

The Commonwealth of Massachusetts
Massachusetts Gaming Commission

Meeting Minutes

Date: July 2, 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 (Participating Remotely)
Commissioner Gayle Cameron
Commissioner James F. McHugh
Commissioner Bruce Stebbins
Commissioner Enrique Zuniga

Absent: None

Call to Order:

Commissioner McHugh opened the meeting.

He stated that, because of his geographic distance from the meeting, Chairman Crosby will be participating remotely via conference call. Commissioner McHugh served as Chairman of this meeting.

Approval of Minutes:

See transcript pages 2-4.

Commissioner McHugh stated that he distributed to the Commission members the minutes for June 18, 19, and 26. Commissioner Stebbins requested a spelling correction on the June 18 minutes. Chairman Crosby requested a spelling correction on the June 19 minutes.

Motion made by Commissioner McHugh to approve all three sets of minutes in the fashion in which they are filed, as corrected. Motion seconded by Commissioner Cameron. The motion passed by a roll call vote: Commissioner Stebbins, yes. Commissioner Cameron, yes. Chairman Crosby, yes. Commissioner Zuniga, yes. Commissioner McHugh, yes.

Administration:

See transcript pages 4-40.

Executive Search Firm Update – Commissioner Zuniga stated that he evaluated the four proposals submitted and interviewed all four proponents. He recommended that the Commission

accept the application of JuriStaff, the highest ranked of the four. Commissioner Zuniga stated that he also would like to prequalify the second highest ranked firm for potential future procurements. Chairman Crosby asked if consideration of which firm to hire should be based on cost. Commissioner Zuniga stated that that when the criteria were developed, cost was considered as 15 points of 106 total for the entire evaluation. Given the evaluation criteria he created, Commissioner Zuniga stated, cost was one consideration but the successful firm also had to have a variety of other characteristics. Commissioner Cameron stated that she was involved in the interview process and was very impressed with JuriStaff. She stated that they were well prepared, had a good understanding of what the Commission needed, and were willing to work hard over the summer months to find candidates.

Motion made by Commissioner Zuniga for the procurement and selection of JuriStaff as the highest ranked firm to help conduct the executive search for the Executive Director, as presented in his memorandum. Motion seconded by Commissioner Cameron. The motion passed by a roll call vote: Commissioner Stebbins, yes. Commissioner Cameron, yes. Chairman Crosby, yes. Commissioner Zuniga, yes. Commissioner McHugh, yes.

Motion made by Commissioner Zuniga to prequalify the second highest ranked firm, The New Leadership Group, in the event that the Commission should need and decide for additional support for an executive search firm or other search tasks. Motion seconded by Chairman Crosby.

Commissioner McHugh asked whether there was any harm to prequalifying the top three firms. Commissioner Zuniga said that there was not and Commissioner Stebbins suggested that doing so would give the Commission more options with future searches. Commissioner McHugh then offered an amendment to Commissioner Zuniga's motion to add prequalification of the third as well as the second firm. The third highest ranking firm is Isaacson Miller.

Motion made by Commissioner Zuniga to prequalify the second and third highest ranked firms, The New Leadership Group and Isaacson Miller, in the event that the Commission should need and decide for additional support for an executive search firm for executive search tasks. Motion seconded by Commissioner Cameron. The motion passed by a roll call vote: Commissioner Stebbins, yes. Commissioner Cameron, yes. Chairman Crosby, yes. Commissioner Zuniga, yes. Commissioner McHugh, yes.

