



Massachusetts Gaming Commission Meeting Minutes

Date/Time: October 2, 2023, 10:00 a.m.
Place: Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 112 250 0143

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 481st Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all five commissioners were present for the meeting.

2. [Minute Minutes](#) (01:02) a. February 14, 2023

The *February 14, 2023, public meeting minutes* were included in the Commissioners' Packet on pages 5 through 13.

Commissioner Maynard moved that the Commission approve the minutes from the February 14, 2023 public meeting that are included in the Commissioners' Packet, subject to any necessary corrections for typographical errors or other non-material matters. Commissioner Skinner seconded the motion.

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.

3. [Administrative Update](#) (1:54)

Interim Executive Director and General Counsel Todd Grossman stated that there were updates related to the workforce and supplier diversity audit and a request for information (“RFI”) relative to an update of the Commission’s licensing system.

Senior Diversity, Equity, and Inclusion Program Manager Boniswa Sundai stated that Commission staff were in the process of a workforce and supplier diversity audit with Encore Boston Harbor (“EBH”), Plainridge Park Casino (“PPC”), and MGM Springfield (“MGM”). She stated that initial meetings had been conducted with each licensee, and that in-person interviews were conducted with EBH and PPC. She stated that MGM’s interview was delayed due to MGM’s cybersecurity issues, and was now scheduled for Friday, October 6, 2023.

Ms. Sundai stated that phase two of the audit was the planning phase where the audit team would perform testing and draft reports. She stated that the final phase of the audit would be for the staff to deliver the reports to the Commission. She stated that EBH and PPC were in phase two of the audit and stated that the audit would likely be complete by mid-November. Commissioner Skinner stated that the licensees were being receptive and cooperative with the audit.

Licensing Division Chief Karalyn O’Brien explained that the Commission was currently using multiple licensing systems. She stated that the licensing division met with stakeholders to determine how to transition to a single licensing system that is user friendly. She stated that a RFI was posted so that the Commission could receive a better understanding of technology available. She stated that questions were due by October 10, 2023, and responses were due by October 30, 2023, at 3p.m.

4. [Legislative Update](#) (09:45)

Commissioner Hill stated that the legislature started to override some of the vetoes put forth by the governor. He stated that none of the vetoes were regarding issues the Commission oversees.

5. [Investigations and Enforcement Bureau](#) (11:02)

a. Encore Boston Harbor Request for Amendment to Beverage License

Licensing Manager David MacKay stated that EBH had requested an amendment to their gaming beverage license to add a new portable bar to the restaurant Red 8. He stated that the licensing

division had reviewed this request and recommended approval. He stated that the scope of review included verification of the licensed manager and a site inspection. A *memorandum from the licensing division and EBH's request* were included in the Commissioners' Packet on pages 14 through 19.

Commissioner Hill sought clarification as to where the bar was located. Licensing Manager MacKay stated that it would be a portable bar in the Red 8 restaurant. Chair Judd-Stein asked if there were any concerns about storage or surveillance of the portable bar. Licensing Manager MacKay confirmed that there were not concerns.

Commissioner Skinner moved that the Commission approve Encore Boston Harbor's application to amend its gaming beverage license to update the Red 8 licensed area to include a portable bar as included in the Commissioners' Packet and discussed here today. Commissioner O'Brien seconded the motion.

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.

b. [IEB Report on Branding Relationship between Penn Sports Interactive and Barstool Sports and Barstool College Football Show](#) (16:39)

Enforcement Counsel Zach Mercer stated that the Investigations and Enforcement Bureau ("IEB") submitted a report to the Commission exploring the marketing relationship between category three sports wagering operator Penn Sports Interactive ("PSI"), category one sports wagering operator PPC, Barstool Sports ("Barstool"), and the Barstool College Football Show.

Mr. Mercer stated that PSI had two conditions on their license. He stated that the first condition was that PSI must cooperate with the IEB in conducting an investigation of Barstool in connection with its branding of PSI. He stated that the second condition was to ensure that all audience members at Barstool College Football Show events were over the age of twenty-one.

Mr. Mercer stated that PSI and PPC were subsidiaries of Penn Entertainment ("Penn"). He stated that Barstool holds a non-gaming vendor registration with the Commission, and that Barstool was registered or licensed in some capacity in seven jurisdictions.

Mr. Mercer explained that Penn paid an initial \$163,000,000 for an ownership interest of 36% of Barstool on February 20, 2020. He stated that on February 17, 2023, Penn acquired the remaining interest in Barstool for \$388,000,000. He stated that Barstool provided marketing and media content for PSI and PPC. He stated that when Penn acquired 100% of Barstool, Barstool's

founder David Portnoy was moved into a role developing and overseeing content. He noted that there was a loan-out agreement that allowed Mr. Portnoy to work as an independent contractor.

Mr. Mercer stated that Penn had indicated that Mr. Portnoy lacked the authority of a management figure within Barstool. He stated that Penn had presented Mr. Portnoy's public disagreements with Penn's personnel decisions as evidence that he lacked management authority.

