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## Massachusetts Gaming Commission Meeting Minutes

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**Date/Time:** January 28, 2021 – 10:00 a.m.

**Place:** Massachusetts Gaming Commission  
VIA CONFERENCE CALL NUMBER: 1-646-741-5292  
MEETING ID: 112 780 8210

**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 #334 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 Judd-Stein*

**00:01:17:** [Approval of Minutes](#)

*Commissioner O'Brien moved to approve the minutes from the Commission meeting of September 30, 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 O'Brien moved to approve the minutes from the Commission meeting of October 1, 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.*

#### **00:08:12: [Administrative Update](#)**

##### **On-site Casino Updates**

IEB Director Loretta Lillios and Assistant Director, Gaming Agents Division Chief Bruce Band provided an update regarding activities on-site at the casino properties. Director Lillios informed the Commission that on January 21, 2021 Governor Baker issued Covid-19 Order No. 62 which went into effect at 5 a.m. on Monday, January 25, 2021. Order No. 62 repeals the 9:30 p.m. mandatory closing time for all casino properties and their amenities and keeps in place the 25% capacity restrictions until February 8, 2021. All other Covid health and safety measures remain in place. The casino properties may now be open 24 hours a day, 7 days a week.

Director Band informed the Commission that all casinos have remained under the 25% capacity limit. Plainridge Park Casino and Encore Boston Harbor began operating 24/7 on January 27, 2021. MGM will begin operating 24/7 on January 29, 2021.

#### **00:16:48: [MGC-ITS Gaming Technical Compliance Update](#)**

Chief Information Officer Katrina Jagroop-Gomes, Gaming Technical Compliance Manager Scott Helwig, and Gaming Technical Compliance Engineer Priya Gandotra provided the Commission with an overview of the Gaming Technical Compliance (GTC) division of the ITS team, including a summary of regulations relevant to GTC and the standards GTC has adopted from Gaming Laboratories International (GLI).

GTC operates the MGC gaming technical compliance lab located in the Boston office and conducts testing for Electronic Gaming Devices (EGD) and EGD systems. It also assists with other MGC testing, such as the Play My Way application. GTC reviews reports sent from independent testing labs on daily, weekly, and monthly bases and reserves the right to audit those labs. GTC also works alongside MGC's Network Operations Center (NOC) team, which maintains and operates the Gaming Commissions Central Monitoring System (CMS), and partners with other MGC divisions.

Executive Director Wells congratulated Ms. Jagroop-Gomes and her team on their work over the last several years. Commissioners Cameron and O'Brien also offered her congratulations.

Commissioner Zuniga asked how much testing BMM is doing as compared with GLI. Ms. Jagroop-Gomes answered that GLI conducts approximately 90% of the testing and BMM conduct approximately 10%.

Chair Judd-Stein asked Mr. Helwig to elaborate on how GTC uses technology to aid social distancing. Mr. Helwig explained that GTC worked with the IEB to create a report in which they identified which machines on the casino floor were in or out of service and whether they were being disabled properly. They continue to monitor the situation and inform the casinos if a machine that is supposed to be out of service is used. GTC also worked to automatically disable EGDs on the casino floors in order to facilitate early closing times due to Covid-19 restrictions.

Chair Judd-Stein thanked GTC for its report and noted that the IT team works as a partner with the licensees to ensure their compliance and is a helpful resource for them.

The PowerPoint used during the technical compliance update is included in the Commissioner's packet.

**00:31:23: [Research and Responsible Gaming](#)**

**Positive Play Initiative**

Director of Research and Responsible Gaming Mark Vander Linden and Program Manager of Research and Responsible Gaming Teresa Fiore introduced guest speakers Dr. Richard Wood of Gamres and Executive Director of the Massachusetts Council on Gaming and Health Marlene Warner.

Ms. Fiore explained that in 2019 MGC and the Massachusetts Council on Gaming and Health critically examined the Game Sense program and launched Game Sense 2.0 to ensure that the program stays relevant and is evolving with the players in Massachusetts. One initiative identified was the positive play scale. Up to that point, the majority of studies focused on problem behaviors. The positive play scale, however, takes a different approach and measures responsible gaming behaviors.

Dr. Wood presented the findings of the positive play study conducted in Massachusetts which evaluates responsible gaming strategies and delivers actionable recommendations that will be used to drive responsible gaming campaigns, outreach, and initiatives.

Commissioner Zuniga asked how personal responsibility is measured and what can be done with information regarding personal responsibility while avoiding the risk of becoming patronizing. Dr. Wood suggested that personal responsibility is less of an area that needs to be focused on because most players score highly on that metric. However, Game Sense advisors could ask questions regarding personal responsibility and social proof examples could be used to show how the majority of players act.

