is now performing for the Commission in Massachusetts. The question from Spectrum is whether the Commission has any concerns about its responding to the RFP or carrying out the duties and functions if it became the successful bidder. Commissioner Zuniga stated that he does have reservations about a potential conflict. He stated that the engagement with Spectrum is at a critical point because the Commission is formulating a strategic plan and trying to stimulate competition for casino licenses. Their ideas and advice on that strategic plan are critical for Massachusetts. Commissioner Cameron stated that she did not see a clear conflict. She stated that Spectrum has earned the Commission's trust and they could keep the Commission's information separate from the advice they gave to Rhode Island authorities. Commissioner Stebbins stated that he agreed with Commissioner Cameron. Spectrum works with a lot of states but the work does necessarily put them in a conflict with each of those states. Commissioner McHugh stated that he agrees with Commissioner Zuniga and does see the potential for a conflict. He has no doubt in the integrity of the firm, but there is an overlap between the kind of advice they are giving to the Commission and the advice they would be asked to give to those who hired them in Rhode Island. He also expressed concern with the appearance of a conflict by having the Commission's consultant working for a competitor. Commissioner McHugh stated that the Commission will relay to Chairman Crosby, and to Spectrum, the discussion that has taken place today.

Motion made to adjourn, motion seconded and carried 4-0-0.

List of Documents and Other Items Used at the Meeting

1. Massachusetts Gaming Commission July 17, 2012 Notice of Meeting & Agenda
2. Massachusetts Gaming Commission Meeting Minutes of July 10, 2012
3. Review of Massachusetts State Racing Commission and Industry Report Presented by Annie Allman
4. 7/17/2012 Consultant Memorandum Regarding Wall Street Visits
5. Ombudsman Position Description
6. Massachusetts Gaming Commission Advisory to Massachusetts Communities That May Qualify as "Host" or "Surrounding" Communities Under Massachusetts General Laws Chapter 23 in a Proposal for a Gaming License
7. Massachusetts Gaming Commission Preliminary Budget 2013
8. Biography of Professor Robert Goodman
9. Rhode Island Lottery Request for Information Casino Consulting Services
10. 7/16/2012 Consultant Memorandum regarding Rhode Island RFI

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