Mr. Mercer stated that on June 5, 2023, Mr. Portnoy had made reference to his involvement in contract and salary negotiations with another Barstool employee. He stated that the IEB had contacted Penn inquiring as to how they could reconcile Mr. Portnoy's statements with the claims that he did not have a management role. He stated that Penn reiterated that Mr. Portnoy lacked management authority and indicated that Mr. Portnoy had no influence or corporate authority to act in regard to the employee's relationship with Barstool.

Mr. Mercer stated that after the IEB's inquiry Penn had announced their partnership with ESPN and announced the sale of Barstool back to Mr. Portnoy on the same date. He noted that following the divestiture of interest in Barstool, PSI had continued to use the name Barstool Sportsbook.

Mr. Mercer stated that Barstool had indicated that it treated PSI in the same manner as other advertisers, and that Penn's purchase of Barstool did not change the editorial focus of Barstool. He stated that both entities stated that Penn had the ultimate say in terms of direction of content.

Mr. Mercer stated that Barstool did not have a specific compliance plan, but Barstool employees received an employee handbook and Penn's compliance training contained a primary compliance plan for Barstool. He noted that the Barstool handbook covered personal gambling policies, responsible gaming, and prohibited content. He stated that Barstool did not have a formal progressive discipline policy. He stated that as part of the marketing relationship some wagers were promoted directly on Barstool's digital platforms. Mr. Mercer stated that Barstool contributors were subject to loan-out agreements. He stated that Barstool provided thirteen loan-out agreements to the IEB for review.

Mr. Mercer explained that the second condition was that the Barstool College Football Show was only attended by individuals twenty-one years of age or older. He stated that the Barstool College Football Show was a web series that discusses NCAA men's football. He stated that in past seasons the show was broadcast from college campuses and contained advertisements for sports wagering. He stated that PSI agreed to ensure no sportsbook advertisements would appear on college campuses and to ensure that all attendees would be over the age of twenty-one.

Mr. Mercer stated that no formal plan was in place to implement safeguards to the Barstool College Football Show at the time of Penn's divestiture of Barstool in August 2023. He stated that Penn had indicated it would no longer be involved in the Barstool College Football Show following the divestiture of Barstool.

Mr. Mercer explained that Penn announced a new relationship with ESPN on August 8, 2023. He stated that Penn also sold the entirety of Barstool back to Mr. Portnoy for \$1.00 and the right to fifty percent of the proceeds for any future sale of Barstool. He stated that PSI maintains branding of Barstool Sportsbook for their online sportsbook. He stated that PSI would change the branding to ESPN BET in November.

Chris Soriano, Chief Strategy Officer for Penn Entertainment, stated that while some facts related to the sale of Barstool to Mr. Portnoy were publicly reported, there were also details that Penn considered proprietary and competitively sensitive information. He requested that the discussion of certain portions of the report be done in executive session.

Commissioner O'Brien asked which portions would be reserved for executive session. Mr. Soriano suggested that the beginning of the penultimate paragraph on page thirteen through page fifteen, ending with the words "Exhibit 14, section 5.19 (B)" would be appropriate to discuss in an executive session.

Commissioner O'Brien stated that representations were made by Mr. Portnoy that Penn was denied licenses due to their relationship with Barstool. She stated that Penn had indicated in May of 2023 that Mr. Portnoy's statement was not in fact the case, and asked if that statement was the same. Mr. Soriano stated that was correct, and that Penn had not been denied licenses.

Commissioner O'Brien asked what the responsibilities were for the role Head of Social. Mr. Soriano stated that the Head of Social oversaw social media and social media outreach. Commissioner O'Brien stated that she had further questions, but believed they might be more appropriate in an executive session.

Interim Executive Director and General Counsel Todd Grossman stated that it was important to identify what specifics were appropriate for an executive session. He stated that the discussion of the stock purchase agreement is something that could be discussed in executive session. Deputy General Counsel Caitlin Monahan stated that Mr. Soriano identified parts of the IEB report that may fall within the exception under General Law Chapter 23N § 6(i).

Deputy General Counsel Monahan stated that applications for operator licenses are public records, but that trade secrets, competitively sensitive, or other proprietary information provided as part of the application that would place the applicant at a disadvantage may be withheld. She noted that Mr. Soriano indicated information in the paragraphs identified were proprietary and not released to the public. She noted that the information in the IEB report were part of the application for an operator's license, and that the Commission could therefore go into an executive session.

Commissioner O'Brien asked that if a line of questioning more suitable for the public meeting arose, would the Commission be able to return to the public meeting to discuss it. Deputy General Counsel Monahan stated that the Commission could decide to what extent the topic can be discussed in public and discuss it upon returning to the public meeting.

Commissioner Maynard expressed a preference for not going in and out of the executive session. He stated that he wanted to be as broad as possible before entering the executive session. Commissioner Hill stated that the Commission had precedent for going into executive session and returning to discuss certain topics publicly. Mr. Soriano suggested the Commission move to the next agenda item and have an executive session for both topics.

