

**The Commonwealth of Massachusetts**  
**Massachusetts Gaming Commission**

**Meeting Minutes**

**Date:** September 4, 2012

**Time:** 1:00 p.m.

**Place:** Division of Insurance  
1000 Washington Street  
1<sup>st</sup> 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 25<sup>th</sup> public meeting.

**Approval of Minutes:**

See transcript page 2.

Commissioner McHugh stated that the minutes for August 28, 2012 will be ready for approval at the next Commission meeting.

**Administration:**

See transcript pages 2-7.

Executive Director Search Update – Commissioner Stebbins stated that the posting for Executive Director will close on September 7, 2012. JuriStaff continues to make outreach efforts and he suggested to them they not initiate any new contacts after September 7, although they will continue to reach out to people they have previously tried to contact. He has three initial phone interviews scheduled for this week and stated that he is impressed with the pool of candidates.

Additional Hires – Commissioner McHugh stated that he has made revisions to the General Counsel job description approved at the last Commission meeting and one of the prequalified personnel firms will be contacted to provide assistance with the search. Ten resumes are in hand for the Staff Attorney position and selection of the candidates to interview will be done this week. Commissioners McHugh and Cameron will do the screening and provide a final candidate for approval by the Commission. Commissioner McHugh reached out to the internship program

at the Boston University School of Law and will send them a job description for potential candidates for a one year internship.

Commissioner Cameron stated that the job description for the Deputy Director of Investigations and Enforcement was approved at the last Commission meeting. Some corrections have been made and the position will be posted this week. She stated that she has spoken to a number of leaders in law enforcement and public safety who may be able to assist with recruiting some strong candidates for the position.

Project Management Consultant - Commissioner Zuniga stated that a meeting was held with the Commission's consultant, PMA, and the goal is to have a draft of the initial outline of the schedule prepared by September 11, 2012. Receipt of the draft will coincide with delivery of the gaming consultant's timeline component of the strategic plan.

**Racing Division:**

See transcript pages 7-9.

Operations Update – Commissioner Cameron stated that the Commission visited Suffolk Downs last week and now has a better understanding of racing operations. She has received several last-minute applications for the Director of Racing position and is reviewing them. Interviews are being scheduled and will begin this week. Chairman Crosby asked if the legal paperwork regarding Suffolk Downs has been received. Commissioner Cameron stated that she asked the attorney for the racing division to obtain the documents but has not yet received them. When she does, she will give them to Commissioner McHugh for his initial review so that the pertinent portions can be delivered to all of the Commissioners.

**Project Work Plan:**

See transcript pages 9-54.

Consultant Status Report – Kristen Gooch, Project Manager for the gaming consultants, addressed the Board. She stated that over the last week the team delivered the RFA Phase 1 application and instructions, as well as versions of the multijurisdictional form, the Massachusetts supplement, and the business entity disclosure form with annotations designating the responses the Commission plans to consider presumptively exempt from public disclosure. The team continues to work on a number of items relative to RFA-1 and the strategic plan. They are focusing on completing a draft of the strategic plan that will be made available early next week. Commissioner Zuniga stated that a scope of work is being drafted for the RFA-2 services. He stated that he would like to have a future discussion to answer questions relative to the budget component of the strategic plan.

Phase 1 Regulations – Commissioner McHugh stated that three documents are before the Commission for approval: the multistate personal qualification form, the business entity disclosure form, and the Massachusetts supplement to the multistate personal form. Also included are the instructions that will accompany the forms when they are posted. He stated that the length and content of these forms indicates how extensive and detailed the process of determining qualifications is going to be. The investigatory phase is going to take careful monitoring and investigation as required by the governing statute. He stated that the intent is to post these forms in the next day or two for a period of public comment.

*Motion made by Commissioner McHugh to adopt the forms for the purpose of publishing them to see if there are public comments with respect to their content. Motion seconded by Commissioner Cameron. The motion passed unanimously by a 5-0-0 vote.*

Commissioner McHugh stated that the hearing on the draft RFA-1 regulations will take place next Monday and there will likely be comments, so he has proposed a mechanism to process the comments in a timely fashion and obtain input from all concerned. The process would include providing the comments to all the Commissioners, having Anderson and Kreiger array the comments in groups that apply to particular sections of the draft regulations, give them to the gaming and legal consultants for feedback, and then provide the resulting information to the Commission so it can determine which, if any, comments merit changes to the draft. The goal is to meet the deadline of issuing the RFA-1 in mid-October.

