

1 THE COMMONWEALTH OF MASSACHUSETTS

2 MASSACHUSETTS GAMING COMMISSION

3

4 PUBLIC MEETING #50

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8 COMMISSIONERS

9 James F. McHugh

10 Bruce W. Stebbins

11 Enrique Zuniga

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15 January 31, 2013, 1:00 p.m.

16 MASSACHUSETTS GAMING COMMISSION

17 84 State Street, Suite 720

18 Boston, Massachusetts

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1 PROCEEDINGS:

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3 COMMISSIONER MCHUGH: It's 1:00. So,

4 let me call to order the 50th meeting, the

5 half-century mark -- 50th meeting of the

6 Massachusetts Gaming Commission.

7 The first order of business on the

8 agenda, at least, is the approval of the minutes of

9 January 17, but I have not circulated those. So,

10 we'll have to do that at the next meeting. We'll

11 post a draft though, because that's now a couple of

12 weeks old. So, we can post a draft and formally

13 approve them at the next meeting.

14 The second item is a Racing Division

15 report. And Director Durenberger, we'll turn that

16 over to you.

17 DR. DURENBERGER: Thank you, Mr. Chair

18 -- I may pause just one moment while others join us.

19 -- Mr. Chair and Commissioners, before you today we

20 have what we believe are some good proposed changes

21 to 205 CMR 3.00, which governs harness horseracing

22 and 205 CMR 4.00, which governs running horseracing.

23 What we would like to do is schedule a

24 public hearing for February 25, Monday, February 25

1 on these proposed changes. So, backing up with that
2 timeline, that would require of course that we file
3 our small-business impact statement and these
4 regulations, proposed regulations with the
5 Massachusetts Register, etc. So, in keeping with
6 that timeline, I put them before you today. So, I
7 am here to answer any questions that you have.

8 COMMISSIONER MCHUGH: So everybody is
9 clear, this is the beginning of the formal
10 regulation promulgation process, will include a
11 hearing on February 25, a formal public hearing, and
12 also a public comment period that the statutes
13 require.

14 DR. DURENBERGER: Yes.

15 COMMISSIONER MCHUGH: Are we going to
16 post the draft, is that the plan, as soon as we submit
17 it to the Secretary of State?

18 DR. DURENBERGER: Yes.

19 COMMISSIONER MCHUGH: So, that we'll
20 actually have a longer comment period, beyond the
21 formal period.

22 These regulations really bring
23 Massachusetts into the forefront of the
24 veterinarian medication aspect of both thoroughbred

1 and harness racing, is that so?

2 DR. DURENBERGER: They do. They are
3 based in large part on the model rules as promulgated
4 by the Association of Racing Commissioners
5 International. We have spent quite a bit of time
6 working with stakeholders in the field to get their
7 input as we have come along.

8 You will see in your packet a consensus
9 document put together by Plainridge Racecourse, the
10 Harness Horsemen's Association of New England and
11 Standardbred Owners of Massachusetts with their
12 requests for change.

13 They did an excellent job meeting at
14 times when I wasn't available and putting together
15 this document. Then they had some time together as
16 well and the thoroughbred folks as well.

17 But the bulk of the changes are based
18 on the model rules of the RCI. And they will enhance
19 the program here. Horseracing, as I think I've
20 mentioned to you in the past, is a sport where you
21 may be moving from state to state. So, if the
22 different states play by different rules, it makes
23 it very difficult for the horsemen, the
24 veterinarians and also the gamblers.

1 The pari-mutuel customer likes to have
2 some assurance of the integrity of the race and that
3 everybody is racing by the same, operating under the
4 same set of rules. So, that's what this regulatory
5 change is designed to do. And we think it will do
6 that.

7 COMMISSIONER MCHUGH: Great.

8 Questions?

9 COMMISSIONER ZUNIGA: Director, could
10 you describe for the benefit of the record and our
11 attendees some of the steps that you have undertaken
12 until this process relative to consultation and with
13 the Horsemen Association and others. Again, for
14 the benefit of the record, I think it's very
15 relevant.

16 DR. DURENBERGER: Sure. We've had
17 in-person meetings. We've had phone conferences
18 and we've invited email submissions and written
19 submissions with stakeholders on both holds,
20 thoroughbred and standardbred, the horsemen's
21 group, the representatives from the horsemen's
22 group, representatives from the owners and breeders
23 groups and of course the track operators as well and
24 our own staff.

