

The Commonwealth of Massachusetts
Massachusetts Gaming Commission

Meeting Minutes

Date: August 14, 2012

Time: 1:00 p.m.

Place: Division of Insurance
1000 Washington Street
1st Floor, Meeting Room 1-E
Boston, Massachusetts

Present: Commissioner Stephen P. Crosby, Chairman
Commissioner Gayle Cameron
Commissioner Bruce Stebbins
Commissioner Enrique Zuniga

Absent: Commissioner James F. McHugh

Call to Order:

Chairman Crosby opened the 22nd public meeting.

Approval of Minutes:

See transcript pages 2-5.

Chairman Crosby stated that Commissioner McHugh is on vacation and will not be in attendance. Meeting minutes from the July 31 and August 7 meetings were discussed. Chairman Crosby and Commissioner Stebbins made corrections to the August 7 minutes.

Motion made by Commissioner Cameron to approve the minutes of the July 31 and August 7 meetings as amended. Motion seconded by Commissioner Zuniga. The motion passed by a 4-0-0 vote.

Administration:

See transcript pages 5-60.

Executive Director Search Update – Commissioner Stebbins stated that JuriStaff is continuing to work on the list of 50 contacts. There are currently two potential candidates who may be coming to Boston for an interview. Commissioner Stebbins recommended selecting a closing date for the job posting of September 14, 2012. After discussion, the Commission decided to set September 7, 2012, as the closing date.

Additional Hires – Commissioner Zuniga stated that JuriStaff has compiled a number of respondents for the position of staff attorney. Commissioner McHugh will be handling this. He has asked for the top 10 resumes and will select candidates to interview from that pool.

Discussion of MGC Internal Policies – Commissioner Zuniga stated that he included in the meeting packet the table of contents for the Commission's employee manual, a document on which he is continuing to work. Along with the table of contents, he has included the policy questions he believes the Commission must resolve before the drafting process can be completed. He and the Commission proceeded to examine those questions with the following results:

1. Item 1.1: This item deals with whether employees of the Commission are employees at will. The Commission decided to do more research on the approach taken under similar circumstances in other states and also to explore with the Commonwealth's HRD and other state agencies their approach to employee at will status.
2. Item 1.5.2: This item deals with when in the hiring process the background investigations will occur. The Commission decided to maintain flexibility so that it could begin the investigations before or after an offer of employment is made. If it conducted the investigation before an offer was made, it could conduct simultaneous investigations on more than one candidate. If the investigation was conducted after the Commission made an offer, the Commission would clearly notify the applicant that the offer was conditioned on successful completion of the investigation.
3. Item 1.5.5: This item deals with employment of relatives and the policy question is whether there ought to be a flat ban on the Commission's ability to hire members of the family of a Commission employee. The Commission decided that, subject to the provisions of an enhanced code of ethics which is now being drafted, the Commission could consider employment of the family members of a Commission employee as long as a family member was not placed in a position where he or she would be supervised by another family member.
4. Item 2.8: This item deals with employee responsibility for confidential and other sensitive information. Commissioner Zuniga stated that he would revise the language of the current draft so that it is congruent with the Phase 1 regulations the Commission is in the process of promulgating.
5. Item 2.9: This item deals with supplemental employment and business activities. Commissioner Zuniga stated that G.L. c. 23K, § 3(o) requires Commission employees to obtain written approval from a supervisor before engaging in any "business or occupation or other gainful employment outside of the [C]ommission." The policy question is whether the Commission's policy manual should interpose a similar requirement on certain unpaid activities, e.g., work for civic or religious organizations, on a volunteer basis. After discussion, the Commission decided that more investigation was needed with respect to the way similar concerns are handled in other jurisdictions, with respect to First Amendment restraints and with respect to the impact of the state ethics laws and the enhanced ethics code the Commission is in the process of drafting. In particular, the Commission focused on how far down in the Commission hierarchy a prohibition on political activity could extend and whether a Commission employee could engage in a

business transaction unrelated to casinos or racing with an individual who was licensed by the Commission or employed by an entity the Commission regulated.

