



Massachusetts Gaming Commission Meeting Minutes

Date/Time: February 23, 2023, 10:00 a.m.
Place: Massachusetts Gaming Commission

VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 111 1431 1966

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)

Chair Judd-Stein called to order the 436th Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all five Commissioners were present for the meeting.

2. [Meeting Minutes](#) (1:10)

a. October 13, 2022

Commissioner Hill moved that the Commission approve the minutes from the October 13, 2022, public meeting that were included in the Commissioner's Packet, subject to any necessary corrections for typographical errors or other non-material matters. 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.

3. [Administrative Update](#) (02:54)

a. Encore Boston Harbor (“EBH”) Non-Compliance Issue

Executive Director Wells explained that there was another incident of non-compliance with respect to approved events at EBH. Director of Sports Wagering Bruce Band reported that patrons at EBH were allowed to bet on the Boston College women’s team despite the prohibition on wagering on Massachusetts collegiate teams not involved in a tournament of four or more teams. Executive Director Wells stated that the incident was being reviewed by the Investigations and Enforcement Bureau (“IEB”) and would be brought to the Commission in the following week.

Commissioner O’Brien asked if there was any insight as to how this issue of non-compliance happened again so quickly. Director Band explained that there was a glitch in the GAN system that automatically reactivated this form of betting after it had been turned off. He stated that EBH was no longer taking any bets on women’s NCAA basketball events. Commissioner O’Brien asked if EBH was the only operator to use GAN. Director Band replied that EBH was the only operator using GAN and that they were attempting to identify the glitch.

4. [Racing Division](#) (05:16)

a. 2021 Plainridge Racecourse Unpaid Winnings

Chief Veterinarian and Director of Racing Dr. Alex Lightbown explained that patrons have a year after placing wagers to claim any winnings. She explained that after that time period, any unclaimed funds can be sent to the Commission and pending Commission approval redistributed to various funds.

Commissioner O’Brien moved that the Commission approve the payment of \$124,370.56 from the Plainridge Racecourse to the Commonwealth of Massachusetts for 2021 unclaimed winnings in accordance with General Law Chapter 128A(5)(a). 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.

b. [2021 Suffolk Downs Unpaid Winnings](#) (08:08)

Commissioner Hill moved that the Commission approve the payment of \$134,019.51 from the Sterling Suffolk Racecourse to the Commonwealth of Massachusetts for 2021 unclaimed winnings in accordance with General Law Chapter 128A(5)(a). 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.

c. [2021 Wonderland Park Unpaid Winnings](#) (09:21)

Commissioner O'Brien moved that the Commission approve the payment of \$1,742.00 from the Wonderland Greyhound Park to the Commonwealth of Massachusetts for 2021 unclaimed winnings in accordance with General Law Chapter 128A(5)(a). 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.

d. [2021 Raynham Park Unpaid Winnings](#) (10:55)

Commissioner Maynard moved that the Commission approve the payment of \$146,113.47 from the Raynham Taunton Massasoit Greyhound Association to the Commonwealth of Massachusetts for 2021 unclaimed winnings in accordance with General Law Chapter 128A(5)(a). 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.

e. [Authorization for CFAO to Pay Out Funds Once Approved by Commission](#) (12:05)

Dr. Lightbown requested that once the funds were submitted by the licensees and cleared by the Commission's bank accounts, that the funds should be distributed back to the licensees' appropriate accounts. She explained that Plainridge Racecourse and Suffolk Downs have the funds sent to their purse accounts while Raynham and Wonderland have their funds sent to the Racing Stabilization Fund.

Commissioner Skinner moved that the Commission authorize the finance division to distribute funds from unclaimed tickets from Plainridge Racecourse in the amount of \$124,370.56 to the Plainridge Racecourse purse account, to distribute unclaimed tickets from Sterling Suffolk Racecourse in the amount of \$134,019.51 to the Sterling Suffolk Racecourse purse account in accordance with General Law Chapter 128A(5)(a) and General Law Chapter 128C (3)(a), and further that the finance division be authorized to distribute funds from unclaimed tickets from Raynham Taunton Massasoit Greyhound Association in the amount of \$146,413.47 and funds from unclaimed tickets from Wonderland Greyhound Park in the amount of \$1,740.00 to the Racing Stabilization Fund. 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.

f. [Quarterly Local Aid Payments](#) (14:46)

Commissioner Skinner inquired where the .35% distribution figure came from. Dr. Lightbown stated that the language related to the quarterly local aid payments was located in General Law Chapter 128A, § 5(h)(1), which referenced to G.L. Chapter 58, § 18. Chief Financial and Accounting Officer Derek Lennon noted that the provision in G.L. Chapter 58 had since been eliminated and noted that there used to be language that it would be reimbursed from the Racing Stabilization Fund which allowed the Commission to keep .35% of the handle.

