



NOTICE OF MEETING AND AGENDA

Pursuant to the Massachusetts Open Meeting Law (G.L. c. 30A, §§ 18-25), St. 2022, c. 107, and St. 2023, c. 2, notice is hereby given of a public meeting of the **Massachusetts Gaming Commission**. The meeting will take place:

Thursday | July 27, 2023 | 10:00 a.m.
VIA REMOTE ACCESS: 1-646-741-5292
MEETING ID/ PARTICIPANT CODE: 111 281 9432
All meetings are streamed live at www.massgaming.com.

Please note that the Commission will conduct this public meeting remotely utilizing collaboration technology. Use of this technology is intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public. If there is any technical problem with the Commission's remote connection, an alternative conference line will be noticed immediately on www.massgaming.com.

All documents and presentations related to this agenda will be available for your review on the morning of the meeting date by visiting our website and clicking on the News header, under the Meeting Archives drop-down.

PUBLIC MEETING - #468

1. Call to Order – Cathy Judd-Stein, Chair

2. Meeting Minutes
 - a. January 18, 2023 **VOTE**

3. Administrative Update – Todd Grossman, Interim Executive Director & General Counsel
 - a. Status of Office Space due to Recent Pipe Break

4. Sports Wagering Division – Bruce Band, Director of Sports Wagering, Sterl Carpenter, Sports Wagering Operations Manager
 - a. Update to Fanatics' House Rules **VOTE**
 - b. Update to DraftKings' House Rules **VOTE**

5. Community Affairs Division – Joe Delaney, Chief of Community Affairs
 - a. Review of Potential Modifications to the Community Mitigation Fund **VOTE**



Massachusetts Gaming Commission

6. Racing – Dr. Alexandra Lightbown, Chief Veterinarian and Director of Racing
 - a. Review of Racing License Application for Opening a New Racetrack – Caitlin W. Monahan, Deputy General Counsel; Judith Young, Associate General Counsel **VOTE**
 - b. Report to the Commission on Track Matters Approved by the Director of Racing using Delegation of Authority

7. Review of Open Meeting Law complaint filed by Patrick Higgins and Associates on July 10, 2023, regarding the Commission’s July 10, 2023, meeting agenda – David Mackey, Partner, Anderson & Kreiger LLC **VOTE**

8. Permanent Executive Director Hiring Update
 - a. Distribution of Draft Job Description for Executive Director – Commissioner Eileen O’Brien and Commissioner Nakisha Skinner **VOTE**
 - b. Review of Selection Process for Permanent Executive Director – David Mackey, Partner, Anderson & Kreiger LLC **VOTE**

9. Commissioner Updates
 - a. Interim Investigation and Enforcement Bureau Director Status Report – Chair Cathy Judd-Stein, Commissioner Eileen O’Brien

10. Legal – Todd Grossman, Interim Executive Director & General Counsel, Caitlin Monahan, Deputy General Counsel
 - a. FBT Everett Realty, LLC v. Massachusetts Gaming Commission
 - I. Executive Session **VOTE**
The Commission anticipates that it will meet in executive session in accordance with G.L. c.30A, §21(a)(3) to discuss strategy with respect to FBT Everett Realty, LLC v. Massachusetts Gaming Commission, as discussion at an open meeting may have a detrimental effect on the litigating position of the Commission.
 - b. Gattineri v. Wynn MA, LLC, et al.
 - I. Executive Session **VOTE**
The Commission anticipates that it will meet in executive session in accordance with G.L. c.30A, §21(a)(3) to discuss strategy with respect to Gattineri v. Wynn MA, LLC, as discussion at an open meeting may have a detrimental effect on the litigating position of the Commission.
 - c. Ferris, et al. v. Wynn Resorts Limited, et al.
 - I. Executive Session **VOTE**



Massachusetts Gaming Commission

The Commission anticipates that it will meet in executive session in accordance with G.L. c.30A, §21(a)(3) to discuss strategy with respect to Ferris, et al. v. Wynn Resorts Limited, et al., as discussion at an open meeting may have a detrimental effect on the litigating position of the Commission.

11. Other Business - Reserved for matters the Chair did not reasonably anticipate at the time of posting.

I certify that this Notice was posted as “Massachusetts Gaming Commission Meeting” at www.massgaming.com and emailed to regs@sec.state.ma.us. Posted to Website: July 25, 2023 | 10:00 a.m. EST

July 25, 2023

Cathy Judd-Stein

Cathy Judd-Stein, Chair

*If there are any questions pertaining to accessibility and/or further assistance is needed,
please email Grace.Robinson@massgaming.gov.*



Massachusetts Gaming Commission



Massachusetts Gaming Commission Meeting Minutes

Date/Time: January 18, 2023, 9:00 a.m.
Place: Massachusetts Gaming Commission

VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 112 933 1271

The Commission conducted this public meeting remotely utilizing collaboration technology. The use of this technology was intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public.

Commissioners Present:

Chair Cathy Judd-Stein
Commissioner Eileen O'Brien
Commissioner Bradford Hill
Commissioner Nakisha Skinner
Commissioner Jordan Maynard

1. [Call to Order](#) (00:00)

Chair Judd-Stein called to order the 424th Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted. All five commissioners were present for the meeting.

2. [Review of Meeting Minutes](#) (01:05)

a. October 6, 2022

Commissioner Hill moved that the Commission approve the minutes from the October 6, 2022, public meeting that are included in the Commissioner's Packet subject to any necessary corrections for typographical errors or other non-material matters. Commissioner Maynard seconded the motion.

Roll call vote:

Commissioner O'Brien: Aye.
Commissioner Hill: Aye.
Commissioner Skinner: Aye.
Commissioner Maynard: Aye.
Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

3. [Administrative Update](#) (03:54)

Executive Director Karen Wells announced that the Voluntary Self Exclusion program for sports wagering was scheduled to go live on January 23, 2023. Mark Vander Linden, Director of Research and Responsible Gaming stated that the patrons could enroll in the voluntary self-exclusion list in advance of the go-live date.

4. [Legal](#) (5:49)

a. Sports Wagering Regulations:

Associate General Counsel Judith Young provided an overview of the regulations comprising the sports wagering operator licensing framework. The regulations were being presented for final review by the Commission. She explained that the regulations first appeared before the Commission on November 10, 2022, and the Commission voted to promulgate the regulations by emergency. She stated that the regulations had undergone minor editing for formatting but were largely similar to the content of the previous drafts that the Commission saw on November 10, 2022. She stated that a public hearing was held on January 17, 2023, and that no comments were received.

- i. [205 CMR 212.00](#): Additional Information and Cooperation – Regulation and Amended Small Business Impact Statement for review and approval to finalize the promulgation process. (09:12)

Attorney Paul Kominers, outside counsel from the law firm Anderson and Krieger, presented 205 CMR 212 which required applicants, licensees, vendors, qualifiers, and registrants to cooperate fully with requests from the Investigations and Enforcement Bureau (“IEB”). The *draft 205 CMR 212, comments, and small business impact statement* were included in the Commissioner’s Packet on pages 40 through 48.

Mr. Kominers stated that one written comment had been received by FanDuel. They requested language that clarified, in 205 CMR 215.01(5)(h), there was no duty to report exclusion in another jurisdiction based upon the position a qualifier holds in the licensee. Mr. Kominers stated that the language requested was reasonable.

Commissioner O’Brien asked if the same language was used within the gaming regulations. Mr. Kominers stated that a comparable section appears in 205 CMR 115. Chair Judd-Stein asked if

the language suggested was added to the draft being presented. Mr. Kominers replied that it was not, but that it could be if Commissioners expressed a consensus on the provision.

Director of the IEB Loretta Lillios stated that she had no concerns about this additional language. She stated that 205 CMR 115 was interpreted consistently in the way envisioned in the written comment. Commissioner O'Brien suggested clarifying the language in both regulations to be consistent. Chair Judd-Stein agreed, and requested the language be made uniform. Deputy General Counsel Carrie Torrisi stated that it was not something that could be taken up immediately, given the timing of the regulation, but confirmed it would be returned to.

Commissioner Skinner noted 205 CMR 212.01(5)(g) used the term 'reasonably known' while other provisions in the regulation used the term 'reasonably aware'. She asked if there was a difference in how the two phrases were interpreted. Attorney Mina Makarious from Anderson and Krieger stated that it was likely a syntax issue. Commissioner Skinner asked if the language could be changed to be more consistent. Mr. Makarious stated that he wouldn't change it due to the syntax of 'information known' because it would require the change of the sentence structure. He stated that the language was consistent with 205 CMR 115 and expressed he would be concerned about introducing differences in syntax.

With that, Commissioner O'Brien moved that the Commission approve the amended small business impact statement and the draft of 205 CMR 212 as included in the Commissioner's Packet and as discussed here today; and specifically incorporating the recommended changes in 205 CMR 212.01(h). She further moved that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth, and to finalize the regulation promulgation process.

Chair Judd-Stein offered an amendment to change the regulation cited to 205 CMR 212.01(5)(h). Commissioner O'Brien accepted the amendment. The motion was seconded by Commissioner Maynard.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

- ii. [205 CMR 214.00](#): Sports Wagering Application Fees - Regulation and Amended Small Business Impact Statement for review and approval to finalize the promulgation process. (28:54)

Mr. Makarious presented 205 CMR 214 related to the application fees and additional fees for investigations conducted by the IEB. He noted that this regulation received no public comment

during the comment period. The *draft 205 CMR 214 and amended small business impact statement* were included in the Commissioner's Packet on pages 49 through 52.

Commissioner Hill moved that the Commission approve the amended small business impact statement and the draft of 205 CMR 214 as included in the Commissioner's Packet and discussed here today. He further moved that the staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth, and to finalize the regulation promulgation process. Commissioner O'Brien seconded the motion.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

- iii. [205 CMR 215.00](#): Applicant and Qualifier Suitability Determination, Standards, and Procedures – Regulation and Amended Small Business Impact Statement for review and approval to finalize the promulgation process. (31:45)

Mr. Kominers presented 205 CMR 215 related to the suitability procedures, with the additional process for the Commission to make a preliminary finding of suitability for temporary licensing purposes. He stated that the regulation also incorporated standards on whom was required to be qualified by the Commission. The *draft 205 CMR 215 and amended small business impact statement* were included in the Commissioner's Packet on pages 53 through 63.

Mr. Kominers stated that there was one comment that called for the Commission's discussion. He stated that attorney Walter Sullivan had suggested that rather than requiring the Commission to disqualify an applicant who met the grounds for potential disqualification, the Commission could be given discretion to disqualify that applicant.

Commissioner O'Brien expressed she wanted to treat all licensees equally and stated that the existing language mirrored General Law Chapter 23K. She stated that if the regulation was changed, it would give leniency to sports wagering licensees that was not available to casino licensees. She stated she was not in favor of changing the language.

Chair Judd-Stein expressed concern that the regulation may not be consistent with the statute and that she did not want the regulation to be subject to challenge. Commissioner Skinner stated she shared this concern. Director Lillios stated that an exercise of discretion could be challenging and that she had operational concerns. She stated that it would be easier to challenge exercises of discretion.

Mr. Makarios explained that General Law Chapter 23K used the word 'shall' while G.L. Chapter 23N used the word 'may'. He stated that the Commission had the authority to use either

word but that the language provided in the draft would avoid potential challenge from some applicants.

Chair Judd-Stein inquired whether the legislature wanted it to be reviewed on a case-by-case basis. Mr. Makarios stated that the legislature gave the Commission discretion as a regulator to review on a case-by-case basis or to have them all be treated categorically. Director Lillios noted that the requirement that the statement be knowingly false and materially significant already created significant bindings that must be met before it qualifies as an issue.

