



Massachusetts Gaming Commission Meeting Minutes

Date/Time: October 10, 2019 – 10:00 a.m.

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

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

**Time entries are linked to the
corresponding section in the
Commission meeting video.**



Call to Order

See [transcript](#) page 1

10:03 a.m. Chair Cathy Judd-Stein called to order public meeting #278 of the Massachusetts Gaming Commission.

Approval of Minutes

See transcript page 1

Commissioner Stebbins moved to approve the minutes from the Commission meeting of September 26, 2019, subject to correction for typographical errors and other nonmaterial matters. Commissioner Cameron seconded the motion. The motion passed unanimously.

Administrative Update

See transcript pages 1 – 2

10:04 a.m. **2020 Racing Applications**

General Counsel Catherine Blue updated the Commission applications received by the appropriate deadline. An application was received by Plainville Gaming and Redevelopment, also known as Plainridge Park. She stated that there will be a public hearing at the Plainville Town Hall on October 31, 2019, at 10:00 a.m. She made note that the application will be redacted and posted on the Commission's website before the hearing. Public comments can be submitted to the Commission before the hearing, as well. The application will then be brought back to the Commission for a vote at the November 7, 2019 Commission meeting in Plainville.

Commissioners' Report / Update

See transcript pages 2 – 20

10:07 p.m. **Plainridge Park Casino (PPC) License Renewal Process Discussion**

Commissioner O'Brien, Commissioner Zuniga, Deputy General Counsel Todd Grossman, and IEB Director Karen Wells discussed considerations of the terms for a Category 2 license renewal with the Commission. The Commission also reviewed a memo included in the [Commissioners' Packet](#) that outlined discussion points.

Commissioner O'Brien stated that the most pressing issue is regarding the timing and depth of review on the licensee and qualifiers by the Investigations and Enforcement Bureau (IEB). She referenced previous conversations she had with the IEB regarding this issue. Based on those conversations, she recommends that the review process that is currently in place for renewing vendors can also be the basis for the review process for Category 2 licenses.

Ms. Wells stated that the IEB is looking for the Commission to provide a general policy directive based on this recommendation. She then described the IEB's proposal to conduct a review that is generally similar to the renewal protocol that the IEB has established for Primary Gaming Vendors (slot machines and table-game manufacturers). Ms. Wells explained that as PPC's original suitability investigation has been conducted, the IEB's set model for vendor renewal could apply, with modified forms. She stated that this would be the most efficient use of the IEB's time and resources and would effectuate the due diligence requirements for the ongoing suitability of the licensee.

10:18 a.m. Commissioner O'Brien recommended that at the end of this process, the IEB should memorialize what transpired from this process in writing for the Commission's future reference when formulating the Category 1 license renewal process. This document should be a public record, easily accessible to the public and future Commissioners that reflects any issues that need further vetting and an

overview of steps taken. Ms. Wells stated that she would work with Commissioner O'Brien to draft a report for the Commission.

[10:25 a.m.](#) Mr. Grossman provided the Commission with further recommendations regarding the renewal procedure, stating that there are several other elements that the Commission will want to consider in crafting the process. He noted that the licensees' suitability is the cornerstone, as it is in most other jurisdictions.

He then stated that the Legal Division would begin drafting regulations for the renewal process and bring them to the Commission for review, as well as to solicit feedback from the public.

Mr. Grossman then reviewed policy questions that had been posed by the Commission. There was a discussion around how to determine the amount of the renewal fee that is required by the statute. The term of the license renewal was discussed, and whether or not it should exceed five years. The criteria to be investigated and analyzed as part of a renewal procedure was another matter that was also reviewed.

[10:31 a.m.](#) Concerning the determination of licensing fees, the Chair asked Mr. Grossman to examine the statute, specifically section 10(d), to interpret the language "shall be exclusive of any *subsequent* licensing fees." Mr. Grossman responded that he would look into this.

Commissioner Zuniga suggested that the licensing fee should not exceed investigatory costs. However, he stated that there could be a cost-benefit in terms of charging the fee upfront or allowing the possibility of the licensee to invest in a longer-term use of capital.

