



Massachusetts Gaming Commission Meeting Minutes

Date/Time: November 10, 2022, 10:00 a.m.
Place: Massachusetts Gaming Commission

VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 111 720 3371

The Commission conducted this public meeting remotely utilizing collaboration technology. The 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)

Chief Administrative Officer to the Chair, and Special Projects Manager, Crystal Beauchemin reported that Chair Judd-Stein would be joining the meeting late, due to a scheduling conflict, and in the interim, Commissioner Jordan Maynard would chair the meeting in her absence.

Commissioner Maynard called to order the 400th Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and Commissioners O'Brien, Hill, Skinner, and Maynard were present for the beginning the meeting. Chair Judd-Stein was not present.

2. [Administrative Update](#) (5:05) a. MGC Vacation Carryover Policy

Executive Director Karen Wells introduced Chief People and Diversity Officer, David Muldrew. Chief Muldrew stated that the Commission was currently following the Commonwealth's Vacation Rollover Policy. He explained that there was a December cut-off date for Commission staff to use or lose unused time. He noted that there were not any MGC employees at risk of

losing their vacation or personal time. He stated that HR would continue to monitor this issue closely; and that the Commission may want to extend the December date until June of 2023.

Commissioner O'Brien asked what presumptions were being used to determine that no employees were at risk of losing time. Chief Muldrew stated that the projected use of vacation time was based on each employee's previous usage at this time of year.

Commissioner Skinner asked what the Commonwealth policy was on "use-it-or-lose-it" when it came to vacation days. Chief Muldrew stated he would need to review the amounts as he did not have the baseline available. Chief Financial and Accounting Officer ("CFAO") Derek Lennon explained that it had historically been two weeks, but it was extended in the previous year. He noted that personal time did not carry over.

b. [FY23 Q1 Budget Update](#) (9:58)

The *FY23 Q1 Budget Update* was included in the Commissioner's Packet on pages 4 through 13.

CFAO Lennon stated that the Commission had approved a FY23 budget of \$35.7 million, consisting of \$29.34 million in regulatory costs and \$6.36 million in statutorily required costs. He stated that the Control Fund requested an initial assessment of \$29.3 million on the Gaming Licensees, with a balance forward of \$1.84 million from FY22 which corrected an overstatement of revenues related to the Independent Monitor for \$1.2 million. He noted that the assessment had been reduced by \$638,000 to \$29.88 million.

CFAO Lennon stated that from March through May, the Commission overwent a thorough review of its salary structure, but the adjustments went into effect in late June 2022, prior to the start of FY23.

3. [Research and Responsible Gaming](#) (15:13)

a. Report: New Employee Survey at Encore Boston Harbor: January 2019 through December 2021

Director of Research and Responsible Gaming Mark Vander Linden introduced Rebecca Loveland and Kazmiera Breest from the UMASS Donahue Institute. Ms. Loveland and Ms. Breest presented on the New Employee Survey at Encore Boston Harbor ("EBH"), topics included new hire demographics, new hire opportunities, and new hire diversity. The *New Employee Survey at Encore Boston Harbor: January 2019 through December 2021* and accompanying presentation were included in the Commissioner's Packet on pages 14 through 105.

Commissioner Hill asked if the numbers regarding female worker diversity were increasing with the reintroduction of food services after Covid-19. Ms. Loveland explained that a report released the prior year looked into the impact from Covid-19 on the employment industry, and that there was a follow-up process regarding the recovery from pandemic shutdowns.

Commissioner Skinner asked how far the employment numbers were from the original goals of the casinos. Ms. Loveland stated that the numbers of employees were dramatically impacted by Covid-19 shutdowns, and that while there had been recovery, the employment rates had yet to reach pre-pandemic levels.

Ms. Loveland stated that the analysis of total hiring from January 2019 through December 2021 showed that 64% of hires were minorities, and that the survey expected 65%. She noted that all of the casinos exceeded their minority hiring goals and met their veteran hiring goals, but that all casinos fell short when hiring women according to the Commission's annual report.

Commissioner O'Brien sought a breakdown of hiring representation for management opportunities. Ms. Breest stated that the data did distinguish hourly paid positions and salary positions. Commissioner O'Brien stated that the statistic that more employees wanted full time employment had jumped out to her. Director Vander Linden stated that he believed addressing this concern was the intention of the follow-up report.

Commissioner Maynard shared Commissioner O'Brien's concerns about gender balance but noted that there were positive patterns within the survey, such as the employees believing they had better job opportunities and job mobility.

4. [Community Affairs](#) (51:57)

a. Plainridge Park Casino Quarterly Report - Q3

Chief of the Community Affairs Division, Joe Delaney, introduced General Manager at Plainridge Park Casino ("PPC") North Grounsell; Vice President of Finance, Heidi Yates-Akbaba; and Vice President of Human Resources, Kathy Lucas.

Ms. Yates-Ababa, Mr. Grounsell, and Ms. Lucas presented the PPC Q3 quarterly report. Topics included: gaming revenue and taxes, lottery sales, spending by state, local spending, vendor diversity, compliance, employment diversity, and the community and team. The *PPC Q3 Report* was included in the Commissioner's packet on pages 106 through 117.

On the subject of minors accessing the gaming floor, Commissioner O'Brien asked what the shortest and longest times a minor had spent gaming or on the floor. Mr. Grounsell stated that the shortest time period was nine minutes and fifty seconds, and that the longest was several hours. Commissioner O'Brien asked if the longer period was due to the minor gaining entry with an invalid or fake ID. Mr. Grounsell stated that he would need to read the report in more detail but recalled that the minors were ultimately identified by a team-member on the gaming floor.