Commissioner McHugh stated that the Commission has not yet settled on a formal policy, but suggested that the Commission consider conducting all infrastructure work with the search firm at public meetings, and selecting a group of fewer than three Commissioners to act as a subcommittee to conduct the actual interviews. Commissioner Cameron expressed reservations with this approach, as the prospective candidates will have current jobs and would not want the interview to become part of a public record. She proposed, for reasons of confidentiality and timeliness, selecting one Commissioner to work with the search firm and gaming consultants. Commissioner Stebbins shared the concern with candidates' confidentiality in the early stages of the process, but stated that candidates who are finalists will have to understand their name will become public. Chairman Crosby stated that he would like to move forward quickly with the

search firm and have them start working on the job description. Commissioner McHugh stated that legal counsel, Anderson & Kreiger, could provide an opinion on how to proceed, either with a subcommittee or one Commissioner. He recommended having representatives from Anderson & Kreiger, as well as JuriStaff, attend the next Commission meeting to begin this process.

Additional Hires – Chairman Crosby stated that the Commission will be able to announce a Director of Administrative Services within a day or two. Janice Reilly stated that Heather Fong will be starting on July 9 as receptionist, and there is an additional candidate for another Commission position whose background check is not yet completed.

Discussion of MGC Internal Policies – Commissioner Zuniga stated that he has drafted four chapters of the employee manual. He has two additional chapters ready for review by Commissioner McHugh, which will complete the information for the manual at this point.

Project Management Consultant – Commissioner Zuniga stated that he conducted a small procurement requesting three quotes from qualified firms with experience in construction and other project management. He stated that the firms have submitted very comparable quotes, with PMA Consultants being the most advantageous quote for what is envisioned to be an eighteen month effort on a part-time basis. Commissioner McHugh stated that he met with PMA and the database tool they use will be very helpful to the Commission. Commissioner Zuniga stated that the cost PMA proposed includes a license for multiple users. All of the data would belong to the Commission, and the software could be used even if the consultant is no longer working for the Commission. Chairman Crosby suggested having the consultant attend a Commission meeting to provide a demonstration of this software.

Motion made by Commissioner Zuniga to accept the proposal submitted by PMA Consultants, as outlined in the memorandum, and begin negotiations with them relative to timeline and overall project management services. Motion seconded by Commissioner Stebbins. The motion passed by a roll call vote: Commissioner Stebbins, yes. Commissioner Cameron, yes. Chairman Crosby, yes. Commissioner Zuniga, yes. Commissioner McHugh, yes.

Commissioner McHugh confirmed with Chairman Crosby that Chairman Crosby is in possession of all the meeting materials for today's meeting.

Racing Division:

See transcript pages 40-42.

Status Report – Commissioner Cameron stated that she would like to file a preliminary decision document with the full Commission in the matter of Ms. Judy Ray. This was the first hearing the Racing Division of the Gaming Commission has held. She has offered to allow Ms. Ray to sign a document stating she has no intention of appealing this decision. If Ms. Ray elects to do so, the Commission can ratify the preliminary decision at its next meeting. Commissioner Cameron also stated that three other matters came before her on June 21, 2012. However, there some process issues require further attention and she will be filing her preliminary decisions in those matters at

the next Commission meeting. Commissioner Cameron also reported on her recent trip to two racetracks in the Philadelphia area. She reviewed the racing regulations and state of the art facilities, as well as licensing and testing procedures for both tracks. The racing consultant, Ann Allman, is close to completing her project and the Commission will be hearing her recommendations in the near future.

Project Work Plan:

See transcript pages 42-88.

Notice of Proposed Rulemaking – Kathleen O’Toole addressed the Commission to provide an update on the consultants’ work. Both Michael & Carroll and Spectrum participated in several meetings last week with representatives of the Commission and other state agencies. A set of draft regulations of approximately 100 pages was forwarded by Michael & Carroll to Spectrum and Anderson & Kreiger. These regulations will be revised and forwarded to the Commission early next week. The regulations fall into two categories, Commission administration and the regulations required for the RFA Phase 1 process. There will then be a three week period in which the Commission and the consultants will work to finalize these regulations, with the goal of completing this at its meeting on July 31, 2012. Commissioner Zuniga requested that the consultants’ supply an executive summary indicating the areas the Commissioners should focus on with particularity when reviewing the draft regulations or perhaps highlight those areas of the document.

