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## Massachusetts Gaming Commission Meeting Minutes

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**Date/Time:** January 14, 2021 – 10:00 a.m.

**Place:** Massachusetts Gaming Commission  
VIA CONFERENCE CALL NUMBER: 1-646-741-5293  
MEETING ID: 112 136 4432

**Given the unprecedented circumstances, Governor Charles Baker issued an order to provide limited relief from certain provisions of the Open Meeting Law to protect the health and safety of the public and individuals interested in attending public meetings during the global Coronavirus pandemic. In keeping with the guidance provided, the Commission conducted this public meeting utilizing remote collaboration technology.**

**00:00:00:** [Call to Order](#)

Chair Cathy Judd-Stein called to order public meeting #332 of the Massachusetts Gaming Commission (“Commission”).

*The Chair confirmed a quorum for the meeting with a Roll Call. The following Commissioners were present:*

*Commissioner Cameron  
Commissioner O’Brien  
Commissioner Zuniga  
Chair Cathy Judd-Stein*

**00:01:20:** [Approval of Minutes](#)

*Commissioner Zuniga moved to approve the minutes from the Commission meeting of September 10, 2020, subject to correction for typographical errors and other nonmaterial matters.*

*Commissioner Cameron seconded the motion.*

*Roll Call Vote:*

*Commissioner Cameron: Aye  
Commissioner O’Brien: Aye  
Commissioner Zuniga: Aye  
Chair Judd-Stein: Aye*

*The motion passed unanimously.*

*Commissioner Cameron moved to approve the minutes from the Commission meeting of September 24, 2020, subject to correction for typographical errors and other nonmaterial matters. Commissioner O'Brien seconded the motion.*

*Roll Call Vote:*

*Commissioner Cameron: Aye*

*Commissioner O'Brien: Aye*

*Commissioner Zuniga: Aye*

*Chair Judd-Stein: Aye*

*The motion passed unanimously.*

## **00:03:24: Administrative Update**

### **Presentation of Recommendation for MGC Deputy Director, Investigations and Enforcement Bureau Director**

Executive Director Wells presented a recommendation for the position of MGC Deputy Director/Investigations and Enforcement Bureau Director. Executive Director Wells outlined the search and interview process for this position conducted by the review team, which consisted of Chair Judd-Stein, Commissioner Cameron, Executive Director Wells, Director of Workforce and Supplier Diversity Jill Griffin, and was aided by the Human Resources Department. The review team recommended that the Commission ratify the selection of Deputy Director of the Investigations and Enforcement Bureau Loretta Lillios to serve in the position of MGC Deputy Director/Investigations and Enforcement Bureau Director.

There was discussion regarding the importance of the process and its design to ensure that there was a diverse and inclusive pool of applicants, as well as discussion surrounding the qualifications of Deputy Director Lillios and her ultimate selection. The Chair offered her view of the selection process and offered thanks to the review team and to the outstanding pool of candidates for participating in the process. She then offered an assessment of Ms. Lillios. Commissioner Cameron shared her views of the process in general, and the importance of an open process. She then offered an assessment of Ms. Lillios. Chair Judd-Stein recommended that Deputy Director Lillios be promoted to the position of MGC Deputy Director/Director of the IEB. Commissioner Zuniga expressed full confidence in the process and in Ms. Lillios. He incorporated a historical perspective into the position as well. Commissioner O'Brien agreed that there was a diligent search conducted and offered her assessment of Ms. Lillios. Commissioner Cameron offered appreciation for Director Griffin's role in the search process. Ms. Griffin described the process she and Ms. Banda supported, and then endorsed Ms. Lillios.

*Commissioner Cameron moved to ratify Loretta Lillios to be the Director of the IEB.*

*Commissioner Zuniga seconded the motion.*

*Roll Call Vote:*

*Commissioner Cameron: Aye*

*Commissioner O'Brien: Aye*

*Commissioner Zuniga: Aye*

*Chair Judd-Stein: Aye*

*The motion passed unanimously.*

Ms. Lillios offered words of thanks and the importance of the position.