Commissioner Skinner sought clarification about the number of spots available on the emerging leaders program. Ms. Lucas stated that there were eight team members in the program and that five identified as women. Commissioner Skinner asked if they would enter supervisor positions or higher. Ms. Lucas clarified that all members in the program were hourly and would be able to apply for assistant manager and manager positions that were salaried. Commissioners thanked representatives from PPC for their report.

b. [Finalization of Community Mitigation Fund Guidelines](#) (1:08:31)

Continuing on his presentation, Chief Delaney requested that the Commission vote to approve the final Community Mitigation Fund Guidelines. He stated that once the guidelines were approved, they could be used for the solicitation of projects at the end of January 2023. He stated that at the October 20th public meeting, the Commission reviewed the draft guidelines, and since then, comments have been received from the public.

Chief Delaney explained that the City of Malden had suggested edits related to the language regarding host and surrounding community agreements. Chief Delaney did not propose any changes to the guidelines, as the existing language had been in place since the program started and prevented communities from double-dipping in both the Community Mitigation Funds and the Host and Community Agreements.

Chief Delaney stated that the City of Malden also had concerns about the Community Planning Grant. He explained that the Guidelines had been changed in the prior year to make it easier to apply in the Community Planning grant section, as some impacts from casinos were not necessarily quantifiable. He stated that an impact need not be documented if it was agreed that there was an impact. He clarified however that the community must still identify what the impact was, and how the project addresses the impact.

Chief Delaney presented the third comment by the City of Malden; suggesting an edit that the Commission “shall” move applications if the Town or City applied under the wrong category. He stated that the existing language was intended to give the Commission flexibility to re-assign a grant application to a different category if it deemed it pertinent, but was not a mandate. He noted that City of Malden also suggested the Commission work with the Massachusetts Department of Transportation regarding the traffic studies but explained that all transportation projects were already sent to MassDOT for their review.

Chief Delaney stated that several emails were received in support of the Gambling Harm Reduction Grant that had been proposed. He explained that communities had to be the recipient of the fund, but partnerships between municipal partners and community-based organizations were encouraged.

Commissioner Hill moved that the Commission approve the 2023 Community Mitigation Fund Guidelines as included in the Commissioner’s Packet and as discussed today. The motion was seconded by Commissioner Skinner.

Roll call vote:

Commissioner O’Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

The motion passed unanimously, 4-0.

5. [MGC Semi-Annual Diversity Update](#) (1:19:55)

Chief People and Diversity Officer David Muldrew reported the annual diversity update to the Commission. He stated that in 2017, the Commission had set a diversity staffing goal of 25%. He stated that as of October 31, 2022, the Commission had achieved 24.99% diversity amongst its employees. He noted that this percentage was higher than Massachusetts' 23% diversity population, but lower than the Greater Boston Area's 42% diversity population. The *Commission Diversity Efforts Update Report* was included in the Commissioner's Packet on pages 133 through 136.

Chief Muldrew stated that the Commission had seen a reduction of female staff to 46.43% in October of 2022, and that the Executive Office of Labor and Workforce Development put out a study related to the adverse effects of Covid-19 on women in the workplace. He explained that business structure, diminished childcare options, and the closure of schools during the pandemic caused a disproportionate impact on female workers in Massachusetts.

Chief Muldrew stated that Chair Judd-Stein had created the Commission Equity and Inclusion Working Group in 2020, and that the group ensured that the Commission continues to promote diversity development and growth.

Transcriber's note: Chair Cathy Judd-Stein joined the meeting, and resumed duties, after first thanking Commissioner Maynard for standing in.

On the subject of Licensees, Chief Muldrew explained that in 2021, EBH relaunched its vendor advisory team, and that MGM Springfield ("MGM") was also in discussions to relaunch their own vendor diversity team. He noted that in Spring 2022, the Commission had hired a Chief People and Diversity Officer, whose sole responsibility was the oversight of HR operations and overseeing diversity, equity and inclusion for Commission staff and vendors. He stated that the Commission created also created a new role in HR for diversity, equity, and inclusion.

Chief Muldrew then introduced Finance and Budget Office Manager, John Scully, to present on diversity in vendor payments. Mr. Scully stated that the Commission works with the Supplier Diversity Office ("SDO"), a state agency, and that the numbers included in the report were from the SDO diversity platform. He stated that the FY23 numbers were not yet ready to present and clarified that the numbers in the packet were from FY22.

Commissioner Skinner requested that the diversity categories be broken down in order for the Commission to have better understanding in terms of meeting their goal. She also requested if Mr. Scully could provide raw numbers, instead of percentages. She also expressed an interest in the Equity and Inclusion Working Group to resume meeting, as the last meeting was in June.

Chief Muldrew stated that a Strategic Diversity Initiative Plan was being developed for internal training, posting positions, and creating culture. Chair Judd-Stein asked what the diversity spend was as a percentage of overall spending. Mr. Scully replied that benchmarks existed for FY21 and FY22, and he would have to calculate the exact number. He reported that the Commission was close to the benchmark for both minority and women owned business enterprise spending.

CFAO Lennon stated that the Commission had joined programs such as Pacesetters and LEAF and was working with Vericloud on increasing its diversity spend. He noted that diversity scoring requirements had increased to 25% for all procurements. Chair Judd-Stein added that in September, the Commission had voted to adopt each of the five action items recommended by the Equity and Inclusion Working Group developed during the June 2022 meeting.

