



## Massachusetts Gaming Commission Meeting Minutes

- Date/Time:** December 5, 2019 – 10:00 a.m.
- Place:** Massachusetts Gaming Commission  
101 Federal Street, 12<sup>th</sup> Floor  
Boston, MA 02110
- Present:** Chair Cathy Judd-Stein  
Commissioner Eileen O'Brien  
Commissioner Bruce Stebbins  
Commissioner Gayle Cameron
- Absent:** Commissioner Enrique Zuniga

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



### Call to Order

See [transcript](#) page 1

[10:00 a.m.](#) Chair Cathy Judd-Stein called to order public meeting #283 of the Massachusetts Gaming Commission. She noted that the order of today's agenda has changed to move the Racing Division's agenda items to #6, and the Investigations and Enforcement Bureau (IEB) agenda item will be #7.

### Approval of Minutes

See transcript page 1 - 18

[10:04 a.m.](#) *Commissioner Stebbins moved to approve the minutes from the Commission meeting of November 21, 2019, subject to correction for typographical errors and other nonmaterial matters. Commissioner Cameron seconded the motion. The Chair stated that she would like to include Mr. Mathis' report regarding accommodations and meal taxes to alleviate the concern of MGM potentially cannibalizing local business. The motion passed 4 – 0 with requested amendments.*

## **Finance Division**

See transcript pages 2 – 10

- [10:08 a.m.](#) **Massachusetts Gaming Commission Vendor Diversity Update - [VeraCloud](#)**  
CFO Derek Lennon introduced VeraCloud's Founder Doug Rutnic, and President Todd Bida. Mr. Rutnic and Mr. Bida gave a slide presentation summarizing the company's mission for the Commission, which is to identify, recruit, and engage diverse, local vendors for inclusion in public contracting opportunities to meet and exceed diversity goals. They discussed examples of successful results from working so far with the Commission as well as with Plainridge Park Casino. They also discussed VeraCloud's strategies that they have implemented with the Commission.
- [10:24 a.m.](#) Commissioner Cameron asked if the VeraCloud system tracks results, in terms of feedback to aid applicants' performance in the future. Mr. Rutnik responded that yes, VeraCloud provides an open feedback channel that has been utilized and observed to teach prospective vendors about current and future opportunities.
- [10:26 a.m.](#) The Chair raised a concern regarding the need for clarity around filling out a Request for Proposal (RFP) in terms of the Massachusetts requirement that a company must gain and record a supplier diversity partner.
- [10:36 a.m.](#) Mr. Bida thanked the Commission for the opportunity to serve it and the Commonwealth, and Commissioner Cameron stated that she hopes others utilize this essential and helpful niche that VeraCloud has identified.

## **Administrative Update**

See transcript pages 10 – 18

- [10:39 a.m.](#) **General Update**  
Executive Director Ed Bedrosian provided a general update to the Commission, stating that for the close of this year's racing season, he and Commissioners Stebbins and Zuniga had lunch with the seasonal racing staff to thank them. He also reported on the Gaming Enforcement Unit (GEU) staffing and overtime issues and clarified some of the overtime costs being incurred for security that will be reflected in the budget. He then added that there is a statutory audit happening at Encore by the Commission's finance unit.
- [10:43 a.m.](#) **Draft Region C RFI Questions**  
Next, Mr. Bedrosian provided an update on the staff's development of possible questions for a potential Request for Information (RFI) concerning Region C as requested by the Commission. He noted that counsel for Mass Gaming & Entertainment has also submitted their questions to the Commission to be considered as part of an RFI.

[10:49 a.m.](#) An RFI is generally used to help inform a future procurement process but does not mandate it. There was discussion around the issue of timing where the RFI could be utilized as a vehicle to potentially conducting a market study. Public comments on questions were also discussed. Commissioner O'Brien raised a concern regarding the questions on an RFI compared to questions that would go out for public comment, as there are different audiences for these questions.

[10:59 a.m.](#) The Chair stated that expertise through an RFI might be helpful to aid the Commission in its structure of a request for a market study to properly assess the implications for the commonwealth. She clarified that the Commission has an obligation to the commonwealth as opposed to just the region. She then stated that she is particularly interested in the questions around the impact on Region C in the absence of the Commission issuing a license.

Commissioner Stebbins noted that the Commission should make sure the RFI does not exclude anybody, who responds from participating in an RFR or an RFP, should the Commission take that next step.