**00:27:16: On-Site Casino Updates**

Director Lillios and Assistant Director, Gaming Agents Division Chief Bruce Band provided an update regarding activities on-site at the casino properties particularly related to the Covid-19 restrictions that are in place. Director Lillios informed the Commission that pursuant to the Governor's order and in conjunction with a parallel Commission order, a 25% capacity cap had been put in place at all licensee properties beginning on December 26, 2020, and remaining in effect until at least January 24, 2021. In addition, the closing time of no later than 9:30 pm remains in effect along with all other health and safety requirements that have been in place since the properties reopened in July 2020. Director Band provided an update on the licensees' compliance over the course of the last month.

There was discussion concerning the Commission's past action; General Counsel Grossman explained that the Governor enacted an order limiting occupancy at certain places, including casinos, to 25%, and that the Commission had incorporated that directive into its own guidelines. General Counsel Grossman further explained that the Commission's guidelines followed the Governor's extension of his order and no further vote on the guidelines was required.

Director Lillios provided details concerning the number of positive Covid-19 cases among casino employees and the related reporting process. There was discussion concerning when employees who have tested positive return to work. The Commission noted its appreciation of the licensees' compliance and vigilance.

**00:44:52: Legislative Updates**

General Counsel Grossman and Director of Workforce and Supplier Diversity Jill Griffin presented legislative updates to the Commission regarding committees and subcommittees. Director Griffin explained that the members of the Gaming Policy Advisory Committee and its associated subcommittees are deemed special state employees under the state Conflict of Interest Law, which includes restrictions against divided loyalties. Director Griffin explained that appointees whose employment involves community mitigation efforts are generally precluded from serving on Commission committees and subcommittees, which makes it difficult to fill statutorily required seats. Director Griffin stated that Commission staff has been exploring options to solve this problem.

General Counsel Grossman explained the legal issues surrounding divided loyalties and presented three possible options for the Commission to consider, including (1) creating an exemption for all municipal employees from the divided loyalties section of the Conflict of Interest Law; (2) creating an exemption for members of subcommittees who are also municipal employees to state that they shall not be special state employees under the Conflict of Interest Law; and (3) proposing legislative language stating that members of the Gaming Policy

Advisory Committee and its subcommittees shall not be special state employees under the Conflict of Interest Law. General Counsel Grossman noted that options two and three are based on language included in the statute applying to the Cannabis Control Commission and their advisory board.

There was discussion regarding reviewing the legislative history to see if there is a reason the exemption language was used for the Cannabis Control Commission but not for the Commission. The Commission discussed the options presented and noted that options two and three are broad while option one is more narrow. General Counsel Grossman further explained the distinction between options two and three.

The Commission agreed that they are all comfortable with the narrower approach of either option one or option two. The Commission directed General Counsel Grossman and Director Griffin to confirm with the State Ethics Commission that option two is workable.

### **01:23:23: Research and Responsible Gaming**

#### **[Encore Boston Harbor Request to Delay Implementation of Play My Way](#)**

Director of Research and Responsible Gaming Mark Vander Linden presented background on the Play My Way program. He explained that in 2018, the Commission entered a Memorandum of Understanding with Encore Boston Harbor and MGM Springfield which provided that the licensees would launch Play My Way by September 2020. He further explained that in late March/early April of 2020, the licensees requested to delay implementation by one year to September 2021 because of effects of the Covid-19 pandemic. Director Vander Linden noted that that request was granted by the Commission. He explained that Encore Boston Harbor has requested to delay the implementation further to September 2022.

Jacqui Krum, Senior Vice President and General Counsel for Encore Boston Harbor, provided background on the reasons for Encore Boston Harbor's request, specifically that the current timeline would require Encore Boston Harbor to divert resources from other areas to the project. She explained that they do not anticipate that the delay will ultimately be a full year.