6. [Licensing Division](#) (1:45:17)

a. Employee Exemption Request

Chair Judd-Stein introduced Chief of the Licensing Division, Kara O'Brien. Chief O'Brien explained that MGM had requested an exemption from the casino employee registration process and introduced Licensing Supervisor, Dave Mackey to present MGM's materials for consideration. The *Gaming Service Employee Exemption Request* was included in the Commissioner's Packet on pages 137 through 139.

Attorney Mackey explained that the request was being made under statutory provisions that authorized the Commission to exempt certain job positions from registration requirements within Chapter 23K and 205 CMR. He stated that the position being discussed was the Lead Technician for sound and video at MGM. Mr. Mackey noted that MGM responded "no" to all criteria identified in the gaming licensee certification as it related to this position, and added that the position was a promotional position from an existing approved exemption under the same department.

Commissioner Skinner moved that the Commission exempt the lead technician sound and video position from the service registration requirements as discussed here today. The motion was seconded by Commissioner O'Brien.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

7. [Legal Division: Regulations](#) (1:50:52)

a. 205 CMR 2.01 – Application for License to Conduct a Racing Meeting by a New Operator; and Amended Small Business Impact Statement

General Counsel Todd Grossman introduced Associate General Counsel Judith Young. Associate General Counsel Young stated that a public hearing on 205 CMR 2.01 was heard earlier this morning, November 10, 2022, and that Commissioner Skinner had presided over that hearing. Associate General Counsel Young stated that while no public comments were received at the hearing, the Commission had received a substantive written public comment prior to the start of the hearing. She stated that the Commission and Legal Division would need time to

review the comment prior to discussing the regulation, and sought leave to review the comment. The Commissioners unanimously agreed to discuss the regulation at a future meeting.

b. [Repeal of 205 CMR 103](#): Access to and Confidentiality of Commission Records and Review of Comments Received (1:53:15)

Deputy General Counsel Carrie Torrisi explained that in June 2022, the Commission had voted to begin the regulation promulgation process to repeal 205 CMR 103 and voted in July to amend 205 CMR 102 and 205 CMR 115.04 to remove cross references to 205 CMR 103. She explained that 205 CMR 103 was largely duplicative of the public records law; and also conflicted with it in some instances.

Deputy General Counsel Torrisi stated that the Commission had received a written comment jointly from EBH and MGM opposed to the repeal of 205 CMR 103. She stated that the comments argued that eliminating the regulation terminated notice requirements related to requests received for highly sensitive information. Deputy General Counsel Torrisi stated that highly sensitive information was protected through the NDA, and that the notice requirement was not terminated, as notice was still required under the NDA. She stated that the appropriate avenue to protect trade secrets, competitively sensitive information, or proprietary information was for licensees to request it be covered by the NDA. The *public comment* was included in the Commissioner's Packet on pages 177 through 184.

Deputy General Counsel Torrisi stated that the public comment had requested an expansion of the types of information covered by the NDA, but noted that the requests were outside of the scope of the repeal of the regulation, and would have to be revisited at a later date.

Chair Judd-Stein noted that the exception to public records requests regarding trade secrets was tied to the application process and was never intended to be ongoing under General Law Chapter 23K. Deputy General Counsel Torrisi agreed and clarified that she was referring to the statutory exemption, which was tied to the application process and the investigation was tied to the NDA.

Commissioner O'Brien moved that the Commission approve the Amended Small Business Impact Statement and the repeal of 205 CMR 103, and the drafts of 205 CMR 102.02 and 205 CMR 115.04 included in the Commissioner's Packet and as discussed today, and further that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth to finalize the regulation promulgation process. The motion was seconded by Commissioner Skinner.

Commissioner O'Brien asked for clarification if an emergency motion should be filed for this regulation. Deputy General Counsel Torrisi stated that the repeal of this regulation was at the end of the process and that the repeal would go into effect in early December.

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.

i. [Amendments to Policy Governing Information Provided](#) in Response to Request for Applications – Phase 1 & Phase 2 (2:05:56)

Deputy General Counsel Torrissi stated that three sections within the repealed 205 CMR 103 were taken out, and amended for the Commission to adopt as policy. She explained that the provisions had previously been adopted as policy, however they needed to be amended to remove citations and references to 205 CMR 103 and the processes established by 205 CMR 103.

Commissioner Skinner moved that the Commission adopt the amendments to the policy governing information provided in response to requests for applications Phase 1 and Phase 2, and the Security Protocols and Restricted Access Policy as included in the packet and discussed here today. The motion was seconded by Commissioner Maynard.

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. [Sports Wagering Operator Licensing Framework](#) (2:07:36)

Deputy General Counsel Torrissi stated that the sports wagering operator licensing framework was discussed at length at the October 27, 2022, public meeting, and that it was being presented with edits suggested at that meeting. She explained that 205 CMR 212 was related to the continuing duty of applicants to provide information to the Commission; that 205 CMR 214 was related to the application and investigation fees; that 205 CMR 215 was related to suitability determination standards and procedures; that 205 CMR 219 was related to temporary licensing procedures; that 205 CMR 220 was related to license conditions; and that 205 CMR 221 was related to licensing fees.

i. [205 CMR 212](#): Additional Information Requested of Applicants and Continuing Duty and Amended Small Business Impact (2:10:04)

