



Massachusetts Gaming Commission Meeting Minutes

Date/Time: January 23, 2020 –10:00 a.m.

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

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

Hyperlinks to closed-captioned video footage of discussions and to the meeting transcript are provided throughout this document.



Call to Order

See [transcript](#) page 1

[10:02 a.m.](#) Chair Cathy Judd-Stein called to order public meeting #287 of the Massachusetts Gaming Commission.

Approval of Minutes

See [transcript](#) pages 1 – 3

[10:03 a.m.](#) *Commissioner Stebbins moved to approve the minutes from the Commission meeting of December 19, 2019, subject to correction for typographical errors and other nonmaterial matters. Commissioners O'Brien and Zuniga requested further edits to the language (see video and transcript). The Commission will vote on the edited minutes at the next meeting.*

Commissioner Stebbins moved to approve the minutes from the Commission meeting of January 9, 2020, subject to correction for typographical errors and

other nonmaterial matters. Commissioner Cameron seconded the motion. Commissioner Zuniga requested edits to the language (see video and transcript). The motion passed unanimously, as amended.

Administrative Update

See [transcript](#) pages 3 – 12

10:08 a.m. **General Update**

Interim Executive Director/Director of Investigations and Enforcement Bureau (IEB) Karen Wells reported that the racing bill regarding simulcasting in Massachusetts did pass on January 13th, becoming MA Session Law [Chapter 1 of the Acts \(2020\)](#).

She then reported that the PlayMyWay program is on schedule to roll-out at Encore Boston Harbor and MGM on September 20, 2020, pursuant to a Memorandum of Understanding with the operators.

Commissioner Zuniga requested that staff check the initial software platform of PlayMyWay that is in place in Plainridge Park Casino (PPC), to ensure that its configuration is finalized.

Ms. Wells reported for the Commission that the Department of Revenue (DOR) worked with the IEB in creating an update to the DOR's system that issues applicants a certificate of good standing online. This system update has been extremely helpful in expediting IEB suitability investigations.

Next, she stated for the public that January 31, 2020, is the deadline for the [Community Mitigation Fund](#) application.

10:18 a.m. **Draft Region C Request for Information (RFI) and draft Request for Public Comment**

The Commission reviewed a draft of the RFI preliminary proposal that was crafted by the staff, in collaboration with Commissioners. Ms. Wells described the document and asked the Commissioners if they have any comments or edits.

The Chair began the discussion of this topic and stated the Commission's sincere interest in being deliberate with respect to considering a license awarded in Region C and the potential impacts to the Commonwealth. The Chair discussed the importance of seeking professional guidance through the proposed RFI to better assist and inform the deliberations as well as receiving the input of the general public.

Commissioner Stebbins asked that question nine on page seven be edited to ask when the best time would be to conduct a Region C market study.

Commissioner Zuniga asked that a footnote be added on page three, stating that the total capital investment of the Category 1 and Category 2 licenses excludes certain costs that the Commission has decided to exclude.

The Chair noted that an established timeframe is still outstanding, and would like to work on this. She stated that the RFI it needs to be a timely process. There was a consensus that staff can start with 45 days as a standard guideline for the process. Ms. Wells will consult with the team on this.

Commissioners O'Brien and Zuniga asked that question number four be removed, as it is duplicative of a previous question. Commissioner O'Brien also requested that items be enumerated to provide easier reference back to what the person is commenting on, instead of having blank bullets.

Commissioner Stebbins stated that the Commission should answer question number five on the draft RFI, which is whether the Commission would hold a public hearing. The answer is yes. He then suggested adding a question at the end that asks what other factors or issues the Commission should consider or address if Region C is reopened for a commercial gaming license.

Commissioner Stebbins noted that the Commission needs to determine a deadline for comment and submission. As the Commission will take comments or submissions at any time, it would be beneficial to align it with the RFI deadline at this time.