[11:10 a.m.](#) Mr. Bedrosian stated to the Commission that the public is always welcome to submit comments at any time, regardless of the format the Commission chooses to facilitate the process of evaluation and analysis of Region C.

Commissioner Stebbins then stated that once the analysis is complete through the RFP phase, it may then be an opportune time to have a public hearing to share more substantive information with the public.

The Chair asked Mr. Bedrosian to update Commissioner Zuniga upon his return to get his additional thoughts on the matter.

## **Legal Division**

See transcript pages 18 – 29

[11:12 a.m.](#) **Tribal Litigation and Federal Legislation Update**  
Acting General Counsel Todd Grossman and Associate General Counsel Justin Stempeck provided the Commission with a status of the Mashpee Wampanoag tribal litigation and federal legislation regarding the tribe.

Mr. Grossman led the Commission through a slide presentation that provided a broad overview of the law and background information to help guide the Commission in their decision making relative to Region C.

[11:25 a.m.](#) Mr. Stempeck addressed three federal cases with slides (Littlefield et al. v. United States Department of the Interior, Littlefield, et al. v. Mashpee Wampanoag Indian Tribe, and Mashpee Wampanoag Tribe v. Bernhardt) that highlight key factors relevant to this case. He then summarized relevant circumstances surrounding those cases.

[11:36 a.m.](#) Mr. Grossman and Mr. Stempeck then discussed KG Urban Enterprises v. Deval Patrick et al., where the plaintiff claimed that the act discriminated based on race and violated equal protection clauses. They summarized the case, and Mr. Grossman stated the Commission's position on the matter.

[11:44 a.m.](#) Mr. Stempeck and Mr. Grossman made a note to the Commission that there is an issue related to the interpretation of Section 91 of the Gaming Act and certain language of the Tribe's compact with the Commonwealth that was brought to light that will be revisited in the future. The Commission's essential position at the time was that Section 91 of the Gaming Act mandates action in certain circumstances, but it doesn't preclude action otherwise in the discretion of the Commission. Further, the compact language does not serve as a barrier to Commission action either.

### **Racing Division**

See transcript pages 29 – 35

[12:09 p.m.](#) **Suffolk Downs Request for Approval of Simulcast Import Locations**  
Suffolk Downs' Chief Operating Official Chip Tuttle has submitted a request for approval of simulcast import locations dated November 8, 2019. Earlier this year, the Commonwealth's racing and simulcasting statutes were extended to January 15, 2020. Subsequently, Suffolk Downs did not apply for live racing dates, necessitating a separate approval by the Commission.

The Racing Division recommends that the Commission approve Suffolk Downs' request for approval of the simulcast import locations listed in their November 8, 2019 letter.

[12:24 p.m.](#) *Commissioner Stebbins moved that the Commission approve Suffolk Downs' request for simulcast import locations for the year 2020 as identified in the list provided in the [Commissioners' Packet](#). Commissioner O'Brien seconded the motion.*  
*The motion passed 4 – 0.*

### **Suffolk Downs Request for Approval of Account Wagering Providers**

Mr. Tuttle has also submitted a request for approval of the following Account Deposit Wagering (ADW) providers: XpressBet LLC, TVG, Twin Spires, NYRAbets, and FanDuel Racing dated November 8, 2019. The Commission has approved all in the past except FanDuel Racing, which will use the TVG infrastructure.

[12:13 p.m.](#) Chip Tuttle reviewed slides with the Commission at the request of the Chair regarding FanDuel Racing to provide a background on the company. He explained that they are trying to expose fantasy horse racing to customers on the existing FanDuel platform.

[12:17 p.m.](#) Commissioner Cameron clarified the Commission's licensing requirements regarding ADW's. As part of the license, they have been approved in the past. There was discussion around the process and of opportunity to look further into these companies.

[12:23 p.m.](#) Commissioner Stebbins asked if Mr. Tuttle has had a chance to go through the FanDuel platform to analyze any tutorials that would ensure ease of use to individuals newer to the betting process. Mr. Tuttle stated that he has not as the site is only in beta at this time, but he will do so.

The Racing Division recommends that the Commission approve the Suffolk Downs request for approval of XpressBet LLC, TVG, Twin Spires, NYRAbets, and FanDuel Racing as their Account Wagering providers.

