

The Commonwealth of Massachusetts
Massachusetts Gaming Commission

Meeting Minutes

Date: August 28, 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 James F. McHugh
Commissioner Bruce Stebbins
Commissioner Enrique Zuniga

Absent: None

Call to Order:

Chairman Crosby opened the 24th public meeting.

Approval of Minutes:

See transcript pages 2-8.

Chairman Crosby stated that there are three sets of minutes for review: August 8, 14, and 21, 2012. He stated that, in reviewing the minutes, he thought about what the Commission could do to maximize the focus on casinos as resort destinations. He stated that he would like to discuss at a future meeting whether there is any strategic work the Commission can perform or facilitate to try to ensure that the facilities are truly destination focused.

Motion made by Commissioner Stebbins to approve the minutes from the August 8 meeting at Western New England University. Motion seconded by Commissioner McHugh. The motion passed by a 5-0-0 vote.

Motion made by Commissioner Zuniga to approve the minutes of August 14, 2012 as amended. Motion seconded by Commissioner Cameron. The motion passed by a 5-0-0 vote.

Motion made by Commissioner Cameron to approve the minutes of August 21, 2012. Motion seconded by Commissioner Stebbins. The motion passed by a 4-0-1 vote, Commissioner Zuniga abstaining.

Administration:

See transcript pages 8-61.

Executive Director Search Update – Commissioner Stebbins stated that the posting for Executive Director will close on September 7, 2012. He spoke with a potential candidate yesterday and is getting a number of initial referrals from JuriStaff. Most of the candidates to date have been from out of state given the Commission’s preference for finding someone with previous gaming commission experience. He stated that with out of state candidates it will be the Commission’s responsibility to sell this opportunity and the excitement of living in Massachusetts. He has a few more introductory phone calls set up and will move ahead with scheduling candidates for interviews in Boston. Chairman Crosby stated that he would like to reiterate to JuriStaff that the Commission is looking for a diverse group of candidates.

Commissioner Zuniga stated that a question has been raised by JuriStaff about receiving compensation for additional hires that may result from their search for an Executive Director. Their current contract does not contain any provision dealing with hiring of that type. He stated that it is industry practice to provide some compensation in this situation. The Commission authorized Commissioner Zuniga to work out an agreement for JuriStaff and bring it back before the full Commission for approval.

Additional Hires – Commissioner McHugh stated that a job description has been developed for the General Counsel position. The description is included in the meeting packet and he welcomed comments on it from other Commissioners. After discussion, he recommended leaving the posting for the position open until it is filled but having an initial application deadline of mid-October. The Commission agreed. He also asked for feedback from the Commission on whether selection of a final candidate should wait until the Executive Director is hired. The Commission agreed, with the caveat that the issue could be revisited if the Executive Director search took longer than anticipated. The Commission also agreed that Commissioner McHugh would screen the candidates for this position, with help from one of the search firms so that he could present finalists to the Commission, and hopefully the new Executive Director, for a final selection.

Commissioners McHugh and Cameron discussed additional positions the Commission will need. Commissioner Cameron has had discussions with an individual with racing regulation experience who may be able to assist the Commission as a consultant to help with preparation of a report on pari-mutuel racing and simulcasting that the legislation requires the Commission to file by January 1, 2013. She also has in mind an individual with a law degree and racing background who could work as a paralegal and help with some of the ongoing regulatory matters affecting the racing component of the Commission’s work. Commissioner McHugh stated that Boston University has a fellowship program in which a recent law school graduate is hired on a contract basis for one year and could assist with regulatory compliance, minutes, tracking deadlines, and any other legal work of that type the Commission requires. Commissioner Zuniga asked if one of these individuals could assist with racing financial matters and analysis of the flow of funds for racing. Commissioner McHugh stated that the paralegal could undoubtedly

help with the flow of funds and the Boston University Fellow could assist with the legislative history and other research that recent law school graduates have an excellent ability to perform. The Commission agreed that Commissioner Cameron and Commissioner McHugh should pursue that lineup of individuals and report back to the Commission before finalizing the details.

Commissioner Cameron provided a copy of a job description for the Deputy Director of IEB and recommended this job be posted as soon as possible. She stated that she would like to post the position for six weeks and have the Executive Director weigh in on the final candidates. She is willing to take the lead on the screening process. She would like to have a law enforcement executive assist with the process and bring the final candidates before the full Commission. Chairman Crosby asked if she would like to utilize the search firms to assist in screening resumes. Commissioner Cameron stated that she would like to have that flexibility based on the number of resumes received.