The Chair gave closing remarks. The Commission agrees to keep numbered questions one, two, and three, omit questions four and five and add the question at the end regarding what other factors or issues the Commission should consider concerning reopening Region C for a commercial gaming license.

10:38 a.m. *Commissioner Stebbins moved that the Commission move forward with posting the version of the Request for Information (RFI) and Request for Public Comment as included in the Commissioners' packet, as amended and discussed here today. Commissioner Zuniga seconded the motion. The motion passed unanimously.*

Investigations and Enforcement Bureau

See [transcript](#) pages 12 – 20

10:39 a.m. **Plainridge Park Casino License Renewal Process**

The Chair noted that this license renewal has a deadline of June 27, 2020.

Ms. Wells reported that from the IEB's perspective, the Licensing division has gone forward with the renewal process on the suitability provision. Licensing Director Bill Curtis is working with Chief Enforcement Counsel Loretta Lillios on that as well as connecting with the licensee on that process.

Commissioner Zuniga noted a memo that the Commissioners should have received from Acting General Counsel Todd Grossman that describes some of this process (not included in the packet). Commissioner Zuniga then summarized this memo for the Commission, discussing a record that would be made by requesting several documents from PPC for review. Mr. Ziembra and staff would meet with PPC monthly to discuss the consideration of compliance, commitments, and financial condition of the property. A public hearing would then potentially be held in May. He went on to further describe the nature of these monthly meetings that would increase in frequency closer to June, and what they should entail.

Commissioner Cameron stated that she will take some time to review Commissioner Zuniga's proposal and consider and how it could be implemented.

[10:48 a.m.](#)

Commissioner Zuniga requested that Mr. Grossman locate the citation of the statute that contemplates a fee for Category 2 licensees of no less than \$100,000.00, intended to defray the cost of investigations. Commissioner Zuniga raised his concern that there exists a conflict. The statute states that the licensing fee is to be deposited into the Gaming Revenue Fund, which is not the fund from which the Commission pays its expenses. Instead, the Commission's expenses are paid through the Gaming Control Fund. He stated that the Commission needs to determine which fund to deposit the licensing fee into.

Mr. Grossman clarified that the statute, [M.G.L. c. 23K § 20\(f\)](#) states that the \$100,000.00 fee is based on the cost of investigations, but does not indicate that the Commission should recover the expenses. He opined that the theory behind the budget is that the Commission should assess the costs of specific investigations on the entity being investigated, as it would be presumptively unfair to assess those costs to all licensees for a particular entity.

Mr. Grossman also noted that the Commission should review [§ 56\(a\)](#) of the statute, regarding annual assessment for ways the Commission could adjust the assessment upon any particular licensee if it is determined that the renewal fee must be deposited into the Gaming Revenue Fund as the statute suggests.

[10:56 a.m.](#)

There was discussion around the cost of a suitability investigation, best practices in determining the amount, and protocols. Commissioner Cameron noted that it would be helpful to try to have projections.

Commissioner O'Brien stated that there should be a trigger for Penn National (Penn) to initiate the license renewal process. Once there is clarification from them regarding timing, requirements, and expectation, there would be an expectation of confirmation that Penn would want to go forward.

Commissioner Zuniga noted three legal questions to be resolved as the Commission continues to examine the license renewal process. First is the question as to the Commission's ability to raise \$600.00 per machine assessment (per § 56(a)). Second is the question of where to deposit those funds, and third is whether there is a requirement that Penn continues to conduct live racing to renew their license.

11:00 a.m. The Chair noted the possibility that the legislature may have contemplated the equity of sharing the fund when crafting the statute.

Commissioner Stebbins added that it would be critically important to conduct a public hearing to provide Penn with the opportunity to state their intentions for the next five-year term of their license.

The Chair noted that a May deadline would work for a public hearing. She also requested that Commissioner Zuniga prepare a memo for the public with any feedback on the fee included.