Interim IEB Director and Chief Enforcement Counsel Heather Hall stated that there could be questions that connect both issues. Chair Judd-Stein stated that the issues of the two agenda items seemed distinct. Commissioner O'Brien stated that there may be interplay between the topics regarding the transition to ESPN timeline. Commissioner Maynard expressed that the Commission should ensure that both the public's interest in hearing discussion and the licensee's proprietary information should be protected.

Mr. Mercer stated that after Penn's divestiture of Barstool Mr. Portnoy had publicly asserted control over Barstool. Mr. Mercer stated that Mr. Portnoy had made initial public statements that Penn had licenses denied because of their relationship with Barstool. Mr. Mercer stated that there was no information that was the case, and that it was further addressed by Commissioner O'Brien's question.

c. [PENN Entertainment Inc. Presentation on Penn Sports Interactive and ESPN Partnership](#)
(46:06)

Mr. Soriano introduced Adam Kates, Senior Director of Compliance for PSI. Mr. Soriano explained that Penn had entered into an exclusive partnership with ESPN and would rebrand Barstool Sportsbook to ESPN BET. He stated the rebranding would be complete in November and that there were no changes to Penn's ownership structure as a result of the transaction.

Mr. Soriano stated that Barstool was sold back to Mr. Portnoy, and that after rebranding was complete Penn would no longer have a connection with Barstool. He stated that Barstool was no longer advertising for Barstool Sportsbook. He stated that PSI would submit revisions for their house rules, terms and conditions, and internal controls after the rebrand. He stated that Penn anticipated an increased customer volume and was hiring additional staff. He stated this update would be in PSI's quarterly report.

Mr. Kates stated that the changes were purely cosmetic, and no changes were occurring to the technology. He stated that the platform is GLI-certified and laboratory tested. He stated that the only change would be scaling up infrastructure and personnel to meet increased demand.

Mr. Kates stated that ESPN would promote ESPN BET through content, editorial and digital integrations, talent promotion, and traditional media inventory. He stated that Penn would support ESPN through its traditional media channels. He stated that all marketing would comply with the American Gaming Association's marketing code for sports wagering and Massachusetts' regulations. He stated that ESPN BET would work with Penn's comprehensive responsible gaming programming to introduce new responsible gaming features in the Commonwealth.

Chair Judd-Stein asked if the sports wagering division agreed with the representation that this change was a reskin that required no further action. Director of Sports Wagering Bruce Band confirmed that was correct.

Commissioner O'Brien asked if an executive session was needed on this topic, or if it could be discussed at a more fulsome meeting in the future. Mr. Soriano stated that one topic that could be discussed would be the advancement of PPC's application for a finding of durable suitability. Chair Judd-Stein sought clarification regarding the next procedural step in this process. Deputy General Counsel Caitlin Monahan stated that the Commission can make a decision as to what information they want submitted by PSI as the regulations did not address a vendor switching in and out during the temporary licensure posture.

Mr. Soriano stated that PPC could submit a request to the Commission that their license be brought forth for a finding of durable suitability. Chair Judd-Stein stated that would be helpful as she was unsure if the current discussion triggered the Commission's ability to add an item to the agenda.

Commissioner Skinner inquired when Penn's branding relationship with Barstool would cease. She noted that the PSI website still utilized the Barstool logo and referenced both Mr. Portnoy and other Barstool contributors. Mr. Soriano stated that the goal was to complete the transition in November. He stated that Penn would return to the Commission with an exact date. He noted that PSI continued to license the Barstool Sportsbook name during their transition period, and would continue to do so until the platform fully transitioned to ESPN BET.

Mr. Soriano stated that Barstool no longer actively marketed the Barstool Sportsbook. He stated that he would look into the specifics referenced by Commissioner Skinner and move forward to finalize the separation from Barstool.

Commissioner Skinner expressed concern that continued utilization of the Barstool branding might create confusion among bettors during the interim period before they transition to ESPN BET. Mr. Soriano stated that while he understood the concern, PSI continues to operate the sportsbook and has communicated to the public that it is separating from Barstool.

Chair Judd-Stein asked if there were questions regarding the ESPN deal that would include proprietary information that would place PSI at a disadvantage if disclosed publicly. Commissioner O'Brien noted that she had a question regarding branding that would be best suited for an executive session. Mr. Soriano stated that Penn could provide an update at a future meeting for any question related to the ESPN deal. He stated that items appropriate for an executive session could be flagged at that time.

I. [Executive Session](#) (1:23:08)

Chair Judd-Stein stated that the Commission anticipated that it may meet in executive session in conjunction with its review of the Penn Sports Interactive, LLC application and its partnership with Barstool Sports in accordance with G.L. c. 30A, § 21(a)(7) and G.L. c. 23N, § 6(i) to consider information submitted by the applicant in the course of its application for an operator license that is a trade secret, competitively sensitive or proprietary and which if disclosed publicly would place the applicant at a competitive disadvantage. She stated that the public session of the Commission meeting would reconvene at the conclusion of the executive session.

Commissioner O'Brien moved that the Commission go into executive session on the matter and for the reasons stated by the Chair. Commissioner Hill seconded the motion

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.