Financial Analyst Chad Bourque explained that aid was payable to each city and town where racing activities were conducted determined at a rate of .35% of the handle from the quarter that ended six months prior to the payable date. He explained that the request presented was for the quarter ending December 31, 2022, and that the handles used were from April, May, and June of 2022. Mr. Bourque explained that the City of Boston would receive \$138,354.84, the Town of

Plainville would receive \$43,452.23, the Town of Raynham would receive \$19,825.30, and that the City of Revere would receive \$69,198.28.

Commissioner Hill moved that the Commission authorize local aid payments to the City of Boston in the amount of \$138,354.84, to the Town of Plainville in the amount of \$43,452, to the Town of Raynham in the amount of \$19,825.30, and to the City of Revere for \$69,198.28. 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.

Chair Judd-Stein asked when opening day was. Dr. Lightbown reported that racing would begin on March 10.

5. [Sports Wagering](#) (23:23)

a. Finalization of Temporary Licensing Process for Category 3 Operators

Director Band reported that pursuant to G.L. Chapter 23N, § 6 and 205 CMR 219.00, the Commission received the category three sports wagering applicants' request for temporary licensure to conduct sports wagering. Executive Director Wells explained that nine of the eleven applicants had submitted a request for temporary licensure and the \$1 million temporary licensure fee. She reported that she had made the determination in her role as Executive Director that each of the applicants was a qualified gaming entity. She stated that the applicants that had requested temporary licensure were Bally's Interactive, Betr, DraftKings, FanDuel, Caesars Sportsbook, WynnBet, BetMGM, Fanatics, and Penn Sports Interactive.

Executive Director Wells noted that PointsBet had recently withdrawn their application. She explained that Digital Gaming Corporation USA ("DGC") indicated throughout the application process that they would not be launching for about a year. She noted that DGC had not yet requested a temporary license.

DGC's Corporate Compliance Officer, Gary Ehrlich explained that DGC was acquired by another company as of January 1, 2023. He reported that the entity that acquired DGC filed their required paperwork with the Commission, and that he was unsure what stage of review that information was in at the Commission. He stated that DGC would request a temporary license and pay the temporary license fee once the Commission deemed DGC eligible.

Director Lillios stated that DGC had passed the preliminary suitability and that changes of structure could be addressed post-licensure. Commissioner O'Brien asked if there were any conditions related to the terms of approval. Chair Judd-Stein noted that the Commission could confirm that there were no conditions prior to giving the go-ahead.

Commissioner Skinner asked if there was a preliminary suitability review conducted on the new corporate qualifier. Director Lillios explained that she had received all the required attestations from the entity that acquired the applicant. Commissioner Skinner asked if the purchasing entity was reviewed during the preliminary suitability review for DGC. Director Lillios explained that a review of the acquiring entity did not occur because the suitability review took place prior to the acquisition.

Commissioner Skinner asked if IEB's review of additional qualifiers could be done on a separate track that would not interfere with DGC's application or request for temporary licensure. Director Lillios explained that the IEB had not yet performed the financial analysis or the open-source analysis. She explained that the IEB had not yet determined whether the acquisition resulted in additional individual qualifiers.

Chair Judd-Stein noted that the Commission had previously voted that DGC was eligible to pay the \$1 million temporary licensure fee and get approval to request a temporary license. Mr. Ehrlich explained that DGC would submit the request and the fee once the IEB completed its review and DGC had the Commission's approval. Chair Judd-Stein clarified that DGC had the go-ahead from the Commission.

Chair Judd-Stein asked if any of the other category three applicants did not plan to launch until after the March 10, 2023, launch date. Executive Director Wells reported that Bally's Entertainment and Fanatics were not planning to launch until May. She stated that she was confident in the ability of the licensees to launch on March 10. Director Band noted that GLI was reviewing internal controls, house rules, and geofencing.

