

PENNSYLVANIA GAMING CONTROL BOARD

NORTH OFFICE BUILDING
NORTH STREET AND COMMONWEALTH AVENUE
PUBLIC UTILITY COMMISSION HEARING ROOM 1
HARRISBURG, PENNSYLVANIA

TUESDAY, FEBRUARY 8, 2005, 3:05 P.M.

BEFORE:

THOMAS DECKER, CHAIRMAN
MARY DiGIACOMO COLINS
WILLIAM P. CONABOY
JEFFREY W. COY
KENNETH T. McCABE
JOSEPH W. MARSHALL, III
SANFORD RIVERS
GREGORY C. FAJT, SECRETARY OF REVENUE
ROBERT P. CASEY, JR., PA STATE TREASURER

HILLARY M. HAZLETT, REPORTER
NOTARY PUBLIC

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1 CHAIRMAN DECKER: Welcome to our third
2 meeting of the Pennsylvania Gaming Control Board.
3 Thank you for your attendance. We'll start by the
4 Pledge of Allegiance.

5 (Pledge of Allegiance.)

6 CHAIRMAN DECKER: Pardon me for my voice
7 today. I'm Tad Decker, Chairman of the Pennsylvania
8 Gaming Control Board. I would welcome the Board and
9 all of you to this meeting.

10 We have a quorum. I will note for the
11 record that all of the Board members are present. I
12 think we're missing one ex-officio which is Secretary
13 Wolff. He may be here in a few moments.

14 Let me identify for the record who is here;
15 Secretary Fajt, Treasurer Casey, Commissioner McCabe,
16 Commissioner Conaboy, I'm Tad Decker, as I said
17 before, Commissioner Marshall, Commission Coy,
18 Commissioner Rivers, and Commissioner Colins.

19 The focus of today's meeting will be on
20 personnel and organizational matters for the Board.

21 Is there any old business?

22 Let me just stop to say that we're trying
23 to do four things at once. We're trying to hire
24 personnel. We have two staff people at the current
25 time.

1 We're trying to get the applications ready
2 for the potential licensees first, manufacturers, and
3 suppliers. We're trying to promulgate and draft
4 first some regulations about those licenses.

5 We're trying to -- I'm missing one.
6 There's a fourth one. I apologize. We're trying to
7 do all of these things at once. But if you don't
8 have the staff, you can't have the regulations. If
9 you don't have the regs, you can't do the licensing.

10 So with that said, again, we're doing all
11 of this at once. And it's an interesting time,
12 particularly since you don't have staff.

13 As you know, the Board is focused on
14 getting the right people, policies, and processes in
15 place to ensure a smooth start-up to gaming in
16 Pennsylvania.

17 At our first meeting, we voted to require
18 background investigations for Board employees. Mike
19 Walsh, who has been assisting us with start-up issues
20 for the last five or six months, is here to talk with
21 us about the questionnaire forms that will form the
22 basis of the clearing process. Mike also will
23 discuss an interim personnel policy for the Board.

24 Mike?

25 MR. WALSH: Thank you, Mr. Chairman,

1 Commissioners.

2 I have three points to go over today;
3 personal history questionnaires, which Chairman
4 Decker mentioned, a policy relating to personal
5 history questionnaires and a general personnel policy
6 for the Board to consider at this time.

7 First, with the personal history
8 questionnaires, they have been in draft form for a
9 number of weeks and have been reviewed by members of
10 the Board; and the Pennsylvania State Police was
11 helpful in putting the majority of these documents
12 together, and they have been amended since those
13 drafts came to us with Board input.

14 The three classes are in front of you in
15 your packets. They are Class A, Class B, and Class
16 C.

17 Class A and B are about 36 pages in length
18 and Class C is about 10 pages. Obviously, A and B
19 are the most substantive documents relating to
20 your personal family history, financial history,
21 employment history, and criminal history.

22 We'll talk about this in a minute as it
23 relates to the policy that the Board will put in
24 place, but the Board will determine which employees
25 fill out basically which applications, so that your

1 senior management personnel and your middle level
2 managers will fill out A and B, and your clerical
3 support staff, administrative support staff would
4 complete Class C.