Technical and Other Assistance to Communities – Chairman Crosby stated that he has provided a draft job description for the ombudsman role. He stated that this may be a full-time job for a limited time and he would like to consider a consultant, or borrowing someone from the another Commonwealth department or agency. Commissioner Cameron stated that the job description was excellent and the Commission should seek to fill the position as soon as possible. Commissioner Stebbins observed that the ombudsman may not be needed after licenses are awarded but he or she will fill an extremely valuable role at the present stage of the Commissions operations. Commissioner McHugh stated that he envisioned this position as being someone who could cut through red tape and would have knowledge of development as well as state government. Commissioner Stebbins stated that he would submit suggestions and revisions to Chairman Crosby for review. Commissioner Zuniga stated that this position should be posted on the Commission website and Human Resources, indicating it could be a temporary or contract position.

Municipal Process Document – Commissioner McHugh stated that this document was discussed at last week’s meeting and he has made some revisions which he reviewed with the Commission. Chairman Crosby and Commissioner Zuniga suggested some modifications which Commissioner McHugh will incorporate into document. Commissioner McHugh stated that the purpose of this document was to allay the concerns of the state agencies, and to help assist the communities that had concerns about where to for assistance and how soon they had to do so.

Commissioner McHugh stated that a question has been raised about whether the \$400,000 application fee can be uncoupled filing an application. Chairman Crosby stated that his understanding is the \$400,000 fee would be paid at the time the application was picked up. Commissioner McHugh stated that he interpreted the statute to read the \$400,000 fee would be paid when an application is filed. Commissioner Zuniga stated he had the same understanding and asked what would motivate someone to want to pay the money before filing an application. Commissioner McHugh stated that a developer might want to pay the fee so that it could move forward with the permitting and planning process, consulting as necessary with the appropriate state officials so as to be ready for the next stage. Chairman Crosby stated that the Commission should get back to the state agencies and have further discussion on this issue before proceeding.

Charitable Gaming:

See transcript pages 88-89.

Status Report – Commissioner McHugh stated that he is meeting with members of the Lottery Commission tomorrow to discuss this topic. Comments on the general subject of charitable gaming have been solicited from the clerks of cities and towns and some very thoughtful comments have been received. Comments have also been solicited from the regulatory and user communities and the taxing authorities. He stated that the Commission continues to be on track to have a report to the legislature by the end of the month.

Finance/Budget Update:

See transcript page 89.

Commissioner Zuniga stated that he shared his current budget with the gaming consultants, who provided some feedback on the assumptions. They are currently looking at the details and will be providing more feedback. He is hoping to present the budget to the Commission in the next couple of weeks.

Public Education and Information:

See transcript pages 89-99.

Report from Director of Communications and Outreach – Elaine Driscoll stated that she has a series of meetings this week and next regarding website and logo development. She is doing as much administrative preparation work as possible to streamline the process. She is working closely with the Nevada Gaming Commission, which completely revamped its website recently. She is working on the speakers bureau and is in the process of building a target list for the first round of speaking engagements. She is also developing a strong PowerPoint and possible video to be used at speaking engagements, and will be working on the communications portion of the employee manual.

Chairman Crosby stated that Director Driscoll received a contact from a consultant who indicated that his firm was working with one of the tribes in southeastern Massachusetts and surrounding communities and had some suggestions for the Commission on how to deal with surrounding communities. The consultant requested to speak with one or more of the Commissioners. Chairman Crosby stated that the request raised the question of what the proper protocol should be when such an inquiry is received. Commissioner McHugh stated that a policy should be crafted keeping transparency in mind. He asked whether such a policy should become part of the overall communication policy on which Director Driscoll is working or should be handled separately. Director Driscoll stated that in her outreach she will have to be sure she is keeping everyone informed of what the expectation is in terms of the parameters of interaction, though she is not certain that those parameters are necessarily part of a communications policy. Commissioner McHugh recommended an interim policy that the Commission will speak with anyone in a public session until more fully developed regulations and policies are in place.