6. Item 3.3.4: This item deals with telecommuting. The policy question is whether telecommuting ought to be permitted and, if so, under what circumstances. The Commission decided that telecommuting ought to be permitted at the discretion of the employee's supervisor.
7. Item 3.3.5: This item deals with compensatory time and the circumstances under which it ought to be allowed. The Commission decided that supervisors ought to be permitted to award compensatory time so long as the reason for doing so was backed by appropriate documentation. In that regard, the Commission noted the importance of flexibility, particularly with respect to investigations that likely will require extended hours and weekend work.
8. Item 3.4: This item deals with reimbursement of commuting expenses. The Commission decided to create a policy that allowed commuting expenses for employees who lived beyond a specified radius from the Commission's headquarters or from the location specified in their work assignment.
9. Item 3.4.2: This item deals with reimbursement for meals consumed by Commission employees during the course of travel. The Commission decided that reimbursement would be at a "reasonable" rate rather than at a fixed dollar amount in order to take account of the meal costs in different areas of the country, or world, where Commission employees might travel from time to time. Commissioner Zuniga stated that he would look at federal reimbursement rates for comparison.
10. Item 5.1: This item deals with vacation and personal time. The Commission decided to include years of service in state and non-state employment when calculating entitlement to vacation leave and personal time.
11. Item 6.2: This item deals with the Technology Resources Policy the Commission previously adopted. The Commission decided to place the burden on all Commission employees to ensure that their computer contains the appropriate malware and antivirus software before installing or updating any programs on it.
12. Item 6.4: This item deals with speaking engagements. Commissioner Zuniga stated that he would redraft the section to incorporate the recent Speaker's Bureau protocol the Commission adopted.

Chairman Crosby then made the following points: (1) the manual should contain an introduction discussing the nature of the Commission's work and the need for integrity and the appearance of integrity by all employees in every aspect of their work for the Commission and Commissioner Zuniga would write a draft; (2) language restricting dissemination of the manual should be deleted; (3) section 1.6 should use the term "drug screen" instead of "urine samples"; (4) the term "business dress" ought to be defined; (5) section 2.3 dealing with drug and alcohol issues should be deleted because it is redundant; (6) "age 40" ought to be eliminated from section 2.5 dealing with freedom from unlawful harassment and discrimination; and (7) he wanted to investigate further whether a Commission employee was prohibited forever from working for a private entity on a "particular matter" in which he participated as a member of the Commission.

Project Management Consultant – Commissioner Zuniga stated that a meeting is scheduled with the Commission consultants on August 22 to discuss timeline and timeline assumptions and how to integrate those assumptions with PMA’s system.

Racing Division:

See transcript pages 60-62.

Update – Commissioner Cameron stated that the job description for Racing Director has been finalized and posted on the Commission and HRD websites, as well as on other industry websites and publications. She will be screening the resumes, conducting interviews and presenting the finalists for interviews by the full Commission. If the volume of resumes is large, she may utilize one of the Commission search firms to assist in her review. Chairman Crosby recommended the end of August as the closing date for this job posting and the Commission agreed.

Project Work Plan:

See transcript pages 62-69.

Commissioner Zuniga stated that the RFR for consultants, in its original form, allows the Commission to extend the contract for consulting services for months beyond the upcoming September deadline. He is reviewing the scope of services for subsequent phases of the Commission’s work. He stated that some of the deliverables scheduled for the last two weeks have been delayed by the recent focus on the promulgation of regulations. Those deliverables, however, are expected in the next few weeks. Chairman Crosby stated that he met with Kathleen O’Toole, who is the contact person for the gaming consultants, and the Commission will be utilizing her expertise to coordinate gaming consultant activities. Commissioner Zuniga stated that Director Glovsky will be an integral part of the planning and monitoring process going forward.

Technical Assistance to Communities – Commissioner Stebbins stated that the list of candidates for the ombudsman position has been finalized and the interview process is beginning.