5 I just want to make two points about
6 something that is germane to all three classes. On
7 the last two pages, you'll see, first, the second to
8 the last page has a document, which was given to us
9 from the Department of Revenue; and if Secretary Fajt
10 would like to speak on this, you might want to touch
11 on this, but it is something that we are putting in
12 for all employees to ensure that they are current
13 with their state taxes.

14 It sounds like something we actually -- you
15 know, it would be obvious; but we want to ensure that
16 every employee at the Gaming Board, you know, has
17 paid their taxes and there's a disclosure form that
18 needs to be completed.

19 The final page is a wrap-around statement,
20 a disclosure statement that ensures that the
21 employees who are making application are aware that
22 either the Bureau of Investigation of Enforcement,
23 the Pennsylvania State Police, or any other entity as
24 the Board may deem necessary may be performing
25 investigatory services on behalf of the Board.

1 With that, you have the documents. We've
2 sent these out in draft form. If you have any
3 questions, I'll be happy to answer them.

4 BOARD MEMBER COY: Mr. Chairman?

5 CHAIRMAN DECKER: Yes. Go ahead.

6 BOARD MEMBER COY: Which one is most like
7 the questionnaire that the members of the Commission
8 would have gone through there?

9 MR. WALSH: Class A.

10 BOARD MEMBER COY: Class A. So that is
11 obviously the most -- asks the most questions and
12 delves into the most information?

13 MR. WALSH: Yes. That's correct.

14 BOARD MEMBER RIVERS: Mike, would you
15 define who is going to be required to fill out a
16 Class A, Class B, and Class C application for the
17 audience, please?

18 MR. WALSH: Sure. In terms of which
19 employees would fill out which?

20 BOARD MEMBER RIVERS: Yes.

21 MR. WALSH: That is a policy that should be
22 adopted by the Board. What we are recommending is
23 that your senior management so that those positions
24 such as executive director -- this is on a draft org
25 chart, which you've seen.

1 It's the executive director position, the
2 four deputy executive director positions, the
3 director of communications, any special assistants to
4 the Board, your legislative liaison, and your Board
5 secretary. They are identified as senior management.
6 That would be Class A.

7 Then under the deputy executive directors,
8 there is that middle level of management in each
9 bureau and we would generally identify them as Class
10 B. Then Class C would be administrative support and
11 clerical staff.

12 CHAIRMAN DECKER: Ken?

13 COMMISSIONER McCABE: I have a question. I
14 know these are for our employees. But when we get to
15 the point of applications and applicants, are we
16 going to use the same material, applications -- or
17 questionnaires -- not applications because they're
18 applications. Questionnaires, are we going to
19 develop a whole different set for the applicants?

20 CHAIRMAN DECKER: Can I answer that, Mike?

21 MR. WALSH: Sure.

22 CHAIRMAN DECKER: I think we'll have to
23 see. I mean, they're a good starting point. We have
24 other applications that we've seen from other
25 jurisdictions like New Jersey, Michigan, etc., which

1 are very good; and we'll have to see, Commissioner
2 McCabe, but it's a good question.

3 BOARD MEMBER COY: Michael, I heard you
4 make reference to the State Police. Since there are
5 a few of their number here, could maybe Captain
6 Petyak just comment on whether or not what is being
7 proposed is something that the State Police concurs
8 with, whether you've had a chance to weigh in and so
9 on.

10 CAPTAIN PETYAK: Yes, sir. We have seen
11 them, and we are comfortable.

12 CHAIRMAN DECKER: The answer was that they
13 have seen them and they are comfortable with them in
14 case you couldn't hear Captain Petyak.

15 Any other questions for Mike Walsh?

16 MR. WALSH: I just want to discuss the
17 personal history questionnaire for a minute, the
18 policy relating to that.

19 CHAIRMAN DECKER: Is that in here, Mike?

20 MR. WALSH: There is a draft.

21 CHAIRMAN DECKER: As part of each one of
22 these forms, correct?

23 MR. WALSH: Yeah. The Board would adopt a
24 policy that basically requires every employee of the
25 Gaming Board to complete the appropriate

1 questionnaire as a condition of employment.

2 It sets forth that the questionnaires would
3 be given to the applicant after the position has been
4 offered to he or she.

5 So we don't get a position where interested
6 applicants who are sending in resumes and cover
7 letters have to complete, you know, 36-page
8 applications.

