

# Massachusetts Gaming Commission Meeting Minutes

# Date/Time:December 9, 2022, 12:00 p.m.Place:Massachusetts Gaming Commission

VIA CONFERENCE CALL NUMBER: 1-646-741-5292 PARTICIPANT CODE: 112 671 3811

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. <u>Call to Order</u> (00:00)

Chair Judd-Stein called to order the 409<sup>th</sup> Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all five commissioners were present for the meeting.

2. <u>Review of Meeting Minutes</u> (00:42)

a. September 15th, 2022

The September 15, 2022, Public Meeting Minutes were included in the Commissioner's Packet on pages 1 through 11.

Commissioner Hill moved that the Commission approve the minutes from the September 15, 2022, public meeting that are included in the Commissioner's Packet, subject to any necessary corrections for typographical errors or other non-material matters. The motion was seconded by Commissioner Skinner.

Roll call vote:Aye.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 (01:48)

a. On-site Casino Updates

Chair Judd-Stein introduced Gaming Agents Division Chief Bruce Band. Chief Band stated that MGM Springfield ("MGM") was considering adding more tables on their casino floor for the highly popular game Pontoon 21. He stated that Plainridge Park Casino ("PPC") had begun construction on their temporary sports wagering booth on the casino floor in slot zone D8. He stated that Encore Boston Harbor ("EBH") had redone level B1 with a new paint job and other updates. Chief Band also confirmed that inspections on all three gaming establishments will be completed in the first week of January pending approval of the sports wagering licenses.

Commissioner Skinner asked Chief Band about how many tables MGM currently has for Pontoon 21 and Chief Band responded that there were six tables. Additionally, Commissioner Skinner asked whether MGM had completed their testing and Chief Band confirmed that testing was still ongoing.

### b. Vacation Time Roll-Over Update (04:53)

Chief People and Diversity Officer David Muldrew stated that the prior practice for vacation rollover was two years and that the Commonwealth of Massachusetts' Human Resources Division ("HRD") as of right now and moving forward will allow four years of vacation rollover. Chief Muldrew is requesting that the Commission vote to continue following the HRD practice of allowing four years of vacation rollover.

Commissioner Hill moved that the Commission adopt the same adjustment to the vacation carryover policy that the Commonwealth's Human Resources Division has implemented, 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.

# 4. <u>Racing Division</u> (07:40)

- a. Plainridge Park Requests
  - i. Request for 2023 Premium Free Period

Director of the Racing Division and Chief Veterinarian Alexandra Lightbown introduced the Plainridge Park Casino's ("PPC") Director of Racing Steve O'Toole. Director Lightbown stated that in accordance with G.L. c. 128C, § 2(4), PPC had requested that the premium free period run from Sunday June 18, 2023, through Saturday September 9, 2023. She stated that the Racing Division recommended approving this request.

Commissioner Skinner sought clarification regarding the premium free period. Director Lightbown explained that in the original simulcast legislation, there was a statutory twelve-week period where the licensee would not have to pay premiums to other tracks for their signals.

Commissioner Skinner asked if there was an outstanding legal issue with respect to the approval of signals. Director Lightbown stated that the issue had been resolved. Commissioner Skinner asked the Commission should approve the import and export signals before approving the premium free period. General Counsel Todd Grossman stated that it would make sense to vote on approving the premium free period after the signals were approved.

ii. <u>Request for Approval of 2023 Simulcast Export Locations</u> (14:00)

*PPC's List Of Simulcast Export Locations* was included in the Commissioner's Packet on pages 19 through 36.

Director Lightbown stated that PPC had submitted a request for simulcast export locations as part of their application. She stated that PPC was using the same signals that had been approved for years. She noted that PPC did not have to take all of the approved signals. She stated that the request from PPC was in compliance with G.L. Chapter 128C, § 2.

Commissioner Skinner requested a recap regarding the legal issues related to simulcast signals. General Counsel Grossman stated that the first issue was ensuring that the simulcast signals complied with the parameters of G.L. Chapter 128C, § 2. He stated that the second issue was regarding the right to approve certain signals. He stated that the New England Horsemen's Benevolent and Protective Association (NEHBPA) was satisfied that they had the right to approve those signals.