Commissioner Cameron asked how long Encore Boston Harbor would need to complete the project once operations return to a level of normalcy. Ms. Krum stated that it would take six to seven months. There was discussion concerning the reason for the request and the context in which Encore Boston Harbor is currently operating.

Chair Judd-Stein proposed that Encore Boston Harbor provide the Commission with an interim report when the implementation work begins. CIO Katrina Jagroop-Gomes suggested that the Commission consider granting a six month extension and revisit the question at that time if Encore Boston Harbor needs an additional six months. The Commissioners discussed this option.

*Commissioner O'Brien moved that the Commission approve the request of Encore Boston Harbor to delay implementation of the Play My Way management system from the current date of September 1, 2021, to September 1, 2022; further, that the licensee report back to the Commission on or before September 1, 2021, as to the status of the implementation.*

*Commissioner Cameron seconded the motion.*

*Roll Call Vote:*

*Commissioner Cameron: Aye*

*Commissioner O'Brien: Aye*

*Commissioner Zuniga: Aye*

*Chair Judd-Stein: Aye*

*The motion passed unanimously.*

### **01:43:51: [GameSense Quarterly Update](#)**

Director Vander Linden introduced a quarterly update on the GameSense program. He was joined by Marlene Warner, Executive Director of the Massachusetts Council on Gaming and Health, Chelsea Turner, Director of Responsible Gaming for the Massachusetts Council on Gaming and Health, Jodie Nealley, Voluntary Self-Exclusion Resource Liaison, and Linh Ho, Senior GameSense Advisor, who presented a GameSense quarterly update PowerPoint. Ms. Turner presented on GameSense safety protocols including the use of PPE, social distancing, hand washing, and persistent cleaning; interactions between GameSense advisors and patrons at Plainridge Park Casino, MGM, and Encore Boston Harbor; and the use of remote VSE enrollment; and recent communications and social media effort highlights. Ms. Nealley presented on VSE follow-up and telephone recovery support. Mr. Ho presented an outreach and training update. Ms. Warner presented on upcoming trainings for Asian communities, a new augmented reality project launched last year, and upcoming plans including positive play and low-risk gaming guidelines.

There was discussion concerning the adaptability to the changing conditions and environment in which the GameSense program operates, particularly related to voluntary self-exclusion being conducted virtually. The Commission thanked the GameSense team for its thorough and detailed report.

### **Investigations and Enforcement Bureau**

#### **02:43:41: [MGM Springfield Individual Qualifier – Determination of Suitability](#)**

Senior Enforcement Counsel Kate Hartigan presented on the suitability investigation of MGM qualifier Scott Wessel, Senior Vice President of Business Systems for MGM Resorts International. She stated that all required forms were submitted and a background check was conducted with no derogatory information found. She also provided a summary of his professional and educational background. Ms. Hartigan recommended that the Commission find him suitable.

*Commissioner Cameron moved that the Commission approve the suitability report of Scott Wessel as an MGM Qualifier and Senior VP of Business Systems for MGM Resorts.*

*Commissioner Zuniga seconded the motion.*

*Roll Call Vote:*

*Commissioner Cameron: Aye*

*Commissioner O'Brien: Aye*

*Commissioner Zuniga: Aye*

*Chair Judd-Stein: Aye*

*The motion passed unanimously.*

#### **02:49:59: Encore Boston Harbor Entity Qualifier – Determination of Suitability**

Senior Enforcement Counsel Kate Hartigan presented on the suitability investigation of Wynn Design and Development LLC, a wholly-owned subsidiary of Wynn Resorts, Ltd. She stated that all required forms were submitted and a background investigation was conducted with no derogatory information found. Ms. Hartigan recommended that the Commission find Wynn Design and Development suitable.