Commissioner Hill moved pursuant to General Law Chapter 23N § 6(c)(2) and 205 CMR 219 that the Commission issue a temporary sports wagering license to the following entities and authorize each entity to conduct sports wagering for a period of one year under a temporary license until a final determination on its operator's license application was made; those companies being American Wagering d/b/a Caesars Sportsbook, Bally's Interactive, BetMGM, Betr, Crown MA Gaming d/b/a DraftKings, FBG Enterprise d/b/a Fanatics, Bet Fair Interactive d/b/a FanDuel, Penn Sports Interactive, and WynnBet. 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. [Discussion On Scheduling of Massasoit Greyhound Association \(Raynham Park\) Category 2 Application Review](#) (44:51)

Executive Director Wells reported that the Massasoit Greyhound Association (“Raynham Park”) had submitted an application for a category two sports wagering license. Director Lillios stated that the IEB was working on the preliminary suitability review and that it would be ready to present by March 9.

Director Lillios noted the distinction that this applicant had entered into a contract with Caesars, where Raynham Park would largely act as a landlord and Caesars would be the sports wagering operator. She recommended that the IEB and Legal Division review the contract between the applicant and Caesars. She requested guidance as to whether Caesars would be considered a vendor or qualifier to the applicant.

Commissioner O’Brien asked if the employees at the sports wagering facility would be employees of Caesars or employees of Raynham Park. Director Lillios explained that they would be Raynham Park employees, but that operational expertise would come from Caesars.

Commissioner O’Brien requested to see the information submitted by Raynham Park in their self-certifications for the preliminary suitability review. Director Lillios stated that the report was lengthy and that the IEB would highlight important sections.

Chair Judd-Stein requested a memorandum to explain the unique aspects of the contractual arrangement that may affect the recommendations related to the status of the entity. Director Wells noted that March 9 was the day that operations certificates were to be voted on for the category three operators, and that it might not be possible to include this topic at that meeting. Director Lillios explained that the report may take additional time if the arrangement with Caesars would create new investigative aspects for the IEB to include within the report. She suggested an interim date when the Commission could review the arrangement between Caesars and Raynham Park; with an accompanying memorandum to assist in the discussion.

Commissioner Skinner asked if the Commission needed to act on PointsBet’s withdrawn application. Executive Director Wells stated that she did not believe action had to be taken, as they were not fully licensed.

6. [Investigations and Enforcement Bureau](#) (1:02:35)

a. Marketing Affiliates Discussion, 205 CMR 234: Sports Wagering Vendors 205 CMR 256: Sports Wagering Advertising

Deputy General Counsel Caitlin Monahan explained that 205 CMR 234 governing the registration and licensing of sports wagering vendors was promulgated by emergency on October 7, 2022, and voted to finalize it on December 1, 2022. She noted that the Commission had reached a consensus at the December meeting to suspend the licensing requirement for marketing affiliates and allowing marketing affiliated to proceed with registration.

Deputy General Counsel Monahan stated that 205 CMR 256.00 governing the advertising of sports wagering in the Commonwealth was promulgated by emergency on January 24, 2023, and was still in its comment period. She explained that the regulation would return to the Commission on March 23.

Deputy General Counsel Monahan stated that several comments were received related to 205 CMR 256.013 which prohibited revenue sharing and cost per acquisition which compensated third-party marketers based on the number of individuals who register for sports wagering accounts, or the number of wagers placed.

Executive Director Wells explained that at least one other jurisdiction addressed this issue through the level of licensure applied to third-party marketers. She stated that a roundtable was scheduled to discuss this issue and hear different parties' concerns. She stated that she wanted the Commission to have the benefit of public input prior to finalizing how the issue would be handled.

Director Lillios explained that it would be helpful for the Licensing Division to continue to allow for the registration of marketing affiliates as the majority of marketing affiliates were not engaged in revenue share or cost for acquisition contracts. Chair Judd-Stein asked approximately how many third-party marketers fit within that category. Director Lillios stated that she did not have the exact figures but that it was less than ten percent of the total third-party marketing affiliates.

Director Lillios stated that the IEB had not been processing registrations for marketing affiliates who work under revenue share arrangements because the IEB was aware of the Commission analyzing those entities for licensure. Chair Judd-Stein explained that the roundtable would provide guidance and that there was an array of speakers scheduled including at least one responsible gaming expert.

b. [MGM Springfield Non-Compliance Issue Regarding Events Catalog](#) (1:32:35)

Senior Enforcement Counsel Kathleen Kramer stated that there were sports wagering noncompliance events where MGM Springfield ("MGM") had mistakenly offered wagering on two unauthorized events. She stated that the noncompliance events were reported by MGM's Compliance Manager Daniel Miller

Senior Enforcement Counsel Kramer explained that Wagering was allowed on a February 3, 2023, Harvard men's basketball game and a February 4, 2023, Harvard's men's basketball game. She stated that the incidents were reported to MGM through their vendor BetMGM.