Transcriber's Note: The Commission shared a screensaver which stated that the Commission was in executive session.

6. [Racing](#) (2:36:39)

Chair Judd-Stein stated that the racing division had a scheduling challenge and would be moved up in the agenda to present.

a. [Plainridge Park Casino Request for Amendment to Previous Capital Improvement Fund Consideration \(to include paddock renovation plumbing\)](#) (2:37:24)

Financial Analyst Chad Bourque explained that three requests for funds from the Harness Capital Improvement Trust were submitted. He stated that each month funds are deposited into the Harness Capital Improvement Trust, which the licensees can request to repair, maintain, or improve the property where racing activities are conducted. He stated that distributions from this fund were made based on the Commission's approval of a request for consideration followed by the approval of a request for reimbursement. He stated that two of the requests submitted were requests for reimbursements and one was a request for consideration.

Mr. Bourque stated that PPC was requesting to revise a request for consideration approved by the Commission on January 12, 2023, for the expansion and renovation of the horse paddock and barn building. He stated that PPC was requesting an additional \$12,500. He stated that he reviewed the request and recommended its approval. A *memorandum and PPC's request* were included in the Commissioners' Packet on pages 64 through 71.

Director of Racing Plainridge Park Casino Steve O’Toole explained that the additional funds would be used for plumbing design that was not foreseen in the original request.

Commissioner Hill moved that the Commission approve the PPC Capital Improvement Trust Fund request for an additional \$12,500 for funding for renovation expansion of the horse paddock and barn building as included in the Commissioners’ Packet and discussed here today. Commissioner O’Brien seconded the motion.

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.

Mr. Bourque noted that in a prior meeting Commissioner Skinner had inquired about the eligibility of taxes and fees for funds from the Harness Capital Improvement Trust. He stated that he confirmed that any item connected to a project or purchase of a hard asset, if treated as a capital expenditure by the licensee, was eligible for reimbursement. He stated that taxes and fees were eligible for the funds.

b. [Plainridge Park Casino Request for Capital Improvement Fund Reimbursement \(tractor/equipment\)](#) (2:42:26)

Mr. Bourque stated that PPC submitted a request for reimbursement in the amount of \$81,706 for the purchase of a tractor. He explained that the request for consideration was approved on October 13, 2022. He stated that the final amount for reimbursement was inclusive of taxes and was larger than the request for consideration. He stated that going forward all requests for consideration and requests for reimbursement would be consistent with the inclusion of taxes and fees. A *memorandum and PPC’s request* were included in the Commissioners’ Packet on pages 72 through 77.

Commissioner Hill moved that the Commission approve the PPC Capital Improvement Trust Fund request for reimbursement in the amount of \$81,706 for the purchase of a tractor as included in the Commissioners’ Packet and discussed here today. Commissioner O’Brien seconded the motion.

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.

c. [Plainridge Park Casino Request for Capital Improvement Fund Reimbursement \(tote board\)](#) (2:45:02)

Mr. Bourque stated that PPC had submitted a request for reimbursement in the amount of \$121,161.99 for purchase of a new digital tote board. He stated that the request for consideration was approved on October 13, 2022, for \$99,347.50. He noted that the current request included taxes and construction services included with the project. He recommended that this request be approved by the Commission. A *memorandum and PPC's request* were included in the Commissioners' Packet on pages 78 through 87.

Commissioner Maynard moved that the Commission approve the PPC Capital Improvement Trust Fund request for reimbursement in the amount of \$121,161.99 for the purchase of a new digital tote board as included in the Commissioners' Packet and discussed here today. Commissioner O'Brien seconded the motion.

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.

7. [Sports Wagering Division](#) (3:27:10)

a. DraftKings Request for Waivers from 205 CMR 256.05(1)

Sports Wagering Business Manager Crystal Beauchemin explained that DraftKings' request for a waiver from the requirements of 205 CMR 256.05(1) was discussed at the previous public meeting on September 21, 2023. She stated that the primary consideration was whether the Commission would apply the regulation requirements to an operator's master branding. She noted that DraftKings had submitted waivers for assets at Fenway Park, TD Garden, and Gillette Stadium. She stated that DraftKings was requesting a permanent waiver from this regulation at the Gillette Stadium location. *Information related to DraftKings's request for a waiver from 205 CMR 256.05(1)* was included in the Commissioners' Packet on pages 20 through 45.

Ms. Beauchemin stated that DraftKings questioned whether there should be a distinction between their master logo and their sportsbook logo. She stated that DraftKings provided a PDF of all stadium assets that had been changed to comply with this regulation.

Chair Judd-Stein noted that she had asked Deputy General Counsel Monahan to memorialize the analysis of how to interpret this regulation. Deputy General Counsel Monahan stated that there was a two-step process in determining whether a logo was "related to sports wagering" for the purposes of 205 CMR 256.05(1). She stated that the first step was to determine whether the logo was sports wagering specific, related to a non-sports wagering arm of the operator's business, or the operator's general or master logo. She stated that a sports wagering-specific logo was related to sports wagering for the purpose of this regulation, and that a logo from a non-sports wagering

arm of the operator's business was not related to sports wagering for the purpose of the regulation.