1 I've had some conference calls with the
2 Commission judges, the Commissioner stewards, we've
3 included the association judges and stewards in
4 those phone conferences as well.

5 COMMISSIONER ZUNIGA: But as
6 Commissioner McHugh was noting, this is only the
7 start of the formal comment period. So, if there's
8 any other comments, we hope to get them starting
9 today.

10 DR. DURENBERGER: Absolutely, yes.
11 And this will be on the website as soon as they've
12 been filed.

13 COMMISSIONER MCHUGH: Any questions,
14 comments, thoughts?

15 COMMISSIONER STEBBINS: Yes. The
16 only question I came across, and I applaud you and
17 your team for adopting, again, some of the new
18 standards with respect to medications and
19 treatments.

20 The question I have is relative to
21 suspensions both for harness and thoroughbred. The
22 language changing from suspension shall be for
23 x-number -- previous language was Massachusetts
24 Racing days and you're changing that to consecutive

1 calendar days.

2 The baseball analogy that the pitcher
3 gets suspended for five days. Gee, what do you
4 know, he doesn't pitch for another five days
5 anyways. Is the penalty or the impact being really
6 felt by the person who is being suspended if you go
7 to consecutive calendar days as opposed to racing
8 days?

9 DR. DURENBERGER: Right. So, there's
10 two ways that a judge or steward can write a ruling
11 against an occupational licensee. So, they may do
12 something for a minor infraction. It may be three
13 days with the intent being to set that person out
14 for three racing days.

15 Because we do not necessarily race
16 every day or race in consecutive days in
17 Massachusetts, if you have a suspension for three
18 racing days, you can catch three racing days. But
19 if the individual wants to race in another state and
20 that state has a system of reciprocity, which most
21 do, then it becomes confusing for the other states.

22 So, what you may do is you may have a
23 seven-day suspension, which begins on x-day and ends
24 on x-day. You're capturing three Massachusetts

1 racing days in your seven-day suspension, but you
2 also extend that period of suspension into any state
3 that chooses to honor the reciprocity.

4 Also, when you look up on some
5 computerized databases, if somebody is doing a
6 license search -- say one of these individuals goes
7 to another state to race, and applies for a license
8 at that point or shows up in the entries even as
9 intending to come, and someone looks up a ruling,
10 like for example, if they just see three days and
11 they operate under a system of consecutive calendar
12 days, they may think those three days are up.

13 This is also to be consistent with the
14 rest of the industry, the majority of which does
15 calendar days, consecutive calendar days. But it
16 does have an impact for our judges and stewards in
17 the way they write their rulings.

18 COMMISSIONER STEBBINS: Okay.

19 COMMISSIONER MCHUGH: Any other
20 questions? So, I would then move that we begin the
21 administrative process, including the public
22 comment period for the proposed changes to 205 CMR
23 3.00 and 4.00 by sending these draft regulations and
24 the other appropriate papers to the Secretary of

1 State and posting the appropriate notices.

2 COMMISSIONER STEBBINS: Second.

3 COMMISSIONER MCHUGH: Discussion?

4 All in favor, aye.

5 COMMISSIONER STEBBINS: Aye.

6 COMMISSIONER ZUNIGA: Aye.

7 COMMISSIONER MCHUGH: Done. This is

8 great. This will get these regulations in place

9 with whatever changes come out of the public hearing

10 process by the time racing starts so that the

11 citizens of the Commonwealth can have the very best

12 in thinking about these subjects as the new racing

13 season starts. That's great.

14 DR. DURENBERGER: And we should have

15 an announcement on the lab RFP if not next week, the

16 week after that. And that of course ties in very

17 carefully with this.

18 And then can I, for the record, just

19 point a typo that was brought to my attention? Not

20 a typo so much as there is some language in provision

21 3.14. I apologize for not having page numbers,

22 probably the eighth page in, number 15 regarding

23 temporary owner licenses. It's on the bottom right

24 of the page. In that provision and this was copied

1 and pasted from the model rules, it refers to in the
2 middle of the paragraph Racing Commission and of
3 course, we'll need to update that to say
4 Massachusetts Gaming Commission.

5 COMMISSIONER MCHUGH: So, the
6 document we send to the Secretary of State will have
7 that correction in it?

8 DR. DURENBERGER: Yes.

9 COMMISSIONER MCHUGH: Sure. Great.
10 All right. Thank you very much and thanks to the
11 team that put this together. This is terrific.