Commissioner Skinner stated that she was willing to keep the language as it was to be consistent with G.L. 23K. Commissioner Maynard stated that he would not turn the may into a shall. He stated that the legislature provided discretion in their language and that he respectfully disagreed with the language as presented. He stated he wanted to stay consistent with G.L. Chapter 23N. Commissioner Hill stated he was in support with keeping the language as is.

Continuing with his presentation, Mr. Kominers stated that the legal team did not recommend adopting the suggestions from the remaining comments. He stated that BetMGM had suggested the limitation of the Commission's discretion to determine anyone with a business association of any kind with the applicant as a qualifier. He stated that this was contrary to how the Commission operates, and it would give the operators too much opportunity to fight over qualification decisions. He noted a right to appeal already existed and that qualifiers could avail themselves of the right to appeal.

Mr. Kominers stated that FanDuel has suggested an increase to the maximum share an institutional investor could hold without having to go through the qualification process to be consistent with other jurisdictions. He stated that the 15% conforms with the casino gaming regulations and that the legal team recommended no change.

With that, Commissioner O'Brien moved that the Commission approve the amended small business impact statement and the draft of 205 CMR 215 as included in the Commissioner's Packet and discussed here today. She further moved that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth and to finalize the regulation promulgation process. Commissioner Skinner seconded the motion.

Chair Judd-Stein inquired whether the motion would exclude the amendment suggested in the public written comment by Mr. Sullivan. Commissioner O'Brien stated that it would.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Nay.

Chair Judd-Stein: Nay.

The motion passed, 3-2.

- iv. [205 CMR 219.00](#): Temporary Licensing Procedures – Regulation and Amended Small Business Impact Statement for review and approval to finalize the promulgation process. (54:43)

Mr. Kominers presented 205 CMR 218 which set out process for operator to request a temporary license and the process for temporary licenses to be extended if necessary. The *draft of 205 CMR 218 and amended small business impact statement* were included in the Commissioner’s Packet on pages 64 through 69.

Mr. Kominers stated that one written comment was received requesting clarification on the language of when an operator may apply for an extension of their temporary license. He recommended changing the term ‘two years’ to ‘twenty-four months’ as a consistent unit of measurement.

Commissioner Skinner and Chair Judd-Stein expressed that they shared confusion regarding the language of this provision. Commissioner Skinner suggested that the language read “until between twenty-one and twenty-four months after the date of issuance of the temporary license”. Mr. Makarios stated that the issue was developing a window of when the operator can submit a request. He suggested the language “an operator may submit a renewal request pursuant to this regulation between twenty-one months and twenty-four months after the day the temporary license was issued”.

Chair Judd-Stein questioned whether the consensus was that language should be ‘shall’ or ‘may’. Commissioner O’Brien noted that an operator could choose not to seek renewal of their temporary license, so use of the word ‘shall’ seemed most appropriate. The Commission reached a consensus to adopt the language presented by Mr. Makarios.

Commissioner O’Brien moved that the Commission approve the amended small business impact statement and the draft of 205 CMR 219 as included in the Commissioner’s Packet and discussed here today; specifically, the amendment as discussed as to 205 CMR 219.04(1). She further moved that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth and to finalize the regulation promulgation process. Commissioner Hill seconded the motion.

Roll call vote:

Commissioner O’Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

- v. [205 CMR 220.00](#): License Conditions– Regulation and Amended Small Business Impact Statement for review and approval to finalize the promulgation process. (1:06:16)

The *amended small business impact statement and draft 205 CMR 220* was included in the Commissioner’s Packet on pages 70 through 73.

Mr. Kominers recommended adding two paragraphs that required licenses be issued subject to the condition that their license was displayed to the public in a manner that was obvious. He stated that the language was based on 205 CMR 251 and that two provisions be added to the relevant sections for both the category one and two licenses, and for category three licenses.

Chair Judd-Stein asked if mobile applications in other jurisdictions required the operator to prominently display their license. Mr. Kominers stated that he was not sure, but that the requirement was consistent with the posting requirement for the operations certificate in 205 CMR 251. Chair Judd-Stein stated that it might be technologically challenging to require this and noted that posting in a physical space was less of a challenge. Commissioner Skinner stated that she had the same concerns relative to the play management regulations.

Deputy General Counsel Torrasi stated that this issue did not need to be addressed in this meeting, and that the changes were for consistency with the gaming regulations. She noted that the changes hadn’t had a public comment period, and that the changes could return as an amendment in the future.

Commissioner Maynard noted that Pennsylvania required their operators to post their certificate on their website. Chair Judd-Stein sought clarification whether the certificate needed to be posted on the operators’ application or the operators’ website. Commissioner Maynard explained that the website was referenced, but it also referred to the licensees’ online sportsbook. He stated that he would read that broadly to include the application.

Commissioner Hill stated that his preference would be to return to those provisions later and expressed an interest in receiving public input. Commissioner Skinner agreed. Commissioner O’Brien stated that the issue could be returned to prior to the mobile launch and expressed that she also wanted to hear public comment.

Deputy General Counsel Torrasi asked if the provision for retail locations would be included. Commissioner Hill replied that it was fair to do neither until public comment was received.

Mr. Kominers stated that there was a comment from FanDuel requesting the Commission allow temporary licenses to be extended past the five-year period, if there was not a durable finding of suitability made in that time. He noted that the traditional timespan of an ordinary license was five years, and that the Commission found that a temporary license should not persist past that point in previous discussions. He recommended that the Commission not accept this comment.

Commissioner Skinner asked if the regulatory language regarding the expiration of the temporary license was consistent with General Law Chapter 23N. Mr. Kominers stated that the short answer was yes, and that ending the temporary license at five years was a reasonable exercise of the Commission's discretion to make a decision on an application.

Chair Judd-Stein inquired whether the temporary license would lapse if the IEB had not made a determination of suitability within that five-year timeframe. Commissioner Skinner expressed her concerns that this interpretation may not be consistent with G.L. Chapter 23N.

Mr. Makarios stated that the Commission could revisit and change the regulation at some point in the four years if any temporary licensees were without their suitability determination. He stated that the Commission had to balance not issuing temporary licenses that would last longer than durable licenses, while giving the IEB sufficient chance to complete their suitability review. He stated that the written comment referenced a provision that had been moved to 205 CMR 219 in a previous draft.

Chair Judd-Stein inquired whether a temporary licensee could lose the ability to operate if the Commission staff's work was delayed. Mr. Makarios stated that the temporary licensing scheme permitted five years, but that the regulation could be revised to address this issue. Chair Judd-Stein noted that the regulation could be changed now, instead of waiting for a future point.

Commissioner Maynard also suggested additional language be added, as he was uncomfortable leaving the regulation to be amended that far in the future when the makeup of the Commission may be different. Mr. Kominers stated that the applicant could reapply after their temporary license expires. Chair Judd-Stein recognized that the applicant would still be required to cease operations during that process, however.

Commissioner O'Brien suggested adopting language from the gaming regulations that allows the operator to continue to operate during their renewal process. She requested the language from the gaming side be presented to the Commission. Commissioner Maynard echoed Commissioner O'Brien's request to hear the language from the gaming regulations. Deputy General Counsel Monahan stated that the regulation could be voted on as is, and that an amendment could be brought when the Commission has had more time to think on the issue. Chair Judd-Stein suggested the Commission could adopt the changes now and revisit the amendment if it was wrong.

Chair Judd-Stein asked if it was fair that a temporary licensee would have to shut down if the investigation took five years. Commissioner O'Brien stated that it was not fair, and she was looking into other language as an option that would provide additional protections. Chair Judd-Stein suggested the language could simply be struck as a solution.

Mr. Makarios stated that temporary licensees were getting the ability to operate fully with a lower fee, and that a full license only had a term of five years. Chair Judd-Stein raised the issue that the temporary operators would need to reapply and cease operations during that process. Mr. Makarios stated that they could apply for another license earlier than the five years so that their temporary license would not lapse. He suggested adding language to ensure nothing lapses when the renewal is pending.

Chair Judd-Stein noted that this required more from the applicant due to an issue on the Commission's end. Commissioner O'Brien stated that the Commission had to balance the issue of applicants potentially not being as complete with their responses to the IEB. Chair Judd-Stein stated that if an operator is not cooperative there are other means of finding them unsuitable. Commissioner O'Brien stated that the Commission should also disincentivize using the temporary license to only pay the \$1 million licensing fee rather than the \$5 million required for the full license.

Chair Judd-Stein stated that she was operating under the assumption that the delay would be on the Commission's end and stated that an operator could be required to cease operations despite fully complying. Commissioner O'Brien noted that the outcome suggested by the Chair could be avoided by including language that mirrored the gaming regulations. Commissioner Skinner highlighted that the temporary licensee could apply for the renewal of the temporary license prior to five years.

Mr. Makarios explained that even if they had received a full license, the applicant would be required to undergo the renewal process. He stated that this regulation was intended to address the unique issue of awarding temporary licenses prior to a finding of durable suitability. He advised that the Commission develop a regulation about what happened towards the end of a temporary or regular license period that clarifies the renewal process.

Mr. Makarios stated that this issue was considered at length by the legal team and requested that the Commission accept the language as it was presented. Chair Judd-Stein asked what the next steps would be. Mr. Makarios stated that if this regulation were accepted, there would be a process that was fair to the licensees and that the Legal Division would draft a regulation regarding the renewal of licenses to more directly address the issues raised. He agreed that applicants shouldn't be forced to shut down.

Commissioner O'Brien reaffirmed her desire the regulation to be consistent with how the renewal process works with casino gaming. Chair Judd-Stein stated that they should be as consistent as possible, but noted that they were governed by two different statutes.

Commissioner Skinner stated that she was good moving forward as recommended by the legal team. Commissioner Hill agreed. Commissioner Maynard agreed, but requested that the Commission address the issue of license renewal soon.

Commissioner Hill moved that the Commission approve the amended small business impact statement and the draft of 205 CMR 220 as included in the Commissioner's Packet and discussed here today, He further moved that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth to finalize the regulation promulgation process. Commissioner O'Brien seconded the motion.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

- vi. [205 CMR 221.00](#): Sports Wagering License Fees - Regulation and Amended Small Business Impact Statement for review and approval to finalize the promulgation process. (1:42:16)

Mr. Makarios presented 205 CMR 221 related to the licensing fees. He noted that no public comments were received on this regulation. The *amended small business impact statement and draft 205 CMR 221* were included in the Commissioner's Packet on pages 74 through 78.

Commissioner Hill moved that the Commission approve the amended small business impact statement and the draft of 205 CMR 221 as included in the Commissioner's Packet and discussed here today and further that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth to finalize the regulation promulgation process. Commissioner O'Brien seconded the motion.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

- vii. [205 CMR 218.00](#): General Sports Wagering Application Requirements, Standards, and Procedures – Regulation and Amended Small Business Impact Statement for review and approval to finalize the promulgation process. (1:45:07)

Associate General Counsel Ying Wang presented 205 CMR 218 related to the general sports wagering application requirements. She stated that the regulation governed the standards and procedures for determining an applicant or qualifiers suitability. The *amended small business*

impact statement and draft 205 CMR 218 were included in the Commissioner's Packet on pages 79 through 92.

Associate General Counsel Wang stated that 205 CMR 218 had appeared before the Commission on October 27, 2022, at which time it was promulgated by emergency. She stated that there was a public hearing on January 17, 2023, presided over by Commissioner Hill. She stated that no comments were received at the public hearing but that two written comments were received.

Mr. Kominers explained that both written comments were received by BetMGM regarding the Commission's treatment of confidential or private information. He stated that the first comment requested that the Commission notify the applicant before any confidential or private information was discussed during the meetings. Mr. Kominers stated that this was not clearly feasible and may create issues with the open meeting laws. He stated that the Commission would not want to create rights or opportunities for disputes with the applicants in this manner.

