



Massachusetts Gaming Commission Meeting Minutes

Date/Time: February 11, 2021 – 10:00 a.m.

Place: Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5292
MEETING ID: 111 998 7348

Given the unprecedented circumstances, Governor Charles Baker issued an order to provide limited relief from certain provisions of the Open Meeting Law to protect the health and safety of the public and individuals interested in attending public meetings during the global Coronavirus pandemic. In keeping with the guidance provided, the Commission conducted this public meeting utilizing remote collaboration technology.

00:00:00: [Call to Order](#)

Chair Cathy Judd-Stein called to order public meeting #335 of the Massachusetts Gaming Commission (“Commission”).

The Chair confirmed a quorum for the meeting with a Roll Call. The following Commissioners were present:

*Commissioner Cameron
Commissioner O’Brien
Commissioner Zuniga
Chair Judd-Stein*

00:01:14: [Approval of Minutes](#)

Commissioner O’Brien moved to approve the minutes from the Commission meeting of October 8, 2020, subject to correction for typographical errors and other nonmaterial matters.

Commissioner Cameron seconded the motion.

Roll Call Vote:

*Commissioner Cameron: Aye
Commissioner O’Brien: Aye
Commissioner Zuniga: Aye
Chair Judd-Stein: Aye*

The motion passed unanimously.

Commissioner O'Brien moved to approve the minutes from the Commission meeting of October 22, 2020, subject to correction for typographical errors and other nonmaterial matters.

Commissioner Cameron seconded the motion.

Roll Call Vote:

Commissioner Cameron: Aye

Commissioner O'Brien: Aye

Commissioner Zuniga: Aye

Chair Judd-Stein: Aye

The motion passed unanimously.

00:03:01: Administrative Update

Executive Director Karen Wells informed the Commissioners of changes recommended by Licensing Division Chief Nakisha Skinner. Pursuant to authority granted to the Executive Director in January 2019 to approve administrative and ministerial changes to positions exempt from registration requirements. Director Wells approved two exempt positions at Encore Boston Harbor. Specifically, Encore requested, and was granted, exemptions for the positions of Resort Support Ambassador and Uniform Control Supervisor.

00:06:49: On-site Casino Updates

IEB Director Loretta Lillios explained that the 25% capacity level restriction for all gaming establishments had expired and the establishments are able to return to the capacity limits set out in the formula the Commission adopted in June 2020 regarding maximum reduced capacity. The formula is based in part on the number of gaming positions and takes into account the number of employees on-site. The IEB has been working with each gaming establishment to update their respective capacity numbers, although each establishment has agreed to a 40% capacity limit. All COVID-19 measures remain in effect, including but not limited to, mask requirements, distancing requirements, and heightened sanitization.

Commissioner Zuniga asked for an update regarding the closing time of the casinos. Director Lillios explained that the 9:30 pm closing time previously put in place had been lifted and the casinos are now operating 24 hours a day, 7 days a week. The hotel at Encore re-opened with the return of normal hours.

Commissioner O'Brien asked whether the capacity at any of the casinos had approached 40% prior to the 25% capacity limit being put in place. Director Lillios answered that the casinos were well under 40% capacity, and in fact, below 25% capacity.

Commissioner Zuniga asked if it was fair to say that there is now less risk of critical congregations with the removal of the 9:30 pm closing time. Assistant Director, Gaming Agents Division Chief Bruce Band answered that any issues with the 9:00 or 9:30 hour have been eliminated.

Chair Judd-Stein asked Director Lillios to update the Commission regarding the status of the Governor's orders with regard to gathering limits. Director Lillios answered that gatherings remained limited to 10 individuals indoors and 25 individuals outdoors. Hotel requirements have remained the same.

00:16:08: [MGC-Human Resource Division Presentation](#)

HR Manager Trupti Banda provided an update on the Human Resource Division's initiatives for the last ten months of remote operations. In particular, the HR Division's efforts have been focused on virtual workplace culture, professional development, and diversity. As part of this work, HR conducted an employee survey concerning how it could better support staff during remote operations. Some of the initiatives the HR Division has been working on include:

- Social Distraction emails intended to create a conversation and build community with staff
- MGC office hours and smaller focus group meetings regarding targeted topics
- Working with Executive Director Wells to plan town hall meetings
- Ensuring employee safety, including the development of detailed COVID-19 guidelines for on-site staff in line with CDC and DPH protocols
- Supervisor training
- Updating the employee handbook for all staff

Commissioner Cameron asked how Ms. Banda would assess whether members of the MGC community remain engaged and whether there are any challenges of which the Commission should be aware. Ms. Banda responded that the Commission always needs to keep an eye out for individuals who may be having a difficult time and one way to do that is through HR's office hours and small group meetings. HR is also considering one-on-one check-in meetings.

