



Massachusetts Gaming Commission Meeting Minutes

Date/Time: May 6, 2019 – 10:00 a.m.

Place: Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, MA 02110

Present: Chair Cathy Judd-Stein
Commissioner Gayle Cameron
Commissioner Eileen O'Brien
Commissioner Bruce Stebbins
Commissioner Enrique Zuniga

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



Call to Order

See transcript page 1

[10:00 a.m.](#) Chair Cathy Judd-Stein called to order public meeting #267 of the Massachusetts Gaming Commission.

Administrative Update

See transcript pages 1 – 2

[10:01 a.m.](#) **General Update**

Executive Director Ed Bedrosian thanked the Commission for their flexibility in taking up some new agenda items so quickly in preparation for the opening of Encore Boston Harbor. He reminded the Commission that during May and June, we may be required to have “out of cycle,” shorter meetings to address some critical agenda items relevant to the casino’s opening.

[10:30 a.m.](#) **Massachusetts Gaming Commission Quarterly Budget and Diversity Spend Reports**

Derek Lennon, Chief Financial and Accounting Officer resumed the Finance Division’s request for approval to increase the Gaming Control Fund budget

by \$1.3M to a total of \$37.8M that was raised at the May 1st Commission meeting. As this matter was not listed in the public meeting notice as requiring a vote for approval for the May 1st meeting, the Chair had preferred that the Commission vote at the next meeting. Mr. Lennon again summarized the request, stating that the Commission's budget increased by \$3.1M since the last update, and for this third quarter, staff is seeking to increase the budget again by \$1.3M, all in legal costs.

Mr. Lennon clarified that he is not recommending or asking for an increase to the assessment, as the majority of the increased costs are eligible for reimbursement from the Wynn Resorts ongoing suitability review. He noted that any amounts that are not reimbursable will be offset by the licensing fees that continue to outpace estimates.

10:04 a.m. *Commissioner Zuniga moved that the Commission approve the adjustment to the budget as outlined in the [Commissioner's packet](#) and discussed here today as well as at the [May 1, 2019](#) Commission meeting. Commissioner Cameron seconded the motion. The motion passed unanimously.*

Ombudsman

See transcript pages 2 – 31

10:05 a.m. **Encore Boston Harbor - 2018 Fourth Quarter Report and 2019 First Quarter Report**

Ombudsman John Ziembra described in detail the items that would be presented to the Commission for consideration in this report and recommended that the Commission request public comment on them.

Jacqui Krum, Vice President and General Counsel of Encore, presented Encore Boston Harbor's Quarterly Report covering the last quarter of 2018 and the first quarter of 2019 to the Commission. Peter Campot, Director of Construction for Wynn Design and Development, reviewed PowerPoint slides that illustrated the construction update. Mr. Campot reported that they expect to receive a temporary Certificate of Occupancy no later than June 10th and that they are on schedule with construction. He stated that they are in the final stages of finishing spaces throughout the facility, and reviewed the major milestones and progress of the construction via the PowerPoint presentation.

Ms. Krum reviewed offsite infrastructure improvements, and cited dates of completion for landscaping, new traffic lights, paving, curbing, and other relevant projects.

Ms. Krum reported that they exceeded their goal of 18.9%, achieving 22.6% in total Minority, Women, and Veteran-owned Business Enterprise (MWVBE)

contracts. She referred to slides that showed the one category where they fell slightly short, which is the women-owned enterprises. She stated that they worked hard to achieve their goal, but didn't obtain that number.

Ms. Krum updated the Commission that the end of May should complete the installation of gaming equipment. She also reported that Encore has hired 5,200 of 5,800 employees, and they are bringing people in very quickly at this point. She stated that her staff is preparing a breakdown of the demographics of their new employees for the Commission.

Ms. Krum then reported community outreach efforts made throughout the quarter, projects called Keeping Everett Warm, Packing Summer Experience, One Boston Day, Walk for Change, Community Show at Wang Theater, and Partnership with the Museum of Fine Arts in Boston.

[10:31 a.m.](#)

Encore Boston Harbor - Independent Traffic Monitoring Approval

Joe Delaney, Construction Project Oversight Manager, presented this item for the Commission's consideration. Joining him was Jim Folk, Executive Director of Transportation as well as Paul Tyrell and Dustin Kerksieck of STV Incorporated.

The Commission's Encore Boston Harbor Section 61 Findings include numerous references to transportation monitoring and traffic monitoring which shall be conducted by an independent organization. These findings require approval of the independent organization by the Massachusetts Department of Transportation and the Commission.

Staff recommends that the Commission approve STV, Inc. for such monitoring. The team also recommends that STV, Inc. be requested to consult with Encore Boston Harbor's surrounding communities regarding monitoring that will occur in such communities. Lastly, the team recommends that the Commission state that such approval may be rescinded at any time, requiring Encore to suggest a new independent monitor acceptable to both MassDOT and the Commission.