Commissioner Cameron inquired into how many Canadian provinces the program is being used in and whether the rollout in Canada influenced recommendations for Massachusetts. Dr. Wood explained that the program began in British Columbia, but the positive play scale is now used in all Canadian provinces, allowing them to validate their sample. They are now starting to run a second study in various provinces to see if there will be any changes over time and whether scores have shifted. Two studies in New Zealand were also undertaken and scores in general increased over time.

The PowerPoint used during Dr. Wood's presentation is included in the Commissioners' packet.

**01:28:15: [Legal Division](#)**

**205 CMR 134.01: Key Gaming Employee Licensees**

**205 CMR 134.02: Gaming Employee Licensees**

General Counsel Todd Grossman presented amendments to 205 CMR 134.01: Key Gaming Employee Licensees and 205 CMR 134.02: Gaming Employee Licensees, which had been in effect by emergency since December 3, 2020 due to the pandemic. The amendments allow licensees to bring in staff from sister properties to serve as key gaming employees in an emergency situation without requiring licensure. Commissioner Zuniga, who presided over the public hearing, stated there was no public comment and explained that the Commission is now in a position to complete the promulgation process.

*Commissioner Cameron moved to approve the Amended Small Business Impact Statement included in the Commissioners' packet relative to the amendment to section 134.01 as discussed. 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.*

*Commissioner Cameron further moved to approve the amendments to 205 CMR 134.01 as outlined in the Commissioners' packet and as discussed and to authorize staff to take all necessary steps to finalize the promulgation process.*

*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.*

Commissioners Zuniga and O'Brien noted that there were typographical errors in the titles of the regulations in the Commissioners' packet. Mr. Grossman responded that he would review and update the materials.

*Commissioner Zuniga moved that the Commission approve the Amended Small Business Impact Statement included in the Commissioners' packet relative to the amendment to section 134.02 as discussed.*

*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.*

*Commissioner Zuniga further moved to approve the amendments to 205 CMR 134.02 as outlined in the Commissioners' packet, with correction to the title reference, and to authorize staff to take all necessary steps to finalize the promulgation process. 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.*

## **01:34:51: Investigations and Enforcement Bureau**

### **Juvenile Records Review Update**

Director Lillios provided an update regarding the use of certain juvenile records in the background check process. She explained that under state law juvenile court proceedings and associated records are generally closed to the public whereas adult criminal proceedings and records are open to the public.

Pursuant to Chapter 23K, the paramount policy of the gaming law is to ensure public confidence in the integrity of gaming through the licensing process. That policy goes hand in hand with Chapter 23K's other explicit policy directive of creating employment opportunities, particularly for the unemployed. Director Lillios further explained that the IEB's mission is to ensure the credibility of gaming in the Commonwealth and the safety of patrons, but that the IEB is mindful that it does not want to hurt the very people the gaming law was created to help.

With that in mind, Director Lillios described how Chapter 23K sets out different levels of licensure and background review. The level used to investigate a particular applicant depends on the position for which they are applying. In all instances of licensure and registration Chapter 23K mandates a background review with regard to overall reputation (integrity, honesty, and

good character), and requires the consideration of patterns of misconduct that may make a person unsuitable for a license.

Over the years, the Commission has taken a number of steps to ensure that individuals receive a fair chance at obtaining a good job in the Commonwealth. Per regulation, the IEB must consider information in the light most favorable to the applicant. Regulations also address juvenile records and mandate that adjudications of delinquency are not to be treated as automatic disqualifiers. Regulations further address sealed records and information related to sealed records, which may not be reviewed as part of background investigations.

Director Lillios noted that although juvenile records are accorded a high degree of privacy, MGC is not alone as an agency in the ability to review them. She also emphasized that when the IEB reviews an application it understands both that there is a full person behind that application and that there is a policy-driver of allowing second chances.

Chair Judd-Stein explained that the purpose of the Commission's conversation was to determine if there was a consensus regarding moving forward with any regulatory changes concerning the use of juvenile records in IEB investigations.

Commissioner Cameron asked Director Jill Griffin if there have been any community-led efforts to educate individuals regarding how to seal juvenile records. Director Griffin said that she was not aware of any specific efforts regarding juvenile records. Commissioner Cameron explained that her concern with not allowing the IEB to review juvenile records relates to individuals who were recently juveniles and who have a pattern of delinquency.

Commissioner O'Brien reviewed Chapter 23K prior to the meeting and noted that there is a duality to Chapter 23K as it relates to both employment and regulatory oversight. The paramount policy objective of Chapter 23K, however, is to have public confidence in the integrity of the licensing process and strict oversight. In light of those obligations, Commissioner O'Brien believes that the Commission maintains an appropriate policy for dealing with juvenile records, which is that it complies with both the letter and the spirit of the sealing of juvenile records, but not in a way that hamstrings the IEB from determining an applicant's suitability. She does not see a reason to change the IEB's access to the records in question.