*Commissioner Zuniga moved that the Commission approve the suitability report of Wynn Design and Development to be an entity qualifier for Encore Boston Harbor. Commissioner O'Brien seconded the motion.*

*Roll Call Vote:*

*Commissioner Cameron: Aye*

*Commissioner O'Brien: Aye*

*Commissioner Zuniga: Aye*

*Chair Judd-Stein: Aye*

*The motion passed unanimously.*

#### **02:57:30: Racing Division – Quarterly Local Aid Payments**

Financial Analyst Chad Borque presented an update on quarterly local aid payments to each city and town where racing activities are conducted. Mr. Borque explained that this is the payment request for the quarter ending December 31, 2020, and that aid for this quarter is calculated by using handles that occurred in April, May, and June 2020. Mr. Borque noted that there was no live racing or wagering at the facilities during this period, and that all activity for this period was generated through account deposit wagering providers.

Mr. Borque provided the numbers for the City of Boston (\$160,454.13), the Town of Plainville (\$3,556.62), and the City of Revere (\$80,225.86), for a total of \$244,236.61.

*Commissioner Zuniga moved that the Commission approve the local aid quarterly distribution for Quarter 4 of calendar year 2020 totaling \$244,236.61 as outlined in the Commissioners' Packet. Commissioner Cameron seconded the motion.*

*Roll Call Vote:*

Commissioner Cameron: Aye  
Commissioner O'Brien: Aye  
Commissioner Zuniga: Aye  
Chair Judd-Stein: Aye  
The motion passed unanimously.

**03:00:51: Commissioner Updates**

**03:00:57: Review Evaluation Form and Process for Executive Director**

Commissioner O'Brien opened discussion regarding the review evaluation form and process for the Executive Director. Commissioner O'Brien noted that forms were distributed to the Commissioners and that the next step is to establish a timeline for Executive Director Wells to complete the form and for the Commission to respond. Chair Judd-Stein clarified that the Commission would first receive Executive Director Wells' completed form, would provide individual input, and would then conduct a public evaluation. Commissioner O'Brien further clarified that all forms would be distributed through the Human Resources Department.

There was discussion surrounding the timeframe needed to complete the necessary forms. The Commission concluded that it would plan to conduct the public review at the first February Commission meeting.

**03:06:01: Recommendation for MGC Secretary Appointment**

Chair Judd-Stein stated that G.L. c. 23K, §3(f) requires the Commission annually to elect a Secretary, and that Commissioner Stebbins had previously served. Chair Judd-Stein noted that Commissioner O'Brien is open to serving in this position in an interim period during which the Commission does not have a full slate of Commissioners, and that the appointment can be revisited when the fifth Commissioner seat has been filled.

*Commissioner Cameron moved that the Commission approve Commissioner O'Brien to serve as Secretary in the interim period while the Commission has four commissioners. Commissioner Zuniga seconded the motion.*

*Roll Call Vote:*

Commissioner Cameron: Aye  
Commissioner O'Brien: Abstain  
Commissioner Zuniga: Aye  
Chair Judd-Stein: Aye  
The motion passed unanimously.

**03:09:40: Recommendation for MGC Community Mitigation Sub-Committee Chair Appointment**

Chair Judd-Stein stated that G.L. c. 23K, §68 requires the Commission to appoint a representative to serve on Commission subcommittees. Chair Judd-Stein noted that Commissioner Zuniga is open to serving in this position in an interim period during which the Commission does not have a full slate of Commissioners, and that the appointment can be revisited when the fifth Commissioner seat has been filled.

*Commissioner Cameron moved that the Commission approve Commissioner Zuniga to serve on the Community Mitigation Subcommittee in the interim period while the Commission has four commissioners. Commissioner O'Brien seconded the motion.*

*Roll Call Vote:*

*Commissioner Cameron: Aye  
Commissioner O'Brien: Aye  
Commissioner Zuniga: Abstain  
Chair Judd-Stein: Aye  
The motion passed unanimously.*

**03:12:54: Other Business**

There was no other business brought forth for discussion.