Deputy General Counsel Monahan explained that if the logo was a general logo that is applied in multiple ways the analysis would then go to a second step to determine whether the logo is related to sports wagering for the purpose of this regulation. She stated that the second step looked at facts to determine how an operator uses their general logo in business practices. She stated that if an operator uses their general logo for the purposes of advertising, marketing, or promoting sports wagering then the logo would fall under the requirements of 205 CMR 256.05(1). She stated that the Commission could choose to adopt this analysis, but that each individual analysis would be fact specific.

Chair Judd-Stein stated that the regulation was silent in terms of this analysis. She expressed concern that there could be ambiguity in regard to an operator's master logo. She stated that the regulation could be interpreted to not apply to a general logo.

Commissioner Maynard asked what part of the regulation the analysis is applied to. Deputy General Counsel Monahan stated that the regulation required additional language be added to an operator's logo or trademark related to sports wagering. She stated that this analysis was to determine whether a logo or trademark was related to sports wagering. Commissioner Maynard stated that this language would not apply to a website, only logos on fixed signage at a sporting event location.

Chair Judd-Stein stated that the first two examples regarding sports wagering logos and logos related to the operator's non-sports wagering business were clear, but that she did not believe the analysis to be clear regarding master logos. She stated that she wanted the regulation to be applied fairly across all licensees.

Deputy General Counsel Monahan stated that the analysis was created for making a reasonable determination as to how to apply the regulation. She stated that the Commission could choose whether it wanted to accept the legal team's recommendation. She stated that the Commission could also determine whether the Commission would perform the analysis, or whether it would be delegated to the sports wagering division or legal team.

Commissioner Hill asked for examples of how the analysis would apply. Deputy General Counsel Monahan stated that the DraftKings Sports Zone at Gillette Stadium used the logo of DraftKings' non-sports wagering arms of business and explained that 205 CMR 256.05(1) would not apply. She stated that a second logo on the back of a restaurant that is displayed digitally and visible in the arena is the general logo for DraftKings. She stated that for the general logo the second step of the analysis applied. She stated that based on a review of DraftKings advertising that DraftKings routinely uses their general logo for sports wagering advertising. She stated that because the general logo is used for sports wagering advertising 205 CMR 256.05(1) applies and the 21+ language is needed.

Commissioner Maynard noted that this provision only applied to branding located in sports stadiums. Deputy General Counsel Monahan stated that the regulation had a location requirement for this provision. Ms. Beauchemin noted that the digital signage in Gillette Stadium was changed to include the required regulatory language. She noted that the waiver request was now solely for the restaurant name.

Chair Judd-Stein asked whether the regulation would apply if an operator only used their master logo occasionally for sports wagering advertisements. She expressed an interest in ensuring the analysis was applied evenly across all licensees. Commissioner O'Brien stated that if a general logo could be used interchangeably with the sports wagering-specific logo the regulation should apply. She stated that if a general logo is being used in a non-exclusive way that may refer to sports wagering the 21+ language should be included.

Commissioner Skinner asked if the regulation applied to the restaurant at Gillette Stadium. Deputy General Counsel Monahan stated that the restaurant branding was used for a non-sports wagering arm of DraftKings' business, and the regulation would therefore not apply. Commissioner Skinner asked if DraftKings would have to include the regulatory language if they changed the restaurant signage to their general logo. Deputy General Counsel Monahan stated that if DraftKings removed the term "sports zone" from the signage the regulatory language would have to be included.

Chair Judd-Stein asked how many times an operator would have to use their general logo for advertising sports wagering before the usage is sufficient for the regulation to apply. Deputy General Counsel Monahan stated that an analysis was only conducted for DraftKings thus far. She stated that as soon as an operator associated its general logo with sports wagering the logo arguably becomes related to sports wagering.

Commissioner Maynard stated that he was fine delegating this analysis to the sports wagering division and legal team. He stated that this provision is very narrow as it related only to logos in arenas. He stated that the licensee could raise the issue to the Commission if it disagreed with the analysis. Commissioner Hill, Commissioner O'Brien, and Commissioner Skinner agreed.

Commissioner O'Brien moved that the Commission find, in response to the question by DraftKings in a letter dated September 29, 2023, that the DraftKings master brand logo is subject to the requirements of 205 CMR 256.05(1) in the context of that regulation and our discussion here today.

Commissioner Maynard noted that all operators were subject to the same analysis regarding their master logo. He stated that other operators had already complied with the requirements of 205 CMR 256.05(1). Commissioner Maynard seconded the motion. Chair Judd-Stein stated that she was in agreement that the regulation applied to multi-use logos. She invited licensees to ask for any further clarification.

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.

Ms. Beauchemin stated that DraftKings had identified that they would need until November 20, 2023, to update their logo at Fenway Park. She noted that this would be before the high school football games scheduled at Fenway on November 21, 2023, and November 22, 2023.