Commissioner Zuniga stated that the Commission should consider hiring a staff accountant and he would like to draft a job description as the need for an accountant is becoming more and more pressing. Chairman Crosby stated that the position appears to fall under the Director of Administration and that any search process should be coordinated with Director Glovsky.

Discussion of MGC Internal Policies – Commissioner Zuniga stated that he has not yet made the changes discussed at the last meeting as he has been on vacation. Chairman Crosby stated that an HRD training is scheduled for September 5, 2012, to assist the Commission in understanding what the legislation calls for and how to deal with certain segments of the Commission's future employees.

Report from Director of Administration –Director Glovsky stated that she will be acting as liaison between the Commission and the project management and gaming consultants. She stated that she distributed the strategic plan outline to the Commissioners and would welcome feedback. Commissioner Zuniga asked why section 4B of the outline deals with the potential for internet gaming and sports betting. Steve Ingis from Spectrum Gaming, who was in attendance to assist Director Glovsky with questions directly pertaining to the plan's content, stated that there have been preliminary discussions regarding whether these topics should be included in the regulations the Commission ultimately promulgates. In that regard, he stated, there will be discussions in the RFA-2 process about various aspects of the application process and, at present, the topic of Internet gaming and sports betting is in the draft essentially a placeholder. Then followed a discussion about promulgation of the details of the strategic plan and the RFA-2 in a manner that provides a timely opportunity for policy decisions in which all of the Commissioners participate. The Commission agreed that a thoughtful process for providing those opportunities was a key element of a viable strategic plan and RFA-2 process. Commissioner McHugh then asked if it would be possible for the Commission to have read-only access to the current electronic version of the plan as it was updated so that the Commissioners would always have current information regarding deadlines and the context in which the deadlines were occurring. Director Glovsky stated that she would have to look into that issue but was certain that that kind of information could be provided in some fashion. At that point, Mr. Ingis reported that the gaming consultant team has been working on a number of items relating to RFA-1, completion

of the strategic plan, finalizing the RFA-1 application form and completing the RFA-1 instructions that are designed to accompany the RFA-1 application packet, which should be ready for delivery to the Commission by the end of the week. In that regard, the consultants are developing a timeline and table of organization, preparing budget estimates based on the timeline and table of organization, expanding the RFA-2 regulations to include the policy decisions that will be needed for each regulation, and are developing and documenting a protocol for interactions with the Commission and legal consultants about planning, drafting, and review of the Phase-2 regulation process. They are also completing sections of the strategic plan and are on schedule to file the completed plan with the Commission on September 10, 2012. Commissioner McHugh stated that the full Phase-1 application forms to which Mr. Ingis referred will be available at the Commission's September 4 meeting. In addition, the Commission will have to decide on September 4 on its final plans for conducting the multi-location hearing on September 10, 2012.

Racing Division:

See transcript pages 61-80.

Update – Commissioner Cameron provided an update on hearings that she held earlier this month. The first matter was relative to Abad Cabassa, a licensed jockey who appealed a Suffolk Downs steward ruling that, in a race on July 4, 2012, his horse altered course and crowded another horse forcing it to alter its path. Her tentative decision is that the respondent's conduct constitutes a violation of 205 CMR 4.11(6)(e)(3)(a), (b) and (c) and to uphold the decision of the Suffolk Downs Board of Stewards suspending the jockey license of the appellant for seven calendar days. The appellant will be notified of this tentative decision and his right to appeal to the full commission within a 30 day period.

The second matter was relative to Marco Chavez who appealed a State Police ejection. The appellant was formerly licensed as an exercise rider at Suffolk Downs. In May, 2004, the appellant was ejected due to an altercation that occurred on April 10, 2004. The appellant continued to receive licenses to work at Suffolk Downs, most recently during the 2007 racing season. On July 2, 2007, the appellant was again ejected from Suffolk Downs for using a false social security number and false date of birth and for not being in the United States legally. In 2010, the appellant appealed that ejection but failed to appear at the scheduled hearing, resulting in the appeal being dismissed with prejudice. The conclusion was the appellant's conduct constitutes a valid ground for ejection. Commissioner Cameron's tentative decision is to uphold the ejection of the appellant. The appellant will be notified of this tentative decision and his right to appeal within a 30 day period.