Deputy General Counsel Torrissi introduced attorneys Mina Makarious and Paul Kominers from the law firm Anderson and Krieger. Mr. Makarious stated that 205 CMR 212 only had a single change to its language, as “applicant” was a broader term than “sports wagering applicant”. The *draft 205 CMR 212* was included in the Commissioner’s Packet on pages 189 through 195.

ii. [205 CMR 214](#): Application and Investigation Fees and Amended Small Business Impact Statement for possible emergency adoption (2:11:22)

Mr. Makarios stated that there were no changes to 205 CMR 214 based on prior discussions. He stated that the application fee provision was prepared in close coordination with the Commission's Finance Division and the Investigations and Enforcement Bureau ("IEB"). The *draft 205 CMR 214* was included in the Commissioner's Packet on pages 196 through 199.

iii. [205 CMR 215](#): Suitability Determinations, Standards, and Procedures and Amended Small Business Impact Statement (2:12:11)

Mr. Makarios explained that the language of 205 CMR 215 had been reorganized and clarified regarding when the suitability determination would occur. He stated that durable suitability would be found during an adjudicatory proceeding to protect confidentiality, and that preliminary suitability would take place as part of the licensing deliberation in open meeting, as part of 205 CMR 218. The *draft 205 CMR 215* was included in the Commissioner's Packet on pages 207 through 216.

Commissioner O'Brien asked if the language could be changed to allow the Commission flexibility during the preliminary suitability discussion. Mr. Makarios stated that one way to address this issue was that the Commission could take some of the preliminary suitability discussion into an adjudicatory process, or an executive session where appropriate. Commissioner O'Brien stated that some of the topics discussed would not meet the criteria available to enter an executive session.

Chair Judd-Stein expressed an interest in being able to ask relevant questions during the process, and inquired whether privacy concerns would preclude that. IEB Director Loretta Lillios explained that for category one applicants, the Commission would have a summary of status, but category three applications would be reliant upon self-disclosures and open-source information.

Chair Judd-Stein explained that the preliminary suitability determination would occur after the competitive process. She stated that the process with casino licensing required everything be discussed in the open at a public meeting, and that privacy should not bar the Commission from asking questions. Mr. Makarios confirmed that the preliminary suitability would occur in public meetings similar to the casino process.

Commissioner O'Brien expressed that she did not see a downside in allowing the flexibility of changing the language within the regulation to "may" rather than "shall". The Commission reached a consensus in support of Commissioner O'Brien's edit.

iv. [205 CMR 219](#) - Temporary Licensing Procedures and Amended Small Business Impact Statement (2:28:11)

Mr. Makarios stated that the temporary licensure regulation was changed to add a three-year limit, with the option of two additional years if a request was made - and subsequently approved by the Commission. He stated that if a temporary license was renewed for the additional years, it required that another one-million-dollar fee be paid, in order to be more competitively equitable.

The *draft 205 CMR 219.00* was included in the Commissioner's Packet on pages 217 through 219.

Director Lillios stated that it was the intention of the IEB to complete full investigations as quickly as possible. Chair Judd-Stein expressed support for the additional one-million dollar payment, as longer suitability checks required more resources. Executive Director Wells stated that the IEB was in a good position to complete investigations according to the timeline, but there was the complicated factor of potential mergers and acquisitions as time went on. Commissioner O'Brien stated that she understood investigations could be complex, but it is an imperative that suitability be resolved as quickly as possible.

Commissioner Skinner sought clarification regarding the twenty-one month date mentioned in the statute. Mr. Makarios stated that the request to extend the temporary license would have to occur in the last quarter of the second year of temporary licensure. Commissioner Skinner stated that the language should clarify the request needs to occur between twenty-one and twenty-four months. Mr. Kominers suggested commas to help clarify and Mr. Makarios suggested further edits to the language.

v. [205 CMR 220](#) - License Conditions and Amended Small Business Impact Statement for possible emergency adoption (2:42:50)

Mr. Makarios stated that specific language was added to 205 CMR 220 to clarify that licensees must have their operator's certificate before they can operate. He stated that the remainder of the changes were to remove language regarding the temporary licensing conditions to put them in 205 CMR 219. The *draft 205 CMR 220* was included in the Commissioner's Packet on pages 220 through 222.

vi. [205 CMR 221](#) - Licensing Fees and Amended Small Business Impact Statement for possible emergency adoption

Attorney Makarios stated that the only changes to 205 CMR 221 were to reflect the one-million-dollar renewal payment discussed in 205 CMR 219. He noted that Anderson and Krieger were working with the Legal Division to update 205 CMR 202, and that references to the 205 CMR 202 language would be added.

Commissioner Skinner noted that the language in 205 CMR 221 regarding the payment of the temporary license renewal fee was not consistent with the language in 205 CMR 219.046. Mr. Makarios stated that changes would be made to mimic the language present in 205 CMR 219 to avoid any confusion.

Commissioner Hill moved that the Commission approve the Small Business Impact Statement and the draft 205 CMR 212 as included in the Commissioner's Packet and discussed here today. The motion was seconded by Commissioner Skinner.

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 Hill further moved that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth by emergency and thereafter to begin the regulation promulgation process, and further that staff be authorized to modify chapter or section numbers or titles to file the regulation sections as reserved or to make any other administrative changes as necessary to execute the regulation promulgation process. The motion was seconded by Commissioner Maynard

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 Hill moved that the Commission approve the Small Business Impact Statement and the draft 205 CMR 214 as included in the Commissioner's Packet and discussed here today. The motion was seconded by Commissioner Skinner.