9 This is something that just formalizes the
10 procedure that this is something that happens after
11 an employee has been offered the position.

12 BOARD MEMBER McCABE: And their hiring is
13 contingent upon a successful background check and
14 then based on the Board's recommendation, and we
15 reserve the right to be able to terminate somebody if
16 we uncover something, correct?

17 CHAIRMAN DECKER: Absolutely.

18 MR. WALSH: Absolutely, yes.

19 BOARD MEMBER MARSHALL: And Mike, we can
20 move this all around if later on we discover that we
21 might want to add more people to a certain category.
22 It's just by action of the Board, correct?

23 MR. WALSH: Absolutely. This is entirely
24 an interim policy that you can adopt during the
25 start-up period. Absolutely.

1 BOARD MEMBER COLINS: Mr. Chairman, also,
2 just by way of comment, these background
3 investigations based on personal history
4 questionnaires consume time and money.

5 So it seems to me to be most reasonable to
6 just embark on one, once we have someone who we know
7 we want for the job and we know wants the job. So
8 that's the fundamental policy behind just giving it
9 to the person who the job was offered to.

10 MR. WALSH: The only other statement to
11 make in regards to the draft resolution that we offer
12 is that it sets forth that the Board will notify the
13 employee, obviously, as to which class to fill out
14 through the personnel policy.

15 Then as Commissioner McCabe just mentioned,
16 the Board fully reserves the right to terminate any
17 employee based on the results of the information
18 provided by the questionnaire.

19 CHAIRMAN DECKER: Any other questions for
20 Mike? There's always the one question, Mike. What
21 is SAP? It's okay. You don't have to answer that.
22 You answered that the last time.

23 MR. WALSH: Thank you, Chairman Decker. I
24 appreciate that.

25 The final agenda item is the personnel

1 policy that we discussed on an interim basis while
2 you begin to hire employees during the start-up
3 period.

4 CHAIRMAN DECKER: Mike, we may hold that.

5 MR. WALSH: Okay. You want to hold that?

6 CHAIRMAN DECKER: We're going to hold that.
7 We're going to have some discussion on it about how
8 we go about doing the process and procedure.

9 MR. WALSH: Sure. And the other thing is
10 that the general item would be the recommendation for
11 the administrative support staff. We mirror a
12 compensation schedule that is like the Commonwealth,
13 so that clerk typist and administrative support staff
14 who currently work in the Commonwealth receive, you
15 know, something similar in the Gaming Control Board
16 so we're on an even playing field for all of those
17 administrative support positions. Thank you.

18 CHAIRMAN DECKER: Do you need a resolution
19 from us on any of the first two?

20 MR. WALSH: There are drafts in there,
21 which you may review. I believe after the Executive
22 Session, those can be voted on.

23 CHAIRMAN DECKER: All right. Is everybody
24 comfortable? Do you want to wait for the Executive
25 Session to talk about that? Okay. We'll come back.

1 Thank you, Mike. I appreciate it very
2 much.

3 We're going to go out of order a little bit
4 now and cover one item, which would be sort of new
5 business, only you could consider it old business.

6 I would like Commissioner Marshall to give
7 us an update on where we are standing looking at our
8 current code of ethics and conflicts, etc.

9 BOARD MEMBER MARSHALL: Thank you,
10 Mr. Chairman.

11 As you know, at our last meeting, you asked
12 Commissioners Coy, McCabe, and I to begin to look at
13 that process and we have started.

14 Michelle has been a great help. What we
15 are hoping to do is survey all of the other
16 jurisdictions.

17 We have embraced the State Ethics Act at
18 our first meeting. So there's not going to be any
19 kind of contest as to whether the Act is applicable
20 to us.

21 Commissioner McCabe and I spent this
22 afternoon, late this morning, this afternoon with
23 John Contino, Executive Director of the Pennsylvania
24 State Ethics Commission; Vince Dopko, their counsel.

25 They were very, very helpful about

1 reviewing the Act, where its applicability, what the
2 requirements are going to be, and obvious to the fact
3 that the penalties of the Act would be -- for a
4 violation of the Act would be applicable to us.

5 We then also -- I'm just going to talk
6 about -- I guess the other two issues that we've
7 started or the other three issues, I guess, and I'll
8 ask Ken to weigh in.