The third matter was relative to Jose Morales Marcano who also appealed a State Police ejection. The appellant was formerly licensed as a jockey at Suffolk Downs. On October 2, 2009, the appellant was in a vehicle with Mr. Joel Villaneuva at the back of Suffolk Downs racetrack and was observed with a number of pills that required a prescription. Criminal charges were filed against the appellant but the charges were dismissed. The appellant stated that he had prescriptions but not for all of the pills. Commissioner Cameron's tentative decision is to uphold

the ejection of the appellant but that the ejection should be lifted immediately due the appellant's forthrightness and to his possession of only one pill for which he did not have an appropriate prescription. The stewards may also consider the appellant's conduct when and if he seeks a license. The appellant will be notified of this tentative decision and his right to appeal to the full Commission within a 30 day period.

The fourth matter concerned Commissioner Cameron's prior tentative decision regarding Walter Case. That tentative decision upheld the steward's ruling that Mr. Case should not be licensed. Thereafter, Mr. Case's attorney requested that the Commission allow Mr. Case to withdraw his appeal and that the Commission remove her tentative decision from the publications in which it appeared. Commissioner Cameron recommended that the Commission deny the request. The Commission discussed whether to vote on the issue immediately and ultimately decided to provide the appellant with notice that it would act on the matter at an upcoming meeting.

Commissioner Cameron addressed the subject of Suffolk Downs fines that were made public this week. Suffolk Downs officials are cooperating with EPA to ensure compliance in meeting applicable environmental standards and she will continue to monitor their progress on behalf of the Commission. Chairman Crosby stated that the Commission should have a briefing from the EPA on the situation at Suffolk Downs. Commissioner McHugh suggested that the Commission first obtain the papers that were filed in court and review them. If, after doing so, the Commission decided that it needed further information it could invite a representative of the EPA to appear and discuss the matter.

Commissioner Cameron stated that additional work for the Commission's racing consultant is being finalized. She will be facilitating a working group relative to implementing best racing practices and a roadmap for doing so. Chairman Crosby asked if the interagency financing had been worked out. Commissioner Cameron stated that this is being worked on, but there is no final resolution to the matter yet. Chairman Crosby asked about the cash flow situation in the absence of an appropriation. Commissioner Zuniga stated that this has not been fully resolved. Due to the absence of an appropriation, the Commission may be required to use money from the trust but there will be a surcharge for doing so.

Commissioner Cameron stated that the job posting for Director of Racing closes this week and approximately nine applications have been received to date. She has posted interviews for next Thursday and Jen Stark from the Attorney General's office has agreed to assist in the interviews.

Project Work Plan:

See transcript pages 80-83.

Technical Assistance to Communities – Commissioner Stebbins stated that the interviews for the ombudsman have wrapped up he anticipates having the finalists selected by next week. When the finalists are selected, he will provide their names to Chairman Crosby. Chairman Crosby stated that he is serving as interim ombudsman and Suffolk Downs and Ameristar have contacted him. Suffolk Downs wanted to arrange its post-applicant meeting with the Department of

Transportation and to meet with representatives of the Department of Environmental Affairs. Ameristar wanted to arrange its first pre-applicant payment meeting. Commissioner Stebbins stated that Mass Development had offered to be part of the ombudsman interview process because of their experience with large development deals. Their key person was not available to sit in on the interviews but may be utilized to assist with follow-up calls.

Finance/Budget Update:

See transcript pages 83-84.

Commissioner Zuniga stated that he has had discussions with Spectrum Gaming, one of the Commission's gaming consultants, and that the firm is now putting together the budget component of the strategic plan. The firm's preliminary approach is to take what was approved for FY 2013 and make assumptions as to additional expenditures for FY 2014 and FY 2015. Discussions are ongoing.

Public Education and Information:

See transcript pages 84-97.

Community and/or Developer Outreach/Responses to Requests for Information – Commissioner McHugh stated that the commission has received a letter from Charles Blanchard, the Town Manager of Palmer, who raised a concern about fire districts and water districts throughout the state that have an independent governance structure. Mr. Blanchard asked if agreements between applicants for gaming licenses and the independent districts in should be included in the host community agreement or whether they should be the subject of separate negotiations and submissions. Commissioners McHugh and Stebbins have spoken with Mr. Blanchard and told him that the governing statute provided that the host community agreement alone was submitted to the voters of a city or town by the governing municipal authorities. They told him that the statute did not discuss the independent districts and certainly did not contemplate creation of a host community agreement between the applicant and the districts. Commissioner McHugh stated that the Commission could take the position that a single package voted on by the residents of the city or town that included all the elements necessary for successful development would be looked upon favorably. He recommended this information be posted as a frequently asked question on the Commission's website. Commissioner Stebbins agreed with this approach, stating that the legislation is clear that one host community agreement comes forward for a vote and the community must work out the individual agreements necessary to accomplish and informed vote. Commissioner Zuniga recommended consulting with the Department of Public Utilities for their input on this matter. Commissioner McHugh stated that he would contact them and get their response. The Commission decided that it would proceed to post the information discussed by Commissioners McHugh and Stebbins if the DPU had no substantive additions to their analysis.