Speaking Engagements – Chairman Crosby stated that he is meeting with State Representative Keiko Orrall and her constituents from Lakeville, Middleborough, and Berkeley next week.

Discussion of Western Massachusetts Forum – Commissioner Stebbins stated that he spoke with State Senator Candaras on Friday and she has offered Western New England University to host a forum. Last week he spoke with a firm that has been hired by the Mass Office of Travel and Tourism to do advertising. Along with others, the firm is planning to speak at the forum on the topic of tourism. He is hoping to have a date at the end of this week or early next week.

Research Agenda:

See transcript pages 99-106.

Commissioner Stebbins stated that Chairman Crosby did an inventory of research topics to consider in some of the Commission's baseline research. He has shared these topics with the speakers from the Economic Development Forum in Worcester and he is waiting for feedback from them. Richard McGowan from Boston College and Professor Robert Goodman from U. Mass join the Commission at the July 17, 2012 meeting to speak about architecture and design issues with respect to gaming facilities, as well as to provide input for the research agenda.

Chairman Crosby stated that he checked with the Governor's Office, his appointing authority, to see if he can be involved in the possible procurement of a research unit as one possible bidder for the work might be from U. Mass. Both the Governor's Office and the Ethics Commission stated that there is no problem with his involvement in the procurement process. He stated that Commissioner Stebbins and he have been discussing a large research project. He recommended the Commission authorize him draft a proposal outlining the project's scope, as well as a procurement process for a planning grant and bring the draft to the Commission for a vote. Commissioner Zuniga asked if the planning grant would go out to a large group, or a specific group. Chairman Crosby stated that there is a group at U. Mass which has discussed with him and Commissioner Stebbins a plan for doing this research. They would pull together a team of experts to contribute to their effort. They would recommend the scope of the work, the

commission would decide whether that's scope or some other was appropriate and then, having made that decision, would proceed with a procurement.

Other Business:

See transcript pages 106-113.

Chairman Crosby stated that there was information in the press about one of the proposed eastern Massachusetts developers that suggested there will be little competition for a casino in eastern Massachusetts. He stated that this impression is not in the public interest and he asked if the Commission should make a statement about the importance of competition. Commissioner McHugh stated that a competitive environment is one the statute was designed to foster and one that the Commission is very interested in helping to promote. Commissioner Zuniga stated that he would like to explore the concept of bidding the most competitive license first, which would allow those who did not get the license to move for a subsequent license. Commissioner Stebbins stated that as much as the Commission wants to drive competition, it is also important to drive quality in the applications. Commissioner Cameron stated that bidding by region would be extremely problematic.

Next Meeting: The next meeting is scheduled for July 10, 2012 at 1:00 p.m.

Motion made by Commissioner Cameron to adjourn. Motion seconded by Commissioner Zuniga. The motion passed by a roll call vote: Commissioner Stebbins, yes. Commissioner Cameron, yes. Chairman Crosby, yes. Commissioner Zuniga, yes. Commissioner McHugh, yes.

List of Documents and Other Items Used at the Meeting

1. Massachusetts Gaming Commission July 2, 2012 Notice of Meeting & Agenda
2. June 18, 2012 Meeting Minutes of Massachusetts Gaming Commission
3. June 19, 2012 Meeting Minutes of Massachusetts Gaming Commission
4. June 28, 2012 Memorandum Regarding Recommendation to Select and Contract Executive Search Firm
5. June 28, 2012 Memorandum Regarding Project Management and Scheduling Resource Procurement
6. Draft Ombudsman Job Definition
7. Advisory to Massachusetts Communities That May Qualify as "Host" or "Surrounding" Communities Under Massachusetts General Law Chapter 23 In a Proposal for a Gaming License
8. Protocol for Prospective Gaming Developers' Interactions with Massachusetts State Agencies

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