Mr. Kominers explained that BetMGM's second request was to require that any information given to those providing technical assistance that is confidential or proprietary should be stored securely or promptly destroyed. He stated that the legal team did not recommend adopting this amendment as it would create a right by regulation.

Chair Judd-Stein noted that the requests did not include personally protected information, just confidential and proprietary information. Mr. Kominers stated that was correct. Commissioner Maynard stated that there were existing laws to protect this information and it does not need to be addressed in regulations. General Counsel Todd Grossman noted that the Commission typically included language in all of its contracts with vendors and contracts that require information be stored.

Commissioner O'Brien moved that the Commission approve the amended small business impact statement and the draft of 205 CMR 218 as included in the Commissioner's Packet and discussed here today and further that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth to finalize the regulation promulgation process. Commissioner Hill seconded the motion.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

- viii. [205 CMR 233.00](#): Sports Wagering Voluntary Self-Exclusion - Regulation and Amended Small Business Impact Statement for review and approval to finalize the promulgation process. (1:52:33)

Associate General Counsel Wang presented 205 CMR 233 related to the protocol for patrons to self-exclude themselves from sports wagering and setting responsibilities for operators regarding self-excluded patrons. The *amended small business impact statement and draft 205 CMR 233* were included in the Commissioner’s Packet on pages 93 through 102.

Associate General Counsel Wang stated that 205 CMR 233 had appeared before the Commission on October 27, 2022, at which time it was promulgated by emergency. She stated that there was a public hearing on January 17, 2023, presided over by Commissioner Hill. She stated that no comments were received at the public hearing, but that one written comment was received.

Attorney Annie Lee from Anderson and Krieger explained that BetMGM had requested the removal of the reckless standard used in sanctions in 205 CMR 233.07. She stated that the drafted language was consistent with 205 CMR 133 regarding the voluntary self-exclusion list for casino gambling. She noted that the legal team did not recommend accepting the comment as reckless was already a high standard.

Ms. Lee flagged the issue that there had been a discussion that 205 CMR 232 might supplant the sanctions provisions. Mr. Makarious stated that there would likely be revisions to regulations that mention enforcement.

Chair Judd-Stein sought clarity on who would apply the conditions, suspension, or revocation of licenses. Mr. Makarious stated that the Commission would apply the penalties based on this regulation. He noted that the provisions were based on the enforcement provisions for the gaming side. He explained that under G.L. Chapter 23N § 16 the Commission is the group authorized to enact penalties, not the IEB.

Commissioner Hill moved that the Commission approve the amended small business impact statement and the draft of 205 CMR 233 as included in the Commissioner’s Packet and discussed here today. He further moved that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth, to finalize the regulation promulgation process. Commissioner O’Brien seconded the motion.

Roll call vote:

Commissioner O’Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

5. [Commissioner Updates](#) (23:16)

Chair Judd-Stein requested that General Counsel Grossman walk the Commission through 205 CMR 215, as it was pertinent to the Commission's evaluation process that would occur in upcoming meetings. General Counsel Grossman provided Commissioners with an overview of 205 CMR 215.

Chair Judd-Stein asked if the finding of preliminary suitability was based on the standard of evidence of substantial evidence. General Counsel Grossman replied that she was correct.

6. [Other Business](#) (2:19:12)

Hearing no other business, Chair Judd-Stein requested a motion to adjourn.

Commissioner Hill moved to adjourn. The motion was seconded by Commissioner Maynard.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

List of Documents and Other Items Used

1. Notice of Meeting and Agenda dated January 11, 2023
2. [Commissioner's Packet](#) from the January 18, 2023, meeting (posted on massgaming.com)



Sports Wagering Division

TO: Chair Cathy Judd-Stein
Commissioner Bradford R. Hill
Commissioner Jordan Maynard
Commissioner Eileen M. O'Brien
Commissioner Nakisha L. Skinner

FROM: Sterl Carpenter – Sports Wagering Operations Manager

CC: Karen Wells – Executive Director
Bruce Band – Sports Wagering Division Director

DATE: July 7, 2023

RE: Update to licensee's house rules

Under 205 CMR 247.02(4) <https://www.mass.gov/doc/205-cmr-247-uniform-standards-of-sports-wagering/download> the Commission reviews all changes proposed by a licensee to their house rules. A Sports Wagering Operator shall not change or modify the House Rules without the prior written approval of the Commission. Failure by an Operator to act in accordance with its House Rules may result in disciplinary action.

EXECUTIVE SUMMARY:

Fanatics Betting & Gaming has requested changes to their house rules.

The changes are as follows:

Funding of Wagers

1. Addition of PaySafe Cash as an account funding method.
2. Addition of other methods as approved by MGC.

Wager Type Calculations

1. Removal of “payoffs” as a term previously used throughout and replaced with “payout” where necessary.
2. Revise “Moneyline” section to “multi-digit number,” as odds for moneyline wagers may exceed three digits.

Notification of Odds or Line Changes

1. Additional clarification.

Types of Wagers Accepted



Sports Wagering Division

1. Revision for clarification.

Market Settlement/Re-Settlement

1. Revisions for clarification.

Abandoned, Canceled, Postponed or Forfeited Events

1. Revisions for clarification.

Odds Boosts

1. Revisions for clarification.

Parlays

1. Revisions for clarification.

Cash Out

1. Revision for clarification.

Miscellaneous

1. Deletion for clarification.

Football

General Football Rules / Point Spread/Handicap (Including 1st/2nd/3rd/4th Quarter & 1st/2nd Half Point Spread/Handicap) / Total Points & Total Team Points (Including 1st/2nd/3rd/4th Quarter & 1st/2nd Half Total Points) / Defensive Player Props (Tackles/Assists, Sacks, Interceptions, Forced Fumbles) /Regular Season Wins / NFL Draft Market Rules

1. Revisions for clarification.

Basketball

General Basketball Rules

1. Additional clarity to identify when basketball games must take place to be considered action.
2. Revisions for clarification.

Point Spread/Handicap (Including 1st/2nd/3rd/4th Quarter & 1st/2nd Half Point Spread/Handicap) / Total Points & Total Team Points (Including 1st/2nd/3rd/4th Quarter & 1st/2nd Half Total Points) / Total Player Points/Rebounds/Assists/Threes Made/Blocks/Steals (Including markets specific to 1st/2nd Half and 1st/2nd/3rd/4th Quarter) / Player to record a Double-Double/Triple-Double / Season/Series Long Player Props / Draft Pick Number Props / Xth Player Drafted (Offered on an Overall, Position, College,



Sports Wagering Division

NCAA Conference basis)

1. Revisions for clarification.

Regular Season Wins

1. Additional clarity on the percentage of games that must be played for Regular Season Wins markets to be considered action.
2. Removal of reference to Regular Season Win Percentage markets as Fanatics does not intend to offer wagering on those markets at this time.

Baseball

General Baseball Rules

1. Additional clarity to identify when baseball games must take place to be considered action.

Total Runs & Total Team Runs (Including Innings Specific Totals) / Run-Line/Spread (Including Innings Specific) / Most Hits/Total Hits/Team Hits (Including Innings Specific) / Last Team to Score / 1st Hit/Home Run/Single/Double/Triple/Error/Stolen Base of the Game / General Player Prop Rules / Player to record a hit / Player to record an in-play out / Batter to record a strikeout / Batter to record a walk

1. Revisions for clarification.

Regular Season Wins

1. Additional clarity on the percentage of games that must be played for Regular Season Wins markets to be considered action.
2. Removed reference to Regular Season Win Percentage markets as Fanatics does not intend to offer wagering on those markets at this time.

Ice Hockey

General Ice Hockey Rules / Spread/Handicap/Puck Line (Including Period Specific) / Total Goals & Total Team Goals (Including 1st/2nd/3rd Period Total Goals) / 1st Goal/Xth Goal/Next Goal

1. Revisions for clarification.

Regular Season Wins

1. Additional clarity on the percentage of games that must be played for Regular Season Wins markets to be considered action.
2. Removed reference to Regular Season Win Percentage markets as Fanatics does not intend to offer wagering on those markets at this time.

Regular Season Points



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1. Addition of section broken out from Regular Season Wins rules for additional patron understanding of market type.

Tennis

General Tennis Rules / Set/Games Handicap/Spread (Includes Set Specific Game Handicap such as '2nd Set Handicap') / Total Games/Sets (Includes Player Specific & Set Specific Total Games such as '2nd Set Total Games & Player A Total Games') / Set Betting / Tie Break in Match/Set / Race to X Points/Games/Sets / Total Aces (Includes Player & Set Specific Total Aces) / Total Service Breaks (Includes Player & Set Specific Total Service Breaks) / Point Betting (1st/Current/Next Point Winner) / General Tennis Futures Rules / Name The Finalists / Final Exacta/Forecast / Quarter Winner

1. Revisions for clarification.

Total Games (Includes Set Specific Games & Match) Odd/Even / Set Winner / Exact Number of Sets / Player To Win A Set / Player To Win Exactly 1 Set / Player To Win Exactly 2 Sets / Set Correct Score / 1stSet Winner/Money Line / Any Set to Nil / Game Winner / Game Correct Score / Game Exact Points / Game to Deuce / Point Winner

1. Addition of rules to address new market types.

Golf

Outright Winner (Also applicable to Top Nationality, Top Amateur, Top Debutant, Top Left Handed Player and other equivalent markets) / Outright Winner Without Nominated Player(s) / Outright Double/Triple Chance / Straight/Dual Forecast / End of 1st/2nd/3rd Round Leader / Top X Finish / 2-Ball/3-Ball Matchups / Hole Winner/Grouped Hole Winner Matchups / Tournament Match Bets / First Time Winner? / Match Winning Margin / Match Handicap

1. Revisions for clarification.

Soccer

General Soccer Rules

1. Additional clarity to identify when soccer games must take place to be considered action.
2. Additional clarity to identify when abandoned soccer games must be completed to be considered action.
3. Revisions for clarification.

Match Result/1X2/3-Way Moneyline (Match or Half Specific) / Draw No Bet/2-Way Moneyline (Match or Half Specific) / Double Chance (Match or Half Specific) / Both Teams To Score (Match or Half Specific) / Asian Handicap / Over/Under X Goals (Match or Half Specific) / Asian Total Goals/Goal Line / Total Corners (Includes 2-Way, 3-Way, Banded, Team Specific Corners, Half Specific Corners) / First/Last/Next Corner / Corner Handicap / Match Stat Totals (Including but not limited to Shots, Shots on Target, Headed Shots on Target, Passes, Tackles, Offsides) / Soccer Interval Markets (e.g 1 minute, 5



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minuteinterval betting) / First/Next/Last/Xth Goalscorer / Player Match Stat Totals (Including but not limited to Shots, Assists, Shots on Target, Headed Shots on Target, Passes, Tackles, Offsides) / Outright/League/Competition Winner Markets / Regular Season Points / Name The Finalists / Final Exacta/Forecast / Stage of Elimination / Top Goalscorer/Top Team Goalscorer/Golden Boot / To Qualify /Soccer Same Game Parlay Specific Rules

1. Revisions for clarification.

Half Time/Full Time / To Keep A Clean Sheet (Match or Half Specific) / To Win Either Half / Most Corners (3-Way) / Match Result After X Minutes

1. Addition of rules to address new market types.

General Soccer Player Market Rules

1. Deletion of duplicative section addressed in General Sports Rules.

Boxing

Match Result/Fight Winner/Moneyline / Method of Victory/Exact Method of Victory / Total Rounds / Round Betting (Includes Grouped Round Betting/Either Fighter Round Betting/Either Fighter Grouped Round Betting) / Knockdown Betting (Includes round Knockdown, Will fighter be Knocked down?, Both fighters to be Knocked down, Total Knockdowns)

1. Revisions for clarification.

MMA

Match Result/Fight Winner/Moneyline / Method of Victory/Exact Method of Victory / Total Rounds / Round Betting (Includes Grouped Round Betting/Either Fighter Round Betting/Either Fighter Grouped Round Betting)

1. Revisions for clarification.

Table Tennis

General Table Tennis Rules

1. Revisions for clarification.

Rugby Union

Match Result/Moneyline / 1st/2nd Half Winner / First/Xth Team to score/ First/Xth Team to score a Try/ First/Xth Team to score a Penalty/ First/Xth Team to score a Drop Goal / Total Match/Half Points/Tries / Total Team Match/Half Points/Tries / Regular Season Points / Name The Finalists / Final Exacta/Forecast / Stage of Elimination / To Qualify



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1. Revisions for clarification.