Mr. O'Toole explained that the signal "exports" would mean that PPC's live races would be transmitted to other outlets; and that signal "imports" would equate to races at other tracks being brought to PPC's system for patrons to view and wager upon.

Commissioner O'Brien moved that the Commission approve PPC's request for approval of the simulcast export locations listed as Exhibit 28 in their Application For a License To Hold or Conduct a Racing Meeting in 2023 as included in the Commissioner's Packet and discussed 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.		

iii. <u>Request for Approval of 2023 Simulcast Import Locations</u> (20:12)

*PPC's List of Simulcast Import Locations* was included in the Commissioner's Packet on pages 38 through 42.

Director Lightbown stated that some of PPC's simulcast signal imports were for greyhound racing. She explained that due to Chapter 128 of the Acts of 2022, greyhound racing was not permitted as of August 1, 2023. She stated that the Racing Division recommended that the Commission approve simulcast import signals for horseracing through the entire calendar year and approve import signals for greyhound racing through August 1, 2023. She stated that PPC was aware of the statute related to greyhound racing.

Commissioner O'Brien moved that the Commission approve PPC's request for approval of the simulcast import locations for horseracing listed in their application for a License To Hold Or Conduct A Racing Meeting in 2023, for calendar year 2023; and that the Commission also approve PPC's request for approval of simulcast import locations for greyhound dog racing listed in their Application For a License To Hold or Conduct a Racing Meeting in 2023 only until August 1, 2023, consistent with Chapter 128 of the Acts of 2022 as included in the Commissioner's Packet and discussed here today. 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.	
<i>The motion passed unanimously, 5-0.</i>		

Commissioner Hill moved that the Commission approve PPC's request for 2023 premium free period as included in the Commissioner's 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.

Chair Judd-Stein stated that the Commission would need to circle back at some point to address the references in the law regarding the Interstate Horseracing Act of 1978.

iv. Request for Approval of 2023 Account Wagering Provider (28:55)

Director Lightbown stated that PPC had listed in its application that its account wagering provider would continue to be Hollywood Races. She noted that Hollywood Races was originally approved in 2016 when PPC switched from an in-house account wagering company to Penn's account wagering company.

Commissioner O'Brien moved that the Commission approve PPC's request for approval of their account wagering through Penn ADW, LLC d/b/a Hollywood Races using the eBet technology platform listed as Exhibit 29 in their license to hold or conduct a racing meet in 2023; and specifically further that Penn ADW, LLC d/b/a Hollywood Races not accept wagering in Massachusetts on greyhound dog racing after July 31, 2023, consistent with Chapter 128 of the Acts of 2022. 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.

b. Suffolk Downs Requests (32:20)

i. Request for Approval of 2023 Simulcast Import Locations

Director Lightbown noted that Suffolk Downs was not conducting live racing and would not have signal exports. *Suffolk Downs' List of Simulcast Import Locations* was included in the Commissioner's Packet on pages 51 through 52.

Commissioner O'Brien inquired whether the language of "until August 1, 2023" or "through July 31, 2023" would have different effects. Director Lightbown stated that the wording in the statute was "until August 1, 2023".

Suffolk Downs' Attorney Bruce Barnett explained that the statute inserted a new section into G.L. Chapter 128C, and that the section of the Special Act that updates the statute takes effect on August 1, 2023. He stated that his client understood this to mean that the approval was through August 1, 2023, and would end on 11:59PM, July 31, 2023. Commissioner O'Brien stated that "through July 31, 2023" and "until August 1, 2023" had the same meaning. Director Lightbown stated that the letters going to the racetracks regarding the approval of simulcasting would use statutory language.

Commissioner Hill stated that he saw a newscast that the current simulcast facility would no longer be in the same location in the near future. He asked where wagers would be placed once development started. Mr. Barnett stated that the licensee sold the real estate property to a development company in 2017 and was currently a leased tenant. He stated that Suffolk Downs' lease was currently through calendar year 2023. He stated that Suffolk Downs would inform the Commission before it moved anywhere. Commissioner Hill stated that the lease being through 2023 alleviated some of his concerns. Mr. Barnett noted that while the lease was through 2023, a move could possibly happen before then. General Counsel Grossman explained that there was a legal significance attached to where Suffolk Downs was authorized to simulcast under the sports wagering statute. Chair Judd-Stein respectfully noted that this topic was not on the agenda for discussion.

