

1 THE COMMONWEALTH OF MASSACHUSETTS
2 MASSACHUSETTS GAMING COMMISSION
3 PUBLIC MEETING #159
4
5

6 CHAIRMAN

7 Stephen P. Crosby
8

9 COMMISSIONERS

10 Gayle Cameron (present via telephone)

11 James F. McHugh

12 Bruce W. Stebbins

13 Enrique Zuniga
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19 July 29, 2015 3:00 p.m.

20 MASSACHUSETTS GAMING COMMISSION
21 rd
101 Federal Street, 23 Floor
22 Boston, Massachusetts
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1 P R O C E E D I N G S :

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3 CHAIRMAN CROSBY: We are calling to
4 order public meeting number 151 on - sorry,
5 159, excuse me on July 29, 2015 this time at
6 the Mass. Gaming Commission at a little after
7 3:00.

8 Before we start, we do have one
9 member of the Commission who is attending
10 remotely. She needs to do that by at least one
11 of five reasons and that in her case would be
12 geographic location. She is not nearby. So,
13 Commissioner Cameron is calling in. We do need
14 to double-check that you can hear all of us.
15 Rick, do you want to say something so we can
16 make sure she can hear you?

17 MR. DAY: I can certainly say
18 something. How does that work, Gayle?

19 COMMISSIONER CAMERON: I can hear
20 you, thank you very much.

21 CHAIRMAN CROSBY: And you can hear
22 the other Commissioners? Bruce?

23 COMMISSIONER STEBBINS: Hi, Gayle.

24 COMMISSIONER CAMERON: Hi, Bruce. I

1 can hear loud and clear.

2 COMMISSIONER ZUNIGA: Hi, again.

3 It's Enrique.

4 COMMISSIONER CAMERON: Yes, loud and
5 clear.

6 COMMISSIONER MCHUGH: Hi, Gayle.

7 This is Jim.

8 COMMISSIONER CAMERON: Hi, Jim. I'm
9 in my old mode, loud and clear.

10 COMMISSIONER MCHUGH: 10-4.

11 CHAIRMAN CROSBY: And there is a
12 rule that when we have remote members
13 participating that we do need to have roll
14 votes, which we will do.

15 COMMISSIONER CAMERON: Okay.

16 CHAIRMAN CROSBY: The only other
17 thing is that we are recording this. We will
18 post it on the website. It's not being
19 streamed live as we usually do. We also are
20 having a transcript prepared as we do for all
21 of our meetings. So, this shortly will be up
22 on the website, archived as all of our meetings
23 usually are. I think that's it by way of
24 preparation.

1 The topic on the table is
2 consideration of Executive Director Day's
3 separation agreement. You have all seen the
4 materials. This is something that Executive
5 Director Day and I have talked about at some
6 length and come to what we agree is an
7 appropriate package.

8 Just the highlights, I think, and if
9 anybody wants to raise other issues, just from
10 my standpoint so that the key points are that
11 he will be having a combination of work and
12 vacation, previously scheduled vacation between
13 now and September 11. As of September 14 --
14 September 11 will be his last day of
15 employment.

16 We have agreed to a six-month
17 consulting agreement starting the following
18 week. For that consulting agreement, he will
19 be paid \$15,000 a month. He is obligated to
20 respond to us at any time with any tasks that
21 we need on a timely basis, and to make that a
22 priority.

23 We will work out, and we have
24 already begun to do this, a list of work that

1 needs to get done. Two things we've already
2 talked about that will extend well into the
3 fall, will be staying in charge or deeply
4 involved in the internal control process and
5 the overseeing of the matching of the
6 licensee's internal control reg. proposals to
7 or their proposals to our regs, and keeping the
8 variance reports current. And creating the
9 final variance report in October.

10 He also is going to continue in the
11 role of concluding performance evaluations,
12 doing all of the performance evaluations for
13 all of his direct reports. And that will be
14 completed in a timely fashion. There will be a
15 bunch of other things. We've begun to have a
16 number of conversations about this.

17 The Commission also asked for and
18 received the agreement back in the event that
19 Executive Director Day gets other work prior to
20 the end of the six months that we have the
21 right to terminate this agreement and probably
22 will.