Commissioner McHugh stated that the Commission must decide how it will handle Monday's multi-location public hearing. The hearing locations are the Boston Convention and Exhibition Center, Springfield Technical Community College, and Massasoit Community College in Brockton. Commissioner Cameron recommended having two Commissioners present at the Springfield meeting location. Commissioner McHugh stressed that these sessions will be information-gathering sessions, not interactive sessions in which deliberation will be conducted among the Commissioners and the Commissioners will not ask for diverse opinions from the presenters. Chairman Crosby stated that the hearing is scheduled to begin at 4:00 p.m. and could run as late as 7:00 p.m. to allow people who may be working to attend and comment. Commissioner Stebbins and Chairman Crosby will attend the Springfield hearing, Commissioner Cameron the Brockton hearing, and Commissioners McHugh and Zuniga the Boston hearing. The Commission agreed that a set of opening remarks and instructions should be prepared so the same information is presented at each location. Commissioner McHugh recommended having a signup sheet for the speakers at each location.

Technical Assistance to Communities – Commissioner McHugh stated that no pending inquiries require a response from the Commission. Director Driscoll has been handling the incoming questions and this process is up-to-date.

Commissioner Stebbins stated that he is in the process of wrapping up reference and follow-up calls for the ombudsman candidates.

Springfield Schedule and Process – Chairman Crosby stated that there has been a great deal of discussion in western Massachusetts about the Springfield casino selection process and the Mayor of Springfield has submitted a letter requesting advice on the issue of his selection of the law firm of Shefsky & Froelich to act as the city’s advisor with respect to that process. Commissioner McHugh stated that the State Ethics Commission is created for this purpose and the Commission is not qualified or statutorily empowered to answer this type of question. He recommended the State Ethics Commission answer the Mayor’s question formally and in writing. Commissioner Stebbins stated that he agreed with Commissioner McHugh, as the ethical question is beyond the Commission’s purview. Commissioner Zuniga stated that he has many questions for Springfield as it appears they have entered into a contractual agreement and are issuing an RFQ. Commissioner Cameron stated that the Commission does not have enough information to opine on this matter and cannot move forward without a direct conversation with officials in Springfield. Chairman Crosby stated that there were some media reports and some perceptions to the effect that the Mayor was following a process directed or approved by the Commission. Commissioner McHugh stated that he would like to see a written State Ethics Commission opinion to see the Commission’s reasoning and whether there are any issues the Gaming Commission ought to pursue.

Chairman Crosby stated that there are two data points to consider; one is that the firm in question was selected and at the same time it is doing work for two of the four bidders. He stated that the Commission is responsible for the integrity of the final selection process and the slightest impropriety by any participant at any point along the way could adversely affect the integrity of the entire process. He stated that he believes that the judgments made in Springfield may not be the right judgments and that those judgments are calling the integrity of the process into question. He stated that if a similar matter had come before the Commission, he would have said we could not use a firm that is currently representing applicants or potential applicants for a casino license and therefore believes that Springfield cannot do so. Commissioner McHugh disagreed with Chairman Crosby on whether the Commission had sufficient data to make a final decision and on his belief that the Commission’s likely approach to a similar conflict issue creates a standard that the Commission should apply to others. He stated that before the Commission weighs in there should be a judgment from the State Ethics Commission.

Commissioner Stebbins stated that he agrees the first step should be a ruling from the State Ethics Commission. If the Mayor of Springfield has already received an ethics opinion the Commission can ask that he share that opinion. If not, the Commission could request that an opinion be sought. He recommended sending a letter to the Mayor asking that their process be stopped until the Commission can meet with him next week. Commissioners Zuniga and Cameron agreed with this recommendation. The Commission agreed to send a letter today asking the Mayor to postpone the Springfield process until the Commission has a chance to meet with them, and inviting them to come to the next Commission meeting on Tuesday, September 11, 2012.

**Public Education and Information:**

See transcript pages 54-79.

Community and/or Developer Outreach/Responses to Requests for Information – Chairman Crosby stated that the Commission has received a series of questions from City Manager Jay Ash of Chelsea which arose from the Western Mass Forum and Commissioner McHugh has drafted answers to those questions. Commissioner McHugh stated that the first question deals with the local capital projects fund. The legislation created a number of funds. The taxes collected from the gaming licensees will go into a fund, out of which disbursements are made to a series of other funds, and disbursements are made from those funds to end users. In most of those funds, the mechanism for distribution is stated in the legislation but the legislation contains no such mechanism for the local projects capital fund. He recommended contacting the Comptroller to see if he has information about this fund and, if he does not, the Commission will need to advise the Legislature that the fund is, in effect, an orphan with respect to which guidance regarding distribution is required. Commissioner Zuniga agreed to follow up with the comptroller.

Commissioner McHugh stated that the second question was whether there is a set percentage of gross gaming receipts that will be shared with the host and surrounding communities. He stated that the answer is no. 6.5% of gross gaming revenues goes into the community mitigation fund, and cities and towns can apply for distributions from the fund, but there is no set percentage that goes to a host or surrounding community. No regulations have been established yet regarding the criteria for distribution of money from the fund. The third question was whether host and surrounding community agreements may include payment for unrestricted local government use or whether payments covered by those agreements had to be directed to mitigating the effects of a gaming establishment. Commissioner McHugh stated that he misinterpreted this question and will have to do further research on the answer.