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 Hill moved that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth by emergency and thereafter to begin the regulation promulgation process, and further that staff be authorized to modify chapter or section numbers or titles to file the regulation sections as reserved or to make any other administrative changes as necessary to execute the regulation promulgation process. The motion was seconded by Commissioner Maynard.

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 Hill moved that the Commission approve the Small Business Impact Statement and the draft 205 CMR 215 as included in the Commissioner's Packet and discussed here today. The motion was seconded by Commissioner O'Brien.

*Roll call vote:
Commissioner O'Brien: Aye.
Commissioner Hill: Aye.
Commissioner Skinner: Aye.
Commissioner Maynard: Aye.
Chair Judd-Stein: Aye.
The motion passed unanimously, 5-0.*

Commissioner Hill moved that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth by emergency and thereafter to begin the regulation promulgation process, and further that staff be authorized to modify chapter or section numbers or titles to file the regulation sections as reserved or to make any other administrative changes as necessary to execute the regulation promulgation process. The motion was seconded by Commissioner Maynard.

*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 Hill moved that the Commission approve the Small Business Impact Statement and the draft 205 CMR 219 as included in the Commissioner's Packet and discussed here today. The motion was seconded by Commissioner O'Brien.

*Roll call vote:
Commissioner O'Brien: Aye.
Commissioner Hill: Aye.
Commissioner Skinner: Aye.
Commissioner Maynard: Aye.
Chair Judd-Stein: Aye.
The motion passed unanimously, 5-0.*

Commissioner Hill moved that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth by emergency and thereafter to begin the regulation promulgation process, and further that staff be authorized to modify chapter or section numbers or titles to file the regulation sections as reserved or to make any other

administrative changes as necessary to execute the regulation promulgation process. The motion was seconded by Commissioner Maynard.

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 Hill moved that the Commission approve the Small Business Impact Statement and the draft 205 CMR 220 as included in the Commissioner's Packet and discussed here today. The motion was seconded by Commissioner O'Brien.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

Commissioner Hill moved that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth by emergency and thereafter to begin the regulation promulgation process, and further that staff be authorized to modify chapter or section numbers or titles to file the regulation sections as reserved or to make any other administrative changes as necessary to execute the regulation promulgation process. The motion was seconded by Commissioner Maynard.

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 Hill moved that the Commission approve the Small Business Impact Statement and the draft 205 CMR 221 as included in the Commissioner's Packet and discussed here today. The motion was seconded by Commissioner Skinner.

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 Hill moved that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth by emergency and thereafter to begin the regulation promulgation process, and further that staff be authorized to modify chapter or section numbers or titles to file the regulation sections as reserved or to make any other administrative changes as necessary to execute the regulation promulgation process. The motion was seconded by Commissioner Maynard.

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.

- d. [Additional Sports Wagering Regulations](#) (3:37:58)
i. 205 CMR 244.06: Independent Test Labs and Amended Small Business Impact Statement

Deputy General Counsel Torrissi stated that on September 8, 2022, the Commission voted to promulgate this regulation by emergency, and that a public hearing was held on November 9, 2022, presided over by Commissioner O'Brien. She stated that no public comments or written comments were received. She stated that one change made by the Legal Department proposed to clarify sports wagering equipment, rather than devices. The *draft 205 CMR 244.06* was included in the Commissioner's Packet on pages 241 through 244.

Commissioner Maynard inquired if the term "equipment" included devices. Deputy General Counsel Torrissi explained that sports wagering equipment was the terminology being used in other regulations, but explained was not yet included in the Definitions that would be within 202.00. She explained that the change was to ensure consistency amongst the regulations.

With that, Commissioner Skinner moved that the Commission approve the Amended Small Business Impact Statement and the draft of 205 CMR 244.06 as included in the Commissioner's Packet and discussed here today, and further that the staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth to finalize the regulation promulgation process. The motion was seconded by Commissioner Hill.

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.

ii. [Draft 205 CMR 233](#): Voluntary Self- Exclusion for initial review and possible emergency adoption (3:41:27)

Associate General Counsel Judith Young provided an overview of 205 CMR 233 related to voluntary self-exclusion and 205 CMR 250, related to the protection of minors and underage youth. The *draft 205 CMR 233* was included in the Commissioner’s Packet on pages 248 through 252.

Attorney David Mackey from Anderson and Krieger stated that the regulation largely mirrors and tracks the voluntary self-exclusion (“VSE”) regulations relative to casino gaming and gambling. He stated that there would be separate VSE lists for sports wagering and casino gaming. He explained that there was an additional provision that would require operators to submit written policies for their compliance with the VSE program which would be reviewed by the Commission on an annual basis.

Commissioner Skinner asked whether the technology was available to update the VSE list on a regular basis. Director of Research and Responsible Gaming Mark Vander Linden stated that the technology existed, and an enrollment session available at existing casinos and across digital platforms. Commissioner Skinner asked if GLI was consulted on this regulation. Director Vander Linden confirmed that GLI had been part of the drafting discussions. He explained that enrollment in VSE required the patron to speak to either in-person or remotely to a Designated Agent, who would forward their information to the Commission to be entered into a central database.

Attorney Annie Lee with Anderson and Krieger stated that the team researched other jurisdictions when drafting the regulations. She explained that other jurisdictions put the onus on the sports wagering operator to know what technology was available on the consumer end, rather than the patron, as operators were in the best position to know about the technology available.