[10:41 a.m.](#) There was a discussion around billing for a suitability investigation for renewal, as well as the costs already paid for in the initial suitability investigations. Ms. Wells stated that the IEB does have a protocol in place for calculating the cost of their investigations.

[10:44 a.m.](#) Next, Mr. Grossman discussed the term of the renewal for the licensees with the Commission.

[10:50 a.m.](#) With regard to Commissioner Zuniga's suggestion regarding capital investment, Commissioner O'Brien stated that she believes it would be more prudent to stay with the five-year renewal term for the first renewal, consistent with the statute.

The Chair expressed concern with potentially misinterpreting the statute and putting licensees at risk of not holding a proper license after the five-year term if the Commission chose to extend it.

Commissioner Stebbins suggested first, a process where the licensee notifies the Commission that they would like to be renewed. Second, he suggested providing licensees the opportunity to state their five-year plan to invest, as they do have a reinvestment requirement. Licensees who wish to be renewed would also articulate their strategy for staying competitive in the marketplace.

[10:55 a.m.](#) Mr. Grossman then led a discussion regarding the scope of the renewal process. A report on the financial suitability of the overall entity and suitability of Qualifiers would be something to consider as part of the renewal. Other criteria could include verifying compliance with the licensing conditions that were assessed upon the award of the initial licenses, compliance with the host and surrounding community agreements, and the review of the required capital expenditure plan.

He concluded by making note that as there are many things that the Commission could use as part of the renewal process, there is no flexibility with compliance with the Impacted Live Entertainment Venue (ILEV) requirement.

[10:59 a.m.](#) Commissioner Stebbins suggested that a collective review by Commissioners of the RFA-2 application could help them formulate any questions for discussion with the licensee at a hearing regarding their license renewal.

[11:02 a.m.](#) Commissioner Zuniga suggested that the financial suitability review now be primarily focused on the property level instead of the company level, as the landscape has changed with two new casinos in Massachusetts. The IEB's financial investigators could then get a picture of PPC's financial condition going forward at the appropriate level.

The Commission agreed that the primary focus of the financial piece of the investigation would be on the property level. However, there would also be an investigation into the parent company. Commissioner Zuniga referenced the mid-term review, which are summary-level reports through the licensees' corporate executives that include financials from the property level.

[11:04 a.m.](#) The Commissioners all agreed that they are in favor of having a public hearing.

Mr. Grossman recommended that the Commission consider migrating some of the elements of a Category 2 renewal process over to Category 1 license renewals in some format.

[11:07 a.m.](#) As PPC's license expires on June 24, 2020; the Commission will solicit public input on the license renewal at the beginning of the new year.

Finally, Mr. Grossman stated that the Legal Division would begin preparing a set of regulations that capture all of the comments made today. He also made note that there is an invitation in the statute to send any concerns or potential

roadblocks of the legislature 180 days before the expiration of the first license. There was a discussion among the commissioners that none seemed evident. In this discussion, Commissioner Stebbins noted that \$100,000 goes to the Gaming Revenue Fund.

Ombudsman

See transcript pages 20 – 32

11:18 a.m. **2020 Community Mitigation Fund Policy Questions Review**

Ombudsman John Ziemba briefed the Commission on draft policy questions for the 2020 Community Mitigation Fund. This is the beginning of the process for approving the guidelines for next year's program final guidelines should be out no later than December. To solicit input, meetings with sub-committees convene. He thanked them for all of their feedback to date. He then presented a memo included in the Commissioners' Packet that contained different questions posed by the staff. Mr. Ziemba asked the Commission for any additional questions regarding the development of the guidelines. He expects to come before the Commission two more times with revisions. The first draft will be presented at the next meeting, and then he will post them for public comment.

Mr. Ziemba then highlighted a few of the essential items on the list, such as Workforce programs pilots, which have been the most popular items that will need to continue. He also discussed whether or not the Commission should utilize mitigation funds for the construction process for transportation projects.

Public safety needs will be addressed. Mr. Ziemba stated that one community has asked for funding for late-night patrols.

He noted that at the next meeting, he would cover in more depth the projections for next year for the overall program.

11:29 a.m. Commissioner Zuniga suggested that the staff be afforded more discretion to manage what is becoming a grant program. Mr. Ziemba replied that he might add this into the guidelines for next year, and if there is a need for that this year, he will bring it separately to the Commission.