Cricket

General Cricket Rules / 1st/2nd Innings Bowled Out

1. Revisions for clarification.

Australian Rules

Australian Rules Market Rules

1. Revisions for clarification.

CONCLUDING STATEMENT:

The division confirms that all requirements have been met under 205 CMR 247.02 and the Sports Wagering Division has no reservations about moving forward on approving these changes.



Sports Wagering Division

TO: Chair Cathy Judd-Stein
Commissioner Bradford R. Hill
Commissioner Jordan Maynard
Commissioner Eileen M. O'Brien
Commissioner Nakisha L. Skinner

FROM: Sterl Carpenter – Sports Wagering Operations Manager

CC: Todd Grossman – Interim Executive Director
Bruce Band – Sports Wagering Division Director

DATE: July 17, 2023

RE: Update to licensee's house rules

Under 205 CMR 247.02(4) <https://www.mass.gov/doc/205-cmr-247-uniform-standards-of-sports-wagering/download> the Commission reviews all changes proposed by a licensee to their house rules. A Sports Wagering Operator shall not change or modify the House Rules without the prior written approval of the Commission. Failure by an Operator to act in accordance with its House Rules may result in disciplinary action.

EXECUTIVE SUMMARY:

Crown MA Gaming, LLC d/b/a DraftKings has requested changes to their house rules.

The changes are as follows:

Market Rules

- Teasers - pg.12

Clarifying language added

Soccer Rules

- General Rules – *VAR removal* - pg.24
- Specific Market Rules – General formatting changes – pgs. 26 – 29
- Futures/other props – updates to the follow markets pgs. 31-32
 - Outrights/Winner – clarifying language
 - Promotion - addition
 - Relegation - addition
 - Season Over/Under Points - clarifying language



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- Season Tournament Head to Head - Clarification
- Relegation/Promotion - Removal

- Pre-live SGP – settlement clarification for player props categories – pg. 33
- Live SGP – grammar clarification – pg.34

Basketball Rules

- General rules – grammar – pg. 34
- Player Props – grammar and update for First field goal/Rebound/Assist – pg. 35
- Futures/other props – updates to following markets pg. 36:
 - Seed Number Over/Under
 - Player's Next Team
 - Season/Tournament Head to Head or Team to Advance Further

- Pre-live SGP – pg. 37

Language changed to the following (below) all other language removed.

In the event a pre-live Same Game Parlay contains a selection which is settled as void, the pre-live Same Game Parlay will be repriced based on the odds available on the DraftKings website at the time of bet placement. In the event all selections in a pre-live Same Game Parlay are settled as void, then the whole bet will be settled as void.

All Basketball specific rules also apply to pre-live Same Game Parlays.

- Live SGP – pg.37

Tennis Rules

- Specific Market Rules update to the following market pg. 38:
 - Moneyline – Clarification

Football Rules

- Specific Market Rules – formatting/grammatical updates – pgs. 40-41
- Player Props update to the following markets pg. 42:
 - General Rules
 - Touchdown Scorer
 - Regular Season Player Props (season-long market)



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- Pre-live SGP update – pg.43

Same as above in Basketball Rules

- Live SGP update – pg.43

Baseball Rules

- General Rules update – pg.46

- Mercy Rule - Clarification

- Player Props updates on the following markets pgs. 48-49 - Clarifications:

- Plate Appearance Markets
- Pitch Markets
- Half inning Markets

- Live SGP update pg. 52

Boxing Rules

- Specific Market Rules updates for the following markets pgs. 53-54:

- Method of Victory
- Total Rounds
- Round or Group of rounds Betting
- What Round Will Fight End/When Will the Fight End

Cricket Rules

- General Rules updates pg.55

- Specific Market Rules update to the following markets pgs. 55-63:

- Draw No Bet
- Innings Runs
- Innings Total Fours/Sixes
- 1st Xth Overs Runs
- 1st Xth Overs Runs (5 Balls)
- Session Runs
- Fall of Next Wicket
- Next Over Runs
- Next Over Runs (5 balls)
- Next Over Wicket? (Yes/No)



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- Next Over Odd/Even
- Runs off Delivery
- Batter Total Runs
- Batter Total Fours/Sixes
- Bowler Total Wickets
- A 50/100 Score in Match
- Batter to Score 50+/100+ Runs
- Top Batter/Top Bowler
- Player of the Match
- Player to Score Most Sixes
- Batter Match Bets
- Bowler Match Bets
- Highest Individual Score
- Highest Opening Partnership
- Most Match Fours/Sixes
- Most Run Outs
- Dismissal Method
- Wickets Lost in "X" Runs
- 1st Wicket Method
- 1st Innings Lead
- 1st Over Total Runs/Team 1st Over Total Runs/1st 5 Balls Total Runs
- 1st Ball of the Match
- Runs at Fall of 1st Wicket/Team Runs at Fall of 1st Wicket
- Team with Highest 1st 6/10/15 Overs Score
- Odd/Even
- Total Match Fours/Sixes
- Total Match Wides
- Total Match Run-outs
- Hat-trick in Match
- General Rules
- Most Runs/Fours/Sixes
- Top Batter/Top Bowler
- Bowler to take 5 Wickets in a Match?
- Batter Runs Match Bet
- Bowler Match Bet
- Top Series/Tournament Batter/Bowler



Sports Wagering Division

- Match Special Markets updates in the following markets pg. 63:

- Tournament Markets updates in the following markets pg. 64:

- Futures/Other Props update in the following market pg. 65:

Hockey Rules

- General Rules grammatical updates pg. 80

- Player props grammatical update pg. 83

- Live SGP update pg. 85

MMA Rules

- Specific Market Rules updates in the following markets pg. 87:

- Total Rounds/Minutes
- To Win Fight and Over/Under Rounds

- Live SGP update pg. 88

Motor Racing Rules

- Specific Market Rules update to the following market pg. 90:

- Practice 1/2/3 Winner & Free Practice 1/2/3 Winning Car

Volleyball Rules

- Specific Market Rules update to the following market pg. 96:

- Point Betting

CONCLUDING STATEMENT:

The division confirms that all requirements have been met under 205 CMR 247.02 and the Sports Wagering Division has no reservations about moving forward on approving these changes. All changes provided better clarity in the description and terms of the wager.



TO: Chair Cathy Judd-Stein and Commissioners Eileen O'Brien, Bradford Hill, Nakisha Skinner and Jordan Maynard

FROM: Joe Delaney, Mary Thurlow, Lily Wallace

CC: Todd Grossman, Interim Executive Director

DATE: July 25, 2023

SUBJECT: Potential Modifications to the Community Mitigation Fund

As the Community Mitigation Fund (CMF) has matured, the Community Affairs Division has identified several challenges that have affected the utilization and administration of the program. We are working with both internal and external stakeholders to identify ways to improve and streamline the CMF process.

CMF Background

MGL Chapter 23K Section 61 established the Community Mitigation Fund to “assist the host community and surrounding communities in offsetting costs related to the construction and operation of a gaming establishment including, but not limited to, communities and water and sewer districts in the vicinity of a gaming establishment, local and regional education, transportation, infrastructure, housing, environmental issues and public safety, including the office of the county district attorney, police, fire and emergency services.” Section 61 further states that “Parties requesting appropriations from the fund shall submit a written request for funding to the commission before February 1 of each year. The commission may hold a public hearing in the region of a gaming establishment to provide parties with the opportunity to provide further information about their request for funds and shall distribute funds to requesting parties based on demonstrated need.”

The CMF was originally funded with \$17.5 million from the Category 1 License Fees and receives 6.5% of the tax revenues generated by the Category 1 facilities.

Over the first couple of years of the program, the Commission refined the eligibilities for funding to the Host Communities, designated Surrounding Communities, communities that are

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Community Mitigation Fund Potential Changes

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directly adjacent to a Host Community, communities that applied to become Surrounding Communities and communities that entered into a Neighboring Community Agreement. Also eligible are the other entities specifically spelled out in the statute such as Public Safety agencies, District Attorney's Offices, and regional education programs.

The chart below shows the historical spending of the CMF.

Targeted Spending for Awards					
Year	Total Available Funds	Region A	Region B	Category 2	Awarded Amounts
2016	\$17.5M				\$3.1M
2017	\$14.75M				\$2.6M
2018	\$10 M				\$5.6M
2019	\$5.2M	\$2.35M	\$2.35M	\$500,000	\$3.8M
2020	\$11.5M	\$6.0M	\$5.0M	\$500,000	\$6.6M
2021	12.5M	\$6.0M	\$6.0M	\$500,000	\$4.9M
2022	\$21M	\$12.55M	\$7.9M	\$500,000	\$10.6M
2023	\$28M	\$20M	\$7M	\$1.0M	\$10.2M

As this chart demonstrates, the Commission has not been fully expending available funding. During calendar year 2022, approximately \$16 million was deposited into the CMF from gaming taxes.

Current Program Challenges

1. *Identification and Quantification of Casino Related Impacts* – Since the program's inception, applicants have had difficulty with effectively defining a gaming related impact as well as quantifying that impact. We have suggested to applicants to utilize the existing research studies conducted by the Commission to help in this effort, however, these studies do not always make definitive connections to the casinos. While the Commission's Research Agenda may be able to suggest impacts due to the presence of a gaming establishment, it may not capture all impacts due to the diversity of the communities involved. Adequately identifying and quantifying casino related impacts is the single largest reason for the denial of grants.

2. *Community Capacity* – Several of the CMF eligible communities do not have the available staff to effectively develop grant applications. We have also heard that CMF grants have not been a priority with the availability of other grant funds. Capacity to develop and administer grants is not solely associated with small communities. We have heard from several larger communities that high employment turnover rates have also led to a heavy administrative burden for program staff, which has resulted in the withdrawal of several applications. The capacity of communities directly impacts the quality of applications. Communities with larger staffs tend to submit more complete applications and therefore are typically more successful in obtaining grant funds.
3. *Program Structure* – The structure of the CMF is unlike most grant programs. This has both benefits and drawbacks. Under most grant programs, there is an opportunity for applicants to ask questions during the open bid period, but once applications are received, no more contact is allowed. The applications are opened, reviewed by a review team and awards made. With the CMF, after applications are received and an initial review is performed by the Review Team, a Request for Supplemental Information (RSI) is sent to the applicant if the team has any questions regarding the application. After receiving the response from the applicant, the Review Team may have a follow up meeting with the applicant if there are still outstanding questions. In almost every one of the RSIs, the Review Team asks for more information about the connection to the casino. This approach has the benefit of giving the Review Team the information they need to adequately review the application, but it is also very labor intensive. Virtually all the applications receive an RSI letter. This essentially requires the Review Team to review each application twice – once when it is received and again after the RSI response is received.
4. *Review and Approval Process* - The current structure of review provides a team of reviewers who utilize a consensus approach to determine funding. However, there is no formal scoring system. The reason behind this was the wide range of types of impacts made it difficult to categorize consistent themes within the applications. In addition, to date the program has not been financially constrained.