Commissioner O'Brien moved that the Commission approve Suffolk Downs' request for approval of the simulcast import locations for horseracing listed in their November 30, 2022, letter pertaining to calendar year 2023, and that the Commission also approve Suffolk Downs' request for approval of simulcast import locations for greyhound dog racing also listed in their November 30, 2022, letter only until August 1, 2023, consistent with Chapter 128 of the Acts of 2022, as included in the Commissioner's Packet and discussed 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.

ii. <u>Request for 2023 Premium Free Period</u> (42:04)

Director Lightbown stated that Suffolk Downs requested their premium free period to run from October 9, 2023, through December 31, 2023.

Commissioner Hill moved that the Commission approve Suffolk Downs' request for 2023 premium free period as included in the Commissioner's 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.

iii. Request for Approval of 2023 Account Wagering Providers (43:36)

Director Lightbown stated that all ADW providers requested by Suffolk Downs - with the exception of Caesars Racebook - had previously been approved by the Commission. She stated that the Racing Division recommended that the Commission approve this request. Director Lightbown stated that interest in racing had increased with the legalization of sports wagering. *Suffolk Downs' request for approval of their 2023 account wagering providers* was included in the Commissioner's Packet on pages 55 through 56.

Commissioner O'Brien noted that category three sports wagering applicant BetMGM was one of the requested account wagering providers. She stated that there was a distinction in the level of review in this context in comparison to the level of review in the sports wagering and gaming contexts. Director Lightbown agreed and stated that the Racing Division's recommendation was only for approval related to horseracing, and that it would not have any bearing on any other license application being submitted to the Commission. Chair Judd-Stein stated that the current level of review met the established standards for horseracing. She stated that it might be beneficial for the Commission to review the regulatory scheme related to horseracing.

Commissioner O'Brien moved that the Commission approve Suffolk Down's request for approval of XpressBet LLC, 1/ST Bet, TVG, Twin Spires, FanDuel Racing, NYRAbets, BetMGM and Caesars Racebook as their advanced deposit wagering vendors for parimutuel wagering purposes only, and that the above vendors may accept wagering in Massachusetts on greyhound dog racing only until August 1, 2023, consistent with Chapter 128 of the Acts of 2022 as included in the Commissioner's Packet and discussed here today.

Commissioner Skinner offered an amendment saying that Section 17 of the statute used the language "until July 31, 2023". Director Lightbown noted that Section 18 of the statutes stated that Section A(1) would take effect August 1, 2023. General Counsel Grossman suggested that the language could be through July 31, 2023, and ending on August 1, 2023. Commissioner Skinner stated that her offered amendment was to be consistent with Section 17.

Mr. Barnett stated that Section 18 was only the effective date for Section A (1) which inserted the new section into G.L. Chapter 128C. He stated that no provision of the Special Act stated, "until August 1, 2023". He stated that the language in Section 17 related to the perennial reauthorization of Suffolk Downs authorization as a racing meeting licensee, and to conduct simulcasting. General Counsel Grossman stated that the dates were intended to be read together and take effect at the same time. Commissioner Skinner then withdrew her request for amendment. 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.		

c. <u>Raynham Park</u> (58:30)

i. Request for Approval of 2023 Simulcast Import Locations

Raynham Park's list of requested 2023 simulcast import locations was included in the Commissioner's Packet on pages 64 through 66.

Commissioner O'Brien moved that the Commission approve the Massasoit Raynham's request for approval for simulcast import locations for horseracing listed in the December 1, 2022 letter for calendar year 2023 and that the Commission also approve the Massasoit Raynham's request for approval of simulcast import locations for greyhound dog racing also listed in their December 1, 2022, letter only until August 1, 2023, consistent with Chapter 128 of the Acts of 2022 as included in the Commissioner's Packet and discussed 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.

ii. Request for Approval of 2023 Account Wagering Provider (1:00:55)

Director Lightbown stated that Raynham Park was using an in-house account wagering provider called Dial2Bet and using US Off-Track LLC as their wagering phone service. She stated that

Raynham Park was using these services since account wagering entered the Commonwealth around 2001.