Commissioner Zuniga encouraged MGC staff to utilize the many resources that are available through the HR Division, especially in light of the extended pandemic.

After the conclusion of the HR Division update, Commissioner Judd-Stein returned to the topic of the on-site casino update and asked Director Lillios for an update regarding a restaurant closure at Encore. Director Lillios explained that after an incident at the Mystique restaurant, Encore took a robust response and closed the restaurant. Opening was subject to approval by the IEB. The restaurant is now open, after a complete inspection by the IEB. Encore was cooperative and the restaurant continues to maintain proper distancing.

Commissioner O'Brien asked if the restaurant still has high-top seating, which had been a concern to IEB staff. Director Band responded that there is still high-top seating, but it is distanced. Director Lillios noted that she is happy with the current layout and she feels comfortable with the adjustments made by Encore.

00:32:56: [Independent Monitor Update](#)

Alejandra Montenegro Almonte of Miller & Chevalier made a presentation on behalf of the Independent Compliance Monitor regarding Wynn MA, LLC. The presentation included a summary of the Monitor's Phase II Assessment Report, including a general overview of the goals of Phase II, the general impact of the COVID-19 pandemic, a summary of review and testing activities, and overall observations. The presentation also included the Monitor's findings by compliance hallmark and concluding observations. The PowerPoint presentation used by Ms. Almonte is included in the Commissioners' packet.

Commissioner Cameron stated this was a very thorough report on the work the monitoring team has done. The Commissioner also noted the number of upcoming policy deadlines and asked if there had been any conversation about the company's capabilities for updating the policies in the next couple of months. Ms. Almonte responded that the monitor team had reviewed the deadlines with the company. Concern was raised about one deadline related to the code of conduct, after which the deadline was modified.

Commissioner Zuniga also noted that the Monitor made a very thorough report and presentation. Commissioner Zuniga asked Ms. Almonte to explain the company's top priorities. Ms. Almonte answered that interaction with patrons and engagement with employees themselves are top priorities. Another priority is continuing to enhance internal reporting and investigation procedures. Those two priorities go hand in hand and the Monitor will continue to evaluate the company's investigations.

Commissioner Zuniga also asked whether there were differences between employment laws across states that are particularly relevant. Ms. Almonte explained that there are some nuanced differences and that the Monitor has noted differences that are worth highlighting for the bodies tasked with oversight.

Commissioner O'Brien thanked Ms. Almonte and her team for the report. She noted that the company is capable of doing tremendous things when it puts its mind to it and hopes it listens to the Monitor regarding areas for improvement. In particular, Commissioner O'Brien expressed concern with the company's repeated disregard for differences in Massachusetts law. She is also concerned about conflict of interest issues and hopes such issues are emphasized with the company going forward.

Chair Judd-Stein reiterated her thanks for the Monitor's work and recognized the company's leadership as it addressed the COVID-19 pandemic. With regard to communications strategy, the Chair emphasized that it should be an easy issue for the company to address. Chair Judd-Stein also appreciated how the Monitor encouraged compliance with priorities regarding HR issues and sexual harassment.

Chair Judd-Stein highlighted the fact that the company had the opportunity to respond to the Monitor's report. She emphasized the company's pride in its efforts during the COVID-19 period and one line that stood out to her: "Even though we remain operating in a challenging

environment, we know that the recommendations are made with the view of assisting us in enhancing what we believe is an enviable work environment.”