Chair Judd-Stein inquired whether a patron enrolled in the VSE list from a mobile sports wagering application could still enter a casino for retail sports wagering or casino gaming. Director Vander Linden stated that the VSE list for retail sports wagering and online sports wagering would be the same list, and that operators were not precluded from applying one self-exclusion list to both casino gaming and sports wagering.

Ms. Lee stated that it might be hard to distinguish between a retail sports wagering VSE and mobile sports wagering VSE, and explained that the language had been revised to reflect that operators may refuse entry for both the gaming establishment and sports wagering facility.

Director Vander Linden stated the policy was similar to Commonwealth-based casinos maintaining their VSE lists for all of their gaming properties, including casinos in other jurisdictions. Mr. Mackey stated that applicants for the VSE list must make a clear

acknowledgement within the attestation section that they understand being on the VSE may result in them being excluded from the gaming establishment.

Commissioner Maynard stated that there was a comment at the Responsible Gaming Roundtable that individuals on the VSE are often not intercepted until they win. Director Vander Linden stated that the standard within 133 and 233 was that no individual on the VSE list shall derive any winnings from gaming or sports wagering, respectively. Commissioner Maynard asked if there was language about the operators forfeiting any accepted bets from patrons enrolled on the VSE list. Director Vander Linden stated that security cameras were occasionally used to determine the amount wagered by individuals on the VSE list once they were identified, and that amount is then returned to the Commission as licensees cannot profit from someone on the VSE list. Assistant Director of the IEB, Bruce Band added that Sports Wagering Operators agree to monitor the amount bet via video, and return any funds acquired from those on the VSE list.

Ms. Lee added that language was included in the statute for individuals to contest how much money was forfeited by requesting a hearing within fifteen days of forfeiture. Chair Judd-Stein asked if individuals on the VSE list would be able to place a mobile bet from their phone, and inquired whether there was an automatic block for such activities. Ms. Lee stated that those on the VSE list will be blocked from creating accounts with the mobile Sports Wagering Operators, or accessing their existing accounts.

Chair Judd-Stein asked for additional details for how the process would work for existing accounts. Director Vander Linden stated that the Commission would receive notification of VSE enrollment through the online system, review it, and then add the details to the state-wide VSE list. He stated the operators would then close the accounts.

iii. [Draft 205 CMR 250](#): Protection of Minors and Underage Youth and Small Business Impact Statement (4:12:07)

Ms. Lee provided an overview that 205 CMR 250 required Sports Wagering Operators to submit a written policy for preventing minors and underage youth from sports wagering with an annual review. She added that Operators could submit a policy for approval to the Commission outside of the annual review, if the Commission was preferable. She added that marketing and advertising guidelines pertaining to minors and underage youth would be presented in another regulation. The *draft 205 CMR 250* was included in the Commissioner's Packet on pages 253 through 255.

Commissioner O'Brien requested that the sports wagering area be more clearly defined, especially with PPC where horseracing allows betting by those eighteen and up; as opposed to sports wagering requirement of twenty-one. Ms. Lee stated that the regulation was broad enough to prevent those operating sports racing facilities from installing a sports wagering kiosk in an area where minors would have access.

Commissioner O'Brien expressed concern that the areas for horseracing and sports wagering may overlap. Mr. Mackey stated that there could be an obligation on the operator to distinguish between those under the age of twenty-one and prevent them from using sports wagering kiosks.

Commissioner O'Brien explained that her concern was with the physical layout of the spaces, and stated she was not comfortable with having employees monitor of the kiosks as the only safeguard.

Chair Judd-Stein asked how PPC managed the area currently. Executive Director Wells stated that PPC had a security checkpoint between the casino and horseracing areas. Assistant Director Band stated that he is working with the casinos regarding their plans and setup, and that the layout will be presented to the Commission for a review of the kiosk placement. Commissioner Hill stated that other jurisdictions used different kiosks for simulcasting and sports betting. Commissioner O'Brien noted that in her estimation, technology did not exist for a kiosk to ensure the person placing a bet is over the age of twenty-one. She requested additional information about kiosk placement before voting on this regulation.

Assistant Director Band stated that the area where sports wagering kiosks were would have to be cordoned off and have a security guard to check identifications. Chief Information Officer ("CIO") Katrina Jagroop-Gomes agreed with Assistant Director Band's assessment.

Chair Judd-Stein stated that other jurisdictions found monitoring kiosks to be challenging. CIO Jagroop-Gomes stated that all concerns are valid, and agreed with Assistant Director Band and Commissioner O'Brien that the only way to validate patrons was to check identification at kiosks. However, she noted that minors and underage youth were more likely to attempt to use mobile sports wagering rather than in-person sports wagering based upon data from other jurisdictions. Mr. Mackey suggested language that kiosks cannot be in an area accessible by those who are underage, that there must be a physical barrier, and that Sports Wagering Operators should describe how to keep these groups excluded in the policies and procedures submitted for approval

Commissioner O'Brien stated that PPC would have to figure out the locations of kiosks where eighteen year olds could not enter, and stated that she would prefer to have the language presented next week. Commissioner Hill expressed his preference for adding the language during this meeting. Commissioner Maynard stated he agreed with Commissioner O'Brien, but would like to move the regulation forward if the edits could be presented during this meeting. Commissioner Skinner stated that she trusted Commissioner O'Brien's expertise in the public safety realm and would only move forward if Commissioner O'Brien was comfortable with the language.