12 COMMISSIONER ZUNIGA: I learned a lot
13 about Furosemide.

14 COMMISSIONER MCHUGH: Right. It's
15 good stuff too. It could be mixed. All right.
16 So, that's item three on the agenda.

17 The next item Mr. Ombudsman Ziemba is
18 yours, I believe. That is the Collins Center ISA
19 approval.

20 MR. ZIEMBA: Yes. I'm going to defer
21 a little bit to Commissioner Stebbins. I'll give
22 a brief overview of this.

23 This reflects some work that the
24 Commission had been focusing on for a good number

1 of months in order to get information to then provide
2 to host and surrounding communities development
3 agreements and the like. Conversations happened
4 about what additional information the Collins
5 Center could provide to us so that we could properly
6 inform communities.

7 COMMISSIONER MCHUGH: Great.

8 COMMISSIONER STEBBINS: Just to
9 backtrack, last summer when all of us started
10 onboard, I think we had a general overall concern
11 about the impact of the casino development on small
12 communities.

13 Many small communities across the
14 Commonwealth, as many of you know, have part-time
15 planning staff, part-time boards of selectmen, a lot
16 of part-time positions. And obviously being
17 prepared for a development project of this size and
18 scope would be worrisome to some communities.

19 So, we thought about different ways
20 that we may be able to offer assistance to these
21 communities. I reached out to the Collins Center
22 at UMass-Boston.

23 They are a body that is specifically
24 focused on working with Massachusetts

1 municipalities on a number of local governments and
2 management issues. I like the fact that they have
3 done relatively if any outside work with private
4 sector clients. So, I felt we were partnering with
5 another State entity that would in a sense be
6 objective and impartial on our behalf.

7 We discussed a number of ways that from
8 their experiences as well as some of the initial
9 conversations we have had with communities about how
10 we might be able to be helpful. Some of that kind
11 of found itself into a proposal they generated for
12 us over the course of the summer that included
13 looking at best case practices, similar development
14 agreements that have been used by other communities
15 with projects of this size.

16 So, they gave us that proposal. We
17 kind of sent them -- engaged them to start on two
18 tracks, looking at development agreements as well
19 as doing some research, case studies, lessons
20 learned on other jurisdictions where large gaming
21 facilities had gone in. What were impacts that
22 weren't anticipated? Doing direct conversations
23 actually with those leaders in those individual
24 jurisdictions.

1 They've done a lot of that work. And
2 at the time, they were kind of moving ahead on those
3 two projects. We were fortunate enough to hire an
4 ombudsman who came in as we had somebody then
5 full-time working with these municipalities. And
6 obviously, as we've gone through this process, we've
7 been able to narrowly identify what communities are
8 potential host communities, what communities are
9 potential surrounding communities. John has been
10 out there focusing on communications with those
11 local leaders.

12 We decided to at that point reassess
13 what assistance we could offer the local
14 communities, what services and assistance they
15 might need. They were certainly now being
16 approached by developers. And developers would
17 front money to help them get some consultancy help.

18 So, we decided to stop the work that
19 they had been on-track to do and invited their
20 participation to engage them in conversations with
21 these other communities to see what assistance could
22 be made available going forward.

23 But as we got into this, I also didn't
24 think it would only be information that would be

1 helpful to the communities, I thought it would be
2 information that would be helpful to us as a
3 Commission. How have other jurisdictions dealt
4 with the local impacts? And for that reason, I
5 thought the information going forward would, again,
6 not only help communities across Massachusetts but
7 would also be helpful to us as we move ahead with
8 the RFA-2 Phase in examining the impact of these
9 proposed developments.

10 So, that's kind of the start of it.
11 And John will kind of just quickly take us through
12 what some of the next steps might be in terms of our
13 relationships with the Collins Center going
14 forward.

15 MR. ZIEMBA: So, as we started taking
16 a look at how we are providing assistance to
17 communities, obviously, you've heard me discuss
18 before what we've been talking to the regional
19 planning agencies about. We are in the context of
20 some very intense discussions with them about what
21 types of services they could provide to host
22 communities, but more importantly or more directly
23 surrounding communities. And within that context,
24 we're trying to evaluate how to most efficiently get

1 information out to communities in a form that is
2 manageable by those communities.

3 So, what our thought was is that the
4 plan that the Collins Center had put forward for our
5 review that we should really take a look at that in
6 the context of how we're going to provide this
7 assistance to regional planning agencies
8 potentially that the Commission takes a look at
9 them.

