



Meeting Minutes

Date: August 22, 2013

Time: 9:30 a.m.

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

Present: Commissioner Stephen P. Crosby, Chairman
Commissioner James F. McHugh
Commissioner Bruce Stebbins
Commissioner Enrique Zuniga

Absent: Commissioner Gayle Cameron

Clicking on the time posted in the margin will link directly to the appropriate section of the video.

Call to Order

See transcript page 2.

9:28 a.m. Chairman Crosby opened the 75th public meeting.

Approval of Minutes

See transcript page 2.

9:28 a.m. Commissioner McHugh stated that the minutes for the August 9 meeting are ready for approval.

Motion made by Commissioner McHugh that the minutes of August 9, 2013 be accepted with one minor typographical correction. Motion seconded by Commissioner Stebbins. The motion passed unanimously by a 4-0-0 vote.

Seafood Industry Presentation

See transcript pages 3-49.

- 9:29 a.m. Director Griffin introduced representatives from the Division of Marine Fisheries. They will be assisting with the statewide taskforce to provide resources to licensees and facilitate cooperation between licensees and local small businesses.
- 9:32 a.m. Paul Diodati, Story Reed, and Laura Ramsden presented information to the commission about the seafood industry in the Commonwealth.

Administration

Report by Executive Director Day. See transcript pages 49-85.

- 10:13 a.m. Executive Director Day provided an overview of hiring processes and other matters within the Commission. Pinck & Co, the Commission's new project manager, will provide a plan for the RFA-2 application review early in September. Executive Director Day will introduce the Commission's economic policy advisors at the next meeting. The Commission has narrowed its CIO candidates to five individuals for further screening. The CFO finalist is currently undergoing the background check process.
- 10:16 a.m. Executive Director Day provided an overview of the master schedule. The Commission is starting to create a possible schedule for gaming establishment construction in order to ensure that all other tasks are completed in time. Chairman Crosby requested that the staff provide more details on how they envision the process operating, and, in particular, the timing of regulations and when policy questions will be before the Commission.
- 10:49 a.m. The Commission took a brief recess.

Racing Division

Report by Director Durenberger. See transcript pages 85-113.

- 11:00 a.m. Director Durenberger provided the Commission with a redline version of the proposed amendments to 205 CMR 3.29 and 4.52 for adopting the model rules on medication and veterinary practices. The changes would incorporate the schedule of controlled therapeutic medications and introduce a point system that will attach to occupational licenses for medication violations. The Commission discussed the best method of incorporating the model rules.
- 11:25 a.m. *Motion made by Commissioner McHugh to adopt proposed changes to 205 CMR 3.29 and 4.52 as presented and with the additional language in section (2)(f)(i) in order to incorporate the model rules by reference as they exist "at the time of the violation." Motion seconded by Commissioner Stebbins. The motion passed unanimously by a 4-0-0 vote.*
- 11:27 a.m. Director Durenberger presented the draft application for a license to conduct horse racing pursuant to Chapter 128A. The Commission received no public comments on the application form. Applications under the updated form will be due on October 4.

11:29 a.m. *Motion made by Commissioner Zuniga to adopt the recommendations set forth in the memo and to adopt the application form as presented. Motion seconded by Commissioner McHugh. The motion passed unanimously by a 4-0-0 vote.*

Ombudsman Report

See transcript pages 113-155.

- 11:30 a.m. Ombudsman Ziemba brought up for discussion the issue of how to answer policy questions and resolve other issues that are presented to the Commission by members of the public or that the Commission itself raises if the answers to the question or issue requires exercise of the Commission's discretion. There are three potential options. First, staff could handle all questions that arise in that fashion. Second, the Commission could answer questions in a public meeting. Third, the Commission could make fact-based decisions after an adjudicatory proceeding. The Commission made no firm decision on which method is best, and agreed that different questions may require different procedures or combinations of procedures.
- 11:51 a.m. Ombudsman Ziemba discussed the status of the discussions between Boston and Everett concerning whether the City of Boston qualifies as a host community. The legal department will research whether the Commission has the power to hold an adjudicatory hearing and make a determination binding on the parties. As a preliminary matter, the staff will invite the representatives from Boston and Everett to discuss the issue.
- 12:03 p.m. The Commission has sent out notices to potential surrounding communities, both those communities in close geographic proximity to an applicant's proposal and those further away, in order to inform the communities of the of the process and deadlines.
- 12:05 p.m. The Town of Tewksbury rejected Penn National's proposed zoning change that would have allowed the developer to construct a slots parlor on the property. Consequently, Penn National is considering a new location and the scheduled host community referendum needs to be cancelled. The staff will continue discussions with the Secretary of the Commonwealth regarding the proper procedure for cancellation.
- 12:09 p.m. Ombudsman Ziemba stated that the Commission has been receiving an increased number of inquiries regarding involuntary disbursements. The Commission wanted to once again remind applicants that they will be judged in part on their outreach efforts and cooperation with communities.
- 12:13 p.m. Chairman Crosby stated that the Commission will hold an executive session pursuant to G.L. c. 30A, §21(a)(3), § 21(a)(5), G.L. c. 30A, § 21(a)(7), G.L. c. 66,

G.L. c. 4, § 7, and G.L. c. 4, § 26(f) to discuss the KG Urban litigation. The Commission will not reconvene in open session at the end of the executive session.

Motion made by Commissioner Stebbins to enter into executive session. Motion seconded by Commissioner Zuniga. The motion passed 4-0-0 by roll call vote.

12:14 p.m. Meeting moved to executive session.

List of Documents and Other Items Used at the Meeting

1. Agenda for August 22, 2013
2. August 9, 2013 Meeting Minutes
3. Statewide Marine Fisheries Presentation
4. Master Schedule
5. Proposed Changes to 205 CMR 3.29 and 4.52: Medications and Prohibited Substances
6. August 20, 2013 Letter RE: Amendment of 205 CMR
7. Draft Application for License to Hold or Conduct A Racing Meeting

/s/ Catherine Blue
Catherine Blue
Assistant Secretary