Chair Judd-Stein stated that there were mitigating factors such as the operator's requirement to present plans to the Commission, and stated that language could be added about surveillance and identification checks. Commissioner O'Brien stated that PPC had previously expressed interest in having sports wagering kiosks in the horseracing area and expressed an interest in receiving comments from PPC and prospective category two applicants.

Deputy General Counsel Torrisi stated that waiting one week for comment would not cause problems with the promulgation timeline. Chair Judd-Stein asked if the language could be drafted by the end of the meeting. Mr. Mackey stated that he would need some time to dictate the language. Commissioners agreed to revisit this regulation after Attorney Mackey returned.

iv. [Draft 205 CMR 235](#): Sports Wagering Occupational Licenses and Small Business Impact Statement for initial review and possible emergency adoption (4:42:52)

Deputy General Counsel Caitlin Monahan explained that this regulation carried out the mandate to issue occupational licenses found in General Law Chapter 23N § 8. She stated that the regulation largely mirrored 205 CMR 234 related to vendor licensing that had already been reviewed and approved by the Commission. She stated that the Legal Division was working with GLI to update the list of positions requiring licensure and therefore a vote was not requested for this meeting. The *draft 205 CMR 235* was included in the Commissioner's Packet on pages 260 through 268.

v. [Draft 205 CMR 105](#): Investigations and Enforcement Bureau and Small Business Impact Statement for initial review and possible emergency adoption (4:50:59)

Deputy General Counsel Monahan provided an overview of the draft of 205 CMR 105; explaining that it was the regulation that sets forth the duties and responsibilities of the IEB. She noted that the amendments were to reflect the new responsibilities the IEB had in relation to sports wagering. Commissioners had no questions for the draft that Ms. Monahan presented.

Draft 205 CMR 250: Protection of Minors and Underage Youth and Small Business Impact Statement (Continued)

After concluding the discussion for 205 CMR 105, Commissioners revisited 205 CMR 250. Attorney Mackey stated that he had revised 205 CMR 250 to include language that minors and underage youth shall not enter a sports wagering area, sports wagering facility, or place a bet on a sports wagering kiosks. Mr. Grounsell, General Manager at PPC, stated that PPC no longer intended to put kiosks within the horseracing area. Chair Judd-Stein asked whether the plan PPC would submit would reflect that decision. Mr. Grounsell confirmed that was correct. Commissioner O'Brien stated that this measure did not fully alleviate her concerns with the regulation, as it did not eliminate the possibility of a future decision by PPC or by another horseracing licensee and asked that the regulation address the issue.

Commissioner O'Brien further inquired whether it would be sanctionable if kiosks were not separately walled off, and a person under twenty-one shielded their age or avoided verification. Director Lillios stated that it would be dependent upon the facts, but that if the underage person used ingenuity in bypassing security, it could impact the Commission's ability to succeed at enforcement measures. Mr. Mackey stated that under the casino gaming regulations, the standard was "knowingly" allowing an underage person to gamble.

Commissioner Maynard agreed that there was a public safety risk regarding this issue, but stated that there was also a public safety risk in not getting the sports wagering framework and legal

operators running in a timely manner, as it could encourage unlawful wagering. Commissioners engaged in discussion for the timing of 205 CMR 235 and 205 CMR 250, and the benefits of waiting a week to receive additional comments. Commissioners ultimately reached consensus that the vote on 205 CMR 250 and 205 CMR 235 would be addressed the following week.

Commissioner Hill moved that the Commission approve the Small Business Impact Statement and the draft 205 CMR 233 as included in the Commissioner's Packet and discussed here today. The motion was seconded by Commissioner Maynard.

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 Hill further moved that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth by emergency and thereafter to begin the regulation promulgation process, and further that staff be authorized to modify chapter or section numbers or titles to file the regulation sections as reserved or to make any other administrative changes as necessary to execute the regulation promulgation process. The motion was seconded by Commissioner Maynard.

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 Hill moved that the Commission approve the Small Business Impact Statement and the draft 205 CMR 105 as included in the Commissioner's Packet and discussed here today. The motion was seconded by Commissioner O'Brien.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

Commissioner Hill further moved that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth by emergency and thereafter to begin the regulation promulgation process, and further that staff be authorized to modify chapter or section numbers or titles to file the regulation sections as reserved or to make any other administrative changes as necessary to execute the regulation promulgation process. The motion was seconded by Commissioner Maynard.

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. [Sports Wagering Process Updates](#) (5:12:49)

Executive Director Wells updated the Commissioners that Sports Wagering License applicants had been provided with a link to submit their documents, but that some had contacted the Licensing Division to do so. She stated that both methods were permissible.

a. [Sports Wagering Category 2 Licenses](#) (5:13:47)

i. Category 2 License Timeline

Executive Director Wells introduced Attorney Steve Eichel, representing Raynham Park, Attorney Bruce Barnett, representing Sterling Suffolk, and Michael Buckley, Chief Operating Officer for Sterling Suffolk. Executive Director Wells explained that category two applicants were presumptive licensees, and that there was not a competitive process for category two sports wagering licenses. She stated that category two license applications would be accepted on a rolling basis, rather than the November 21, 2022, deadline for other category applicants.

Mr. Barnett stated that Raynham had yet to identify its operator partner and would not be able to present a full application by the deadline. Mr. Eichel stated that Sterling Suffolk was attempting to finalize negotiations with their operating partners. Mr. Eichel asked if a tethered category three operator would be precluded from operating prior to the award of their category two license.

Chair Judd-Stein noted that the category two license was essentially a condition precedent to getting a tethered category three license. General Counsel Grossman agreed with the Chairs assessment of the Sports Wagering Act, and explained that the category two license triggers the ability for a tethered category three operator to operate; summing that the category two license was required first.

