



Massachusetts Gaming Commission Meeting Minutes

Date/Time: January 23, 2023, 11:00 a.m.
Place: Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 111 600 4127

The Commission conducted this public meeting remotely utilizing collaboration technology. 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 426th Public Meeting of the Massachusetts Gaming Commission (“Commission”). Roll call attendance was conducted, and all five commissioners were present for the meeting.

2. [Sports Wagering Round Table Discussion with the Players’ Association](#) (00:50)

The Roundtable included representatives from the National Football League Players Association (NFLPA), the Major League Baseball Players Association (MLBPA), the National Basketball Players Association (NBPA), the National Hockey League Players Association (NHLPA), and the Major League Soccer Players Association (MLSPA).

I. Opening Remarks and Introduction of Players Representatives

Chair Judd-Stein provided an overview for the roundtable; stating that for sports wagering to be successful, the Commission wanted to ensure that events maintained their integrity. She noted

that it was additionally important was that these events placed no added pressure on the players from the sports wagering market.

A. [James C. Eisenberg and Kris Erikson from Preti Strategies](#) (2:51)

James Eisenberg and Kris Erikson from Preti Strategies explained that Preti strategies was based in Boston and represented the Players Association. Mr. Eisenberg stated that the players association worked with the legislative leaders and was informed that their concerns were more appropriate to address in a regulatory setting before the Commission.

B. [Steve Fehr; National Hockey League Players Association](#) (4:44)

Special Counsel Steve Fehr from the NHLPA introduced himself and stated that he had represented the NHLPA on a wide variety of matters for more than ten years.

C. [Matt Nussbaum; Major League Baseball Players Association](#) (5:04)

Matt Nussbaum, General Counsel with the Major League Baseball Players Association stated that he served as an in-house attorney for the MLBPA for eleven years and stated that he used to work for the NHLPA.

D. [David Foster; National Basketball Players Association](#) (5:28)

David Foster, Deputy General Counsel for the National Basketball Players Association introduced himself and stated that he had worked for the NBPA for seven years.

E. [Ned Erlich; National Football Players Association](#) (5:45)

Ned Erlich, Associate General Counsel for the National Football Players Association introduced himself. He stated that he worked for the NFLPA for 11 years and that prior to that, he was outside counsel to the NFLPA.

Mr. Eisenberg noted that the Major League Soccer Association was also part of the player's association but was unavailable to join the meeting.

II. [Topics of Discussion](#) (7:54)

A. Regulations Protecting Athlete and Family Safety

Mr. Erikson noted that the language submitted in the regulation proposal was not final, and that the players association was willing to work with the Commission on the language. Mr. Erlich stated that the protection of players, players' families, umpires, referees, officials, and other personnel was a concern. He noted that the likelihood of an adverse incident arising from sports

wagering increases, as sports wagering becomes more prevalent. He stated that there was a broad spectrum of potential misconduct including physical and verbal threats, attempted assault, and harassment. He noted that incidents involving unruly fan behavior at events had also occurred.

Mr. Erlich stated that the Commission needed to clearly delineate what safety measures look like and that fans must clearly understand what constitutes misconduct. He noted that Virginia and Illinois enacted definitions and protections in their sports wagering regulations. Mr. Fehr stated that a few state legislatures had built in protections for the players within their laws as well.

Mr. Foster stated that other jurisdictions had found the league and teams to be best suited to handle safety. He noted that teams struggled to enforce discipline on fans as the fans drove revenue. Mr. Nussbaum noted that a high-volume sports bettors had made death threats to four players on the Tampa Rays in 2019. He noted that the concerns existed at the events, and in other locations, including social media.

Commissioner Hill sought clarification regarding the player association's recommendations for regulations. Mr. Eisenberg stated that the Commission's ultimate enforcement mechanism was the ability to remove wagering on a sporting event. He stated that if threats to players were numerous enough, the Commission could remove wagering from an event.

Mr. Erikson stated that a provision like this would incentivize the leagues and arena to provide protections for players and their families. He stated that a regulation that could remove betting from events at a venue would have the teams and leagues step-up their enforcement.

Chair Judd-Stein sought clarification as to when threats would be sufficient enough to pull sports wagering for an event. Mr. Eisenberg stated that it would be a rare occurrence, but that the Commission should reserve the right to enact this option for the safety of players, player's families, and event officials.

Commissioner Skinner noted that this action would impact the entirety of Massachusetts' bettors and not just bad actors, she asked how that could be justified. Mr. Eisenberg noted that it would have a strong effect on the overall market and would be an extreme example in response to imminent threats where sports wagering was a factor. He stated that most enforcement would be expected to be on an individual basis.

Mr. Foster stated that the first enforcement mechanism would be to address the individual bettor, and that pulling betting from events would require ample information about a serious threat. He noted that the Commission had a mission to protect the residents of Massachusetts. Commissioner Skinner stated that the responses were helpful.

Commissioner O'Brien noted that the statute eliminated certain in-game bets and demeaning bets and asked if the players associations wanted to exclude other bets not in the statute. Mr. Erikson stated that the statute allows for the players' association to petition the Commission regarding

prohibiting any bets and that any issues can be addressed in that venue. Mr. Fehr stated that it was difficult to envision problems that may arise in the future. Commissioner O'Brien requested the language from the Virginia and Illinois statutes. Mr. Erikson stated that he would send the language over during the week.