Concerning grant items brought before the Commission, Commissioner O'Brien stated that she would be more comfortable with seeing a de minimis dollar threshold than a percentage. The Chair agreed, indicating that this would be consistent with contracting practices.

Commissioner Zuniga stated that it is something to consider as the program is going to grow and get harder to manage. He then suggested the possibility of multi-year grants, as they are now contemplating whether the awards could be in conjunction with other funding sources for projects.

[11:37 a.m.](#) Commissioner Zuniga stated that he would like to ascertain what the operational impacts are before entering into any commitments in the guidelines. He opined that those needs are going to begin to identify themselves organically.

The Ombudsman noted for the Commission that there is a typo on the memo on the first page, indicating that instead of \$3,682,946.50, it should read that the Commission awarded \$3.882, 946.50 of new grant funding for 2019.

[11:41 a.m.](#) **Local Community Mitigation Fund Advisory Committee and Sub-Committee Appointments**

Ombudsman Ziemba presented a request for the reappointment of several members to the local Community Mitigation Advisory Committees and subcommittees under the Gaming Policy Advisory Committee (GPAC). He included a bio on each appointee for the Commission in his memo, included in the Commissioner's Packet.

Mr. Ziemba stated that the staff recommends the appointment of Ms. Ellen Patashnick for one of the two human service provider appointees for Region B LCMAC. He indicated that they are working on the remaining Region B representatives.

For Region A, staff recommends the reappointment of Mr. Vincent Panzini as the Chamber of Commerce Representative, and Mr. David Bancroft as the Regional Economic Development Representative, and Mayra Negron-Rivera as Human Service Representative. Mr. Ziemba stated that the Commission still has one more human service representative open position in Region A.

Mr. Ziemba indicated that the Commission also needs to appoint a Commission representative for the Subcommittee on Community Mitigation, a representative on the Public Safety Subcommittee, and a representative on the Subcommittee on Addiction Services.

The Chair acknowledged Commissioner Cameron's leadership as the Commission representative to the Public Safety Committee. She noted Commissioner Cameron's extensive experience and expertise in public safety and commended her on what she has brought in terms of her leadership to that very important subcommittee.

[11:44 a.m.](#) *Commissioner Cameron moved that the Commission approve the appointment of Commissioner Stebbins to the Subcommittee on Community Mitigation. Commissioner Zuniga seconded the motion. The motion passed 4 – 1 with Commissioner Stebbins abstaining.*

Commissioner Stebbins moved that the Commission approve the appointment of Commissioner O'Brien to the Public Safety committee. Commissioner Zuniga seconded the motion.

The motion passed 4 – 1 with Commissioner O'Brien abstaining.

Commissioner Zuniga moved that the Commission approve the re-appointment of Mark Vander Linden to the Addiction Services committee. Commissioner Stebbins seconded the motion.

The motion passed unanimously.

The chair requested an update on the strategy for meeting the goal of the Addiction Services committee. This topic will be revisited in December.

Commissioner Stebbins moved that the Commission approve the re-appointments to the Region A LCMAC of Mr. Panzini, Mr. Bancroft, and Ms. Negrón-Rivera. Commissioner Cameron seconded the motion.

The motion passed unanimously.

Commissioner Cameron moved that the Commission approve the appointment of Ms. Ellen Patashnick as the Region B LCMAC Human Services Provider for this opening. Commissioner Zuniga seconded the motion.

The motion passed unanimously.

[11:58 a.m.](#)

Encore Boston Harbor 90 Day Commitments

Construction Project Oversight Manager Joe Delaney reviewed the status of Encore Boston Harbor's 90-day commitment agenda with the Commission. Mr. Delaney recommends reporting back to the Commission in another 90 days after Encore has completed all of the items.

Mr. Delaney updated the Commission on an escrow agreement between Encore Boston Harbor and the City of Boston, stating that it is in the signature stage as of today.

Research and Responsible Gaming

See transcript pages 32 – 42

[12:03 p.m.](#)

Category 1 Licensees Play Management Update

Director of Research and Responsible Gaming Mark Vander Linden summarized the PlayMyWay program to the Commission as well as components that are being evaluated for implementation in the budget-setting tool for the program.