Commissioner Hill moved that in accordance with 205 CMR 202.03(2) the Commission issue to DraftKings a waiver until November 20, 2023, from the requirements outlined in 205 CMR 256.05(1) with respect to its use of its logo at Fenway Park as included in the Commissioners' Packet and discussed here today, as granting the waiver meets the requirements specified in 205 CMR 102.03(4), and is consistent with the purposes of G.L. Chapter 23N. Commissioner Skinner seconded the motion.

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.

Ms. Beauchemin stated that DraftKings would have the opportunity to modify their logo on the TD Garden floorboards between November 14, 2023, and November 25, 2023. She stated that DraftKings had requested a waiver through December 1, 2023.

Commissioner Hill noted that Director Band had talked with TD Garden regarding this subject. Director Band stated that the Celtics were away from November 14, 2023, through November 25, 2023. He stated that the Celtics' General Counsel stated that the floorboards could be sanded down, re-laminated, and refit in that time. Chair Judd-Stein inquired why DraftKings had requested the waiver through December 1, 2023. Ms. Beauchemin stated that DraftKings had requested the extra week to give leeway due to the holiday period during that time. Commissioner Skinner stated that she would rather give the operator an extra week of time rather than have DraftKings have to come back and request another potential extension.

Commissioner Hill moved that in accordance with 205 CMR 202.03(2) the Commission issue to DraftKings a waiver until December 1, 2023, from the requirements outlined in 205 CMR 256.05(1) with respect to its use of its logo at TD Garden as included in the Commissioners' Packet and discussed here today, as granting the waiver meets the requirements specified in 205 CMR 102.03(4), and is consistent with the purposes of G.L. Chapter 23N. Commissioner Skinner seconded the motion.

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.

Ms. Beauchemin stated that DraftKings had requested a permanent waiver from 205 CMR 256.05(1) for the logo of the DraftKings Sports Zone restaurant. She noted that the digital signage was changed to comply with the regulation.

Commissioner Hill stated that he had no problem with giving the restaurant branding the waiver. Commissioner O'Brien noted that a waiver was not required, and that the procedure would be a finding that 205 CMR 256.05(1) did not require additional language for the DraftKings Sports Zone. She stated that the sign did not require the application of the regulation.

Commissioner O'Brien moved that the Commission find that the DraftKings Sports Zone restaurant sign as identified in the Commissioners' Packet and further discussed here today is not subject to the requirements of 205 CMR 256.05(1). Commissioner Maynard seconded the motion.

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.

8. [Community Affairs Division](#) (4:14:25)

a. Reappointment of Local Community Mitigation Advisory Committee and Subcommittee Members

Chief of the Community Affairs Division Joe Delaney stated that several members of the Local Community Mitigation Advisory Committee needed reappointment, as members were appointed for a one-year period. He stated that there was also one new member to be appointed. He stated that the reappointments for Region A were Vincent Panzini and David Bancroft. He stated that the reappointments for Region B were Diana Szynal, Ellen Patashnick, and Richard Sullivan. He stated that Joan Kagan Levine would be a new member for Region B. *A memorandum detailing the recommended reappointments to the LCMACs* was included in the Commissioners' Packet on pages 46 through 50.

Chief Delaney stated that the Commission needed to appoint representatives to the Community Mitigation Advisory Subcommittee, the Public Safety Subcommittee, and the Addiction Services Subcommittee.

Commissioner Hill moved that the Commission appoint the following individuals to the Local Community Mitigation Advisory Committee for an additional one-year term, as included in the Commissioner's Packet and discussed here today, Vincent Panzini, David Bancroft, Diana Szynal, Ellen Patashnick, Richard K. Sullivan; and further that the Commission appoint Joan Kagan Levine to the Local Community Mitigation Advisory Committee for an initial one-year term as included in the Commissioners' Packet and discussed here today. Commissioner O'Brien seconded the motion.

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.

Commissioner O'Brien moved that the Commission designate Commissioner Hill as a member of the Community Mitigation Advisory Subcommittee as included in the Commissioners' Packet and discussed here today. Commissioner Skinner seconded the motion.

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.

Commissioner Maynard moved that the Commission designate Commissioner O'Brien as its representative of the Public Safety Subcommittee as included in the Commissioners' Packet and discussed here today. Commissioner Skinner seconded the motion.

Roll call vote:

Commissioner O'Brien: Abstain.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 4-0 with one abstention.

Commissioner Hill moved that the Commission designate Mark Vander Linden as its representative on the Addiction Services Subcommittee as included in the Commissioners' Packet and discussed here today. Commissioner O'Brien seconded the motion.

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.

9. [Finance](#) (4:23:22)

a. FY23 Budget Close Out Report

Chief Financial and Accounting Officer (“CFAO”) Derek Lennon stated that the Commission approved a FY23 budget for the gaming control fund of \$35.7 million with an initial assessment of \$30.5 million on licensees. He stated that after three quarters of adjustments the revised budget was \$35.97 million with a required assessment of \$29.88 million on licensees.