Concerning Commissioner Zuniga's third legal question regarding a potential live racing requirement for licensees, the Commission asked Mr. Grossman to research what authority the Commission has to exercise discretion. Commissioner O'Brien specifically asked about any inherent legal impossibility to satisfy the condition, depending on either action or inaction on the part of the general court on the legislation.

The Chair requested brief updates periodically to ensure cadence on the matter.

Racing Division

See [transcript](#) pages 20 - 26

11:12 a.m. **Plainridge Park Casino request for Promotional Fund Consideration**
Director of the Racing Division Dr. Alexandra Lightbown introduced the Director of Racing for PPC Steve O'Toole to speak about the Winter Wonderland handicapping contest promotion. They also reviewed PPC's request for promotional fund consideration with the Commission.

Mr. O'Toole described the Winter Wonderland handicapping contest promotion to the Commission. He noted that the contest is somewhat different from the handicapping contests at other tracks. If it is successful, Mr. O'Toole will return to the Commission throughout the year to conduct more.

Commissioner Zuniga requested that Mr. O'Toole provide an estimate to the Commission as to the amount of the promotional fund that is utilized throughout the year for PPC. This will provide clarity regarding the amount of funds in comparison to the amounts requested for these promotions.

[11:21 a.m.](#) *Commissioner Cameron moved that the Commission approve Plainville Gaming & Redevelopment LLC's Request for Consideration in the amount of \$5,000.00 to the Harness Horse Promotional Trust Fund for the Winter Wonderland Handicapping Contest on Saturday, February 1, 2020, at Plainridge Racecourse. Commissioner Zuniga seconded the motion. The motion passed unanimously.*

Plainridge Park Casino request for Capital Improvement Fund Reimbursement

Senior Financial Analyst Chad Bourque reviewed his memorandum with the Commission concerning PPC's request for reimbursement for the Harness Horse Capital Improvement Trust Fund in the amount of \$40,337.81. He reported that the Commission approved this consideration on December 5th, and a tractor from Big Boys Toys was purchased. Mr. Bourque stated that he has reviewed the documentation and that it is in good order. He requested a vote for approval to reimburse the funds.

[11:23 a.m.](#) *Commissioner Stebbins moved that the Commission approve Plainville Gaming & Redevelopment LLC's Request for Reimbursement in the amount of \$40,337.81 to the Harness Horse Capital Improvement Trust Fund for the purchase of a tractor from Massey F. (Big Boys Toys LLC). Commissioner O'Brien seconded the motion. The motion passed unanimously.*

Quarterly Local Aid Payments – Chad Bourque, Chief Financial Analyst

Next, Mr. Bourque reviewed his memorandum with the Commission concerning PPC's local aid quarterly distribution for December 31, 2019, of \$255,315.91. He reported that this amount reflects the total from racing that took place in April, May, and June of 2019. He requested a vote for approval to pay the appropriate cities and towns.

[11:25 a.m.](#) *Commissioner Cameron moved that the Commission approve the 2019 Local Aid Quarterly payment amount of \$255,315.91 pursuant to the Commonwealth of Massachusetts 2019 Budget and Appropriation and as described in the memorandum dated January 13, 2020, in the Commissioners' Packet. Commissioner Zuniga seconded the motion. The motion passed unanimously.*

2018 Suffolk Downs Unpaid Winnings

Dr. Lightbown then reviewed with the Commission her memo concerning the Commonwealth's recovery of 2018 unclaimed winnings from Sterling Suffolk Racecourse in the amount of \$246,692.90. She recommends that the Commission approve the payment to the Commonwealth of Massachusetts.

The Chair noted that as Sterling Suffolk Racecourse is now closed, that the staff could add reminders for the public onto the Commission's website regarding unclaimed winnings, as there will be unclaimed winnings from 2019 as well.