Commissioner O'Brien stated that in theory, there was a category one region that had yet to be defined, and asked if the applicants for that region were subject to the deadline. General Counsel

Grossman stated that language was built into 205 CMR 218 to give the Commission flexibility in changing deadlines within a category.

Commissioner Maynard moved that the Commission accept applications for category two sports wagering operator licenses on a rolling basis. The motion was seconded by Commissioner Hill.

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.

ii. [Request for clarification regarding MGL c. 23N, §6\(f\)](#) (5:30:14)

Mr. Eichel sought clarification regarding whether separate \$5 million-dollar fees had to be paid for each of the category two licenses, and tethered category three license. He stated that during the legislative process, the \$7.5 million capital investment requirement was discussed as being in lieu of requiring a second \$5 million fee.

General Counsel Grossman stated that any entity that receives an operator license will have to pay the \$5 million fee. He explained that the category two license triggers the ability to perform in-person sports wagering operations and to allow for one digital operation approved by the Commission, provided the mobile application and digital platform be qualified for and issued a category three license. He stated that the mobile operator would have to pay \$5 million for the category three license and the retail operator would have to pay \$5 million for their category two license.

Commissioner Skinner moved that the Commission required that the five million license fee identified in Massachusetts General Law Chapter 23N § 6(f) must be paid for each individual license award including category one, category two, and category three -both tethered and untethered licenses- as discussed here today. The motion was seconded by Commissioner O'Brien.

Roll call vote:

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 5-0.

General Counsel Grossman noted that this fee structure was also captured in 205 CMR 221, which states every license holder must pay five million dollars.

Commissioner O'Brien raised the issue that there was a typo within the motions to approve the changes to 205 CMR 103, 205 CMR 102, and 205 CMR 115. Deputy General Counsel Torrisi explained that the motion did not include language allowing for the staff to make administrative changes if necessary to complete the regulation promulgation.

Commissioner O'Brien moved that the Commission authorize staff to make any administrative changes necessary to the drafted versions and Amended Small Business Impact Statements for 205 CMR 103, 205 CMR 102, and 205 CMR 115 as included in the packet, so as to file the Amended Small Business Impact Statement with the Secretary of the Commonwealth's Office and complete the regulation promulgation process. The motion was seconded by Commissioner Hill.

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 exited the meeting due to a prior commitment.

b. [Divisional Updates](#) (5:49:54)

CIO Jagroop-Gomes explained that the IT Division was working with GLI and the Legal Division to review the technical regulations. She stated that the IT Division had been working with GLI to specify any compliance, audit, security checkpoint, and questionnaires that would be required for launch.

Assistant Director Band stated that IEB had given the three casinos permission to bring sports wagering kiosks on site, provided they remain non-operational. He stated that blueprints had been requested regarding the location where the sports wagering kiosks would be installed.

Assistant Director Band stated that MGM and EBH had already constructed their sportsbook counters, and PPC had permission to build their temporary counter on the game floor next to the Revolution Lounge. He stated that PPC would appear before the Commission to present their plan for the permanent sports wagering counter as they will need to change the floor design. He stated that the casinos had sent plans for their house rules, but the IEB was waiting on regulations prior to reviewing the house rules.

Chair Judd-Stein asked if kiosk placement would be brought to the Commission for consideration. Assistant Director Band stated that the kiosks on the gaming floor would be around the perimeter, and that any kiosks not on the game floor would be presented to the Commission. Chair Judd-Stein noted that other jurisdictions found that kiosks close to the doors were not advisable.

Commissioner Hill inquired if the Commissioners would be able to see where the kiosks would be installed on a tour. Assistant Director Band confirmed and stated that blueprints would hopefully be ready prior to Commissioner Hill's visit. General Counsel Grossman cautioned against independent analysis or research about sports wagering applications until all applications were received, and there was a structured approach to evaluating them. He stated that it may be premature to look at the kiosk locations.

Director Lillios stated that the Licensing Division was preparing to review the incoming applications for administrative completeness, and that applications would be reviewed on a rolling basis. She stated that investigators were starting the open source reviews that could be performed.

Director Lillios stated that proof of business relationship was required before performing work as a vendor, and that vendors were now welcome to submit a scoping survey. She noted that third-party marketing affiliates were included in the vendors requiring licensure. She further reported that the Licensing Division had hired two new staff members. Executive Director Wells stated that the Legal Division was on track with drafting regulations according to the schedule.

9. [Commissioner Updates](#) (6:04:45)

a. Advertising/Media Round Table Update

Chair Judd-Stein stated that on November 14, 2022, there would be a roundtable discussion to address marketing, advertising, how media markets work, innovations to address the Commission's concerns related to sports wagering advertisements, and the scope of the Commission's regulatory authority. Chief of the Communications Division, Thomas Mills stated that the meeting would be streamed on YouTube and the Commission's website. Chair Judd-Stein stated that this roundtable would inform the Commission's regulations related to advertising.

10. [Other Business](#) (6:09:13)

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

Commissioner Hill moved to adjourn. The motion was seconded by Commissioner Skinner.

Roll call vote:

Commissioner Hill: Aye.

Commissioner Skinner: Aye.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously, 4-0.

List of Documents and Other Items Used

1. Notice of Meeting and Agenda dated November 7, 2022
2. [Commissioner's Packet](#) from the November 10, 2022, meeting (posted on massgaming.com)