23 I think those are sort of the key
24 points. Any other thoughts, questions?

1 COMMISSIONER ZUNIGA: Maybe just for
2 the record you mentioned September 14 but I
3 thought it was September 11?

4 CHAIRMAN CROSBY: Eleventh is his
5 last day of employment, and then there's the
6 weekend. And then starting the 14th is the
7 beginning date of his -- the next business day.

8 COMMISSIONER ZUNIGA: All right.

9 COMMISSIONER MCHUGH: My only
10 comment is that I am delighted that we have
11 this consulting agreement. There's a lot that
12 you do and have done, Rick, that we really can
13 benefit from your continuing to help us with as
14 we move into this next phase.

15 So, in this sort of valley between
16 milestones and between periods of intense
17 activity, this is a great time to think about
18 some of the things, reflect on and you've been
19 in a position to see them and help us think
20 through the processes that will take us to the
21 next steps. So, I'm delighted that we have
22 this consulting agreement and take advantage of
23 your skills and your insights as we move
24 forward.

1 COMMISSIONER CAMERON: I would concur
2 with those thoughts that certainly Rick's
3 gaming expertise has been invaluable to us.
4 And probably a week doesn't go by when
5 something comes up and we're trying to think
6 through what's the best practice when it comes
7 to this issue.

8 And I know that Rick's insight will
9 really, really help us moving forward in the
10 next six months with a number of those issues.
11 So, I would concur with those thoughts.

12 CHAIRMAN CROSBY: Including the
13 after action process which was really set up as
14 a critical item for all of us. Anything else?

15 COMMISSIONER ZUNIGA: Yes. I think
16 it's good. It's also very flexible as I read
17 it that will allow us and Director Day to
18 respond to whatever priority might surface that
19 we had not anticipated. And we have a
20 mechanism in place to make it happen with you
21 as a point person, Mr. Chairman, periodic
22 reports or updates that we may get in the
23 interim. So, I think it's a good framework.

24 CHAIRMAN CROSBY: Okay. Anything

1 else? Director Day, anything that you want to
2 say?

3 MR. DAY: Only that I appreciate the
4 opportunity and be happy to continue to support
5 the Commission where I can.

6 CHAIRMAN CROSBY: Great. Thanks.
7 Do I have a motion?

8 COMMISSIONER ZUNIGA: Yes. We also
9 appreciate your great work, Rick. And I move
10 that this Commission approve the separation
11 agreement presented here in the packet.

12 CHAIRMAN CROSBY: Second?

13 COMMISSIONER STEBBINS: Second.

14 CHAIRMAN CROSBY: Any further
15 discussion? We will have a role call --

16 COMMISSIONER MCHUGH: I too have
17 further discussion. I just want to pick up on
18 Commissioner Zuniga's statement. I think the
19 myriad details that were necessary to get
20 Plainridge open on time and a lot of stuff were
21 accomplished because of your oversight and your
22 thoughtful guidance and leadership. And I am,
23 as all of us I think are, am very grateful for
24 your contributions to getting that major

1 milestone accomplished in such smooth fashion.

2 It really was a major milestone as
3 we said at the time for the Commonwealth and
4 bring us into a new era. And I'm grateful for
5 the role, the oversight role, the planning role
6 with that.

7 MR. DAY: Thank you, Commissioner
8 McHugh. And I have a great staff behind me
9 doing that too as well. So, I appreciate that.

10 COMMISSIONER MCHUGH: A team effort,
11 yes.

12 MS. BLUE: I just want to remind the
13 Commission, you have two agreements in front of
14 you. One is the separation and one is the
15 consulting contract. So, you want to make sure
16 that you approve both in your motion.

17 COMMISSIONER ZUNIGA: On that note,
18 I will amend my motion, which included only the
19 separation agreement to also include the
20 consulting agreement which is also referenced
21 here in the packet as an exhibit to the
22 agreement.