Commissioner Maynard stated that 205 CMR 152 allows the involuntary exclusion of individuals in the gaming context, and asked if this ability would be helpful in the sports wagering context. Mr. Eisenberg stated that similar language could be a potential enforcement mechanism. Mr. Nussbaum stated that any individual making threats should be disqualified from betting. General Counsel Todd Grossman stated that he would have to review Chapter 23N to see if the statute allowed for involuntary exclusions. He noted that if the language was not present in the statute, the Commission would have to decide whether they have the authority to adopt such language in their regulations.

Commissioner Skinner asked if the players' associations had reached out to the sports wagering operators regarding their process related to unruly individuals. Mr. Erikson stated that they had worked alongside the legislature and now the regulatory body but stated that they had not yet communicated with the operators.

B. Collective Bargaining Agreements (38:05)

Mr. Nussbaum stated that the MLBPA had a collectively bargained policy that had yet to be published. He noted that every single major and minor league athlete was required to go through a series of educational trainings and resources. He noted that the Office of the Commissioner of Baseball had an investigations department to investigate improper betting. He requested that the regulatory framework afford deference to the investigative process and appeals, so that the players could have the due process rights they had collectively bargained for. Mr. Fehr stated that there were detailed provisions for how investigations commenced and that it would be helpful to follow that process without interference. Mr. Erlich agreed with the other speakers in requesting deference in the investigation process.

Chair Judd-Stein stated that if there was suspicious activity involving an athlete, the Commission could coordinate with the players' association to protect that confidential information. General Counsel Grossman clarified that the Commission's ability to withhold information was somewhat limited, due to the open-meetings law, but that the Commission had the ability to protect certain information that was exempt from disclosure pursuant to the public records law.

General Counsel Grossman noted that the investigatory exemption to the public records law was related only to the Commission's investigations, and that he would have to research whether information provided from another investigation could be protected. Director of the Investigations and Enforcement Bureau ("IEB") Loretta Lillios stated that the IEB was aware of the importance of confidentiality in maintaining the integrity of an investigations. She stated that the IEB would fully uphold and adhere to the exemptions to the public records law. Chair Judd-

Stein stated that the Commission was committed to the transparency of the open-meeting law, but that the public records law contemplated the need for confidentiality in investigations.

Mr. Nussbaum expressed an interest in the players' associations or individual athletes receiving prompt notice of investigations conducted by the Commission. Mr. Foster stated that it was critical that the players receive investigation information as close in time as possible to when the leagues receive the information. Mr. Erlich stated that the associations should not have to rely on the sports leagues to filter what information was shared.

C. [Other Considerations](#) (53:54)

Chair Judd-Stein stated that the Commission had discussed endorsements by athletes between the ages of eighteen and twenty-one. She expressed concern that those endorsements could target a younger population that the Commission has a duty to protect. Mr. Nussbaum stated that the issue was being addressed in collective bargaining, especially in the minor league where players were more likely to fall within that younger age range. He stated that the policy for Major League Baseball was that players could use their name, images, and likeness to sponsor legal sports wagering operations, but that there were restrictions to what the underage players could state in the endorsement.

Mr. Erlich stated that members of the NFLPA were prohibited from endorsing gambling products. Commissioner O'Brien asked if players in the MLBPA would be able to do endorsements in jurisdictions where they could not bet. Mr. Nussbaum stated that the players could engage in certain endorsement activities.

Mr. Foster stated that the NBPA agreed with MLBPA's analysis. He stated that some players careers may be entirely between the ages of eighteen and twenty-one, and that they should be able to receive some of the betting companies' profit from their labor.

Chair Judd-Stein sought clarification regarding the NFLPA's policy on endorsements. Mr. Erlich stated that the NFL's policy prohibits all endorsement of gambling products. Commissioner Hill sought clarification on what restrictions would be placed on eighteen-to-twenty-one-year old's endorsements. Mr. Nussbaum stated that he would send a copy of the collective bargaining agreement to the Commission. He noted, however, that the language had not been finalized. He reported that players could endorse hotels or casinos, but could not endorse brands specific to baseball or sports wagering operators. He noted that the operators were typically part of much larger organizations.

Commissioner Maynard expressed his assumption that guardrails would be built into these agreements and stated that it was important not to interfere with a revenue generating contract for a young player. Mr. Nussbaum stated that there was a stream of advertising from sports wagering entities during sporting events, and that those advertisements happen alongside the name, images, and likenesses of players who are underage and playing in the game.

Commissioner Hill stated that responsible gaming was a concern constantly reviewed by the Commission and requested that the players associations remain mindful of responsible gaming in their negotiations and efforts as well. Mr. Nussbaum stated it was a point well taken.

Chair Judd-Stein stated that there needed to be a reporting mechanism for the Commission to hear about threats made to players, and stated she wanted assurances from the IEB team that channels of communication would exist. She stated that Commission staff would work on the regulatory language to address the safety and wellbeing of all those involved in sports events.

Commissioner O'Brien stated that when an industry makes money off the actions of other individuals, the primary responsibility should rest with the entities making that money. She stated that operators could play a role in ensuring safety concerns were equitably addressed. Commissioner Skinner stated that player safety should be prioritized by the Commission, but that she would await the Legal Division on whether the Commission has authority to enact these changes. She expressed that she believed the Commission had the authority to some extent to do so.

3. [Other Business](#) (1:17:50)

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

Commissioner Hill moved to adjourn. The motion was seconded by Commissioner O'Brien.

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. Revised Notice of Meeting and Agenda dated January 20, 2023
2. [Commissioner's Packet](#) from the January 23, 2023, meeting (posted on massgaming.com)