



Massachusetts Gaming Commission Meeting Minutes

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

Place: Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5293
MEETING ID: 111 177 7345

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 #338 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*

Chair Judd-Stein started the meeting with the following remarks. Yesterday marked the one-year anniversary of Governor Baker’s executive order in which he declared a state of emergency as the number of Coronavirus cases approached one hundred in the Commonwealth. On March 12, 2020, the Commission was forced to suspend its ordinary business of the day and adjourn its meeting prematurely as news revealed the reach of the virus was presenting potential risk to the patrons and employees of the gaming establishments. When the news hit, the Gaming Commission was prepared; for over a month it had been coordinating with its licensees who could share their experiences in Macau. The licensees retained their own public health specialist to help guide their businesses and were generous in sharing what they were learning in real time. The Commission was also meeting with other regulators across the United States to become

better informed. It connected with large venues within Massachusetts to learn about how they were preparing. MGC team members were closely following public health trends while at the same time preparing for remote work arrangements. The Secretary of the Executive Office of Health and Human Services, Commissioner of Public Health, and the extraordinary team at the Department of Public Health made themselves personally and immediately available to the MGC to share guidance. Two days later, on the morning of Saturday March 14, 2020, the Commissioners made the historic decision, with the support of the licensees, to suspend operations at all three gaming establishments in an orderly and timely fashion. The decision had enormous implications as so many jobs were at stake, but was based on extensive and thoughtful analysis with input from key stakeholders and experts. No one at that time could have predicted the magnitude of the loss that would be suffered in the year ahead. The impact on businesses, jobs, health care providers, first responders, front line workers, school children, parents and guardians, young adults off to college, and our nation's overall mental health cannot even begin to be fully measured. But today we are sensing hope. Chair Judd-Stein asked everyone at the MGC to intentionally pause to mourn those that were lost, to give thanks when they are able, and reflect on all we can be in the months ahead.

00:04:37: Approval of Minutes

Commissioner O'Brien pointed out a typographical error on page ten of the minutes for November 5, 2020 (timestamp says p.m. instead of a.m.). Commissioner O'Brien also requested adding timestamps when topics change. Commissioner Cameron, Commissioner Zuniga, and Chair Judd-Stein agreed.

Commissioner O'Brien moved to approve the minutes in the packet from November 5, 2020, subject to the edits discussed today and any other typographical or non-material corrections, as necessary. Commissioner Zuniga 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 in the packet from November 19, 2020, subject to any typographical or non-material corrections, as necessary. Commissioner Zuniga 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 in the packet from November 25, 2020, subject to any typographical or non-material corrections, as necessary. Commissioner Zuniga seconded the motion.

Roll Call Vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Zuniga: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

00:09:23: Administrative Update

On-site Casino Updates

IEB Director Loretta Lillios and Assistant Director, Gaming Agents Division Chief Bruce Band provided an update regarding activities on-site at the casino properties. Ms. Lillios informed the Commission that since her last update capacity levels have remained approximately the same at each of the three properties and all three have been operating well under the 40% capacity level. The properties continue to be open 24/7 and all the Covid health and safety measures remain in place. The hotel at Encore has been open on the weekends from Thursday until Sunday and has been managing checkout times to reduce crowding. Encore has also transitioned its oyster bar to a different eatery called "Cheese, Meat, and Wine." MGM's hotel remains open on the weekend and has been operating without incident. MGM's sports bar has opened on the weekends. Mr. Band provided additional information regarding capacity numbers and special events held by the licensees.

Director Wells added that the staff is working with the gaming establishments to obtain more information regarding their return to work efforts, including the impacts on women in the workforce. She expects further discussion on this topic at the next Commission meeting.

Commissioner O'Brien thanked Director Wells for the update and noted that as schools and amenities reopen, there may be more opportunities for caregivers, who are primarily women, to return to the workforce. It is the right time to circle back with licensees.

Commissioner Cameron asked if there have been discussions regarding whether employees would have to reapply for jobs they previously held but had to leave due to childcare issues. Director responded that Director of Diversity and Legislative Affairs Jill Griffin had been in communication with MGM and she believes they discussed the issue.

Chair Judd-Stein also stated as a reminder that we were able to confirm that our licensing processes would not create any additional barriers for applicants. She noted that all of the Commissioners understood the importance of this topic, including the disproportionate effect policies may have on the minority community. The Chair thanked Commissioner O'Brien for

leading the conversation and keeping everyone on task and thinks that we should have an update by executive Wells at the next public meeting.

00:19:26: Communications Division Review of Website Material

Director Wells stated she was working with the Communication Division to update the Commission's Mission Statement. The Communications Division is also reviewing the website for potential updates. Director Wells sought feedback from the Commissioners regarding updates concerning the Mission Statement and the responsibilities of the Commissioners, which have evolved over time.