Senior Enforcement Counsel Kramer explained that wagering was available on the February 3 game for twenty-one hours from 7:56 p.m. on February 2 until 5:00 p.m. on February 3. She stated that \$1,150 was wagered on this game. She stated that wagering was available on the game that aired on February 4, 2023, for twenty hours from 9:58 p.m. on February 3, to 6:00 p.m. on February 4. She stated that \$80 was wagered on this game. She noted that all 28 wagers on these events were placed at kiosks.

Senior Enforcement Counsel Kramer explained that Mr. Miller reported the reason for the error was that Harvard was incorrectly designated as being in Connecticut, which had since been corrected. She stated that BetMGM had reviewed and verified that Massachusetts collegiate sports were properly restricted, reviewed the list of Massachusetts teams, and begun to do a daily audit of offered wagers.

Chair Judd-Stein stated that the Commission had decided to perform adjudicatory hearings for similar incidents the prior week. The Commission reached a consensus to address this noncompliance through an adjudicatory hearing. Deputy General Counsel Monahan reported that EBH and Plainridge Park Casino's ("PPC") hearings were scheduled for March 14, 2023, and that this hearing would not fit into that schedule. She stated that this hearing could be held shortly after that March 14 date.

7. [Licensing](#) (1:38:09)

a. MGM SER Exemption Request

Licensing Supervisor David MacKay reported that MGM had requested the Commission to allow one new gaming service employee exemption pursuant to the statutory provision in 2017 that authorized the Commission to exempt certain positions from the General Law Chapter 23K registration requirement. The *request for exemption* was included in the Commissioner's Packet on pages 72 through 81. He provided correction to page 80 of the packet that the banquet supervisor and banquet manager positions were previously approved as exempt in February of 2018.

Licensing Supervisor MacKay explained that the position would be within the convention, catering, and banquets department and that the position's duties included the inspection, set up, and breakdown of meeting rooms and function areas in accordance with department standards. He noted that MGM responded "No" to all criteria in the gaming licensee certification as related to this position. He explained that the position does not work in gaming, would not be on the gaming floor, did not interact with money or alcohol, and couldn't move through the back of house areas without a security escort.

Commissioner Skinner moved that the Commission exempt the lead setup position within the convention department at MGM Springfield from the service employee registration requirements pursuant to 205 CMR 134.031(b). 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.

8. [GameSense Quarterly Update](#) (1:42:21)

Marlene Warner from the CEO of Massachusetts Council on Gaming and Health Marlene Warner and COO of the Massachusetts Council on Gaming and Health Chelsea Turner presented the GameSense quarterly update with topics including a numbers snapshot, personnel update, awards, the launch of retail sports wagering, preparations for mobile sports wagering, and phase three of the GameSense evaluation. The *GameSense quarterly update presentation* was included in the Commissioner's Packet on pages 83 through 94.

Commissioner O'Brien sought clarification regarding the age demographic shifting at the casinos. Ms. Turner reported that there was a large shift at PPC, where the demographic included more patrons in their twenties and thirties due to sports wagering commencing. Commissioner Hill noted to his fellow Commissioners that the GameSense jerseys were popular and generated interest. Ms. Warner thanked him for his feedback.

Commissioner Hill stated he wanted to see the numbers related to PPC's shift to younger clientele. Ms. Turner stated she would submit a memo to the Commission once the numbers were available. Chair Judd-Stein asked if there were any staffing concerns related to the changing demographics. Ms. Warner explained that the team at PPC would have to perform a mental shift to gear their activities and engagements to a younger population, but that they would adapt as necessary. Commissioner Maynard expressed that the demographic would likely continue to trend younger once Flutie's was fully converted into a sportsbook.

9. [Commissioner Updates](#) (2:27:54)

The Commissioners had no updates for the meeting.

10. [Other Business](#) (2:28:06)

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

Commissioner Hill moved to adjourn. 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.

List of Documents and Other Items Used

1. [Amended Notice of Meeting and Agenda](#) dated February 22, 2023
2. [Commissioner's Packet](#) from the February 23, 2023, meeting (posted on massgaming.com)