The fourth question was whether community mitigation funds would be available to the community before construction began or the facility opened. Commissioner McHugh stated that he thought that this question focused on the statutory mitigation fund, not on funds covered by host community agreements. So viewed, the answer is that no statutory funds will be available until there is revenue from the operations of a gaming licensee. He recommended adding to the answer that mitigation funds covered by the host community agreement will be available according to the terms of that agreement. The Commission decided to postpone the discussion of this question until more information is available. Commissioner Stebbins stated that he is meeting with Mr. Ash and will obtain clarification of the questions and provide that information to Commissioner McHugh.

Commissioner McHugh stated that the next question was whether mitigation agreements are contracts and, if so, whether municipalities can legally enter into fifteen year contracts with a casino. Commissioner McHugh stated that the answer to both questions is yes. The next question concerns how will the Gaming Commission determine the social impacts the communities say they are experiencing. Commissioner McHugh stated that this question requires significant thought in which the Commission has not yet begun to engage. The final

question is whether the Commission could create a table listing all gaming revenue sources available to communities and the manner in which the communities could obtain them. The Commission agreed that that creation of such a table is a great idea and that the table should be posted on its website. The commission also agreed that Commissioner McHugh should propose revised answers to the questions which, after Commission approval, can be posted in the FAQ section of the Commission's website for the guidance of all interested individuals, cities and towns.

Chairman Crosby stated that he had received a thoughtful letter from a citizen asking about free and discounted drinks and happy hours at casinos. He recommended the ABCC come to a future Commission meeting to provide an update on licensing, impact on neighboring facilities, and happy hours. Commissioner Cameron stated that she would set this up.

Report from Director of Communications and Outreach – Director Driscoll stated that the website is on track and, after a thorough review of some excellent proposals, a vendor has been identified. She is in the process of finalizing a contract. She issued a press release on the large volume of speaking engagements the Commissioners have over the next six to seven weeks and she will continue to increase awareness of the speakers' bureau. Chairman Crosby asked for an update on enrollment for the Diversity Forum. Director Driscoll stated that she does not have the exact numbers, but Janice Reilly had told her the number of attendees was larger than any other forum the Commission has conducted, with approximately 78 advance registrations..

Acting Ombudsman Report – Chairman Crosby stated that there have been no inquiries apart from those associated with the Springfield situation.

Discussion of Diversity/Inclusion Forum, September 19, 2012 – Chairman Crosby stated that this forum is set up and registration is open for anyone who would like to attend.

Promoting "Destination" Gaming Facilities - Chairman Crosby stated that the Commission would like to ensure that casino operators in the Commonwealth work with other tourism and local business entities to maximize tourism revenues for the Commonwealth. He noted, however, that the Commission has not talked proactively about measures it can take to encourage promotional outreach. He asked if there are ways that other elements could be packaged with casinos to pull in tourist dollars. Commissioner Stebbins stated that the Commission should encourage creation of MOAs between developers and groups in the tourism business in the area where the gaming facility will be located. Those MOAs should be included in the developer's application. He stated that Massachusetts has more of an opportunity than some other states have to connect visitors who come here for gaming with regional amenities involving history, cultural, theater, and sports. Chairman Crosby recommended that the Commission have a brainstorming session on criteria that can be put into the application to use in judging the best applications.

### **Research Agenda:**

See transcript pages 79-81.

Chairman Crosby stated that he has worked with Commissioner Zuniga on creating a draft RFI for the research agenda. In the near future, he and Commissioner Zuniga will meet with an ad hoc group to review the draft with the goal of posting it by September 14, 2012.

*Motion made to adjourn, motion seconded and carried unanimously.*

### **List of Documents and Other Items Used at the Meeting**

1. Massachusetts Gaming Commission September 4, 2012 Notice of Meeting & Agenda
2. August 31, 2012 Email, Subject RFA Phase1 Forms and Instructions
3. Instructions for Applicants for a Gaming License-RFA Phase 1 Application
4. Massachusetts Gaming Commission Multi-Jurisdictional Personal History Disclosure Form
5. Massachusetts Gaming Commission Business Entity Disclosure Form
6. Massachusetts Gaming Commission Massachusetts Supplemental Form to Multi-Jurisdictional Personal History Disclosure Form for Key Gaming Employees and Qualifiers
7. August 29, 2012 Memorandum Regarding Proposed Processing of Comments on Phase 1 Regulations
8. August Western Massachusetts Forum Questions from City of Chelsea
9. City of Springfield August 27, 2012 Press Release

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