Commissioner O'Brien moved that the Commission approve Massasoit Raynham's request for approval of Dial2Bet and US Off-Track LLC for account wagering as listed in their December 1, 2022, letter; and further that Dial2Bet facilitated by US Off-Track LLC be directed not to accept wagering in Massachusetts on greyhound dog racing after July 31, 2023, consistent with Chapter 128 of the Acts of 2022, as referenced in the Commissioner's Packet and further discussed here today. 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.

5. <u>Research and Responsible Gaming Division</u> (1:03:40)

a. M.G.L. 23N Sports Wagering Studies Updates

Director of Research and Responsible Gaming, Mark Vander Linden stated that there were two research plans included in the 2022 Act to Regulate Sports Wagering. He stated that the first study examined the feasibility of the operation of sports wagering kiosks at retail locations in Massachusetts. He stated that the second study was an examination of the participation of minority-owned business enterprises ("MBE"), women-owned business enterprises ("WBE"), and veteran-owned business enterprises ("VBE") in the sports wagering industry in the Commonwealth.

Director Vander Linden stated that following Commissioners' feedback, the Research And Responsible Gaming Division would deliver these reports to the Joint Committee on Economic Development and Emerging Technologies by December 31, 2023, as required by statute.

> i. <u>M.G.L. 23N Section 20: Research Study Examining The Feasibility Of</u> <u>Allowing Retail Locations In The Commonwealth To Operate Sports Wagering</u> <u>Kiosks</u> (1:05:42)

Director Vander Linden explained that this was a prospective study examining an overview of what was currently available in the United States. He stated that Arizona, Connecticut, Delaware, Kansas, Maryland, Louisiana, Montana, Ohio, and Washington D.C. allowed kiosks in non-gaming settings. He stated that a number of research questions were included in the report, and that one of note, was the impact sports wagering kiosks would have on the lottery. He stated that there were also concerns about how the kiosks would impact vulnerable populations. He stated

that there was also the question of whether kiosks in retail settings would take patrons away from the existing casinos and potential sports wagering operators. The *Proposed Research Plan For The Kiosk Study* was included in the Commissioner's Packet on pages 72 through 83.

Commissioner Hill asked if veterans' facilities and organizations were considered as part of the retail locations. Director Vander Linden stated that veterans' facilities were not captured in the initial report, but that he would include them. Chair Judd-Stein asked if the Commission had sent correspondence to the Legislature regarding kiosks at veterans' associations. Commissioner O'Brien stated that the letter the Commission sent was regarding slot machines in veterans' associations. Commissioner Hill stated that veterans' organizations expressed an interest in having sports wagering kiosks.

Commissioner Hill requested that the research include restauranteurs and restaurant associations as a data point. Director Vander Linden stated that the team would consider multiple sources of information including key informant interviews. Commissioner O'Brien noted that lottery machines were able to track sales frequency, and that sports kiosks could be moved, if they negatively impact keno or other lottery games. She stated that information received from category one licensees might be useful in discerning the impact on the lottery.

Commissioner O'Brien stated that there should be input from the Investigations and Enforcement Bureau ("IEB") regarding the oversight of kiosk integrity. She stated that public safety and crime related impacts should be considered alongside consumer protections. She stated that there may be safety concerns related to patrons carrying significant amounts of cash. Chair Judd-Stein echoed Commissioner O'Brien's request that the IEB provide guidance related to the integrity piece of the study.

Chair Judd-Stein stated that there are many opportunities for sports wagering to be an economic driver for businesses, but that there were challenges in implementation. She stated that the scoping document could be submitted to the Legislature. Director Vander Linden stated that he anticipated a competitive procurement process for this study to begin in January 2024.

Commissioner Skinner asked if there should be a question related to self-excluded individuals being able to access the kiosks. Chair Judd-Stein stated that this question would best fit in under question seven. Director Vander Linden stated that he would add a sub-question there related to self-excluded individuals.