Chair Judd-Stein suggested that the Commissioners provide high-level feedback at this meeting, as opposed to advising on particular wording.

Commissioner Cameron credited the team for realizing that updates were needed and made suggestions regarding updating language to reflect the Commission's current stage of regulating.

Commissioner O'Brien agreed with Commissioner Cameron and suggested that reference to responsible gaming should be added to the responsibilities section.

Commissioner Zuniga agreed with Commissioner O'Brien and added that player health and sustainability of the broader gaming industry should be included as well. He would remove language that deals with the initial licensing process.

Chair Judd-Stein agreed with the other Commissioners. She also suggested additions concerning best practices.

Commissioner Cameron noted that the obligation and responsibility to regulate horse racing should also be included.

00:28:50: Licensing Division

MGM Service Employee Exemption Request (205 CMR 134.03(1)(b))

Chief of the Division of Licensing Nakisha Skinner brought an employee exemption request before the Commission. The exemption request was for the position of Driver Attendant for Warehouse Receiving at MGM ("Warehouse Driver Attendant"). The position is nearly identical to the Warehouse Attendant Position, which the Commission exempted on February 22, 2018. The difference between the positions is that the Warehouse Driver Attendant is responsible for transporting merchandise while the Warehouse Attendant has no driving responsibilities. The Warehouse Driver Attendant position has no role on the gaming floor and has no access to secure areas without a security escort. Individuals in this position do not receive or handle gaming equipment or slot machines, report to a supervisor, and are registered as service employees. Ms. Skinner recommended that the Commission exempt the position of Warehouse Driver Attendant from the registration requirements.

Commissioner Cameron stated that she thought Ms. Skinner made a thoughtful presentation and appreciated the comparison work and analysis. She supported exempting the position.

Commissioner Zuniga added that the explanation for why an exemption is appropriate was very well-articulated and supported the recommendation. Commissioner O'Brien also supported the recommendation.

Chair Judd-Stein thanked Ms. Skinner for the thoughtful memorandum and expressed her belief that the recommendation reflects the intent of the statutory language, which seeks to ensure that unnecessary barriers for jobs are not created.

Commissioner O'Brien made a motion to exempt the Driver Attendant for Warehouse Receiving position at MGM-Springfield from the registration requirements in accordance with 205 CMR 134.03(1)(b) for the reasons discussed and described in the Commissioner's packet. 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.

00:33:59: Investigations and Enforcement Bureau

Expanding Blackjack Style Tables to Include a Fourth Person Request

Ms. Lillios informed the Commission of a request from Encore Boston Harbor and MGM-Springfield to add a fourth player position to blackjack-style tables, which are also used in Baccarat and Pai-Gow. Since the properties reopened in July they have been limited to a maximum of three seats per blackjack-style table. The IEB has checked with other jurisdictions and Massachusetts would not be an outlier either way. Ms. Lillios went on to outline additional requirements for adding a fourth seat, including the continued use of plexiglass, spacing between player positions, and overall capacity limits.

Ms. Lillios also explained that the IEB has consulted with DPH, as is required, and DPH did not object to adding a fourth player position provided the additional requirements were included.

Commissioner Zuniga asked Ms. Lillios to explain how the licensees are dealing with those who want to observe games. Ms. Lillios responded that there is an overall mandate of six foot distancing between individuals and no congregating is allowed. The casinos have taken an "all hands on deck" approach to congregators, which has required a significant effort on the floor. She noted that adding a fourth seat gives options to patrons who may be traveling in a group and also gives the casino some flexibility on managing the dollar limit at tables. Mr. Band expanded on the number of betting positions it would create at each property if a fourth seat would be added.

Commissioner O'Brien inquired into the issue of mask requirements while drinking and gaming. Mr. Band confirmed that when patrons are served drinks while sitting at a gaming table they will take their masks down.

Commissioner O'Brien also asked if jobs are specifically created in terms of adding a seat at blackjack-style tables. Mr. Band responded that additional jobs will not be created because the casinos are not adding additional tables. However, the additional seats will allow more people to play would otherwise be walking around looking for a place to play.

Commissioner O'Brien explained that she is hesitant to add a fourth seat to the blackjack-style tables at this point in time because it puts additional people together in a minimal amount of space.

Commissioner Cameron stated that her concerns are minimized by the fact that the licensees have worked hard to adhere to the Commission's guidelines, including the use of plexiglass, and have not seen events where the virus had spread. The casinos have also not seen capacity levels near the forty percent limit.

