



Massachusetts Gaming Commission Meeting Minutes

Date/Time: February 28, 2022, 11:30 a.m.
Place: Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 112 958 2767

The Commission conducted this public meeting remotely utilizing collaboration technology. 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 Gayle Cameron
Commissioner Bradford Hill
Commissioner Eileen O'Brien

1. Call to Order (0:03)

Chair-Stein called the meeting to order and provided a brief background to the meeting attendees as to why Commission had called a dual public meeting and public hearing about the development project occurring on the East Side of Broadway, near the Encore Boston Harbor (EBH). Chair Judd-Stein provided a brief background and overview of the hearing before introducing Chief of the Community Affairs Division, Joe Delaney to begin the public comment portion of the meeting.

2. Public Input

Chief Delaney opened the meeting for the participants who requested the opportunity to provide public comment to the Commission. As this was also a public meeting, Commissioners were also permitted to ask questions of the speakers. Mr. Delaney reminded participants to first state their names and to limit their statements to under 5 minutes each. Mr. Delaney then introduced speakers who had signed up to provide statements or submitted written comments in advance of the meeting. Mr. Delaney framed the issue before the Commission as being whether the proposed development is part of the 'gaming establishment' boundary set for Encore Boston Harbor. He further reminded the Commission that the proposed scope of the project is as follows:

The proposed project is a multi-use development, which includes the construction of an approximately 20,000-gross-square-foot, two-story restaurant/retail building with an outdoor dining terrace, up to a 999-seat Events Center and associated pre-function space, an approximately 2,310-space parking garage, as well as a pedestrian bridge to cross Broadway (Route 99).

The following individuals offered [public comment](#) (5:08):

a. Troy Siebels, President of the Hanover Theatre, and the Massachusetts Performing Arts Coalition

Mr. Siebels clarified that he had submitted written comments but added that he felt the spirit of the rules and relevant statute were being ignored by licensee, Wynn. While Mr. Siebels acknowledged that the entertainment venue within the revised plan had the seating capacity of 999 seats, which is within the allowable number, he pointed towards the law as providing a method for entities to negotiate and communicate. Mr. Siebels suggested that the Commission can mandate not only the letter, but also the spirit of which the law is intended.

Commissioner O'Brien asked Mr. Siebels if there were other portions of the statute that would allow for the ILEV signatories and the Licensee to be able to uphold the tenets of the ILEV agreement. Mr. Siebels shared that a more open dialogue and communication would be beneficial for the parties, and that there has not been a practice of communication. Commissioner Judd-Stein asked Mr. Siebels if he had been contacted by the licensee. Mr. Siebels stated that he heard from them on Thursday and had a meeting to speak with Counsel for EBH soon. Commissioner O'Brien asked about the usage of the term "Predatory Presenter" and if it was a term of art. Mr. Siebels replied that it was an industry term for a casino or other large organization that discouraged the existence or presence of other live entertainment organization. Commissioner O'Brien thanked him for his explanation.

b. Dan Rabinovitz, Attorney for the City of Medford and Bill Blumenreich Presents

Mr. Rabinovitz stated that he submitted written testimony to the Commission. He explained that East Broadway, LLC is a wholly owned subsidiary of Wynn MA, LLC and if the current matter was brought to court, the likelihood would be very high that a court would find the requisite level of control that was necessary to pierce the corporate veil. Mr. Rabinovitz then moved on to the second issue presented in his written testimony: his allegation that EBH has had concerts in their ballroom in violation of the law. He explained that the law precluded the casino from including an entertainment venue that was more than 1000 seats and stated that EBH is planning a fight night in its ballroom later in March 2022. Mr. Rabinovitz clarified that EBH has the authority to do what they want in their own establishment via entertainment but feels that they are violating the law when they do so in a manner that involves live performances between 1000 - 3500 seats which is directly in competition with other mid-level and mid-size performance venues in the area. He is hoping that the Commission to give a stern warning to the licensee.