Commissioner Zuniga noted that impacts of the criminal justice system tend to fall predominantly on communities of color. He understands that the IEB is very careful to review candidates holistically, but there is an increased likelihood of an adverse finding based on certain statistics. One recommendation from the MGC's equity and inclusion group was to review regulations that may have a disproportionate impact on communities of color. He would argue that this is an element of that review. Commissioner Zuniga also noted that his instinct is that, statistically, communities of color have a greater chance of having had negative interactions and outcomes with the criminal justice system. As a whole, the system and society treat juvenile records in a more benign way as compared to the criminal system. In that spirit, Commissioner Zuniga believes the Commission should do the same. Commissioner Zuniga understands that there are a few exceptions where a repeat offender could be an issue, but he is looking at averages.

Chair Judd-Stein thanked the team for its work on this issue. She noted that the Commission has considerable discretion in its regulatory function, which brings with it great responsibility. There is no prohibition on the review of juvenile records. However, when we think about juvenile records, we are aware of the increased responsibility to the science of juvenile development and to the societal impact on their records. Chair Judd-Stein also appreciates Commissioner Zuniga's point that the Commission has made an internal commitment to ensuring that its practices do not have a disproportionate impact on people of color.

Chair Judd-Stein asked Director Lillios if any applicants had been denied due to a juvenile pattern of behavior. Director Lillios said that the denial rate is low and there have been no rejections based solely on the presence of a juvenile record.

Chair Judd-Stein made several recommendations to consider. First, the legislature has not restricted the Commission from reviewing juvenile records and certain jobs do require a higher level of scrutiny. If the Commission removed the opportunity to review juvenile records, there is a risk that the Commission's core mission would be challenged. Second, Chair Judd-Stein has great confidence in the IEB's understanding that it has duties of fairness with regard to juveniles. She suggested that the IEB memorialize its procedures and not change the status quo.

Chair Judd-Stein asked if a rejected applicant has a right to appeal the IEB's decision. Director Lillios explained that the IEB does not have broad discretion in the suitability arena as decisions are tied to statutory and regulatory criteria. If a person is aggrieved, they have a right to review by an impartial hearing officer and as part of that hearing process they have the right to all of the materials that the IEB has considered, to tell their own story, bring in witnesses, examine witnesses, etc. The hearing officers are experienced in the administrative review process, including for those not represented by counsel.

Commissioner Cameron agreed with the comments made by Chair Judd-Stein and has been pleased in the manner in which the IEB conducts interviews with the understanding that a big part of the Commission's mission relates to getting people to work.

Commissioner O'Brien reiterated that she does not have reason to question the manner in which the statutory and regulatory scheme has been executed. The current scheme complies with statutory mandates, strikes an appropriate balance, and the Commission should continue to have discussions about disproportionate impacts. Memorializing the process makes sense.

Commissioner Zuniga explained that he was thinking about the information in the forms that have been previously approved related to an applicant's history. There could be places to add a personal statement or a way for a candidate to explain facts or circumstances around a particular record or other elements of their life. This would potentially be beneficial mitigating information to be considered by IEB.

Chair Judd-Stein asked if, in light of the conversation, the Commission should remove juvenile records from the IEB's consideration. Commissioner O'Brien, Commissioner Cameron, and Chair Judd-Stein support maintaining the status quo. Commissioner Zuniga would support

changing the regulation. Chair Judd-Stein said that at this point there is not consensus to vote for a regulatory change.

**02:19:16: Independent Directors Gaming Vendor Primary Status Update**

Senior Enforcement Counsel Katherine Hartigan presented a report concerning vendor suitability reviews for the chairs of audit and compliance committees. The IEB sought to determine whether changes should be made to the current practice of examining the suitability of the chairs of audit and compliance committees on a case-by-case basis. Specifically, the IEB asked 24 vendors a variety of questions and received varied responses. They also researched how other jurisdictions evaluate the chairs of audit and compliance committees. Based on the information the IEB received, it decided not to change its procedure in order to ensure a thorough suitability investigation.

Commissioner O'Brien asked Ms. Hartigan to expand on the different kinds of responses IEB received from vendors. Ms. Hartigan explained that they asked if the chairs were inside or outside directors and there was not a consensus on that question. They also asked if the chairs were subject to mandatory rotation and the answers varied widely. The manner in which chairs were regulated also varied.

Commissioner Cameron asked whether other factors were considered in determining whether the IEB should take a closer look at the vendor. Ms. Hartigan explained that IEB looks at what the vendor is doing in the jurisdiction in general and the reporting structure to the individual. She has found it to be an individualized inquiry depending on the size and location of the vendor.