[10:39 a.m.](#)

Commissioner Zuniga moved that the Commission approve the selection and engagement of STV, Inc. as the independent transportation monitor as is fully described in the memorandum from Ombudsman Ziemba and Oversight Manager Delaney, included in the Commissioner's packet. He further moved that the Commission may rescind its approval of STV, Inc. as the independent transportation monitor at any time in the Commission's discretion and require the selection and engagement of a different independent monitor, should the Commission determine it is necessary. Commissioner Cameron seconded the motion.

The motion passed unanimously.

[10:40 a.m.](#) **Encore Boston Harbor - Summary of Material Changes Since Design Approval**

Mr. Delaney reviewed the request for approval of some material changes to Encore Boston Harbor's final design since the Commission's original design approval on October 26, 2016. With him was Ms. Krum as well as Peter Campot, Director of Construction for Wynn Design and Development.

This request comes as final preparations relative to the opening of Encore Boston Harbor commence. In the Commission's prior design approval, it noted that a future Massachusetts Environmental Policy Act ("MEPA") Notice of Project Change ("NPC") would be anticipated and stated that material changes should be brought back to the Commission for its approval.

Mr. Delaney briefly summarized the design changes that were to food and beverage outlets, gaming positions, square footage and other Section 61 changes, sediment remediation, employee parking, offsite park and ride locations, a back-up battery system, a daycare facility, and a lighting plan. Other changes made but not part of the project that have been implemented since the original approval are construction of the Rivergreen community parking lot, and construction of an additional temporary community parking lot.

[10:45 a.m.](#) Ms. Krum explained that Encore is refining the number of gaming positions as the project approaches opening. Ms. Krum stated that there are currently an additional 127 gaming positions. There was detailed discussion around obtaining clarification from the Massachusetts Environmental Policy Act Office (MEPA) and MassDOT on the formula used to calculate gaming positions.

Mr. Delaney recommends that these changes be voted on at a later date, along with requests for approval to current Section 61 findings.

[11:05 a.m.](#) **Encore Boston Harbor - Draft Detailed Construction Timeline**

The Commission reviewed Encore Boston Harbor's draft construction schedule. Mr. Delaney noted that the Commission's approval of this schedule is required by 205 CMR 135.00. He stated that the project is on schedule for opening on June 23rd. Encore plans to file with the City of Everett for a Certificate of Occupancy on June 1st with an expected Certificate of Occupancy in place on June 10th.

The Commission reviewed a schedule that includes deadlines for significant stages of Encore Boston Harbor's project that remain. Commission staff continues to coordinate with MassDOT, MBTA, City of Boston, City of Everett, City of Medford, and surrounding communities to ensure that all relevant portions of the project are satisfactorily completed before the project opens.

Mr. Delaney recommended that at the next Commission meeting, the Commission vote on the final stage of construction, which allows the construction bond to be returned to Encore, ensuring that the final stage of construction will coincide with the issuance of the Certificate of Operations.

[10:28 a.m.](#) At the Chair's request, Ms. Krum provided an update on some temporary center-based and family-based day-care arrangements being considered for employees until the ABCD day-care facility is operational. She added that the ABCD center will accommodate 62 children, and they have a toddler program as well as an infant program.

Ms. Krum stated that there will be about a six-month interim period before the ABCD center's construction process is complete. Encore will provide the Commission with an internal timeline that illustrates when they will have the arrangements solidified for this temporary six-month coverage, by the end of May.

[10:31 a.m.](#) **Draft Second Amended Encore Boston Harbor Section 61 Findings**
Mr. Delaney gave a brief overview of a proposed update to the Commission's current Section 61 findings which memorializes the measures required by the Commission to avoid or minimize the project's impacts on the environment. It was recommended that the Commission request comments on the proposed amendment to the findings before taking action.

Ombudsman Ziemba discussed the potential timing of the Commission's request for comments with the Commission. Mr. Ziemba summarized the schedule for public comment needed for publication in the Environmental Monitor on June 10th. There was discussion around the length of time given for a public comment period, whether one or two weeks is appropriate, given the tight schedule. Commissioners ultimately arrived at two weeks for a comment period.

[11:32 a.m.](#) After a short break, Mr. Bedrosian outlined a plan to the Commission to issue the Draft Second Amended Encore Boston Harbor Section 61 Findings, the Draft Encore Boston Harbor Alcohol Permit, and the Draft Revision to Gaming Establishment Boundary items out for comment today, for a two-week period, and potentially have a Commission meeting on May 20th.

[11:35 a.m.](#) **Encore Boston Harbor - Opening Period Traffic & Public Safety Planning**
Bob DiSalvio of Encore thanked his colleagues Jim Folk, Executive Director of Transportation and Rich Prior, Executive Director of Security and Investigations, for their work on this project. He reviewed Encore Boston Harbor's opening transportation options and services, highlighting the Encore Premium Harbor Shuttle, Encore neighborhood Runner, MBTA Encore Shuttle, And the Encore Premium Motor Coach.

