



Meeting Minutes

Date/Time: March 24, 2016 – 10:00 a.m.

Place: Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, Massachusetts

Present: Chairman Stephen P. Crosby
Commissioner Gayle Cameron
Commissioner Lloyd Macdonald
Commissioner Bruce Stebbins
Commissioner Enrique Zuniga

**Time entries are linked to
corresponding section in
Commission meeting video**

Call to Order

See transcript page 2

[10:01 a.m.](#) Chairman Crosby called to order the 184th Commission meeting.

Ombudsman

See transcript pages 2-108

[10:00 a.m.](#) Ombudsman John Ziemba stated that Mass Gaming & Entertainment, LLC (“MG&E”) will present on their response to the presentation the Commission received from the Mashpee Wampanoag Tribe on their planned casino in Taunton. He stated that the Commission’s plan and policy is to make a determination on issuing a license only after review of the application and if review shows that issuance of the license would be beneficial to the Commonwealth. The Commission’s review process will also include the potential for competition in the region. He noted that there will be a Host Community hearing in Brockton on March 28th for comments related to any events after the March 1st hearing.

[10:03 a.m.](#) Attorney John Donnelly, from Donnelly and Clark and representing MG&E, introduced Attorney David Tennant from Nixon Peabody and Michael Soll from The Innovation Group. He stated that The Innovation Group was the first to use the gravity model and apply it to gaming and they have represented over 100 tribes. He also introduced Chairman Neil Bluhm from Rush Street Gaming and Attorney Adam Bond representing the Taunton citizen’s group that filed litigation regarding land in trust and other issues.

- [10:06 a.m.](#) Attorney David Tennant stated that the Commission has the authority to act and there can't be a prolonged set-aside. He also stated that the Compact is not valid. He noted the two paths that the Secretary of the Interior could take on a Compact – (1) issue a Notice of Approval with publication in the Federal Register or (2) do nothing and it's deemed approved by operation of law. In the second path, he stated that the Compact is kicked back to the parties and the courts to figure out if it's legal or not. He stated that the parties did not get a Notice of Approval and therefore the Compact is not valid. He stated that the Government and the Tribe have to renegotiate the Compact. He noted that there is a new Governor and legislature and questions if there is the political will to do that. He stated that the Tribe cannot operate a casino without a Compact.
- [10:23 a.m.](#) Commissioner Macdonald stated that he thinks Attorney Tennant is right on the power of the Commission to proceed with Region C and he believes Commissioner McHugh's analysis pertaining to this matter was on point. He also commented that everyone has proceeded on the assumption that the Compact was valid until we received the recent filing by MG&E. Attorney Tennant stated that the Secretary didn't approve the Compact because of deficiencies and he would advise his clients to always get Secretarial approval.
- [10:33 a.m.](#) Commissioner Zuniga inquired as to who would have standing to sue on the validity of the Compact. Attorney Tennant stated that he didn't know the standing rules in Massachusetts but responded that people who are impacted by this and citizens of the Commonwealth could have standing.
- [10:35 a.m.](#) Commissioner Stebbins inquired as to how often does this inaction occur by the Secretary and Attorney Tennant responded about a quarter of the time.
- [10:36 a.m.](#) Commissioner Macdonald inquired about the origin of the requirement of a Compact and Attorney Tennant responded that the requirement is in the Indian Gaming Regulatory Act for Class 3 Gaming.
- [10:36 a.m.](#) Attorney Tennant presented on the Carciari decision and stated that attorney Locklear, representing the Mashpee Tribe, never provided a substantive response on if there were any differences between the historical circumstances of the Narragansett and Mashpee tribes. He stated he believes the plaintiffs will prevail on the record of decision, the challenge could take an estimated four to five years, and it could possibly go to the Supreme Court. He also stated that there are serious legal questions about the Land in Trust decision and the Compact. If the Compact needs to be renegotiated it will cause delay and uncertainty. He stated that the Tribe has uncertain prospects in Taunton. Commissioner Zuniga inquired if the Tribe could continue to build and operate a casino until a court imposes an injunction. Attorney Tennant stated they can if they have the financial resources and if people are willing to take that risk.
- [10:53 a.m.](#) Neil Blum stated that Genting significantly reduced the amount of money that would be invested in Phase 1 which indicates to him they are nervous that the case will go against them. He also noted that the gaming positions were reduced by 45 percent, the later phases are not yet financed, and they have a very loose agreement with the City of Taunton. He stated that they must be conceding risk and that is why the project has been downsized.

11:00 a.m. The Commission took a short recess.

11:05 a.m. The meeting resumed.

[11:05 a.m.](#) Michael Soll, representing the Innovation Group, presented on key aspects of the Spectrum Gaming Report, scenarios of Taunton and Brockton operating in the same market, and highlighted the financial forecast, tribal scenarios, and economic implications. He stated that the gaming revenue forecast offered by Spectrum is not credible. Mr. Bluhm stated that all their numbers assume the original proposal, a larger casino, by the Tribe. Mr. Soll also presented on access to population, gaming tax, marketing, promotions, and other expenses. He stated that Spectrum's own numbers show their client doing better with a Brockton casino.

Mr. Soll presented on the comparison between the tribal and non-tribal properties and stated that Spectrum used irrelevant comparisons and failed to acknowledge the smoking bans. With regard to economic impact, Mr. Soll reported that while cannibalization would reduce the economic impacts at an individual casino, the region would see increased employment and purchases of goods and services.