23 CHAIRMAN CROSBY: Second that?

24 COMMISSIONER STEBBINS: Second.

1 CHAIRMAN CROSBY: Any further
2 discussion? We will go by voice vote. All in
3 favor? Commissioner Stebbins?

4 COMMISSIONER STEBBINS: Aye.

5 CHAIRMAN CROSBY: Commissioner
6 Cameron?

7 COMMISSIONER CAMERON: Aye.

8 CHAIRMAN CROSBY: Commissioner
9 Zuniga?

10 COMMISSIONER ZUNIGA: Aye.

11 CHAIRMAN CROSBY: Commissioner
12 McHugh?

13 COMMISSIONER MCHUGH: Aye.

14 CHAIRMAN CROSBY: And the chair
15 votes aye. So, the motion to approve the
16 separation agreement along with its addendum,
17 the consulting agreement is approved
18 unanimously.

19 I just wanted to mention and this is
20 my recommendation. I don't think we're talking
21 anything formal here, but that starting next
22 week my suggestion and recommendation is that
23 Director Karen Wells, IEB Director Karen Wells
24 become the interim director.

1 It's already been decided that in
2 Rick's absence she would take his place. He
3 will still be here until September 11. So,
4 there's nothing that formally needs to happen.
5 It will be just in absence. If we need
6 something more formal, we can do it later. But
7 as a practical matter, the intention would be
8 to make Karen the Interim Executive Director
9 for as long as it takes to get this done.

10 We all know that she already has a
11 very demanding job. She couldn't possibly pick
12 up everything that Executive Director Day has
13 been doing and do them both. So, we will need
14 to work with her, parcel out some of those
15 things.

16 The devil will be in the details in
17 how this works, but we do need a designated ED.
18 And that would be Karen. We've already talked
19 about parceling out some of her work.
20 Commissioner Cameron has said -- Some of Rick's
21 work, Commissioner Cameron has said that she'd
22 be willing to pick up racing. I've talked
23 about picking up the OPM meetings at least for
24 a while. And there will be more such work.

1 We've had a lot of conversations.
2 We've got ideas actually for a bunch of things
3 that the Commissioners might do. Rick actually
4 has interesting ideas about projects that some
5 of us can take on.

6 I also would like to be more
7 involved than I have been in the past when
8 there was a permanent ED. I've been pretty
9 much in the background as the chair, which is
10 appropriate. But I do have a statutory role to
11 be responsible for all of the affairs and the
12 operation of the Commission.

13 And particularly in a transition
14 period like this, I do want to be a little bit
15 more involved. I've talked about that with
16 Karen. I think we're totally comfortable.
17 We'll work out how I will join her at some of
18 the meetings and so forth. She will be however
19 the ED and not me.

20 There are a couple of minor points
21 that I hadn't actually thought about until
22 today. Next week she will be on vacation.
23 There might be a need for a signatory on some
24 document or other. There may be a need, and

1 this will carry on, for variances to be granted
2 to the licensee for various of our regs.

3 Do we need to designate in any
4 formal way somebody to play that role in the
5 absence of both Rick and Karen next week?

6 MS. BLUE: I think it would be
7 helpful to that. I don't anticipate having a
8 lot of that come up. But I think just so that
9 staff is clear and we can let them know for
10 that week. We should probably do that.

11 CHAIRMAN CROSBY: Right. So, I am
12 game -- I still don't know yet. I might be
13 away for Wednesday afternoon and Thursday. So,
14 I would be a natural but maybe if I am going to
15 be away too, maybe I'm not the best choice. It
16 could be Commissioner McHugh. It could be
17 Catherine.

18 COMMISSIONER ZUNIGA: Commissioner
19 Cameron, she's on vacation this week.

20 CHAIRMAN CROSBY: You'll be back
21 next week, right. Does it make any difference?

22 MS. BLUE: No, I don't think so. It
23 can be a Commissioner, sure. And that may be
24 appropriate if you are here all week.

1 COMMISSIONER MCHUGH: I'll be here
2 but not Friday of next week.

3 COMMISSIONER CAMERON: I actually
4 think it might be appropriate to -- We have
5 such a talented staff. -- to utilize another
6 member of the leadership team. I would
7 recommend General Counsel Blue. Some of those
8 decisions may be -- Certainly she has a part in
9 all of the decisions anyway. Everybody runs
10 everything by her. So, I would think that
11 could be appropriate next week.