9 There's going to be, obviously, questions
10 about how you deal with appearance. As we begin to
11 figure out what kind of regulations we will have
12 attached to our application process, about who can
13 talk to us under what set of circumstances, what kind
14 of things are going to have to be reported back, and
15 things like that, there's both the appearance issue
16 obviously and an unfair advantage issue.

17 They were very helpful. They are sharing
18 some things with us. Michelle, like I said, is going
19 to be surveying other jurisdictions to see how the
20 good places do it.

21 It's somewhat of an extended process. Even
22 if we have a very staff centric model where all the
23 work is being done, we will eventually sit in a quasi
24 judicial capacity. I think we all agree that it will
25 be important that our process be as strong as our

1 substance on that.

2 We also talked and they raised the issue
3 and one that is going to require a much more, I
4 think, reflection on our part is once we get into the
5 monitoring regulatory phase, we are going to have
6 both a prosecutorial and a judicial role that our
7 staff will be in charge of monitoring maybe with the
8 State Police or others, monitoring compliance with
9 the actions and then actions brought to us, we will
10 sit in that kind of capacity.

11 There's a great deal of law that painfully
12 came back from my days as Chairman of the State
13 Ethics Commission where those functions have to be
14 separate. You can't be judge, jury, and executioner
15 at the same time. We talked a lot about that.

16 I'm confident by the time we get our
17 applications out that the regulations -- we'll have
18 some regulations to propose to the Commission to be
19 in terms of what kind of contact there can be once an
20 applicant has made application for a license.

21 Ken, I don't know -- anything you want to
22 add?

23 BOARD MEMBER McCABE: No. I think you
24 summarized it real well. It was a very informative
25 meeting. I know I learned a lot. I also learned a

1 lot about the history of Pennsylvania.

2 My position is that, you know, I think we
3 need to start and have the bar high so we don't give
4 any appearance of impropriety and compromise the
5 system.

6 We're also able to go back and reflect; and
7 as I've said before at least in two other meetings,
8 we need to be assessing what we're doing continually
9 and adjusting it.

10 This is a living, breathing process that
11 we're doing. We're trying to create this for the
12 best for the State of Pennsylvania and the
13 Commonwealth and for the people. I just think we
14 need to set the bar high and then be able to adjust.

15 BOARD MEMBER MARSHALL: So we will get back
16 to you as we develop proposals for the Commission.

17 CHAIRMAN DECKER: Thank you. The Board is
18 now going to break for Executive Session for the
19 purpose of discussing personnel vacancies and
20 potential candidates.

21 The time, for the record, is 3:22, if my
22 watch is right. We'll reconvene in no more than 45
23 minutes.

24 BOARD MEMBER MARSHALL: Isn't that what we
25 said last time and then two hours later.

1 (Executive session.)

2 CHAIRMAN DECKER: We're reconvening at
3 5:00. It wasn't my fault. It was the other
4 Commissioners. Actually, we can blame it on
5 Secretary Fajt, who is not here.

6 Okay. We're back in our regular session.
7 I've announced the time already as noted.

8 Prior to the break, we went into Executive
9 Session to discuss personnel issues, including
10 personnel vacancies and potential candidates.

11 The Board will now entertain a number of
12 resolutions beginning with some that are a result --
13 that came out of the Executive Session.

14 First resolution approves the hiring of
15 several management positions. We will now hear from
16 Commissioner Rivers who will announce the resolution.

17 BOARD MEMBER RIVERS: Mr. Commissioner, I
18 would like to introduce the following resolution,
19 that the Board recognize and hire Nicholas Hays,
20 Director of Communications, at a salary of \$85,000.

21 I would also like to recommend that the
22 Board hire Michael Walsh, Special Assistant to the
23 Board, at a salary of \$87,000.

24 CHAIRMAN DECKER: Okay.

25 BOARD MEMBER COLINS: Second.

1 CHAIRMAN DECKER: Any comment? Sandy, why
2 don't you read the names of the other three? We can
3 do it all in one motion.

4 BOARD MEMBER RIVERS: No problem. We also
5 have Amanda Peters, clerk type II, at the salary of
6 \$26,000; Kim Gritman, administrative assistant I, at
7 a salary of \$43,000; and Maryanne Kane,
8 administrative assistant I, at a salary of \$43,000.