[11:32 a.m.](#) Mr. Bluhm stated that the Innovation Group's numbers are accurate and the Spectrum numbers don't make sense. He stated that he is investing his own money, for his grandchildren, and he doesn't want to lose money. He stated that he obtained different expert opinions as to projected revenues and all the numbers came in the same ballpark as the Innovation Group. He stated that the Commission has the right to issue a casino license, the land in trust decision is questionable, and a new issue has been raised about the compact. He noted that if the Commission awards a license to Brockton they will get a casino up and running and it will be an enormous benefit to Brockton. If you have two casinos you will have twice as many jobs and economic improvements. The Compact makes clear that there can be two casinos in Region C. Mr. Bluhm further stated that if the Commission doesn't award Brockton a license, they will put a stake in the heart of Brockton that is in desperate need of economic development. He stated that there is not much risk in giving Brockton a casino but there is a huge risk with the Tribe and lawsuits.

[11:55 a.m.](#) Chairman Crosby stated that Mr. Bluhm pointed out that if the Tribe elected not to go forward with a casino it would be a \$30 million benefit to him. Chairman Crosby asked Mr. Bluhm if he would consider using some of that money to mitigate the loss to the Tribe. Mr. Bluhm stated that he could consider it but couldn't commit to it.

[11:57 a.m.](#) Commissioner Macdonald inquired about Mr. Bluhm's representation of the reduction in gaming positions at the Taunton casino. Mr. Bluhm responded that the Taunton casino dropped the number of gaming positions by 45 percent from their original proposal in 2012. He believes that the reduction is due to fear of a lawsuit.

[12:01 p.m.](#) Mr. Bluhm noted that Attorney Adam Bond represents the citizens group and he does not represent MG&E. He also noted that he has contributed to the citizens group. Attorney Adam Bond stated that he represents the plaintiffs in the suit that was filed against the Department of the Interior concerning the record of decision taking land into trust for the Mashpee Wampanoag Tribe. He stated that he participated in the intergovernmental agreement ("IGA") between the Mashpee Tribe and the Town of Middleborough in 2007. He stated that Tribal Chairmen

Marshall, Hendricks, and Cromwell claimed a casino would be built in less than two years. He reported that after the Carcieri decision the Mashpee Tribe split with their backers and pulled out to find a new location in Taunton. He stated the current plaintiffs came to him for help with analysis of the Taunton IGA. He stated that under the Taunton IGA, the Mashpee Tribe has no obligation to complete the project; they can build a small piece and never build the rest. He stated that this litigation is likely to go to the United States Supreme Court. He stated he has twenty plus plaintiffs with families and homes in East Taunton where the casino is going to be built, and they want to protect it from federal overreach. Commissioner Macdonald asked Mr. Bond for the citation of the case he referred to. Mr. Bond stated that he will provide it to our staff.

12:16 p.m. The Commission took a short recess.

12:21 p.m. The meeting resumed.

Administration

See transcript pages 109-123

[12:21 p.m.](#) Commissioner Zuniga provided an update on the reconciliation of money collected at Plainridge Park Casino and noted the three sources used: the central monitoring system, the house system that performs slot accounting, and the cash count. He reported that in an ideal world all these systems would have the same information; however, there are discrepancies that happen from time to time. He is encouraged that the discrepancies are small and can be explained fully. He stated that discrepancies have been decreasing due to the implementation of the central monitoring system and refining procedures.

Workforce, Supplier and Diversity Development

See transcript pages 123-129

[12:41 p.m.](#) Director Jill Griffin updated the Commission on the technical assistance grants program – a new opportunity to optimize the outcomes for the casino contracting diversity goals. She stated that they are entertaining proposals that focus on planning or expansion of technical assistance programs that focus on one of the targeted areas of diversity. She reported that grants will be awarded statewide totaling \$100,000, with \$20,000 of that dedicated to smaller programs. There will be a bidder's conference on March 29th at 2:00 p.m. They had a bidders conference on March 21st but the snow kept folks away. She noted that responses are due April 18th. Director Griffin stated an area of focus would be veteran-owned businesses and grants could be used to assist small businesses with the licensing process. She also noted that potential groups that could apply for the grant include a chamber and nonprofits that focus on supporting small businesses with joint ventures, financing, and expanding their capacity to work with large organizations. She also reported that \$100,000 isn't enough to start a new program but it's enough to hire specialists to supplement an existing program.

Other Business Not Reasonably Anticipated

See transcript page 129-130

[12:50 p.m.](#) *Having no further business, a motion to adjourn was made by Commissioner Cameron and passed unanimously.*

List of Documents and Other Items Used

1. Massachusetts Gaming Commission, Notice of Meeting and Agenda dated March 24, 2016
2. Letter from Attorney David H. Tennant, Nixon Peabody, to the Massachusetts Gaming Commission, dated March 23, 2016 regarding Region C – Mass Gaming & Entertainment
3. The Innovation Group, Gaming Revenue and Tax Impact Analysis: Region C, Massachusetts, Prepared for Mass Gaming & Entertainment, LLC, dated March 22, 2016
4. The Innovation Group, GGR and Tax Impact Analysis: Region C, MA, PowerPoint presentation to the Massachusetts Gaming Commission, dated March 24, 2016
5. Mass Gaming & Entertainment, LLC, PowerPoint presentation dated March 24, 2016
6. Leisure Dynamics Research, LLC, Comparative Gaming Revenue Potential for Region C Casino License: Brockton and Bridgewater, dated December 2014
7. Massachusetts Gaming Commission Diversity Goal/Business Technical Assistance Grants

/s/ Catherine Blue
Catherine Blue, Assistant Secretary