The current approval process requires significant staff and Commission resources for the preparation of memos, scheduling and conducting 2x2s and Commission meetings. Most grant programs do not typically require approval at a Commission level. There is no particular requirement in 23K that requires Commission approval of grants. The current process is just a carryover from the beginning of the program.

5. *Applications for Routine Municipal Expenditures* – The Review Team is finding that applicants are applying for items that should be covered by their municipal budgets. The intent of the CMF program has always been to supplement municipal budgets to address casino related impacts, not just provide a different source of funds to pay for routine municipal expenses. Examples include vehicle replacements, police officer equipment replacements, etc.

Potential Program Improvements

The Community Affairs staff has identified several options for improvements to the CMF program designed to increase the utilization of the program while also easing the burden on applicants and MGC staff.

1. *Legislative Changes to Increase Eligibility* - A legislative change could increase the number of entities that are eligible to apply for the community mitigation fund as well as what types of projects the program could legally fund. This could lead to an increase in applications and in spending. The LCMACs and Subcommittee advised against this process as other solutions could better solve these issues and stay in house. While an increase in eligibility would likely increase utilization of the program, this would not address some of the structural issues identified above.
2. *Revising the Current Guidelines to be More Prescriptive* - Program Staff has been working with the Commission's Research Director to complete a literature review on possible impacts related to the presence of a gaming establishment. These findings could contribute to a list of eligible expenses under each category. A couple of years ago, through this type of effort, the Commission expanded eligibility in the Community Planning Grant category, which led to an increase in applications for that type of work. Communities have indicated that they would look favorably on this type of effort. Any improvements to the program should include this element. Implementing this should increase utilization of the program but does not necessarily address some of the other identified issues.
3. *Convert the CMF Program into a Block Grant Program* – The idea behind a block grant is that a community is awarded a set amount of grant money based on a formula, and then that community must submit a work plan that shows how the community will spend the money in accordance with the program's guidelines.

We have had some early discussions with our Local Community Mitigation Advisory Committees and the Subcommittee on Community Mitigation and heard real

enthusiasm for this approach. It would give communities some certainty around how much money they would receive, it would provide an incentive for communities to apply for this money knowing that it is set aside for them, and it would ease some of the administrative burden.

For the Commission, this would be a wholesale renovation of the CMF Program. Some of the major considerations would include:

- Entirely new Guidelines that clearly identify casino related impacts and the acceptable methods of mitigating those impacts. We would also want to have some flexibility in the Guidelines should a community want to explore mitigation in areas that had not been previously identified. We expect that the Guidelines would still have funding categories (transportation, public safety, etc.) as we do today, but these would be rooted in known impacts of casinos with a more well-defined list of acceptable mitigation measures.
- Creation of a formula for distributing funds that would be both equitable and relatively easy to implement. Factors in the formula could include distance from the casino, distribution of traffic impacts, casino employee residency among other factors.
- Creation of some carve-outs from the program to continue to fund non-municipal projects such as the Workforce Development Grants, the Hampden Sheriff Lease Assistance and Public Safety Grants to the DA's Offices.
- Potential changes to eligibility.

The Community Affairs staff recommends further investigating this Block Grant approach as it addresses many of the issues facing the program. It should increase utilization of the program, help improve the quality of applications and address identified casino related impacts while decreasing the level of effort required to prepare, review and approve applications.

Proposed Next Steps

If the Commission agrees that we should move ahead with this proposal, we will start developing a framework including an outline of proposed Guidelines, development of a distribution formula, results of our research into gaming related impacts and a list of policy questions that will need to be answered before moving forward. We are working with Legal Department to ensure that the proposed work falls within the existing parameters of 23K Section 61.

Community Mitigation Fund Potential Changes

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The Community Affairs Division proposes to host a public meeting/hearing in early to mid-August to obtain input from the communities that have participated in CMF program as well as the Local Community Mitigation Advisory Committees and the Subcommittee on Community Mitigation.

We proposed to come back to the Commission at the last meeting in August 2023 with the results of that Public Meeting/Hearing, the proposed program framework and policy questions. When that meeting is complete, we expect quickly move forward with additional LCMAC and Subcommittee meetings.

It is our intent to have this revised program ready to go for the next round of funding. While there is a significant amount of work to do, we believe that it is achievable and can result in lasting improvements to the CMF.



Legal Division

TO: Cathy Judd-Stein, Chair
Eileen O'Brien, Commissioner
Bradford Hill, Commissioner
Nakisha Skinner, Commissioner
Jordan Maynard, Commissioner

FROM Judith Young, Associate General Counsel
Dr. Alexandra Lightbown, Director of the Racing Division

RE: Updates to the Application for License to Hold or Conduct a New Racing Meeting, for Calendar Year 2024

DATE: July 27, 2023

Overview

The Legal Division and The Division of Racing have made updates to the most recent version of the Application for a License to Conduct a Racing Meeting. This application will be utilized by prospective applicants who are seeking licenses from the Commission to hold or conduct a racing meeting in the Commonwealth. This application is not intended for use by existing licensees.

The application for calendar year 2024 has been updated to ensure that the Commission is able to gather necessary information from Applicants. The application is based largely on the racing statutes, G. L. c. 128A and 128C.

The Application consists of nine sections. We have provided a brief overview of each section, and explanation of how they have been updated, if applicable:

Section 1 – Background Information

This section is intended to seek the background information from the Applicant, including: their organizational structure, mailing address, business address, as well as the proposed location of the racetrack and the county it is, or will be located in.

No changes were made to the contents of this section.

Section 2 – Project Summary and Financing

This section seeks information from the Applicant regarding the broader project as well as the racetrack, clubhouse, grandstand, parimutuel kiosks, and parking areas. Applicants may submit any blueprints or renderings that they have designed as a supplement to the application. Applicants are also asked to



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provide information detailing the project's budget, the anticipated capital investment, as well as any feasibility studies they have conducted or will conduct pertaining to the project.

- In addition to grammatical corrections, this section has been updated to request information about the size of the proposed racetrack as well a detailed description of the track; inclusive of the types of grounds the horses will race upon in question 2.3(a). It also requires submission of a traffic study on the surrounding area for the proposed project in question 2.6.

Section 3 – Schedule of Proposed Races

This section of the application is intended for the Applicant to inform the Commission when they expect to commence their racing program, by seeking the calendar year the Applicant expects to conduct a racing meeting, and their proposed number of racing days.

- This section has been updated to include reference to the 2024 calendar year but is otherwise unchanged from the previous year's application.

Section 4 – Non-Commission Approvals

Section four of the racing application covers the approvals the Applicant must acquire by entities other than the Commission in advance of the Commission's decision relative to licensure. This includes approvals mandated by other state or federal laws, environmental ordinances, permits, licenses, or approvals required for the Applicant to construct and operate its facility. Most notably, an Applicant's proposed facility and premises must be approved by local authorities pursuant to G. L. c. 128A, § 13A; and the county where the Applicant proposes to conduct racing must have also approved horse racing by vote in accordance with G.L. c. 128A, § 14.

- This section has been updated to inform Applicants that they must obtain all necessary approvals in accordance with G. L. c. 128A, §§ 13A and 14, prior to submitting an application. It further states that any applications received without these required approvals will be rejected for lack of administrative completeness.

Section 5 – Qualifiers and Suitability

Section five of the application asks for information pertaining to the suitability of an Applicant, and requests that they provide information regarding all Qualifiers using the factors enumerated in question 5.1. Additionally, this section attempts to gain the necessary information regarding an Applicant's financial ability to operate a racetrack.

- The language in question 5.1 has been reformatted to note that the Applicant may seek certain waivers of qualifier status. A small formatting change in question 5.8 has also been made. Finally, question 5.19 has been expanded to include any liability insurance that would cover animals on the premises.

Section 6 – Public Interest

Section six of the application details the Commission’s consideration of “the interest of members of the public in racing competition honestly managed and of good quality.” M. G. L. c. 128A, §3(i). The questions in this section require the Applicant to submit or explain the plans and associated benefits of the project on the greater community as well as their plans for working with Horseman’s associations, their surrounding community, as well as any plans to attract and employ a diverse workforce (women, minority, and veteran).

- Aside from some minor formatting changes, this section has not been updated.

Section 7 – Facilities and Equipment

Section seven of the application seeks information regarding the real property upon which the racing facility will be constructed including the ownership and control of the land, the equipment expected to be used at the facility or a plan for how they will procure the equipment the Applicant does not currently possess. Additionally, the application solicits information as to the Applicant’s anticipated security measures for the care and protection of patrons, employees, licensees, horses, and roadways leading to and from the premises.

- Question 7.3 has been expanded to request additional information from Applicants based on their answer to the question regarding the proposed premises. Additionally, question 7.6 has been expanded to include leasing of premises to third parties for simulcasting, or sports book operations. It also requires that the Applicant submit all executed agreements regarding this question, if any.

Section 8 – Wagering and Simulcasting

Section eight requires Applicants to state whether they intend to offer account deposit wagering (“ADW”), and if so, the applicant is asked to provide a description of the system, and any service providers they anticipate using. Additionally, Applicants are asked if they intend to simulcast pursuant to G.L. c. 128C, and if they intend to race for at least the minimum number of race days required by statute.

- Question 8.1 has been updated to require information on how Applicant will handle abandoned or dormant patron accounts, for account deposit wagering.

Section 9 – General Conditions, Attestation and Signatures

Section nine of the application contains conditions and provisions that must be acknowledged by the Applicant before submitting their application. The attestations include the affirmative obligation by the Applicant to abide by the statements made in their application to the Commission, as well as all relevant state, local and federal laws.

- Aside from some formatting and grammatical changes to the signature fields, this section has not been updated.



**APPLICATION FOR LICENSE TO
HOLD OR CONDUCT A NEW RACING MEETING**

NAME OF APPLICANT: _____

TO HOLD OR CONDUCT A RACING MEETING AT: _____

IN THE CALEDAR YEAR OF: _____

DATE SUBMITTED: _____

Pursuant to the provisions of G.L. c. 128A and 128C, the Applicant hereby applies for license to hold or conduct the following type of racing meeting:

___ thoroughbred ___ standardbred

APPLICATION FEE AND SURETY REQUIRED:

Please enclose a certified check or bank draft payable to the Massachusetts Gaming Commission in the sum of \$300 in accordance with G.L. c. 128A, §4.

Please enclose a surety bond issued by a surety qualified to do business in the Commonwealth of Massachusetts and approved by the Commission in the amount of \$125,000 which is conditioned upon the payment of all sums which may become payable to the Commission under G.L. c. 128A in accordance with G.L. c. 128A, §3(o).

NOTICE: The Commission, in its authority under G.L. c. 128A, may reject an application for lack of administrative completeness, or in its discretion, grant leave to an applicant to provide supplemental or corrective information.

SECTION 1: BACKGROUND INFORMATION

1.1. Applicant's name: _____

1.2. Applicant is (check one):

- _____ An individual
_____ A limited partnership (LP)
_____ An unincorporated association
_____ A general partnership
_____ A trust
_____ A corporation
_____ A limited liability company (LLC)
_____ Other (specify: _____)

1.3. Name and contact information (including email) for the individual who will serve as the primary contact for the Applicant:

1.4. Trade name or d/b/a (if applicable):

1.5. Address of principal office:

1.6. Mailing address (if different):

1.7. Location of the proposed racetrack (include address if available):

1.8. County in which proposed racetrack is located: _____

1.9. Contact Information for Applicant's lead attorney:

Name: _____

Address: _____

Email address: _____

Phone number: _____

Board of Bar Overseers number: _____

1.10. Is Applicant incorporated, organized, or otherwise in Massachusetts?

YES
 NO

If the answer to this question is yes, please attach as **Exhibit 1.10** Error! Reference source not found. certified copies of all organizational documents filed with the Secretary of the Commonwealth or otherwise.