11:29 a.m. *Commissioner O'Brien moved that the Commission approve the payment of \$246,692.90 from Sterling Suffolk Racecourse to the Commonwealth of Massachusetts for unclaimed winnings from 2018 as described in the memorandum dated January 16, 2020, included in the Commissioners' Packet. Commissioner Zuniga seconded the motion. The motion passed unanimously.*

2018 Wonderland Park Unpaid Winnings

Dr. Lightbown reviewed with the Commission her memo concerning the Commonwealth's recovery of 2018 unclaimed winnings from Wonderland Greyhound Park in the amount of \$3,849.33. She recommends that the Commission approve the payment to the Commonwealth of Massachusetts.

11:30 a.m. *Commissioner Zuniga moved that the Commission approve the payment of \$3,849.33 from Wonderland Greyhound Park to the Commonwealth of Massachusetts for unclaimed winnings from 2018 as described in the memorandum dated January 16, 2020, included in the Commissioners' Packet. Commissioner Stebbins seconded the motion. The motion passed unanimously.*

2018 Plainridge Racecourse Unpaid Winnings

Next, Dr. Lightbown reviewed with the Commission her memo concerning the Commonwealth's recovery of 2018 unclaimed winnings from PPC in the amount of \$187,252.47. She recommends that the Commission approve the payment to the Commonwealth of Massachusetts.

11:31 a.m. *Commissioner O'Brien moved that the Commission approve the payment of \$187,252.47 from Plainridge Racecourse to the Commonwealth of Massachusetts for unclaimed winnings from 2018 as described in the memorandum dated January 16, 2020, included in the Commissioners' Packet. Commissioner Stebbins seconded the motion. The motion passed unanimously.*

2018 Raynham Park Unpaid Winnings

Lastly, Dr. Lightbown reviewed with the Commission her memo concerning the Commonwealth's recovery of 2018 unclaimed winnings from Raynham/Taunton/Massasoit Greyhound Associations in the amount of \$142,977.55. She recommends that the Commission approve the payment to the Commonwealth of Massachusetts.

11:32 a.m. *Commissioner Stebbins moved that the Commission approve the payment of \$142,977.55 from Raynham/Taunton/Massasoit Greyhound Associations to the*

Commonwealth of Massachusetts for unclaimed winnings from 2018 as described in the memorandum dated January 16, 2020, included in the Commissioners' Packet. Commissioner Zuniga seconded the motion. The motion passed unanimously.

Commissioner Items and Updates

See [transcript](#) pages 26 – 27

11:33 a.m. Update on Executive Director Search

The Chair recapped the discussion from the previous Commission meeting around the process for the selection of a permanent executive director. She noted the importance of the process being open, transparent, and competitive and in compliance with the Open Meeting Law. She stated that at the last discussion, the Commission opted to postpone a vote.

Commissioner O'Brien stated that she had spoken to Commissioner Stebbins and staff regarding the Commission's prior processes for hiring an executive director and that she feels more comfortable being able to take a position today.

Commissioner Zuniga summarized the Commission's past discussion regarding experience with conducting a search using internal resources, as well as using an external executive search firm for this process.

Commissioner Cameron referenced a discussion she had with Mr. Lennon, that she was persuaded when he described how conducting a proper search would drain internal resources. Therefore, she feels that using a search firm would be appropriate.

Commissioner O'Brien would like to take a hybrid approach, utilizing internal resources but then supplementing with an outside firm that can assist if needed.

Commissioner Stebbins added that a search firm might be able to add value if the Commission needs assistance finding the right candidates for the position. He also stated that having a professional work with directors and commissioners to create a piece in addition to a job description that describes the Commission's culture and mission would be helpful. Lastly, he stated that he is interested in a search firm being used to survey staff.

The Chair added that it would be helpful to solicit an outside firm to assist the Commission with understanding the needed qualifications of the next executive director, and engage the Commission staff for their feedback and produce a job description that would be useful in attracting candidates.