12 CHAIRMAN CROSBY: Totally fine with me.

13 MS. BLUE: I'm happy to do that.

14 CHAIRMAN CROSBY: You will still be
15 Executive Director, so you can probably
16 delegate those roles to her.

17 MR. DAY: I would still be available
18 electronically.

19 CHAIRMAN CROSBY: Okay. There was
20 another issue that Rick raised that's
21 interesting just for downstream.

22 COMMISSIONER MCHUGH: Before we
23 leave that, if there's going to be delegation
24 if Rick does it, it seems to me Rick does it.

1 And if there's going to be a delegation of
2 somebody else, it seems to me for historians it
3 ought to be done in writing.

4 CHAIRMAN CROSBY: So, Rick ought to
5 send an email that in his absence -- If
6 necessary, in his absence next week that
7 General Counsel Blue will -- and that will be
8 on paper somewhere. Just make sure you include
9 whatever functions you may need to have
10 delegated in that email. Okay. Great, thank
11 you.

12 This just to think about. One of
13 the roles that the ED plays, we've delegated to
14 the ED is to approve variance requests. The
15 variance requests come from in effect the IEB
16 typically or the variance recommendations. If
17 Karen were to, as interim ED were to approve
18 those, you have the IEB approving the IEB's
19 recommendations.

20 So, this is not relevant until next
21 week at the earliest, at the very earliest
22 because you'll still be here electronically
23 assessable, but something we need to think
24 about going forward. That's it for me.

1 Anything else? Anybody else other topics?

2 COMMISSIONER MCHUGH: Just thinking
3 about historians, because Rick is going to be
4 in the position of Executive Director albeit on
5 vacation until September 11 --

6 CHAIRMAN CROSBY: -- and working.

7 COMMISSIONER MCHUGH: -- and
8 working, a combination, the default of all the
9 ED responsibilities remains with Rick during
10 that period, right? We're all agreed on that.
11 And if Rick feels it necessary to, for some
12 reason absence of an availability or something
13 during some part of that to delegate to
14 somebody else any or all of those
15 responsibilities that would be done by --

16 CHAIRMAN CROSBY: Let me just be a
17 little bit more clear about this. Rick is the
18 Executive Director until September 11. He is
19 delegating certain functions to Catherine for
20 the next week.

21 He will delegate those functions
22 probably or some of them at least to Karen
23 thereafter until the 11th as necessary. But
24 there will be a paper trail that puts that

1 delegation in place. Starting the 14th, there
2 will be an Interim Executive Director.

3 MS. BLUE: Yes.

4 CHAIRMAN CROSBY: That's important.
5 I will send something out to the staff too and
6 it's important to kind of keep those lines
7 clear. Thank you for that. Okay. Anything
8 else anybody? Motion to adjourn.

9 COMMISSIONER STEBBINS: So moved.

10 CHAIRMAN CROSBY: Second?

11 COMMISSIONER ZUNIGA: Second.

12 CHAIRMAN CROSBY: Commissioner
13 Stebbins?

14 COMMISSIONER STEBBINS: Yes.

15 CHAIRMAN CROSBY: Commissioner
16 Zuniga?

17 COMMISSIONER ZUNIGA: Aye.

18 CHAIRMAN CROSBY: Commissioner
19 Cameron?

20 COMMISSIONER CAMERON: Aye.

21 CHAIRMAN CROSBY: Commissioner
22 McHugh?

23 COMMISSIONER MCHUGH: Aye.

24 CHAIRMAN CROSBY: And the chair

1 votes aye. The motion to adjourn is passed
2 unanimously. Thank you all very much.

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4 (Meeting adjourned at 3:16 p.m.)

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1 ATTACHMENTS:

- 2 1. Massachusetts Gaming Commission July 29,
3 2015 Notice of Meeting and Agenda
4 2. Massachusetts Gaming Commission July 27,
5 2015 Memorandum Regarding (Executive
6 Director Rick Day) Separation from
7 Employment from Massachusetts Gaming
8 Commission with attachments

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10 MASSACHUSETTS GAMING COMMISSION STAFF:

11 Catherine Blue, General Counsel

12 Rick Day, Executive Director

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C E R T I F I C A T E

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

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

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

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

WITNESS MY HAND this 30th day of July, 2015.



LAURIE J. JORDAN
Notary Public

My Commission expires:
May 11, 2018