If the answer to this question is no, submit as **Exhibit 1.10** Error! Reference source not found. a statement providing the state of incorporation or organization, the entity's qualification to do business in Massachusetts, and the name and address of the registered agent for service of process in Massachusetts.

If Applicant is an individual, skip this question.

In completing sections 2 through 5, please consider the following. As described in G.L. c. 128A, § 3(i), in reviewing this application, the Commission will take into consideration, in addition to any other appropriate and pertinent factors, the following: the financial ability of an applicant to operate a racetrack; the maximization of state revenues; the suitability of racing facilities for operation at the time of the year for which racing dates are assigned; the circumstance that large groups of spectators require safe and convenient facilities; the interest of members of the public in racing competition honestly managed and of good quality; the necessity of having and maintaining proper physical facilities for racing meetings and the necessity of according fair treatment to the economic interest and investments of those who in good faith have provided and maintain such facilities.

SECTION 2: PROJECT SUMMARY AND FINANCING

- 2.1. Please attach as **Exhibit 2.1** a complete description of the proposed premises and facilities, including any accompanying amenities and/or attractions. Please also attach any renderings or photographs depicting the area and/or vision for the proposed project.
- 2.2. Submit as **Exhibit 2.2** as much of the following information related to the proposal as is available.
- (a) Grandstand:
- (1) Seating capacity, including box seats, reserved seats, general admission, and total seating capacity.
 - (2) Will the Grandstand be enclosed?
 - (3) Will the Grandstand be heated?
 - (4) Will any portion of Grandstand be air conditioned?
 - (5) Type of construction of Grandstand.
 - (6) Ground area covered by the Grandstand.
- (b) Club House
- (1) Seating capacity, including box seats, reserved seats, general admission, and total seating capacity.
 - (2) Will the Club House be enclosed?
 - (3) Will the Club House be heated?
 - (4) Will any portion of the Club House be air conditioned?

- (5) Type of construction of Club House
 - (6) Ground area covered by the Club House
- (c) Bleachers
- (1) Seating Capacity
 - (2) Type of construction of Bleachers
 - (3) Ground area covered by the Bleachers
- (d) Parking Space:
- (1) Area
 - (2) Automobile capacity
 - (3) Will parking area be lighted?
 - (4) Is parking area treated? *And if so, how?*
 - (5) Is parking area numbered?
 - (6) Is charge made for parking? *And if so, how much?*
 - (7) Are the parking area and walkways cleared of snow and ice?
- (e) Number of pari-mutuel ticket windows/kiosks anticipated and approximate locations.
- (f) Description of anticipated restrooms for patrons ~~of~~ in Grandstand, Club House and/or other locations.
- (g) Description of anticipated system of sewerage disposal. If not connected to public sewer, give details of system used.
- (h) Description of anticipated number of outlets for fresh, pure drinking water for patrons in grandstand, clubhouse and/or other locations.

Please note: the Commission may condition any license award on Applicant completely and satisfactorily answering this question.

2.3. Submit as **Exhibit 2.3** as much of the following information as is available:

- (a) Size of track and detailed description of track, including description of racing surface
- (b) Number of chutes
- (c) Number of stables
- (d) Number of stalls
- (e) Number of tack rooms
- (f) Number of tack rooms heated
- (g) Number of shower baths in stable area
- (h) Toilet facilities in stable area
- (i) Fire protection in stable area including, number of sprinklers, number of fire alarm boxes, and other fire protective measures in stable area
- (j) Recreation room
- (k) Track kitchen, including seating capacity
- (l) Size of jockey or driver's room and equipment available including number of shower baths, toilets, hot-boxes, etc.
- (m) List of other accommodations, facilities or services in stable area.

Please note: the Commission may condition any license award on Applicant completely and satisfactorily answering this question.

2.4. List any other planned accommodations, amenities, facilities, or services to be offered. You may attach your response as **Exhibit 2.4** if more space is required.

2.5. Submit as **Exhibit 2.5** a proposed construction timeline, and the name of Applicant’s general contractor, if known.

2.6. Submit as **Exhibit 2.6** ~~any~~ traffic ~~studies~~study performed for the proposed project.

2.7. Submit as **Exhibit 2.7** a statement of the total capital investment anticipated for the project, including the method used to calculate the figure, as well as any supporting documentation, analysis, or studies.

2.8. Describe and attach as **Exhibit 2.8** the financing structure and plan for the proposed project including identifying all sources of capital. Include current capital commitments as well as plan and timing for meeting future capital needs.

2.9. Submit as **Exhibit 2.9** a detailed budget of the total project cost. Identify separately construction costs (e.g.- labor, materials), design costs, legal and professional fees, consulting fees and all other development costs.

2.10. Submit as **Exhibit 2.10** any feasibility, viability, economic impact, or economic development studies performed relating to the proposed project.

SECTION 3: SCHEDULE OF PROPOSED RACES

3.1. Is this application for a license to hold or conduct a racing meeting in calendar year ~~2023~~2024? (check one)

YES
 NO

If no, in what calendar year does the Applicant propose to hold or conduct racing meetings?

Additionally, if no, submit as **Exhibit 3.1** a detailed explanation of the Applicant’s anticipated timeline for completing the infrastructure needed for the commencement of live racing, including but not limited to an explanation of how the Applicant has arrived at the various dates on the timeline.

4.2.3.2. Pursuant to G.L. c. 128A, §§ 2(4)-(5) and 3, an application must state “the days on which it is intended to hold or conduct” a racing meeting, and “[t]he hours of each day between which it is intended to hold or conduct” racing.

Submit as **Exhibit 3.2** a statement of the date or dates on which Applicant intends to conduct a racing meeting or racing meetings, and the hours of each such day during which Applicant intends to hold races. (Please note that a future licensee may file supplementary materials or amendments for new or additional license dates in accordance with G.L. c. 128A, § 2.)

SECTION 4: NON-COMMISSION APPROVALS

4.1. Has Applicant obtained all necessary approvals in accordance with G.L. c. 128A, § 13A?

YES
 NO

Submit as **Exhibit 4.1** documentation of the Applicant’s approvals.

~~*Please Note: Applicant has not obtained must receive all necessary approvals required under in accordance with G.L. c. 128A, § 13A, please explain the present circumstances including but not limited to when the Applicant expects to obtain such prior to submitting its application. Applications received without the required approvals prior to award will be rejected for lack of any license and whether the required votes are scheduled administrative completeness.*~~

4.2. Has Applicant ever been denied approval for the proposed project under G.L. c. 128A, § 13A?

YES
 NO

 If yes, submit as Exhibit **4.32** an explanation of the circumstances of the denial.

4.2. Have there been any votes taken concerning the proposed project by any governmental entity or the voters of any governmental entity, including but not limited to the host and surrounding/nearby communities in which the proposed project is to be located?

YES
 NO

If yes, submit as Exhibit **4.43** a description of the circumstances surrounding the votes taken, the dates of said votes, and their outcome.

4.3. Has horse racing been approved by vote in the county in which Applicant proposes to hold or conduct racing meetings, in accordance with G.L. c. 128A, § 14?

YES
 NO

Submit as **Exhibit 4.54** documentation of such county vote and an averment that said vote has not been rescinded.

~~4.4. If horse racing has not been approved~~
~~Please Note: Applicant must receive all necessary approvals in accordance with G.L. c. 128A, § 14, please explain the present circumstances including but not limited to when the Applicant expects to obtain such approvals prior to award of any license and whether submitting its application. Applications received without the required vote is scheduled approvals will be rejected for lack of administrative completeness.~~

4.14.4.4. Submit as **Exhibit 4.75** a schedule of any other state or Federal environmental, land use, hospitality-related, or other permits, licenses, or approvals required for the Applicant to construct and operate its facility. For each, please also describe the approval’s relevance to Applicant’s facility; documentation of any such approvals that have already been obtained; and, for any such approvals that have not yet been obtained, the Applicant’s progress towards and plans for acquiring them, including a detailed timeline.

Please note: the Commission ~~may~~ reject an application for lack of completeness or impose a license condition requiring that the Applicant acquire all needed approvals outlined in Section 4.7 before they are permitted to operate

SECTION 5: QUALIFIERS AND SUITABILITY

In evaluating this application, the Commission will consider whether the Applicants are persons likely to conduct racing in accordance with approved practices and in a manner consistent with the public safety, health, morals, and welfare. See Bay State Harness Horse Racing & Breeding Ass'n, Inc. v. State Racing Comm'n, 342 Mass. 694, 699–700 (1961). Further, in accordance with G.L. c.

128A, § 3(i) the Commission must consider “the interest of members of the public in racing competition honestly managed” ~~With these principles in mind, please respond to the following . . .~~ questions.

With the above principles in mind, please respond to the following questions.

5.1. For purposes of completing this section, the term “Qualifier” shall mean the following, **5.1.** _____ respectively:

- (1) Each officer of the Applicant;
- (2) Each director of the Applicant;
- (3) Any person owning more than 10% of the Applicant, or a holding, intermediary or subsidiary company of such Applicant;
- (4) Any person who has the ability to control the activities of the Applicant; and
- (5) In the judgment of the Division of Licensing after consultation with the Investigations and Enforcement Bureau (“Bureau”), any person with significant and substantial

responsibility for the Applicant's business under the jurisdiction of the Commission or having the power to exercise significant influence over decisions concerning the Applicant's operations in the Commonwealth.

~~(5)(6)~~ The Division of Licensing, after consultation with the Bureau, may, at its discretion, require other persons that have a business association of any kind with the Applicant to be subject to the qualification requirements as a qualifier. These persons include, but are not limited to, an affiliate or holding, intermediary or subsidiary company of the Applicant.

The Applicant may seek a waiver for any person on the above list who lacks the ability to control the activities of the Applicant or has no significant responsibility or substantial ability to exercise influence over Applicant's operations.

- 5.2. Submit as **Exhibit 5.2** a list of all of Applicant's Qualifiers.
- 5.3. If Applicant is a corporation, submit as **Exhibit 5.3** a statement showing:
- (a) Class(es) of stock issued or to be issued;
 - (b) Par value;
 - (c) Votes per share;
 - (d) Number of shares of each class authorized;
 - (e) Number of shares of each class issued;
 - (f) Number of shares of each class subscribed; and
 - (g) Total number of shares of each class and the percentage of shares owned by the largest 10 shareholders.
- 5.4. If Applicant is an LLC or other organized entity that does not issue stock, submit as **Exhibit 5.4** a schedule of ownership listing all members/managers and percentage of entity held. List beneficial owners, even if beneficial owners are not Qualifiers.
- 5.5. If business entity is a partnership or other organized entity, submit as **Exhibit 5.5** a schedule listing the partners or others holding an interest and the percentage of the entity held. List beneficial owners, even if beneficial owners are not Qualifiers.
- 5.6. Submit as **Exhibit 5.6** the following information for each of the Applicant's Qualifiers.
- (a) For each individual Qualifier, provide the name place of birth, date of birth and legal residence of the Qualifier.
 - (b) For each entity Qualifier, provide the name and the details required for entity applicants by Questions 5.4-5.6.
- 5.7. Please submit as **Exhibit 5.7** a document that identifies any existing racetrack or gaming facility which the Applicant and/or any of its Qualifiers presently owns, operates, or has, or had, a financial or other interest. Additionally, please indicate whether any of the Applicant's Qualifiers are presently qualifiers (or the equivalent) at any other racetrack or gaming facility.
- 5.8. Has Applicant or any of its Qualifiers ever had a financial or other interest in a racetrack?