[12:24 p.m.](#) *Commissioner Stebbins moved that the Commission approve Suffolk Downs' request for XpressBet LLC, TVG, Twin Spires, NYRAbets, and FanDuel Racing as Account Deposit Wagering providers. Commissioner Cameron seconded the motion.*  
*The motion passed 4 – 0.*

#### **Suffolk Downs Request for Promotional Fund Consideration and Reimbursement**

Financial Analyst Chad Bourque presented Suffolk Downs' request for consideration and reimbursement of payment from the promotional trust fund in the amount of \$192,971.10. He verified that all funds requested were used for advertising purposes and that the correct amount is being requested. Mr. Bourque recommends that the Commission approve Suffolk Downs' request.

[12:26 p.m.](#) *Commissioner Cameron moved that the Commission approve Suffolk Downs' Request for Consideration and Reimbursement in the amount of \$192,971.10 to the Suffolk Promotional Trust Fund. Commissioner Stebbins seconded the motion.*  
*The motion passed 4 – 0.*

#### **Plainridge Park Casino (PPC) Request for Capital Improvement Fund Consideration**

Next, Mr. Bourque presented PPC's request for consideration for the Capital Improvement Trust Fund in the amount of \$40,338. Also included with the request is an opinion letter from Dixon Salo, who is the architect, charged with ensuring that the items being requested for funds being requested are necessary, and he is recommending that the consideration be approved.

[12:28 p.m.](#) *Commissioner Cameron moved that the Commission approve Plainridge Park Casino's Request for Consideration in the amount of \$40,338.00 for the Capital*

*Improvement Fund to purchase a replacement tractor at Plainridge Racecourse. Commissioner Stebbins seconded the motion. The motion passed 4 – 0.*

## **Investigations and Enforcement Bureau**

See transcript pages 35 – 40

### 12:31 p.m.    **MGM Springfield Qualifiers**

Chief Enforcement Counsel Loretta Lillios requested that the Commission approve Mr. Patrick Madamba, Vice President and Legal Counsel of MGC Resorts International as a qualifier for MGM Resorts.

12:36 p.m.    *Commissioner Cameron moved that the Commission find Patrick Madamba suitable as a Qualifier for Blue Tarp reDevelopment, LLC. Commissioner O'Brien seconded the motion. The motion passed 4 – 0.*

Ms. Lillios then requested that the Commission approve Mr. Paul Salem, Member of the MGM Resorts International Board of Directors as a qualifier for MGM Resorts.

12:39 p.m.    *Commissioner Cameron further moved that the Commission find Paul Salem suitable as a Qualifier for Blue Tarp reDevelopment, LLC. Commissioner Stebbins seconded the motion. The motion passed 4 – 0.*

### **Modification of Vendor-Independent Director Application**

Next, Ms. Lillios introduced a new Independent Director Qualifier Application form that would require the submission of federal tax transcripts for the prior four years and questions posed to the inside directors regarding settlements, allegations of misconduct, and a general question regarding matters impacting suitability.

The IEB and the Division of Licensing recommend that the Commission approve the use of the Independent Director Qualifier Application Form for those independent directors designated as qualifiers for Primary Gaming Vendor companies.

12:49 p.m.    Licensing Manager Bill Curtis clarified for the Commission that there are 24 Primary Gaming Vendors. Ms. Lillios stated that they will return in six months with a progress report on this application process.

12:50 p.m.    *Commissioner Stebbins moved Commission approve the “Independent Director Qualifier Application” as included in the Commissioners’ Packet. This form shall be completed and submitted by independent directors designated as qualifiers for Gaming Vendor – Primary applicants and licensees, pursuant to 205 CMR 134.04(4)(b)2.d. Commissioner Cameron seconded the motion.*

*The motion passed 4 – 0.*

The Chair stated that the Commission will not be reviewing Commissioner Zuniga's annual report today.

### **Ombudsman**

See transcript pages 40 – 51

#### 1:35 p.m.     **Final Community Mitigation Fund Guidelines**

Ombudsman John Ziemba presented the final version of the 2020 Community Mitigation Fund Guidelines to the Commission for approval. He reviewed with the Commission the target spending amounts for 2020, regional target spending allocations, and the continuation/modification of prior year priorities concerning the fund.

1:40 p.m.     Construction Project Oversight Manager Joe Delaney discussed the prospect of multi-year grants, as well as a new type of award, the Transportation Construction Project Grant. Next, Mr. Delaney reviewed the matching funds with the Commission.

1:44 p.m.     Director of Workforce, Supplier and Diversity Jill Griffin discussed Workforce Program spending. She stated that along with posting the guidelines out for public comment, she sent the guidelines specific to the Commission's workforce partners and other training entities. Upon discussion with stakeholders, Ms. Griffin received positive feedback on the guidelines. She expressed that the message this time around is that the Commission is encouraging collaboration between the organizations in the entire region. She also stated that this initiative is being incentivized.