There was discussion around the configuration and usage of the budget-setting tool. Mr. Vander Linden emphasized the importance of continued evaluation of the program to optimize its effectiveness.

Next, Mr. Vander Linden reviewed a slide with the Commission that described enrollment. He then clarified that there is a typo in the Enrollment slide, stating that the reward incentive should read that there is a \$5 drink award after enrolling.

[12:41 p.m.](#) Ms. Jagroop-Gomes explained what is required to meet the September deadline for 2020, and confirmed that the development of the tool is anticipated to be ready by this deadline.

Workforce, Supplier and Diversity Development

See transcript pages 42 – 49

[12:45 p.m.](#) **Construction Diversity Best Practices Report**

Director of Workforce, Supplier and Diversity Development Jill Griffin, with Program Manager Crystal Howard, presented a report written by Peg Beringer entitled, Build to Last: Best Practices for Diversity in the Construction Industry at their event at Smith College in Northampton, MA. She thanked the Chair and Commissions Stebbins and O'Brien for participating, as well as Ms. Howard, Director of Communications Elaine Driscoll, and Digital Communications Coordinator Austin Bumpus for organizing.

Ms. Griffin stated that the purpose of the report was to capture and share development practices that they saw over time that led to opportunities for Massachusetts residents, and will be a lasting roadmap for other projects to follow.

Ms. Howard summarized the report for the Commission, describing the history and milestones over time that made this work come together. The report primarily highlights the construction and the implementation of the Expanded Gaming Act, being the driving force behind diversity plans being an integral part of the gaming license.

The Commission viewed slides that described the background and diversity goals, demand strategy practices, supply strategy practices, monitoring strategy practices, highlighted stories of successful endeavors with diverse businesses, and outcomes/results of utilizing these practices.

[1:16 p.m.](#) **Holyoke Community College Workforce Grant Request**

The Commission reviewed the request of Holyoke Community College and their subgrantee, Springfield Technical Community College, to utilize some of the funds in FY20 that were not fully used in their FY19 program. She clarified that Holyoke Community College has requested the use of \$35,000 to hire a part-time career counselor as well as pay for some unforeseen expenses.

[1:18 p.m.](#) *Commissioner O'Brien that the Commission approve the revised budget and reallocation of funds awarded to Holyoke Community College pursuant to a grant from the Community Mitigation Fund as described in the Memorandum from Director of Supplier and Workforce Diversity Jill Griffin, Ombudsman John Ziemba, and Program Coordinator Crystal Howard dated October 7, 2019 and*

*included in the Commission packet. Commissioner Cameron seconded the motion.
The motion passed unanimously.*

Finance Division

See transcript pages 49 – 50

[1:21 p.m.](#) **Massachusetts Gaming Commission FY19 Budget Closeout**
Chief Financial Officer Derek Lennon is unable to attend today. Commissioner Zuniga reviewed the summary of the FY19 budget provided by Mr. Lennon with the Commission. He reported a \$1.44M surplus for this year that will be credited toward FY20 as an initial assessment of licensees, as well as detailing other budgetary spending.

[1:26 p.m.](#) Commissioner Zuniga stated for the record that legal costs are treated separately.

Legal Division

See transcript pages 50 – 53

[1:29 p.m.](#) **Initial Draft Version of an amendment to 205 CMR 133.05: Voluntary Self-Exclusion; Maintenance and Custody of the List, and Small Business Impact Statement**
The Commission reviewed the draft regulation and Small Business Impact Statement for 205 CMR 133.05. The proposed amendment would permit licensees to provide an aggregated no-marketing list to junket operators that will include individuals on the voluntary self-exclusion list but will not identify them as being on such list.