Chair Judd-Stein thanked Mr. Rabinovitz for his comments, and asked Commissioners if they had questions. Commissioner Hill also thanked Mr. Rabinovitz and stated that two different discussions were taking place: whether Commission has the authority to regulate the project, and whether the venue is appropriate. He then stated that it would be important to remember the distinction as the Commission moves forward in its deliberations.

c. Kenneth Krause representing the Friends of the Chevalier Auditorium

Mr. Krause informed the Commission that he submitted written comments. He stated that his letter included his assessment of the Commission's four-part analysis used to determine whether a structure is part of a gaming establishment. He also shared that on a conference call 4 days after the licensee's quarterly report at a public meeting of the Commission, representatives from Wynn Resorts, Limited shared sentiments about the project that were very different than what was presented during the Licensee's presentation at the February 10th public meeting. Mr. Krause also spoke briefly about the importance of the ILEVs for the Commonwealth and the benefits they provide. He explained that the venues would be at risk of going out of business if the playing ground would be allowed to remain uneven. Mr. Krause clarified to the Commission that he was not against competition and explained that the existing venues in the region are "friendly rivals." He closed by asking that the Commission ensure the letter of the law is followed as are the ILEV agreements.

Chair Judd-Stein inquired about the Chevalier Theatre and Chevalier Auditorium's seating capabilities. Mr. Krause explained that they were the same entities and provided a brief history of the theatre and auditorium and their nomenclature. Chair Judd-Stein inquired if the theatre seats 1850 seats, and Krause confirmed.

Commissioner Hill inquired whether Mr. Krause could provide examples of the so called "predatory practices" he had mentioned in his initial comments. Mr. Krause shared an instance where a performer was initially going to perform at a local theatre and then ultimately went to perform at the gaming establishment. Mr. Krause explained that it is difficult for venues to compete with casinos who can offer more lucrative deals, hotel stays or benefits, whereas local theatres have more limited revenue streams. Mr. Rabinovitz added a comment to discuss predatory practices and the ILEV agreement and what it codified. Mr. Rabinovitz stated that the law disallows the practice of having a theatre with more than 1000 and less than 3500 seats. Commissioner O'Brien asked Mr. Rabinovitz what his position was on the temporary seating inside or outside the EBH building and whether those would run afoul of statutory restrictions. Mr. Rabinowitz stated that seats outside would not run afoul of the restrictions, but that any "seats" - whether movable or permanent - inside the venue would violate the proscriptions in the statute if they fell within the specified range.

Chair Judd-Stein also inquired if Mr. Rabinovitz saw a distinction between a third-party agency doing the booking or hosting the event at EBH instead of the licensee holding and hosting the event solely. Mr. Rabinovitz stated he did not see a distinction.

Chair Judd-Stein asked Mr. Krause if he had any additional statements, and Mr. Krause went on to discuss the competition and the differences in resources available to performers. In discussing

outdoor venues, Mr. Krause stated that the Commission has included outdoor areas in gaming boundaries before and listed prior gaming determinations by the Commission as well as outdoor spaces at EBH that are part of the existing gaming establishment. Mr. Krause closed and thanked the Commissioners.

d. Breanna Lungo-Koehn, Mayor, City of Medford

Mayor Lungo-Koehn thanked the Commissioners for their time and stated that the attorney for the City of Medford had also provided written comment on behalf of the city. Mayor Lungo-Koehn shared that it was her belief that these two LLCs, Wynn MA LLC, and East Broadway LLC are “one and the same,” and shared her concerns regarding the pedestrian bridge attaching the two. Mayor Lungo-Koehn stated that it felt like the licensee was attempting to be “cute” in their presentation on February 10th, by having only 999 seats. Mayor Lungo-Koehn stated that she wished to echo the sentiments raised previously in wanting to protect the smaller existing theatres; including the theatre in Hanover, as well as the Chevalier Theatre, owned and operated by the City of Medford. She asked that the Commissioners consider the implications of allowing the expansion and thanked the Commission for its time.

Chair Judd-Stein shared a reminder about the Commission’s Community Mitigation Fund, which is available to surrounding communities including Medford and to the Chevalier Theatre, as well as monies provided by surrounding host-community agreements. Mr. Krause then offered additional information to the Commission that City of Medford entered a SCA, separate from the ILEV agreement, to provide \$100,000 per year to Chevalier Theatre, the city also gets a \$125,000 Medford Community Fund grant that can be used at the discretion of the City of Medford. Mr. Krause shared that the Community Fund was once utilized to repair the floors of the gymnasium in the Chevalier auditorium. Mr. Krause explained that because the theatre retained a professional management and booking company, the bulk of the funds received go towards paying the company for their services.

e. J. Casey Soward, Executive Director, Cabot Theatre, Beverly MA

Mr. Soward submitted written testimony but offered an oral statement. He stated that his concerns were like what was shared previously by other participants. Mr. Soward stated that his specific concern was the Cabot Theatre is an economic and cultural landmark in the City of Beverly with an economic impact of 10 to 12 million dollars. Mr. Soward shared that the Cabot is the smallest theater the cohort, at 850 seats, and that a venue of 999 seats or less would be very detrimental to their ability to generate revenue and attract entertainment.