01:50:52: Financial Division

Quarterly Budget Update

Chief Financial and Accounting Officer Derek Lennon presented the second budget update for fiscal year 2021. Mr. Lennon noted that the Commission had approved an FY21 budget for the Gaming Control Fund of \$32.42 million. The budget is composed of \$26.9 million in regulatory costs and \$5.52 million in statutorily required costs. After balance forwards from FY20, the assessment was reduced to \$27.61 million. In addition, the Commission approved an additional \$5 million assessment for the Public Health Trust Fund. Mr. Lennon reminded the Commission that the \$5 million was split, with \$3.75 million being billed starting in September and \$1.25 million at the end of June 2021. For this quarterly update, the finance office recommended an increase of \$172,750 to the Gaming Control Fund.

Mr. Lennon recommended an administrative budget for the Community Mitigation Fund and adjustments to the licensees’ shares. Mr. Lennon also requested an additional \$300,000 in the litigation budget on top of the minimum required by the Commission’s insurance policy. Mr. Lennon is not requesting an increase in the budget for State Police overtime.

Mr. Lennon is projecting an additional \$50,000 in turnover savings. He recommends shifting \$227,000 in salaries from the Gaming Control Fund to the Community Mitigation Fund. There is an increase in spending for the independent Monitor, but those amounts are ultimately covered by the licensee, resulting in a wash.

A memorandum regarding the FY21 Second Budget Update is included in the Commissioners’ packet.

01:58:09: Community Mitigation Fund

Mr. Lennon began by explaining that on December 27, 2020, the Commission approved regulations for the Community Mitigation Fund. Paragraph 5 of 205 CMR 153 allows the Commission to expend funds for the administration of the program. The general requirements are that administration costs do not exceed 10% of the amount available that fiscal year, the precise amount is set at a public meeting, and the cost is relatively related to the program. Finance is requesting a budget of \$337,000 to fund Community Affairs staff, a database for the program, and travel and reimbursement costs.

Commissioner Zuniga noted that he believes the recommendation is appropriate and was calculated correctly. He was glad to see an amount carved out for a database.

Commissioner Cameron commended Capt. Connors regarding his work related to State Police overtime, and in particular the transparency of the process.

Commissioner Zuniga moved to approve the budget adjustments and assessments recommended by Chief Financial and Accounting Officer Lennon as discussed in his memorandum and at the meeting.

Commissioner Cameron seconded the motion.

Roll Call Vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Zuniga: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

The Commission took a lunch break.

Upon returning, the Chair confirmed a quorum for the meeting with a Roll Call. The following Commissioners were present:

Commissioner Cameron

Commissioner O'Brien

Commissioner Zuniga

Chair Judd-Stein

02:10:19: [Community Affairs Division](#)

Community Affairs Division Chief Joseph Delaney introduced Jacqui Krum, Senior Vice President and General Counsel of Encore Boston Harbor, and North Grounsell, General Manager of Plainridge Park Casino, to present their respective quarterly reports.

Encore Boston Harbor Quarterly Report – Q4 2020

Pursuant to Governor Baker's Order No. 53, Encore ceased operations at 9 pm on November 6, 2020, after which Encore began operating from 9 a.m. to 9 p.m. Encore's hotel was closed for the remainder of the fourth quarter. A decline in gaming total revenue and taxes is reflected accordingly. Lottery sales continued to be strong, without much of a decline. With regard to workforce, Encore exceeded its goals for minority and veteran employees and fell below its goals for women employees.

Q4 2020 operating spend for diversity was then presented. In particular, 30% of Encore's Q4 discretionary spend went toward diverse enterprises. Information was also presented regarding Encore's local spending in Q4 2020.

There were not any minors intercepted consuming alcohol in Q4. There was 1 minor intercepted on the gaming floor and prevented from gaming, 2 minors intercepted gaming, 2 minors intercepted at slot machines, and 1 minor intercepted at table games.

Special Events at Encore included the introduction of Wynn Sports, which sells sports apparel. Encore also created a Massachusetts Gold Star Family Tree, where people place messages to

loved ones during the holiday season. An employee bake sale was also organized to benefit the Pine Street Inn and raised nearly \$6,000, including a Wynn Foundation match.

Commissioner Cameron asked why the Q4 diversity spend was so strong. Ms. Krum responded that there has been a consistent effort made by Encore which has paid off. Commissioner Cameron also asked how Encore worked with the local business highlighted in the presentation. Ms. Krum answered that they worked with the business to develop the kind of quality Encore desires. Finally, Commissioner Cameron asked how lottery sales stayed so strong. Ms. Krum said that there are strong lottery sales during the holiday season. Additionally, 60% of their regular players have returned.