Commissioner Cameron stated that she would like to pause and assess what the qualities are that the Commission seeks in an executive director at this juncture.

To do that openly and safely, she suggests using an outside resource. She expressed her concern about internal resources being overburdened.

[11:55 a.m.](#) The Chair raised concern about the Commission's minimal internal resources to conduct a competitive, open process that includes the potential for strong internal candidates in an efficient, fair, and open way. A discussion regarding options, strategies, and procurement cost for an outside firm amongst the Chair and Commissioners ensued (see video and transcript).

[12:03 p.m.](#) *Commissioner O'Brien moved that the Commission approve the search process for an executive director for the Massachusetts Gaming Commission by convening a Procurement Management team to commence the procurement process for an external firm to find finalists for the new executive director position and/or conduct an internal organizational assessment. Commissioner Cameron seconded the motion. The motion passed unanimously.*

Commissioner O'Brien further moved to appoint Commissioner Enrique Zuniga to manage the above-referenced procurement team and execute all steps necessary to procure an external firm to find finalists for a new executive director and/or conduct an internal organizational assessment. Commissioner Cameron seconded the motion. The motion passed 4 – 0 with Commissioner Zuniga abstaining.

Interim Executive Director Compensation

The Chair reported on the research performed and steps taken to consider a salary increase for IEB Director Karen Wells in her additional position as Interim Executive Director.

Commissioner Zuniga recommended a fifteen percent increase to Ms. Wells' salary. If her additional role exceeds three or four months, the Commission can revisit this to determine if the wage is still appropriate. The Chair disclosed Ms. Wells' current salary as \$158,445 annually, and a fifteen percent increase would amount to \$182,213.00.

Commissioner Stebbins made note that Ms. Wells' salary is not necessarily a detriment for what salary will be for the next executive director and that it is still at the Commission's discretion.

[12:12 p.m.](#) *Commissioner Stebbins moved that the Commission approves an increase of fifteen percent to the salary of Investigations and Enforcement Bureau Director Karen Wells as compensation for her performance as interim executive director for the pay period beginning January 19, 2020, until the Commission appoints a permanent executive director. Commissioner Cameron seconded the motion. The motion passed unanimously.*

Other Business

See [transcript](#) pages 27 – 28

[12:13 p.m.](#) Commissioner Stebbins updated the Commission on his previous meeting with a group of hotel finance and tech executives that have been receiving periodic updates from the Commission on the status of gaming in Massachusetts. He stated that this group primarily works in the Boston area. He asked them about any impact that they have seen since the opening of Encore Boston Harbor in the busy summer months for hotels. The group shared their observations with Commissioner Stebbins.

[12:14 p.m.](#) *With no further business, Commissioner Cameron moved to adjourn the meeting. Commissioner Zuniga seconded the motion. The motion passed unanimously.*

List of Documents and Other Items Used

1. Notice of Meeting and Agenda dated January 23, 2020
2. Draft Commission Meeting Minutes dated December 19, 2019
3. Draft Commission Meeting Minutes dated January 9, 2020
4. Draft Region C RFI
5. Draft Region C Request for Public Comment
6. Memo: PPC Request for Promotional Fund Consideration dated January 16, 2020
7. Memo: PPC Request for Capital Improvement Fund Consideration dated January 16, 2020
8. Memo: Local Aid Quarterly Distribution for QE4 CY 2019 dated January 13, 2020
9. Memo: Recovery of 2018 Unclaimed Winnings from Sterling Suffolk Racecourse dated January 16, 2020
10. Memo: Recovery of 2018 Unclaimed Winnings from Wonderland Greyhound Park dated January 16, 2020
11. Memo: Recovery of 2018 Unclaimed Winnings from Plainridge Racecourse dated January 16, 2020
12. Memo: Recovery of 2018 Unclaimed Winnings from Raynham/Taunton/Massasoit Greyhound Associations

/s/ Bruce Stebbins
Secretary