Chairman Crosby stated that he and Commissioner McHugh have worked on developing a practice for the Commission to follow when individuals or groups who have a vested interest in

an expanded gaming project asked to talk to the Commission is. Chairman Crosby suggested that those groups or individuals submit a request to meet with the Commission, outlining in the request their agenda and the time they thought would be required for a useful discussion. The Commission would then decide whether to invite them for the discussion they proposed but would be clear that no individual or group would be invited if they intended to take an advocacy position for or against any specific proposal. Instead, individuals and groups would only be invited if they wanted to obtain clarifications of a process the Commission was utilizing or if they had suggestions regarding how to make a particular process or procedure work more smoothly. Commissioner McHugh stated that advocacy discussions will be reserved for the time when the concrete application is before the Commission for its action.

Discussion of Diversity/Inclusion Forum, September 19, 2012 – Chairman Crosby stated that the agenda has not been finalized and he asked Janice Reilly to send out a draft agenda for comments.

G2E Conference – Chairman Crosby stated that this is the national trade conference for the American Gaming Association and the Commission has received an invitation to attend the conference. He stated that the Commission will probably send three Commissioners and possibly two staff members.

Research Agenda:

See transcript pages 97-99.

Chairman Crosby stated that he met with the Secretary of Health and Human Services, who is the trustee of the Public Health Trust, which may fund research, as well as the head of the Department of Public Health to get their thoughts about this research opportunity. Both were very interested and suggested having a research advisory group review the Commission's RFI before it is promulgated. A meeting will be held in the next couple of weeks to begin the review. Chairman Crosby stated that the legislation also calls for the creation of a gaming policy advisory committee and he will be contacting the Governor's office at an appropriate time to get this committee started.

Other Business:

See transcript pages 99-104.

Chairman Crosby stated that the Commission has been watching what has been happening in Springfield. At this point the Commission has only seen the newspaper reports but is concerned with the transparency of the process and with maximizing the competitive environment for applications for gaming licenses. Commissioner Zuniga stated that he is interested in seeing more detail and whether the Mayor has a plan about a ward being the host community. Commissioner McHugh stated that an open and transparent process is in keeping with the spirit of the statute but that he does not have enough detail to take any position at this point other than to encourage a democratic, transparent process. Commissioner Stebbins stated that the

legislation did not foresee the situation in which Springfield finds itself with multiple entities all wanting to be in one host community and he hopes the process will be transparent and encourage public input. He stated that the Commission would like to see an agreement that benefits the host community and addresses the criteria laid out in the legislation for evaluating a license agreement.

Motion made to adjourn, motion seconded and carried unanimously.

List of Documents and Other Items Used at the Meeting

1. Massachusetts Gaming Commission August 28, 2012 Notice of Meeting & Agenda
2. August 8, 2012 Meeting Minutes of Massachusetts Gaming Commission
3. August 14, 2012 Meeting Minutes of Massachusetts Gaming Commission
4. August 21, 2012 Meeting Minutes of Massachusetts Gaming Commission
5. Massachusetts Gaming Commission Job Description and Solicitation of Applications for the Position of General Counsel
6. Massachusetts Gaming Commission Director of the Investigations and Enforcement Bureau (IEB) Job Description
7. Massachusetts Gaming Commission Racing Division Suffolk Steward Ruling No. 1016 Final Decision and Order
8. Massachusetts Gaming Commission Racing Division State Police Ejection Tentative Decision – Marco A. Chavez
9. Massachusetts Gaming Commission Racing Division State Police Ejection Tentative Decision – Josue Morales Marcano
10. Massachusetts Gaming Commission Racing Division License Denial Plain Ridge Judge Ruling No.1001-12, Extension for Filing Objections to the Tentative Decision
11. August 10, 2012 Letter from Law Office of Jeffrey R. Pocaro Regarding Walter Case
12. August 27, 2012 Memorandum from Spectrum Gaming Group Regarding Strategic Plan Outline – Working Draft
13. August 8, 2012 Letter from Charles Blanchard, Palmer Town Manager
14. August 17, 2012 Letter from American Gaming Association Regarding Global Gaming Expo (G2E) 2012
15. G2E 2012 Expo Informational Flyers

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