9 These are the five individuals that we
10 would like to have voted on as the information
11 presented to the Board.

12 CHAIRMAN DECKER: Can I have a second?

13 BOARD MEMBER COLINS: I second.

14 CHAIRMAN DECKER: Okay. Any discussion on
15 these individuals?

16 BOARD MEMBER McCABE: Just that their hire
17 be contingent to a satisfactory background check.

18 CHAIRMAN DECKER: Good. That should be
19 part of the resolution.

20 BOARD MEMBER RIVERS: That will be
21 included.

22 CHAIRMAN DECKER: Okay. All in favor?

23 BOARD MEMBERS: Aye.

24 CHAIRMAN DECKER: Any opposed? It's
25 unanimous.

1 All right. Okay. The second resolution --
2 I was looking to see if there was something else but
3 I think that's it.

4 The second resolution relates to personal
5 history questionnaires and in effect are the
6 applications for -- that are to be filled out by each
7 employee of our Board. This resolution is going to
8 be introduced by Commissioner McCabe.

9 Ken?

10 BOARD MEMBER McCABE: I propose that the
11 Board adopt the following policy regarding personal
12 background checks for Gaming Control Board employees,
13 that all employees of the Pennsylvania Gaming Control
14 Board are required to submit a personal history
15 questionnaire as condition of employment.

16 The personal history questionnaire will be
17 presented to an employee after he/she has been
18 offered a position. Interested applicants are not
19 required -- there will be three classes of personal
20 history questionnaires; A, B, and C.

21 Upon hiring, the employee will be notified
22 by the Board as to which class A, B, C of the
23 personal history questionnaire that must be
24 submitted.

25 The Board shall review the background

1 investigations of each employee and fully reserves
2 the right to terminate any employee based on the
3 results of the information provided in the
4 questionnaire.

5 I so move.

6 CHAIRMAN DECKER: Is there a second?

7 BOARD MEMBER RIVERS: Second.

8 CHAIRMAN DECKER: Thank you. Does anybody
9 have any comments about the resolution? All those in
10 favor?

11 BOARD MEMBERS: Aye.

12 CHAIRMAN DECKER: Any opposed?

13 It passes unanimously.

14 As we continue the process of organizing
15 ourself as an agency, I have asked each of the Board
16 members to concentrate on a particular area of focus.

17 Could you hear that? No? There's one no
18 back there. I'm kidding.

19 As we continue the process of organizing
20 ourselves, I am going to ask each of my fellow Board
21 members to concentrate on a particular area of focus
22 and some have already been doing it anyway.

23 Each of the Board members will, of course,
24 remain fully active in all aspects of the Board's
25 activities and in the development of our gaming.

1 However, I believe designating each member
2 with a particular area of focus will serve the Board
3 well by providing the kind of leadership and
4 expertise that we need.

5 With that said, I have asked Commissioner
6 Coy to concentrate on legislation, hiring, and
7 diversity.

8 Commissioner Colins, let's see, to deal
9 with -- it's the hearings and administrative
10 challenges.

11 Commissioner Conaboy to review the legal
12 side, our various legal affairs.

13 Commissioner McCabe to concentrate on the
14 Bureau of Investigations and Enforcement.

15 Commissioner Marshall to talk about
16 licensing and hearings.

17 Commissioner Rivers to concentrate on
18 administration and internal agency operations.

19 We don't need a vote on that. We've just
20 decided that now. I've asked them to do it and they
21 agreed individually to do it. I wanted to let
22 everybody know that.

23 They're not going to be acting in any way,
24 shape, or form other than in a consulting/advisory
25 capacity to the Board. They will bring everything

1 that is needed for decision to the Board.

2 Okay. Is there any other new business to
3 come before the Board today?

4 Okay. Hearing none, if there isn't any
5 other new business, we're adjourned. Thank you very
6 much.

7 (The meeting concluded at 5:02 p.m.)

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1 I hereby certify that the proceedings and
2 evidence are contained fully and accurately in the
3 notes taken by me on the within proceedings and that
4 this is a correct transcript of the same.

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Hillary M. Hazlett, Reporter
Notary Public

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