CFAO Lennon stated that the gaming control fund spending in FY23 was \$34.98 million which was \$985,000 less than the approved spending levels. He stated that there was overspending on consultant services but large underspending in operational services due to turnover and vacancies. He noted that pursuant to 205 CMR 121.05(2) the Commission was required to credit any surplus funds at the close of the fiscal year to the next year’s assessment. The *FY23 Budget Close Out Report* was included in the Commissioners’ Packet on pages 51 through 60.

CFAO Lennon stated that the sports wagering control fund had a FY23 budget of \$2.19 million, which was reliant solely on sports wagering suitability fees. He stated that after three quarters of adjustments the budget was \$4.74 million, which required an assessment of \$2.32 million on licensees. He stated that FY23 final revenue received was \$6.65 million with total spending of \$3.9 million. He stated that pursuant to 205 CMR 121.03(4) the Commission must credit surplus funds at the close of the fiscal year to the assessment for the following year. He noted that the \$2.38 million dollars credited to the licensees’ FY24 assessments reflected a full refund of the FY23 assessment.

Chair Judd-Stein asked where the expenses for consultants and legal was located in the report. CFAO Lennon stated that it was located in the table on page 55 of the Commissioner’s Packet. He stated that the initial projection for sports wagering was \$500,000, which was later increased to \$2.23 million. He noted that final spending was \$2.44 million. He stated that the majority of overspending in this category was due to a late bill from Ernst and Young. Chair Judd-Stein asked if those numbers included legal costs. CFAO Lennon replied that was correct.

10. [Research and Responsible Gaming](#) (4:37:06)

a. Addendum to the FY24 Gaming Research Agenda

Director of Research and Responsible Gaming Mark Vander Linden stated that there were some proposed changes to the FY24 Gaming Research Agenda. A *memorandum detailing proposed changes to the FY24 Gaming Research Agenda* was included in the Commissioners’ Packet on pages 61 through 63.

Director Vander Linden stated that there was a new proposed study regarding the advancement of pre-commitment tools and assessing whether a mandatory-limit feature and rewards for pre-commitment would facilitate responsible gaming. He stated the study would determine characteristics of players that use hard-lock options in comparison to players who use soft-lock option. He stated that there is emerging evidence of the efficacy of hard-locks. He expressed an interest in exploring the effectiveness of hard-locks in Massachusetts on a pilot basis. He stated that the study would also investigate what role incentivization of pre-commitment plays in the enrollment and limit-adherence.

Director Vander Linden stated that the proposed study would be conducted in collaboration with Carlton University and Dr. Michael Wohl. He stated that the Commission would be involved in the recruitment of players who are enrolled in PlayMyWay and to be a liaison between the casino and research partners. He stated it was essential to get a casino partner for this study to succeed. He stated that funding for this study would come from the International Center for Responsible Gaming in the amount of \$171,925.

Director Vander Linden stated that the second proposed study would be a small study looking at the role of artificial intelligence (“AI”) in gambling. He stated that the study would look at current and possible usage of AI in the gambling industry, including its use for marketing, player acquisition, gaming integrity, and responsible gaming initiatives. He stated that this study could review AI’s implications for problem gambling and player health.

Director Vander Linden requested that the study of the marketing affiliate payment structures and their impacts on Massachusetts’ patrons be delayed until FY25. He stated that the study should be delayed to allow for adequate resource and the results for the study on the impact of advertising and gambling behavior in Massachusetts to be available.

Commissioner Maynard expressed an interest in learning more about the implications of a hard-stop limit in pre-commitment responsible gaming tools. Chair Judd-Stein stated that the Commission would be at the forefront of research exploring the impact of AI on gambling. She stated that the AI research could be beneficial for other regulators and operators.

Commissioner Hill asked if there would be additional costs for the AI study. Director Vander Linden stated that the AI study was anticipated to cost \$25,000. He stated that the research agenda budget would increase from \$1,865,000 to \$1,890,000. Commissioner Hill asked if there was a downside to moving this research to the FY25 research agenda. Director Vander Linden stated that AI was a quick-moving issue within the gaming industry. He stated that it would be beneficial for the Commission to understand the positive and negative impacts of AI in the gaming industry and that it was a timely topic for research.

Chair Judd-Stein stated that delaying the study of AI might make the information not as timely. She stated that it was a small study for which the Commission had the budget. Commissioner Hill stated that he wanted to ensure the Commission kept track of all budgetary increases as the year progressed, but that he was in support of the request for funds for the AI study. CFAO

Lennon noted that the funding for research came from a separate funding source. He stated that the Research and Responsible Gaming Division’s budget was below the projected deposits for the Public Health Trust Fund. Director Vander Linden stated that the division worked closely with the finance department on the budget, and that a buffer was left in for new and emerging issues to be addressed.

Commissioner Maynard moved that the Commission amend the FY24 Gaming Research Agenda as outlined in the memorandum in the Commissioners’ Packet and discussed further here today. Commissioner Hill seconded the motion

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.