Commissioner Maynard asked how broad the term "retail location" was. Director Vander Linden stated that the scoping included a piece on locations that do not serve alcohol, but that the full breadth of what "retail organizations" was not included. He stated that it would include veterans' organizations, fraternal organizations, retail locations that serve alcoholic beverages, convenience stores, and gas stations. Research Manager, Dr. Bonnie Andrews stated that the legislation referred broadly to retail locations without providing a definition. Director Vander

Linden stated that his team would make revisions before delivering the reports to the Joint Committee on Economic Development and Emerging Technologies by the deadline.

ii. M.G.L. 23N Section 25: A Research Study On The Participation By Minority Business Enterprises, Women Business Enterprises, And Veteran Business Enterprises In The Sports Wagering Industry In The Commonwealth (1:22:59)

Director Vander Linden stated that Dr. Andrews had examined diversity, equity, and inclusion ("DEI") initiatives across throughout the gaming industry. He stated that the wording in the statute required this study to be launched after the sports wagering industry had been established in the Commonwealth. He stated that this study would likely be included in the fiscal year 2024 research agenda. The *Proposed Research Plan Related To Diversity, Equity, And Inclusion In The Sports Wagering Industry* was included in the Commissioner's Packet on pages 84 through 88.

Director Vander Linden stated that there were three broad categories of research questions. He stated that the first category examined "the participation by MBE, WBE, and VBE in the Commonwealth in activities related to the regulation, licensing, and promotion of sports wagering". He stated that the second category examined "the level of participation for these groups for the sports wagering licensees and employers". He stated that the third category examined "the level of participation with businesses that contract or provide services to sports wagering licensees and employers."

Dr Andrews stated that it was difficult to find information related specifically to sports wagering in her literature review. Director Vander Linden stated that the Commission worked with the All-In Diversity Project and stated that connection might be useful for scoping this study. Chair Judd-Stein asked why the last two bullets did not reference VBEs. Dr. Andrews stated that the legislation did not include veterans on those topics. Director Vander Linden stated that information related to VBEs could be added to those topics, however.

Chair Judd-Stein stated that sports wagering would be in place for six months at the time research would begin on this topic. Director Vander Linden stated that if this study launched at the beginning of FY24, retail sports wagering would have been available for six months, but mobile sports wagering would have been available for a shorter time. He stated that if procurement began in July of 2024, the study could launch by late Summer, and that the final report to the Commission would be toward the end of FY24.

# 6. Commissioner Updates (1:33:52)

# a. Annual Report Update

*Transcriber's Note: Due to a technical error, the video recording of this meeting did not capture the discussion for agenda items 6a, and 7a and 7b.* 

Chief Administrative Officer to the Chair and Special Projects Manager Crystal Beauchemin presented an updated draft of the initial pages of the 2022 Annual report for the Commissioners' consideration. The *Updated Pages* were included in the Commissioner's Packet on pages 89 through 93.

### 7. Executive Session

a. Department of Labor Relations Proceedings

Chair Judd-Stein stated that the Commission anticipated that it would meet in executive session in accordance with G.L. c. 30A, § 21(a)(3), to discuss strategy with respect to collective bargaining and litigation associated with the proceedings presently before the Department of Labor Relations docketed as case no. WMAS-22-9563 as discussion at an open meeting may have a detrimental effect on the bargaining and/or litigating position of the Commission. She stated that the public session of the Commission meeting would not reconvene at the conclusion of the executive session.

Commissioner O'Brien moved to enter an Executive Session for the reasons articulated by the Chair. 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.

b. Executive Session Minutes

Chair Judd-Stein stated that the Commission anticipated that it would meet in executive session for purposes of reviewing and approving meeting minutes from previous executive sessions of the Commission as reviewing such materials in public would compromise the purpose for which the initial executive sessions were called. She stated that the public session of the Commission meeting would not reconvene at the conclusion of the executive session.

Commissioner O'Brien moved to enter an Executive Session. The motion was seconded by Commissioner Skinner.

Roll call vote:	
Commissioner O'Brien:	Aye.
Commissioner Hill:	Aye.
Commissioner Skinner:	Aye.

Commissioner MaynardAye.Chair Judd-Stein:Aye.The motion passed unanimously 5-0.

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

### List of Documents and Other Items Used

1. Notice of Meeting and Agenda dated December 6, 2022

2. <u>Commissioner's Packet</u> from the December 9, 2022, meeting (posted on massgaming.com)