Mr. Ziemba stated that if the Commission approves the guidelines today, he will post them next week.

1:48 p.m.     Commissioner Stebbins commented on the engaged involvement of committee members and stated that the meetings are more detailed and strategic. He would like to see something built into the application that directs applicants to have subsequent meetings with licensees to ensure that applicants are considering ongoing workforce development needs concerning the licensees. Mr. Ziemba will amend the application to reflect this.

2:02 p.m.     *Commissioner Stebbins moved that the Commission approve the final Community Mitigation Fund guidelines for the 2020 Community Mitigation Fund applications. Commissioner O'Brien seconded the motion.  
The motion passed 4 – 0.*

### **Horse Racing Legislation Update**

Director of Racing Dr. Alex Lightbown presented a draft letter to the Commission regarding a further time-limited extension of the Commonwealth's current racing and simulcasting statutes beyond the January 15, 2020 expiration date. This letter would be signed by the Chair and Commissioners and sent to the Senate, House, and Joint Committee on Consumer Protection and Professional Licensure to request such an extension of the HB 13 bill.

[2:06 p.m.](#) Commissioner Stebbins asked to edit the first paragraph of the letter. The Commission concluded that the legislature should supply a deadline for an extension. Commissioner O'Brien also suggested edits. The Chair suggested adding a clause stating that even a temporary shutdown could create continued uncertainty for the industry. Dr. Lightbown and Mr. Ziemba will edit and circulate the letter for signature.

### **Workforce, Supplier and Diversity Development**

See transcript pages 51 – 53

[2:14 p.m.](#) **Workforce Development RFR – Small Business Technical Assistance**  
Director of Workforce, Supplier and Diversity Development Jill Griffin presented a memo to the Commission regarding a Request for Response (RFR) for small business technical assistance. She stated that this week, staff put out the RFR to ensure success in the expanded gaming industry for Massachusetts companies. Proposals are due through COMMBUYS Friday, January 3, 2020, by 3:00 p.m.

There was a discussion around extending the deadline due to the holiday. Ms. Griffin will look into extending the date on the RFR.

[2:45 p.m.](#) *With no further business, Commissioner Cameron moved to adjourn the meeting. Commissioner Stebbins seconded the motion. The motion passed 4 – 0.*

### **List of Documents and Other Items Used**

1. Notice of Meeting and Agenda dated December 5, 2019
2. Draft Commission Meeting Minutes dated November 21, 2019
3. Presentation – VeraCloud dated December 4, 2019
4. Memo re: Potential Questions for a Request for Information Concerning a Region C Procurement dated December 2, 2019
5. Presentation – Tribal Litigation Update dated December 5, 2019
6. Letter re: Mass Gaming & Entertainment LLC and Region C dated November 29, 2019
7. Letter re: Summary and Status of Litigation Regarding the Trust Status of the Mashpee Wampanoag Tribe's Reservation dated November 12, 2019
8. Memo re: Suffolk Downs Request for Approval of Simulcast Import Locations dated December 5, 2019



9. Letter from Chip Tuttle to Dr. Lightbown dated November 8, 2019
10. Memo re: Suffolk Downs Request for Approval of Account Deposit Wagering Providers dated December 5, 2019
11. Letter from Chip Tuttle to Dr. Lightbown dated November 8, 2019
12. Presentation: FanDuel Group
13. Memo re: Request for Consideration & Reimbursement | Suffolk Promotional Trust Fund dated December 2, 2019
14. Memo re: Request for Consideration | Harness Horse Capital Improvement Trust Fund dated December 2, 2019
15. Memo re: Application Form for Independent (Outside) Directors of Gaming Vendor – Primary Companies dated December 3, 2019
16. Draft of Independent Director Qualifier Application dated December 3, 2019
17. Memo re: 2020 Community Mitigation Fund Guidelines dated December 5, 2019
18. Chart: Projected Revenue Placed in the Community Mitigation Fund through October 2019
19. Public Comment Letters re: Workforce Guidelines
20. Redline of Community Mitigation Fund Guidelines dated December 4, 2019
21. Final Draft of Community Mitigation Fund Guidelines dated December 2, 2019
22. Draft Racing Bill Letter to Legislature dated December 5, 2019
23. Memo re: RFR for Small Business Technical Assistance dated December 6, 2019
24. Draft of MGC Annual Report 2019 dated November 27, 2019

/s/ Bruce Stebbins  
Secretary