11. [Permanent Director of Investigations and Enforcement Bureau Hiring Process](#) (5:08:15)

a. Selection of Screening Committee for Director of Investigations and Enforcement Bureau

Attorney David Mackey, outside counsel from the law firm Anderson and Krieger, explained that the open meeting law allowed for the creation of a preliminary screening committee which could meet in executive session to evaluate, consider, and interview candidates. He stated that the screening committee had to put forth more than one candidate for the full Commission to review in a public meeting.

Mr. Mackey noted that the committee could not have a quorum of the Commission. He stated that the committee would have to appoint a chair, who could announce in a public session that a public discussion about the candidates could be detrimental to the ability to attract qualified candidates for the position. He stated that the committee could then meet in executive session to discuss candidates. He stated that discussions regarding appropriate questions or qualifications for the job would have to occur in the public meeting. He stated that the committee’s executive session was limited to interviewing, evaluating, and considering which applicants to move forward to the full commission.

Chair Judd-Stein stated that Commissioner O’Brien and Commissioner Maynard were selected to serve on the screening committee for the Executive Director. The Commission reached consensus to have Commissioner Hill and Commissioner Skinner serve on the IEB Director screening committee.

Chair Judd-Stein noted that the Executive Director screening committee had five members. She recommended that Chief People and Diversity Officer David Muldrew be a representative on the IEB Director Screening Committee. Commissioner Hill and Commissioner O’Brien agreed.

Commissioner Hill expressed that only three members were needed for the screening committee. He stated that Chief Muldrew, Commissioner Skinner, and himself were sufficient. Commissioner Skinner noted that while she did not disagree, it was possible that there were other perspectives that the committee could benefit from. Chief Muldrew expressed support for a three-person committee.

Chair Judd-Stein stated that a member of the IEB Director's team might be able to identify what skills would be best for the role. Chief Muldrew suggested a senior manager from operations would have a unique perspective as the majority of the IEB Director role was oversight of what was going on in the field. Commissioner Skinner stated that a law enforcement perspective might give a richer review of potential applicants.

Commissioner Maynard stated that three committee members was acceptable, but that there might be a benefit to having a committee member who was not a department head. Commissioner Hill stated that he was still comfortable with having a three-person committee. Commissioner Skinner agreed. Chair Judd-Stein asked if there was any additional advice for the committee. Mr. Mackey stated that the committee would have to elect a chair in its first meeting.

Commissioner O'Brien moved that the Commission designate the following individuals as members of the IEB Director Screening Committee: Commissioner Hill, Commissioner Skinner, and Director Dave Muldrew. Commissioner Maynard seconded the motion.

Chair Judd-Stein noted that the screening committee would have to advance multiple candidates to be reviewed by the full Commission.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Abstain.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 4-0 with one abstention.

12. [Investigations and Enforcement Bureau](#) (5:25:23)

- a. MGM Resorts International Request for Extension from Letter re MGM Springfield Safety and Security

I. Executive Session

Chair Judd-Stein stated that the Commission anticipated that it would meet in executive session in accordance with G.L. c.30A, §21(a)(4), to discuss the use and deployment of security personnel or devices, or strategies with respect thereto at MGM Springfield, specifically with regard to firearms. She stated that the public session of the Commission meeting would not reconvene at the conclusion of the executive session.

13. [MGM Cybersecurity Issue](#) (5:27:11)

a. Executive Session

Chair Judd-Stein stated that the Commission anticipated that it would meet in executive session in accordance with G.L. c. 30A, § 21(a)(7) and G. L. c. 4, § 7(26)(n) (certain records for which the public disclosure is likely to jeopardize public safety or cyber security) and G.L. c.30A, §21(a)(4) to consider information related to cybersecurity, the disclosure of which is likely to jeopardize public safety or cyber security, and to discuss the deployment of security personnel or devices or strategies with respect thereto in relation to an MGM cybersecurity issue. She stated that the public session of the Commission meeting would not reconvene at the conclusion of the executive session.

14. [Caesars Cybersecurity Matter](#) (5:27:57)

a. Executive Session

Chair Judd-Stein stated that the Commission anticipated that it would meet in executive session in accordance with G.L. c. 30A, § 21(a)(7) and G. L. c. 4, § 7(26)(n) (certain records for which the public disclosure is likely to jeopardize public safety or cyber security) and G.L. c.30A, §21(a)(4) to consider information related to cybersecurity, the disclosure of which is likely to jeopardize public safety or cyber security, and to discuss the deployment of security personnel or devices or strategies with respect thereto in relation to a Caesars cybersecurity issue. She stated that the public session of the Commission meeting would not reconvene at the conclusion of the executive session.

Commissioner O'Brien moved that the Commission go into executive session on agenda items 12, 13, and 14, and specifically on the matters and for the reasons just stated by the chair. Commissioner Maynard seconded the motion.

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.

Transcriber's Note: The Commission entered an executive session, and the public meeting did not reconvene.

List of Documents and Other Items Used

1. [Revised Notice of Meeting and Agenda](#) dated September 28, 2023
2. [Commissioner's Packet](#) from the October 2, 2023, meeting (posted on massgaming.com)