Having finished with prepared comments from speakers, Mr. Delaney then opened the discussion and solicited public comments from any other interested speakers on the call.

f. Ms. Lee Ferrington, Licensed Clinical Social Worker, Chelsea MA.

Ms. Ferrington shared that she was concerned about the expansion of EBH. Ms. Ferrington claimed that she has seen result of increased addiction, as a social worker. Ms. Ferrington also raised concerns about the rise in crime and the mitigation payments received by surrounding

communities that support her contention. Ms. Ferrington shared that she did not support the expansion of the EBH and supported the comments made by previous speakers. She went on to express that the density of the neighborhood would not support the development, and that expansion would harm the existing arts and cultural establishments in the region.

Chair Judd-Stein thanked Ms. Ferrington for her comments and services as a social worker. She also informed Ms. Ferrington about Problem Gambling Month put on by the Division of Research and Responsible Gaming, and that more information would be shared throughout the month of March.

g. Representative Paul J. Donato, 35th Middlesex District in the Massachusetts House of Representatives.

Representative Donato stated that he viewed that the separate acts brought into the Ballroom at EBH were distinct from the existing matter before the Commission about expansion. Representative Donato continued that he hoped that the Commission would also take the ballroom matter under advisement for a later time. Mr. Donato then raised the issue that the currently submitted design of the Pedestrian Bridge enters the casino floor. Representative Donato stated that the project “was very evident that this is a part of the casino just in a different way.” Mr. Donato thanked the Commissioners for the opportunity to provide comments.

Chair Judd-Stein asked if there were other speakers who wished to provide comments. Ms. Howard stated that there were no speakers at this time. Chair Judd-Stein welcomed participants on the call and those speaking to comment and go off mute if they would like to provide comments or email Ms. Howard at MGCcomments@massgaming.gov.

h. Ms. Georgia Green, a Clinical Social worker from Chelsea, MA.

Ms. Green shared that she has 32 years’ experience working in the community and had concerns about compulsive gambling and its impacts on underserved communities, particularly Chelsea and others near EBH. She acknowledged that she recognized that this is not why parties had gathered today. Ms. Green echoed the sentiments of those who spoke previously in the meeting and stated that it could be in the best interests of EBH to be a “good neighbor” and benefit the communities in an ongoing manner. Ms. Green suggested that the licensee should consider building a park instead and plant trees to improve the quality of the environment.

Chair Judd-Stein inquired if there was a planned green space with public access within the Broadway project proposal. Chief Delaney stated that there would be plantings, greenery, and landscaping on the perimeters of the project, but no green space.

Hearing no additional speakers, Commissioners and participants went off video, but informed the viewers that the hearing would remain open for another half hour until 1:00PM for additional comments from members of the public.

After receiving no additional public comments, Chair Judd-Stein acknowledged and thanked the public for the multiple comments received in advance of the meeting. Chair Judd-Stein reminded the public that this was a public hearing, and a public meeting so that Commissioners could also ask questions. She shared that there would be an upcoming public meeting on this issue on March 10, and that they would receive a memo on the question presented regarding the live event on March 17 at the EBH Ballroom. Chair Judd-Stein expressed that the memo would provide additional guidance to the Commissioners moving forward.

3. Other Business - Reserved for matters the Chair did not reasonably anticipate at the time of posting.

Hearing no other business before the Commission, Commissioner O'Brien moved to adjourn. Commissioner Cameron Seconded.

Roll Call Vote:

Commissioner Cameron	<i>Aye.</i>
Commissioner Hill	<i>Aye.</i>
Commissioner O'Brien	<i>Aye.</i>
Chair Cathy Judd-Stein	<i>Aye.</i>

Motion Passed Unanimously.

List of Documents and Other Items Used

1. Massachusetts Gaming Commission, Notice of Public Meeting & Hearing – dated February 16, 2022