Commissioner Zuniga said that he is comfortable with the approach IEB has taken and commended Ms. Hartigan on her research.

**02:29:42: Racing Division**

Director of Racing Dr. Alexandra Lightbown presented information regarding 2019 unpaid winnings. Patrons have a calendar year after they place a bet to cash it. The tracks then have 90 days from the end of 2020 to send unpaid winnings to the Commission. Pursuant to the memorandum Dr. Lightbown presented to the Commission, and which is included in the Commissioner's packet, she outlined the unclaimed winnings for calendar year 2019 as follows:

**2019 Plainridge Racecourse Unpaid Winnings**

In accordance with Massachusetts General Law Chapter 128A Section 5, Senior Financial Analyst Chad Bourque has reviewed the unclaimed winnings from calendar year 2019 at Plainridge Racecourse and determined that \$173,507.17 is payable to the Commonwealth of Massachusetts.

**2019 Suffolk Downs Unpaid Winnings**



In accordance with Massachusetts General Law Chapter 128A Section 5, Senior Financial Analyst Chad Bourque has reviewed the unclaimed winnings from calendar year 2019 at Sterling Suffolk Racecourse and determined that \$263,731.41 is payable to the Commonwealth of Massachusetts.

### **2019 Wonderland Park Unpaid Winnings**

In accordance with Massachusetts General Law Chapter 128A Section 5, Senior Financial Analyst Chad Bourque has reviewed the unclaimed winnings from calendar year 2019 for Wonderland Greyhound Park and determined that \$3,813.12 is payable to the Commonwealth of Massachusetts.

### **2019 Raynham Park Unpaid Winnings**

In accordance with Massachusetts General Law Chapter 128A Section 5, Senior Financial Analyst Chad Bourque has reviewed the unclaimed winnings from calendar year 2019 at Raynham/Taunton/Massasoit Greyhound Associations and determined that \$140,009.95 is payable to the Commonwealth of Massachusetts.

### **Authorization for CFAO to Pay Out Funds Once Approved by Commission**

*Commissioner Cameron moved that the Commission approve the unclaimed winning figures presented in Dr. Lightbown's memorandum included in the Commissioners' packet so that the respective licensees may deposit those funds with the Commission.*

*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.*

Dr. Lightbown explained that, by statute, once the monies come from the tracks the Commission's financial division sends them back to the tracks to be distributed to different funds, including purse accounts and racing stabilization funds.

*Commissioner Cameron further moved that the Commission authorize the Commission's finance office to distribute those funds, upon deposit, to the respective purse account of the licensee that generated the unclaimed funds.*

*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.*

**02:36:09: Executive Session**

The Chair initiated discussion as to whether the Commission would move into Executive Session to review minutes from previous executive sessions convened in accordance with G.L. c. 30A, §20(a)(3) in order for the Commission to discuss strategy with respect to litigation where such discussion at an open meeting may have had a detrimental effect on the Commission's litigating position. The public session of the Commission meeting will not reconvene at the conclusion of the executive session.

Commissioner O'Brien asked Mr. Grossman to confirm that it was appropriate to enter executive session for the sole reason of deliberating, reviewing, and potentially editing the minutes. Mr. Grossman responded that it was wholly appropriate as there is no other way to approve such minutes. Chair Judd-Stein added that there is a strategic component to such review.

*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 moved into Executive Session.

**List of Documents and Other Items Used**

1. Notice of Meeting and Agenda dated January 26, 2021.
2. Draft Commission Meeting Minutes of September 30, 2020
3. Draft Commission Meeting Minutes of October 1, 2020
4. Gaming Technical Compliance (GTC) Overview PowerPoint Presentation
5. Positive Play PowerPoint Presentation on Measuring Responsible Gambling in Massachusetts
6. Memorandum of Positive Play Initiative
7. Positive Play PowerPoint Presentation on Measuring Responsible Gambling in Massachusetts:  
Executive Summary
8. Regulation Review Checklist: 205 CMR 134.01, Key Gaming Employee Licensees
9. Amended Small Business Impact Statement
10. 205 CMR 134.01: Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations: 134.01: Key Gaming Employee Licensees
11. Regulation Review Checklist: 205 CMR 134.02, Gaming Employee Licensees
12. Amended Small Business Impact Statement
13. 205 CMR 1434.00: Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations: 134.02: Gaming Employee Licensees

14. Memorandum of Recovery of 2019 Unclaimed Winnings from Plainridge Racecourse
15. Memorandum of Recovery of 2019 Unclaimed Winnings from Sterling Suffolk Racecourse
16. Memorandum of Recovery of 2019 Unclaimed Winnings from Wonderland Greyhound Park
17. Memorandum of Recovery of 2019 Unclaimed Winnings from Raynham/Taunton/Massasoit Greyhound Associations