10 COMMISSIONER MCHUGH: The four
11 bullets that are in the memorandum that is part of
12 the packet, are those of the components of the
13 project that they're committed to doing with others
14 to be scoped and planned as we move forward? Is that
15 how that is going to work?

16 MR. ZIEMBA: Yes. This is the more
17 refined version, the more limited version. Then if
18 there are other assistance they can provide, that
19 would after further discussions.

20 COMMISSIONER MCHUGH: All right. It
21 looks like a great resource to have both -- Although
22 it started out, as Commissioner Stebbins said, as
23 thinking about service to the host and surrounding
24 communities, this is something that we're going to

1 need to think about and see what others have done
2 as well.

3 That's coming to the floor as we think
4 about and look at the evaluation criteria and plan
5 for the RFA-2 process. So, this will be very
6 helpful to all of us.

7 COMMISSIONER ZUNIGA: I might just add
8 that along those lines it's also cost effective and
9 timely. So, I think it's a good option.

10 COMMISSIONER MCHUGH: What should we
11 do today, Commissioner? Should we approve -- vote
12 to approve this ISA with them?

13 COMMISSIONER STEBBINS: Sure. I
14 would recommend that the Gaming Commission approve
15 the Interagency Service Agreement, ISA, with the
16 Edward J. Collins Center for Public Management at
17 UMass-Boston for \$40,000.

18 COMMISSIONER MCHUGH: We'll take that
19 as a motion. Second?

20 COMMISSIONER ZUNIGA: Yes, second.

21 COMMISSIONER MCHUGH: All in favor,
22 aye.

23 COMMISSIONER STEBBINS: Aye.

24 COMMISSIONER ZUNIGA: Aye.

1 COMMISSIONER MCHUGH: The motion is
2 approved and we have a good agreement with the
3 Collins Center.

4 I should have noted at the beginning
5 that Commissioner Cameron and Chairman Crosby are
6 not present today. They are on a well-earned
7 vacation and we are getting reports periodically
8 from them. They seem to be doing fine.

9 And really, we wanted to go forward
10 with this meeting today to approve these two pieces
11 of business. We need to get the regulatory process
12 in motion so that we can have those regulations in
13 place by the beginning of the next racing season.

14 And we are in the middle of working
15 through arrangements with and thinking about
16 arrangements with host and surrounding communities.
17 So, we needed to get this piece with the Collins
18 Center done as well.

19 But that is all the business that we
20 have for today, unless there is something that we
21 didn't think about that needs to be done today. And
22 I can think of none and neither can my colleagues.
23 So, I will entertain a motion to adjourn.

24 COMMISSIONER ZUNIGA: So moved.

1 COMMISSIONER STEBBINS: Second.

2 COMMISSIONER MCHUGH: All in favor,

3 aye.

4 COMMISSIONER STEBBINS: Aye.

5 COMMISSIONER ZUNIGA: Aye.

6 COMMISSIONER MCHUGH: Thank you all

7 for coming.

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9 (Meeting adjourned at 1:18 p.m.)

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1 ATTACHMENTS:

2 1. Agenda

3 2. Report to Massachusetts Gaming Commission

4 Racing Division 205 CMR 3.00 and 4.00

5 Comments and Recommendations on New or

6 Amended Rules and Regulations

7 3. January 28, 2013 Memorandum Regarding

8 Interagency Service Agreement (ISA) with

9 the Edward J. Collins Center for Public

10 Management at UMass–Boston

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12 SPEAKERS:

13 Dr. Jennifer Durenberger, Director of Racing

14 John Ziemba, Ombudsman

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1 C E R T I F I C A T E

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3 I, Laurie J. Jordan, an Approved Court Reporter, do
4 hereby certify that the foregoing is a true and
5 accurate transcript from the record of the
6 proceedings.

7

8 I, Laurie J. Jordan, further certify that the
9 foregoing is in compliance with the Administrative
10 Office of the Trial Court Directive on Transcript
11 Format.

12 I, Laurie J. Jordan, further certify I neither am
13 counsel for, related to, nor employed by any of the
14 parties to the action in which this hearing was
15 taken and further that I am not financially nor
16 otherwise interested in the outcome of this action.

17 Proceedings recorded by Verbatim means, and
18 transcript produced from computer.

19 WITNESS MY HAND this 31st day of January, 2013.

20

21

22 LAURIE J. JORDAN My Commission expires: May 11, 2018

23 Notary Public

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