He then addressed Encore Opening Traffic Management with the Commission to include police details of state and local police, the MBTA Transit police, and the Coast Guard. There will also be Encore regional highway signs that are in the final stages of approval via MassDOT and local communities.

He stated that they are currently working with a local public relations agency, hired by Encore Boston Harbor that will support pre- and post-opening transportation communication strategy through traditional and digital media. The purpose of this is to build awareness of mass and public transit to Encore Boston Harbor, including available MBTA parking locations and provide real-time traffic information. Encore Boston Harbor will implement an extensive media campaign for this.

Investigations and Enforcement Bureau (IEB)

See transcript pages 31 – 41

12:14 p.m. **Draft Revision to Gaming Establishment Boundary**

Bruce Band, Assistant Director, and Gaming Agents Division Chief proposed an adjustment to the boundaries of the area by licensee. He then introduced Todd Grossman, Deputy General Counsel to provide the Commission with an overview of the proposal.

Mr. Grossman directed the Commission to the decision regarding the determination of premises of the gaming establishment for Mohegan Sun, MA, LLC and Wynn MA, LLC where the initial boundaries to the gaming area were set. He stated to the Commission that the boundary was first established in 2014 and that the project has changed in scope over time. The Commission had determined the proper mechanism and analysis for deciding where the boundary of the gaming establishment and the gaming area should be per M.G.L. c. 23K. Mr. Grossman outlined this language for the commission.

He noted that the Commission has extended the line to structures that are adjacent to the facility to include those that are part of the property as well, such as the plaza. He reviewed with the Commission a map of the boundaries, with certain exceptions for them to consider in anticipation of their upcoming vote.

Mr. Bedrosian recommended that the Commissioners go to the property and view the areas being discussed before making decision. Mr. Bedrosian also recapped that this is one of the items that the Commission would be posting for public comment.

[12:29 p.m.](#)

Draft Encore Boston Harbor Alcohol Permit

Bill Curtis, Licensing Manager along with Mr. Band, presented Encore Boston Harbor's application for a Gaming Beverage License to the Commission for consideration and comment. The Division of Licensing and the Investigations and Enforcement Bureau – Gaming Agents Division is not forwarding this application to the Commission with a recommendation per 205 CMR 136.03(3), but rather, wants to provide the Commission with ample opportunity to consider the application, given the unique nature of the 4:00 AM liquor license request.

Ms. Krum reviewed Encore Boston Harbor's appendix to the gaming beverage license application via PowerPoint presentation with the Commission. She described the locations where alcohol is dispensed in the casino and explained the protocols for such action. Ms. Krum reviewed every venue that served alcohol, and everywhere, alcohol is allowed and reported the protocol for each venue.

Commissioner's Updates

See transcript page 41

[12:45 p.m.](#)

The Chair updated the Commission about the due date of the fines imposed by the Commission in its decision issued on April 30th regarding the Wynn suitability investigation. She stated that the legal division has advised that under Gaming Commission statute and regulations, the due date would be May 31st. The Chair then announced that the Commission has convened a procurement management team to begin the selection process for the independent monitor in this matter.

[12:56 p.m.](#)

With no further business, Commissioner Zuniga moved to adjourn the meeting. Commissioner Cameron seconded the motion. The motion passed unanimously.

List of Documents and Other Items Used

1. Notice of Meeting and Agenda, dated May 6, 2019
2. Memo re: Fiscal Year 2019 (FY19) Third Quarter Budget Review dated May 1, 2019
3. PowerPoint - Encore Boston Harbor 1st Quarter Report dated May 6, 2019
4. Encore Boston Harbor Project Construction and Licensee Requirements Report dated December 31, 2018
5. Encore Boston Harbor Project Construction and Licensee Requirements Report dated March 31, 2019
6. Letter from Encore Boston Harbor to the Commission of estimated cost of construction as of March 31, 2019, dated May 3, 2019

7. Memo re: Commission Approval of Encore Boston Harbor Independent Traffic Monitoring dated May 2, 2019
8. Memo re: Encore Boston Harbor – Approval of Changes to Encore Boston Harbor Design dated May 3, 2019
9. Memo re: Encore Boston Harbor Detailed Construction Schedule dated May 3, 2019
10. Encore Boston Harbor Second Amended Section 61 Findings Issued (Draft) dated April 30, 2019
11. Redline of Encore Boston Harbor Second Amended Section 61 Findings Issued (Draft) dated April 30, 2019
12. Environmental Monitor 2019 Publication Schedule of Comment Deadlines and Decision Dates
13. Memo re Encore Water Shuttle Evaluation Update dated May 3, 2019
14. Encore’s Opening Transportation Plan Presentation
15. Letter re: Revision to Wynn MA, LLC Gaming Establishment dated May 1, 2019
16. PowerPoint - Encore’s General Info re Gaming Beverage License
17. Memo re: Gaming Beverage License Application Encore Boston Harbor dated May 2, 2019
18. Wynn MA, LLC Gaming Beverage License Application dated May 1, 2019

/s/ Catherine Blue
Assistant Secretary