 YES
 NO

If the answer to this question is yes, submit as **Exhibit 5.8** a thorough explanation of the interest(s) held.

5.9. Has Applicant or any of its Qualifiers ever had a racing license or gaming license revoked or suspended?

YES
 NO

If the answer to this question is yes, submit as **Exhibit 5.9** a thorough explanation of the circumstances of the revocation or suspension.

5.10. Has Applicant or any of its Qualifiers ever had an application for a racing license or gaming license that was denied?

YES
 NO

If the answer to this question is yes, submit as **Exhibit 5.10** a thorough explanation of the circumstances of the denial.

5.11. Has the Applicant or any of its Qualifiers ever had an application for a racing license or gaming license that was withdrawn?

YES
 NO

If the answer to this question is yes, submit as **Exhibit 5.11** a thorough explanation of the circumstances of the withdrawal.

5.12. Has Applicant or any of its Qualifiers ever conducted or participated in any racing meeting or pari-mutuel wagering in a location where such racing or wagering was not authorized by law?

YES
 NO

If the answer to this question is yes, submit as **Exhibit 5.12** a thorough explanation of the circumstances of the unauthorized racing or wagering.

5.13. Have voluntary proceedings in bankruptcy been instituted by, or have involuntary proceedings in bankruptcy ever been brought against the Applicant or any of its Qualifiers?

YES
 NO

If the answer to this question is yes, submit as **Exhibit 5.13** a list describing the name of the person or entity filing for bankruptcy, the type of petition filed in bankruptcy, the date of the filing, the court in which bankruptcy was filed and the date of final discharge, or if ongoing, indicate the expected date of final discharge.

5.14. Are there outstanding any unsatisfied judgments or decrees against, or tax delinquencies to the Commonwealth of Massachusetts or its political subdivisions, by the Applicant or any of its Qualifiers?

YES
 NO

If the answer to this question is yes, submit as **Exhibit 5.14** a list describing, for judgments or decrees, the type of the judgment, the court or other body entering the judgment, the date of the judgment, the person against whom the judgment is entered, the amount of the judgment and the reason why the judgment is unsatisfied; and for tax delinquencies, all delinquencies, the reason for such delinquencies, and when each delinquency will be cured.

5.15. Has Applicant or any of its Qualifiers ever been accused of, charged with, or settled any matter relating to harassment or discrimination, or are there any restraining orders against Applicant or any of its Qualifiers?

YES
 NO

If the answer to this question is yes, submit as **Exhibit 5.15** a list of all accusations, charges, and settlements including the date of each incident and a thorough explanation of the circumstances.

5.16. Submit as **Exhibit 5.16** all of the following that are available:

- (a) A copy of Applicant's employee handbook
- (b) A copy of all of Applicant's policies and procedures regarding internal controls including but not limited to those policies that deal with the handling and protection of money, the placing of wagers both in person and via account deposits, security and surveillance, and method of accounting. Alternatively, a plan for establishing such internal controls.
- (c) A copy of Applicant's audit committee and compliance committee charters as well as a list of the audit and compliance committee members and their relationship to the Applicant.
- (d) Any other policies that demonstrate the Applicant's proficiency in general industry standards for business and financial practices, procedures, and controls.

Please note: the Commission may condition any license award on Applicant supplying complete and satisfactory information relative to its internal controls and associated practices.

5.17. Submit as **Exhibit 5.17** the following documents: a copy of the Applicant's most recent audited ~~5.17.~~ financial statements, most recent audited or unaudited quarterly financial statement, and an audited profit and loss statement for the Applicant's most recent fiscal year. Please include a description of any interest held by Applicant or any of its Qualifiers in any concessionaire. In the event that the Applicant does not have the requested document, please attach a statement explaining why not.

Please note: the Commission may condition any license award on Applicant supplying complete and satisfactory financial statements.

5.18. Submit as **Exhibit 5.18** a list of which, if any of the Applicant's Qualifiers will be involved in funding the proposed project. For each such Qualifier, explain the amount and form of funding the Qualifier intends to provide for the project, and documentation supporting the Qualifier's capacity to provide that funding.

~~5.18.~~ **5.19.** Submit as **Exhibit 5.19** copies of all policies of insurance carried by Applicant as well as a statement setting forth all other types of insurance carried, or anticipated to be carried, for the protection of employees, animals, and patrons.

Please note: the Commission may impose a license condition requiring Applicant to obtain satisfactory worker's compensation insurance, public liability insurance, jockey insurance, and driver's insurance.

~~5.19.~~ **5.20.** Applicant may submit as **Exhibit 5.20** a statement explaining any other information relevant to its capacity to hold or conduct honestly managed racing meetings.

Please note: if awarded a license, the licensee will be required to maintain its suitability on an ongoing basis.

5.21. Applicant may submit as **Exhibit 5.21** a statement explaining any other information relevant to "the financial ability of an Applicant to operate a racetrack" and "the necessity of according fair treatment to the economic interest and investments of those who in good faith have provided and maintain such facilities."

Please note: if awarded a license, the licensee's continued ability to demonstrate the financial ability to successfully operate a racetrack will be part of the Commission's ongoing suitability review.

SECTION 6: PUBLIC INTEREST

In evaluating this application, the Commission will consider "the interest of members of the public in racing competition honestly managed and of good quality." G.L. c. 128A, § 3(i).

6.1. Submit as **Exhibit 6.16.1** a statement setting forth the reasons why the Applicant believes that its proposal will be beneficial to the public at large, the Commonwealth, the Applicant, and racing stakeholders.

6.2. Submit as **Exhibit 6.26.2** a copy of all executed agreements with representative horsemen's organizations. If the Applicant has not yet executed any such agreement, explain Applicant's plans for executing such.

Please note: an executed 'purse agreement' will be required in advance of the commencement of any racing operations.

6.3. Submit as **Exhibit 6.36.3** the following information, as well as any supporting documentation, analysis, or studies:

- Projected purses to be paid for the first three years of operation;
- Projected handle for the first three years of operation;
- Projected tax revenue and other revenues to be paid to the Commonwealth in the first three years of operation;
- Projected pari-mutuel revenue to be generated and paid to the Commonwealth in the first three years of operation;
- Projected attendance for the first three years of operation; and
- Projections of how many individuals Applicant will employ in the first three years of operation.

Please note: the Commission may impose a license condition requiring the Applicant to submit ~~satisfactory~~satisfactorily updated projections.

- 6.4. Submit as **Exhibit 6.4** a statement describing any support or opposition to the proposed project expressed by the governing body or other government officials of the host and surrounding/nearby communities, including evidence of support or opposition, ~~if~~ in writing.
- 6.5. Submit as **Exhibit 6.5** a description of the Applicant’s plan to attract and employ a diverse workforce (minority, women, veteran) in both the construction and operational phases of the proposal. Similarly, please describe the Applicant’s plan to make use of minority, women, and veteran’s business enterprises as vendors in the construction and operational phases.
- ~~6.6.~~ 6.6. Submit as **Exhibit 6.6** a statement describing the Applicant’s plans for ensuring labor harmony during the construction and operational phases of the project, including whether the Applicant plans to enter into any Project Labor Agreements or agreements governing labor harmony in the project’s permanent job positions. If the Applicant does not intend to enter into any such agreements, please explain.
- ~~6.7.~~ 6.7. Submit as **Exhibit 6.7** a statement describing all promises, rewards, or inducements made by the Applicant to third parties concerning the proposed project, including but not limited to affirmative representations, promises, rewards, or inducements made to the governing body or other government officials of the host and surrounding/nearby communities, made to local organizations or community groups, and any mitigation agreements, formal or informal.

SECTION 7: FACILITIES AND EQUIPMENT

In evaluating this application, the Commission “must consider the circumstance that large groups of spectators require safe and convenient facilities;” and “the necessity of having and maintaining proper physical facilities for racing meetings.” G.L. c. 128A, § 3(i).

- 7.1. How does Applicant control the real property on which the racetrack is proposed to be located (check all that apply):

- Fee Simple Ownership
- Lease
- Easement
- Other Interest

Submit as **Exhibit ~~7.1~~7.1** documentation of all Applicant’s fee simple, leasehold, easement, or other interests in the real property on which the racetrack and facilities are proposed to be located.

If Applicant does not control the real property on which the racetrack is intended to be located by fee simple ownership, include the name and address of the fee simple owner or lessor of the real property. If the fee simple owner or lessor is a corporation, LLC, partnership or other business entity, also include a list of the officers, directors, managers, members or other persons with an interest in the fee simple owner or lessor.

- 7.2. Does Applicant need to acquire any additional real property interests for the purposes of establishing or operating Applicant’s proposed facility?

YES
 NO

If the answer to this question is yes, submit as **Exhibit 7.2** a statement explaining the interests still to be acquired, their relevance to Applicant's proposed project, and the Applicant's progress towards and plans for acquiring them.

Please note: the Commission may impose a license condition requiring that the Applicant acquire all needed real property interests.

- 7.3. Are the premises on which the horse racing meeting is to be held owned by the commonwealth or any political subdivision thereof?

YES
 NO

If the answer to this question is yes, submit as **Exhibit 7.3** a statement explaining said ownership.

- 7.4. Submit as **Exhibit 7.4** the exact property description, by metes and bounds, including the number of acres in premises, and a plot plan showing the entire proposed premises.

Please note: the Commission may impose a license condition requiring that the Applicant provide complete and satisfactory information in response to this question.

- 7.5. Submit as **Exhibit 7.5** as much information as is available about equipment planned to be used at the proposed facility and premises, including: the trade name of the equipment; the date of purchase or the date of present contract or lease and expiration date of said contract; or an explanation as to how Applicant will procure any equipment not yet procured:

- (a) Pari-Mutuel Equipment;
- (b) Starting Gate;
- (c) Photo Finish Camera;
- (d) Film Patrol;
- (e) Timing Devices;
- (f) Inter-communication system;
- (g) Public Address System;
- (h) Closed Circuit Television System;
- (i) Horse Shoe Board; and
- (j) Scales.

Please note: the Commission may impose a license condition requiring that the Applicant provide complete and satisfactory information on equipment to be used at the proposed facility and premises.

- 7.6. Does the Applicant anticipate leasing or renting any part of the proposed premises to a third-party vendor, or allowing an entity other than the licensee to operate any parts of the proposed premises (i.e.- restaurants, entertainment, simulcasting operations, sportsbook, etc.)?

If yes, please submit as **Exhibit 7.6** a list describing all such agreements, and all executed agreements.

Please note: the Commission may impose a license condition requiring that the Applicant provide

complete and satisfactory information relative to this issue.

7.7. Submit as **Exhibit 7.7** as much information as is available relative to security measures which will be employed for the protection of patrons, employees, occupational licensees, and horses, and the control of traffic within the premises and on roads leading to and from the said premises. This statement should include but not be confined to:

- (a) Number of uniformed police officers projected to be on duty each day inside the track;
- (b) Whether such police officers will be regular police officers or special officers;
- (c) Number of uniformed police officers detailed to traffic within the premises and on roads leading to and from the premises before, during and after racing hours;
- (d) Number of plain clothes officers or detectives assigned within the track proper;
- (e) System to be used for the detection and suppression of illegal gambling within the premises;
- (f) Name of person who will be in charge of security within the track proper;
- (g) Name of person who will have supervision of traffic control within the premises of the Applicant and will act as liaison between the Applicant and local police authorities in the control of traffic outside of the premises of the Applicant;
- (h) Name of police authority that has been consulted in setting up security measures within the track and the control of traffic within and outside of the premises of the Applicant.
- (i) A detailed statement of measures which will be employed in the policing of the stable area. This statement should include but not be confined to:
 - (j) Is stable area enclosed? If so, describe:
 - (1) Method of enclosure;
 - (2) Number of gates to enclosure, where located and method of control;
 - (3) System of passes to be issued to persons employed in stable area;
 - (4) Method to be followed in allowing persons in and out of stable area;
 - (5) Number of uniformed police officers to be assigned to the stable area indicating the number in daytime hours and nights;
 - (6) Number of plain clothes officers or detectives to be assigned to the stable area, days and nights; and
 - (7) Name of person who will oversee policing in the stable area.