**03:13:07: Executive Session**

Chair Judd-Stein initiated discussion as to whether the Commission would move into Executive Session on five different matters. The Chair described each in the following manner (followed by the Commission 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. MGC v. Wynn MA, LLC* as discussion at an open meeting may have a detrimental effect on the litigating position of the Commission. The public session of the Commission meeting will not reconvene at the conclusion of the executive session

*Commissioner Zuniga moved that the Commission move into Executive Session for the purposes described. Commissioner Cameron seconded the motion.*

*Roll Call Vote:*

*Commissioner Cameron: Aye  
Commissioner O'Brien: Aye  
Commissioner Zuniga: Aye  
Chair Judd-Stein: Aye  
The motion passed unanimously.*

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 *MGC v. Landmark American Insurance* as discussion at an open meeting may have a detrimental effect on the litigating position of the



Commission. The public session of the Commission meeting will not reconvene at the conclusion of the executive session.

*Commissioner Cameron moved that the Commission move into Executive Session for the purposes described. Commissioner Zuniga seconded the motion.*

*Roll Call Vote:*

*Commissioner Cameron: Aye*

*Commissioner O'Brien: Aye*

*Commissioner Zuniga: Aye*

*Chair Judd-Stein: Aye*

*The motion passed unanimously.*

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 *City of Revere, and Mohegan Sun Massachusetts, LLC v. Massachusetts Gaming Commission* as discussion at an open meeting may have a detrimental effect on the litigating position of the Commission. The public session of the Commission meeting will not reconvene at the conclusion of the executive session.

*Commissioner O'Brien moved that the Commission move into Executive for the purposes described. Commissioner Cameron seconded the motion.*

*Roll Call Vote:*

*Commissioner Cameron: Aye*

*Commissioner O'Brien: Aye*

*Commissioner Zuniga: Aye*

*Chair Judd-Stein: Aye*

*The motion passed unanimously.*

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 *DeCosmo v. Blue Tarp reDevelopment, LLC, et al.,* and *Schuster v. Encore Boston Harbor, et al.,* as discussion at an open meeting may have a detrimental effect on the litigating position of the Commission. The public session of the Commission meeting will not reconvene at the conclusion of the executive session.

*Commissioner Zuniga moved that the Commission move into Executive Session for the purposes described. Commissioner O'Brien seconded the motion.*

*Roll Call Vote:*

*Commissioner Cameron: Aye*

*Commissioner O'Brien: Aye*

*Commissioner Zuniga: Aye*

*Chair Judd-Stein: Aye*

*The motion passed unanimously.*

The Commission anticipates that it will meet in executive session to review minutes from previous executive sessions. The public session of the Commission meeting will not reconvene at the conclusion of the executive session.

*Commissioner Zuniga moved that the Commission move into Executive Session for the purposes described. Commissioner Cameron seconded the motion.*

*Roll Call Vote:*

*Commissioner Cameron: Aye*

*Commissioner O'Brien: Aye*

*Commissioner Zuniga: Aye*

*Chair Judd-Stein: Aye*

*The motion passed unanimously.*

Commission moved into Executive Session.

### **List of Documents and Other Items Used**

1. Notice of Meeting and Agenda dated January 14, 2021
2. Draft Commission Meeting Minutes September 10, 2020
3. Draft Commission Meeting Minutes September 24, 2020
4. Memorandum Re: Ethics/Divided Loyalties Legislation dated January 11, 2021
5. Memorandum Re: Encore Boston Harbor Request to Delay Implementation of Play Management System dated January 14, 2021
6. PowerPoint Presentation: GameSense Updated dated January 14, 2021
7. Memorandum Re: Local Aid Quarterly Distribution for Q4 CY 2020 dated January 5, 2021