[1:31 p.m.](#) *Commissioner Cameron moved that the Commission approves the Small Business Impact Statement for the amendment to 205 CMR 133.05: Voluntary Self Exclusion; Maintenance and Custody of the List as included in the packet. Commissioner Stebbins seconded the motion.
The motion passed unanimously.*

*Commissioner Cameron further moved that the Commission approve the version of the amendment to 205 CMR 133.05: Voluntary Self Exclusion; Maintenance and Custody of the List as included in the packet and authorized the staff to take all steps necessary to begin the regulation promulgation process. Commissioner Stebbins seconded the motion.
The motion passed unanimously.*

[1:31 p.m.](#) **Initial Draft Version of several amendments to 205 CMR 134.00: Licensing and Registration of Employees, Vendors, Junket Enterprises and**

Representatives, and Labor Organizations; and Small Business Impact Statement

The Commission reviewed the draft regulation and Small Business Impact Statement for 205 CMR 134.00. The proposed amendments further define the process and standards governing the gaming employee licensing procedure, update elements of the appeal process, add a requirement for the fingerprinting system, clarify the procedure for administrative closure of an application, require independently operating junket representatives to be licensed as Key Gaming Employee – Standard, codify licensing and reporting requirements and restrictions for junket operators, and add a waiting period to reapply for a gaming license.

[1:37 p.m.](#)

Commissioner Stebbins moved that the Commission approves the Small Business Impact statement for the amendments to 205 CMR 134.00: Licensing and Registration of Employees, Vendors, Junket Representatives, and Labor Organizations; as included in the packet. Commissioner Cameron seconded the motion.

The motion passed unanimously.

Commissioner Stebbins further moved that the Commission approve the version of the amendments to 205 CMR 134.00: Licensing and Registration of Employees, Vendors, Junket Representatives, and Labor Organizations as included in the packet and authorized the staff to take all steps necessary to begin the regulation promulgation process. Commissioner Cameron seconded the motion.

The motion passed unanimously.

Commissioners' Updates

See transcript pages 53 – 54

[1:38 p.m.](#)

Commissioner Cameron highlighted her recent attendance at the International Gaming Regulators Conference, adding that the Commission will be hosting this conference in the third week of September 2020. Commissioner Zuniga noted that no cost comes to the Commission or the licensees as part of this effort.

Commissioner Cameron also stated that Ms. Wells has been appointed as a board member to the International Association of Gaming Regulators (IAGR).

Lastly, Commissioner Cameron commended Commissioner Zuniga for volunteering to translate a survey into Spanish that was given to all the members of the IAGR to gather statistics. This translation will enable the survey to be utilized in South America and Spanish-speaking countries around the world.

[1:44 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 October 10, 2019
2. Draft Commission Meeting Minutes dated September 26, 2019
3. Memo re: Renewal of a Gaming License dated September 12, 2019
4. Draft of Policy Questions for LCMAC and Subcommittee on Community Mitigation re 2020 Community Mitigation Fund Guidelines (Revised) dated September 19, 2019
5. Memo re: Reappointment Recommendations for Subcommittee Members under the Gaming Policy Advisory Committee dated October 3, 2019
6. Memo re: Encore Boston Harbor Section 61 and Operations Certificate Conditions Status dated October 7, 2019
7. Memo re: Encore Boston Harbor Section 61 Status dated June 26, 2019
8. Memo re: Play Management at Category 1 Casinos dated October 10, 2019
9. Slide Presentation: PlayMyWay – IGT Solution dated October 7, 2019
10. Memo re: Reconciliation of FY19 Hampden Prep Budget and Clarification Regarding the Use of Hampden Prep FY19 funds in FY20 dated October 7, 2019
11. Slide Presentation: Build to Last – Best Practices for Diversity in the Construction Industry
12. Memo re: Fiscal Year 2019 (FY19) Budget Closeout dated October 10, 2019
13. Attachment: A FY19 Actuals Spending and Revenue Final
14. 205 CMR 133.05 Regulation Cover Sheet
15. 205 CMR 133.05 Small Business Impact Statement (Draft)
16. 205 CMR 133.05 Draft Regulation
17. 205 CMR 134.00 Regulation Cover Sheet
18. 205 CMR 134.00 Small Business Impact Statement (Draft)
19. 205 CMR 134.00 Draft Regulation
20. 205 CMR 134.07 Draft Regulation
21. 205 CMR 134.10 Draft Regulation
22. 205 CMR 134.11 Draft Regulation
23. 205 CMR 134.13 Draft Regulation
24. 205 CMR 134.14 Draft Regulation

/s/ Catherine Blue
Assistant Secretary