Commissioner Zuniga asked Ms. Krum to identify the quarter in which Encore was really ramping up its operation. Ms. Krum confirmed that it was Q3 2019. Commissioner Zuniga then asked if Ms. Krum had any additional insights regarding the play in 2019 versus in 2020. Ms. Krum explained that Encore was continuing to ramp up its customer base and customers were deciding whether they wanted to continue play with Encore's competitors. During COVID, Encore worked to maximize its slot games, but now there is an increase in table games.

Chair Judd-Stein noted that she is looking forward to women returning to the workforce. Ms. Krum responded that because Encore offers shifts, they have seen women requesting changes in shifts to accommodate childcare schedule. They hope to continue to work with women to make sure they can get back into the workplace.

The PowerPoint presentation used by Ms. Krum in her quarterly report is included in the Commissioners' packet.

02:29:31 [Plainridge Park Casino Quarterly Report – Q4 2020](#)

Mr. Grounsell explained that in Q4 2020, 25% of Plainridge Park Casino's ("PPC") qualified spend was with diverse suppliers, exceeding its goal. PPC reported zero instances of underage or minor guests on the gaming floor, zero instances of minors gaming, and zero instances of underage/ minors consuming alcohol. PPC also exceeded its workplace goals with regard to diverse and veteran representation.

Mr. Grounsell then introduced Ms. Dana Fortney, who reported on gaming revenue and taxes. PPC generated just under \$27 million in net slot revenue, with total taxes of over \$13 million paid to the Commonwealth. PPC also sold over \$350,000 in lottery tickets, which is down 55% from the prior year. Ms. Fortney then addressed PPC's in-state and local spend as well as vendor diversity.

Commissioner Zuniga asked PPC to speak to the differences between revenue in 2019 and 2020. Ms. Fortney explained that PPC shifted its promotions to earlier hours in the day during the period when it had to close early. They are also continuously looking at reinvestment on the floor.

Ms. Cathy Lucas then discussed fourth quarter compliance, explaining that PPC prevented 643 individuals from entering the gaming establishment, of which 620 has no ID or an expired ID, 14 were underage, and 9 were minors. Ms. Lucas also outlined PPC's employment numbers in Q4.

Commissioner Cameron noted that women make up the bulk of PPC's hospitality staff and asked if that is the reason why the number of women employees was so low. Ms. Lucas responded that the departments PPC did not bring back, including bartenders and servers, included many women. They hope to be able to recall most of those employees.

Chair Judd-Stein inquired into the percent of diverse employees by category. Ms. Lucas explained that there are 72 team members in the supervisor or above role that are in one of the diverse categories, out of 335.

The PowerPoint presentation used by PPC in his quarterly report is included in the Commissioners' packet.

With no further business, Commissioner Zuniga moved to adjourn.

Commissioner Cameron seconded the motion.

Roll-Call Vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Zuniga: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

List of Documents and Other Items Used

1. Notice of Meeting and Agenda dated February 9, 2021.
2. Draft Commission Meeting Minutes of October 8, 2020
3. Draft Commission Meeting Minutes of October 22, 2020
4. Miller & Chevalier Independent Compliance Monitor Summary of Phase II Assessment Report PowerPoint Presentation
5. Wynn Resorts, Limited and Wynn MA, LLC Independent Compliance Monitor Phase II Report
6. Wynn Resorts, Limited and Wynn MA, LLC's Preliminary Response to Wynn Resorts, Limited and Wynn MA, LLC Independent Compliance Monitor Phase II Report
7. Memorandum of Fiscal Year 2021 (FY21) Second Budget Update
8. Encore Boston Harbor Quarterly Report Q4 2020 PowerPoint Presentation
9. Quarterly Report as of December 31, 2020
10. Quarterly Report Attestation Required under 205 CMR 139.06 (1)
11. Quarterly Report Attestation Required under 205 CMR 139.06 (2)
12. Plainridge Park Q4 Report PowerPoint Presentation
13. Plainridge Park Casino Q4/2020, 205 CMR 139.06 (1) Attestation
14. Plainridge Park Casino Q4/2020, 205 CMR 139.06 (2) Attestation