7.8. Submit as **Exhibit 7.8** the Applicant's plans to ensure the welfare of horses on site and their after care.

SECTION 8: WAGERING AND SIMULCASTING

8.1. Does Applicant intend to offer account deposit wagering?

 YES
 NO

If the answer is yes, submit as **Exhibit 8.1** a general proposal for account deposit wagering, including any service providers Applicant intends to use for the Applicant's account wagering operations, and the process for handling abandoned or dormant patron accounts.

Please note: the Commission may condition any license award on Applicant providing a complete and satisfactory proposal for account deposit wagering in accordance with 205 CMR 6.20.

8.2. In accordance with G.L. c. 128C, § 5, "no racing meeting licensee shall simulcast live races in any racing season unless the racing meeting licensee is licensed to and actually conducts at least 900 live races over the course of not less than 100 calendar days during that racing season with no

fewer than 7 races completed on any of those 100 calendar days.” Further, G.L. c. 128C, § 9, which goes into effect on August 10, 2023, states that “[n]otwithstanding sections 1 to 8, inclusive, or any other general or special law to the contrary...a running horse racing meeting licensee shall conduct not less than 20 live racing days at a thoroughbred horse racing track, provided, the commission may waive this requirement as necessary and appropriate to ensure the financial ability of the licensee to develop and operate a track.”

Does Applicant intend to simulcast?

YES
 NO

8.3. Does the Applicant anticipate meeting the statutory minimum number of live races and race days in order to simulcast?

YES
 NO

Please note: the Commission may condition any license award on Applicant providing additional, satisfactory information on proposed simulcast imports and exports in accordance with G.L. c. 128C.

SECTION 9: GENERAL CONDITIONS, ATTESTATION, AND SIGNATURES

Applicant understands and agrees that approval of a race meeting by the Commission does not establish the Commission as the insurer or guarantor of the safety or physical condition of the association's facilities or purse of any race.

By submitting this application, Applicant agrees to indemnify, save, and hold harmless the Commission and its staff, in their professional and personal capacities, from any and all liability arising from either unsafe conditions at the Applicant's premises, or any default in the payment of purses.

Applicant agrees to comply with all federal, state, or local laws, rules, regulations or ordinances, now in effect or hereafter adopted applicable to Applicant's activities allowed under a license granted by the Commission.

Applicant shall maintain, in an approved depository, those amounts deducted from the pari-mutuel handle for distribution for the purposes specified in G.L. c. 128A, 128C, and Commission rules.

Applicant and its managing officers shall be jointly and severally responsible to ensure that the amounts retained from the pari-mutuel handle are distributed according to G.L. c. 128A, 128C, and Commission regulations.

Applicant and its managing officers shall ensure that all purse monies, disbursements, and appropriate nomination race monies are available to make timely distribution in accordance with G.L. c. 128A, and Commission regulations.

Applicant agrees that if a license is granted, it will become the duty of Applicant, as long as the license shall remain in effect, to file with the Massachusetts Gaming Commission such reports as may be required by G.L. c. 128A and 128C now in effect or as hereafter amended and such rules and regulations as it has adopted or may hereafter adopt, and to make such payments as may be required by law, and for failure so to do, the licensee shall incur the penalties set forth in G.L. c. 128A and 128C, or in such rules and regulations as said Massachusetts Gaming Commission has adopted or may hereafter adopt.

Applicant agrees that any construction on the premises covered by this application shall be subject to the inspection by employees of the Commission, and to that end further agrees that the Commission, its agents, representatives or employees, shall have access to the same during construction, and further agrees to so construct in strict accordance with such plans and specifications as may hereafter be approved by the Commission and to pay for the cost and expense incurred for the study and approval of the plans and specifications and inspection of the construction by the Massachusetts Gaming Commission. Applicant further agrees that all buildings erected or to be erected on the premises here involved may be inspected by the Massachusetts Gaming Commission and their duly authorized agents, representatives, or employees at any time, with or without prior notice to Applicant.

Applicant agrees that all exhibits, statements, plans reports, papers, etc. submitted with the application are made a part hereof and are incorporated into this application as if set forth herein in full. Further, the applicant agrees that it shall have an affirmative obligation to abide by every statement made in this application to the Commission should it be awarded a license.

Applicant states under penalty of perjury that the answers provided in this application are true and correct to the best of its knowledge and understanding. Applicant agrees that any license which may hereafter be granted is predicated upon statements and answers herein contained and that if the Commission determines that any information provided herein is false or misleading said license may be revoked.

Applicant: _____

By (print name): _____

Signature: _____

Date: _____

AFFIDAVIT BY INDIVIDUAL APPLICANT

Commonwealth of Massachusetts, County of _____.

_____, being duly sworn, upon _____ oath
deposes and says that: The answers, statements and declarations made in the foregoing application are
true.

Subscribed and sworn to before me this _____ day of _____.

_____ Signature of Affiant

_____ Signature of officer administering oath

_____ Title of ~~such~~ officer

AFFIDAVIT BY CORPORATE APPLICANT

Commonwealth of Massachusetts, County of _____.

_____, being duly sworn, upon _____ oath deposes and says that:

1. _____ is the _____ of the corporation named as the Applicant and signed the foregoing application.
2. _____ was duly authorized by the Board of Directors of said corporation to sign said application in its name and in its behalf.
3. _____ has read and fully understands all of the questions pertaining to such Applicant and that all of the foregoing answers, statements and declarations made thereto are true.

Subscribed and sworn to before me this _____ day of _____.

Signature of Affiant

Title

Signature of ~~officer~~ Officer administering oath

Title of ~~such~~ officer

AFFIDAVIT BY PARTNERSHIP APPLICANT

Commonwealth of Massachusetts, County of _____.

_____, being duly sworn, upon _____ oath deposes and says that:

1. _____ is a partner of the partnership named as the Applicant in the foregoing application.
2. _____ is duly authorized to sign said application in its name and on its behalf.
3. _____ has read and fully understands all of the questions pertaining to such Applicant and that all of the foregoing answers, statements and declarations made thereto are true.

Subscribed and sworn to before me this _____ day of _____.

Signature of Affiant

Title

Signature of ~~officer~~ Officer administering oath

Title of officer

AFFIDAVIT BY LIMITED LIABILITY COMPANY APPLICANT

Commonwealth of Massachusetts, County of _____.

_____, being duly sworn, upon
_____ oath deposes and says that:

1. _____ is the _____ of the Limited Liability Company named as the Applicant and signed the foregoing application.
2. _____ was duly authorized to sign said application in its name and in its behalf.
3. _____ has read and fully understands all of the questions pertaining to such Applicant and that all of the foregoing answers, statements and declarations made thereto are true.

Subscribed and sworn to before me this _____ day of _____.

Signature of Affiant

Signature of Officer administering oath

Title of such Officer



OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: Patrick Last Name: Higgins

Address: P O Box 290

City: Northport State: AL Zip Code: 35476

Phone Number: 8662838301 Ext. _____

Email: patrick@openmeetinglawenforcer.com

Organization or Media Affiliation (if any): Patrick Higgins and Associates

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual Organization Media

Public Body that is the subject of this complaint:

City/Town County Regional/District State

Name of Public Body (including city/town, county or region, if applicable): Massachusetts Gaming Commission

Specific person(s), if any, you allege committed the violation: Cathy Judd-Stein, Chairman

Date of alleged violation: 7/10/23

Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

The Massachusetts Gaming Commission violated the open meeting law by not listing the names of the candidates for Interview and Consideration of Interim Executive Director Candidates, as required by the Open Meeting Law.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

Learn and comply with the open meeting law.

Review, sign, and submit your complaint

I. Disclosure of Your Complaint.

Public Record. Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

Publication to Website. As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

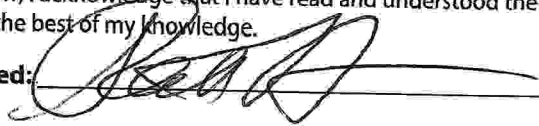
II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: 

Date: 7/10/23

For Use By Public Body Date Received by Public Body: For Use By AGO Date Received by AGO:



NOTICE OF MEETING AND AGENDA

Pursuant to the Massachusetts Open Meeting Law (G.L. c. 30A, §§ 18-25), St. 2022, c. 107, and St. 2023, c. 2, notice is hereby given of a public meeting of the **Massachusetts Gaming Commission**. The meeting will take place:

Monday | July 10, 2023 | 10:00 a.m.

VIA REMOTE ACCESS: 1-646-741-5292

MEETING ID/ PARTICIPANT CODE: 111 357 9645

All meetings are streamed live at www.massgaming.com.

Please note that the Commission will conduct this public meeting remotely utilizing collaboration technology. Use of this technology is intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public. If there is any technical problem with the Commission's remote connection, an alternative conference line will be noticed immediately on www.massgaming.com.

All documents and presentations related to this agenda will be available for your review on the morning of the meeting date by visiting our website and clicking on the News header, under the Meeting Archives drop-down.

PUBLIC MEETING - #464

1. Call to Order – Cathy Judd-Stein, Chair
2. Review of Interim Executive Director Selection Process – Mina Makarious (Partner – Anderson & Kreiger), David Mackey (Partner – Anderson & Kreiger)
3. Interview and Consideration of Interim Executive Director Candidates – All Commissioners
 - a. Candidate 1 Interview
 - b. Candidate 2 Interview
4. Selection of Interim Executive Director – All Commissioners **VOTE**
5. Executive Session (if needed) **VOTE**

The Commission anticipates that it may meet in executive session in accordance with G.L. c. 30A, § 21(a)(2) to conduct strategy sessions in preparation for negotiations with nonunion personnel.



6. Commissioner Updates

7. Other Business - Reserved for matters the Chair did not reasonably anticipate at the time of posting.

I certify that this Notice was posted as "Massachusetts Gaming Commission Meeting" at www.massgaming.com and emailed to regs@sec.state.ma.us. Posted to Website: July 6, 2023 | 10:00 a.m. EST

July 6, 2023



Cathy Judd-Stein, Chair

If there are any questions pertaining to accessibility and/or further assistance is needed, please email Grace.Robinson@massgaming.gov.



Massachusetts Gaming Commission



The Commonwealth of Massachusetts
Office of the Attorney General
One Ashburton Place
Boston, Massachusetts 02108

OPEN MEETING LAW COMPLAINT FORM

Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

Instructions for filing a complaint:

- o Fill out the attached two-page form completely. Sign and date the second page. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
 - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
 - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
 - o Complaints may be filed by mail, by email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address the allegations in the complaint. At the same time, the body must send the Attorney General a copy of the complaint and a copy of the response. The public body may delegate this responsibility to an individual member of the public body, its counsel, or a staff member, but only after the public body has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

Once the public body has responded to the complaint:

- o If you are not satisfied with the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, by email, or by hand, but only once you have waited for 30 days after filing the complaint with the public body. Mail may be sent to: The Division of Open Government, Office of the Attorney General, One Ashburton Place - 20th Floor, Boston, MA 02108. Emails may be sent to: openmeeting@state.ma.us.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by email at openmeeting@state.ma.us.