Finance/Budget Update:

See transcript page 69.

Commissioner Zuniga stated that checks have been received from two license applicants and have been deposited in the Commission’s new bank account. Coding work is being done for the account to segregate costs and revenue.

Public Education and Information:

See transcript pages 69-81.

Community and/or Developer Outreach/Responses to Requests for Information – Chairman Crosby stated that he is serving as interim ombudsman for developers or communities in need of assistance. He received a call from a developer who has paid the application fee and would like to meet with the Department of Transportation. Commissioner Stebbins stated that many questions were submitted at the Western Mass Forum from one community that may be impacted by a casino proposal and he will forward those questions to Chairman Crosby in his role as interim ombudsman so he can meet with the individuals who posed them.

Report from Director of Communications and Outreach – Elaine Driscoll stated that the Commission is in a question and answer period for the RFR for the logo and website and is on track to make a decision by September 4. She stated that she has been working with Brandon Milby on building out the sitemap for the new website that Commission content can be uploaded as soon as possible designer and developer finish their work. Her goal is to have a new website up and running by the time the regulations are issued in October. She continues to receive requests for the speaker's bureau and is coordinating these engagements.

Western Mass Forum – Commissioner Stebbins stated that he sent "thank you" notes to the panelists, Western New England University, Senator Candaras, and some of the other speakers. He recommended having representatives from the Regional Planning Agencies speak at a Commission meeting to formalize a relationship in advance of the RFA-2 discussion. Chairman Crosby recommended that this discussion take place with the ombudsman, once he/she is in place, rather than at a public Commission meeting. Commissioner Stebbins stated that one of the items discussed during the tourism segment of the August 8 forum concerned Memoranda of Agreement between casino operators and local organizations. In that regard, the Commission will have to give some thought to mechanisms designed to ensure that the agreements will be carried out after licenses are issued

A brief recess was taken.

Diversity/Inclusion Forum – Chairman Crosby stated that this forum has been scheduled for September 17, 2012. Commissioner Stebbins recommended including workforce development representatives in the discussion at the forum.

Research Agenda:

See transcript pages 81-83.

Chairman Crosby stated that the RFI for the research project is being in progress. He met with representatives from the Harvard School of Public Health who are focused on addiction issues and are interested in being involved in the research. He is meeting with Secretary Bigby and Public Health Commissioner John Auerbach to get them involved in the process as well.

Application Process:

See transcript pages 83-94.

Commissioner Cameron stated that the Commission previously conducted a general discussion on whether or not to ask applicants about the region in which they are interested when they deposit their application fee and certificate in advance of their formal application. She stated that the law does not call for a commercial license in Region C and it is important the Commission does not accept applications or application fees from anyone interested in Region C, southeastern Massachusetts, for casino licenses, with the exception of slots parlors. Chairman Crosby stated that Commissioner McHugh asked that his point of view be presented in this matter. Commissioner McHugh is in agreement the Commission should stress that no applications or application fees will be accepted for casino licenses in Region C. Commissioner Zuniga stated that this policy would apply for the time being, but in the future, if the Commission determines the Tribe is not able to obtain land into trust, it could open up Region C for commercial licenses. A discussion then ensued regarding whether an applicant should be required to indicate on the fee deposit certificate the regions in which they are interested. The Commission decided to allow an applicant not to specify its region of interest but to include in the certificate language stating that the applicant is not applying for a Category 1 license in Region C.

Motion made to adjourn, motion seconded and carried unanimously.

List of Documents and Other Items Used at the Meeting

1. Massachusetts Gaming Commission August 14, 2012 Notice of Meeting & Agenda
2. July 31, 2012 Meeting Minutes of Massachusetts Gaming Commission
3. August 7, 2012 Meeting Minutes of Massachusetts Gaming Commission
4. Massachusetts Gaming Commission Employee Handbook – Directory and Policy Questions
5. August 8, 2012 Email to Janice Reilly from Charles Ticotsky Regarding Meeting

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