Chair Judd-Stein stated that plexiglass will continue to divide the players if a fourth seat is added. She also noted that the dealer is masked and wearing a shield if they so choose. Patrons may not move around the floor with drinks and can only have a drink if they are seated with the protection of plexiglass and actively gaming. Based on the conversation, her understanding is that adding a fourth seat would be a revenue driver, not a job driver. Ms. Lillios stated that adding a fourth seat would create an opportunity to hire more cocktail servers. Additionally, based on the data, Ms. Lillios' confidence in expanding the number of gaming positions was high.

Commissioner Zuniga explained that he understood this is not a riskless move, but is comforted by the measures in place and level of compliance. In light of all the other measures discussed and the capacity levels to date, he was in favor of approving the request. He would, however, want to continue to see updates.

Commissioner Cameron moved to amend item 10B of the previously adopted document entitled Minimum Requirements for the Initial Phase Three Opening of Gaming Establishments to allow for up to four player positions at each blackjack-style table, subject to the minimum requirements outlined in the memorandum in the Commissioners packet and as discussed today. Commissioner Zuniga seconded that motion.

Roll Call Vote

Commissioner Cameron Aye

Commissioner O'Brien Nay

Commissioner Zuniga Aye

Chair Judd-Stein Aye

The motion passed three to one.

00:53:07: Licensees Craps Reopening Request

Ms. Lillios explained that Encore and MGM have requested the ability to reintroduce the game of Craps. All other jurisdictions, including Rhode Island and Connecticut, currently offer Craps.

Ms. Lillios walked through the requirements for reopening Craps, which include player limits, a prohibition on congregating, and plexiglass barriers, among other things. All other health and safety measures would remain in place.

Commissioner Zuniga inquired into the configuration of the Craps table and how it compared with other jurisdictions. Mr. Band responded that the licensee's layout is likely the most protective of patrons and employees. He also provided information regarding the number of employees it will require to reopen the Craps tables.

Commissioner Zuniga asked if the requirements would slow down the game. Mr. Band responded that it becomes a safer game, especially in terms of players making verbal wagers right before the dice is thrown. He also believes that the requirements will actually speed the game up.

Commissioner O'Brien asked if there were graphics of what the game would look like. She also asked if reintroducing Craps would lead to the addition of cocktail servers and food service jobs. Mr. Band shared pictures of what the modified tables would look like. Ms. Lillios added that there would be an incremental increase in cocktail servers and food service jobs if Craps is reintroduced.

Commissioner Cameron asked if it would be a challenge to keep speculators from watching the game while it is being played. Mr. Band responded that it is always somewhat of a challenge to do that, but staff informs patrons that they must move on and cannot stay to watch the game.

Commissioner Zuniga noted that he is in favor of authorizing the requests. Chair Judd-Stein stated that there is comfort in knowing that our enforcement measures are heightened and we will continue to rely on the compliance efforts of the licensees.

Commissioner Zuniga moved to amend item 10C of the previously adopted document entitled Minimum Requirements for the Initial Phase Three Opening of Gaming Establishments to allow for the game of Craps to be offered subject to the minimum requirements outlined in the memorandum in the Commissioners packet and as discussed today. 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.

01:09:29: Encore Boston Harbor Individual Qualifier Determination of Suitability

Prior to the qualifier discussion, Chair Judd-Stein made a disclosure in accordance the Commission’s Enhanced Code of Ethics and out of an abundance of caution. Specifically, she filed with her appointing official, the Governor, a 23(b)(3) disclosure indicating that the particular qualifier’s former employer is her son’s and her daughter’s current employer in Los Angeles, CAA. Her son had limited interactions with the qualifier while her daughter did not have any interactions with the qualifier. Additionally, her daughter-in-law had one limited professional interaction with the qualifier. Chair Judd-Stein will move forward with making a decision today given the limited interactions of the qualifier and her children.

Senior Enforcement Counsel Katherine Hartigan then presented a report on the qualifier, Mr. Darnell Strom. Mr. Strom is a qualifier by virtue of his position on the Wynn Resorts Limited board of directors. Mr. Strom has submitted all the required forms and complied with all of the IEB’s requests for supplemental and updated information. The IEB was able to conduct its complete protocol for suitability for casino qualifiers and investigators interviewed Mr. Strom using virtual technology on January 14th, 2021. Mr. Strom was cooperative and forthcoming in all aspects of the investigation.

Ms. Hartigan proceeding to walk through Mr. Strom’s employment and educational history. In his role as an independent director, he is a member of the nominating and corporate governance committee as well as the auditing committee. It is noted that Mr. Strom has no gaming related licenses or registrations, however, he is in the process of submitting personal applications to the following jurisdictions: New Jersey, Colorado, Indiana, and Michigan. Massachusetts was the first jurisdiction to interview him for qualification purposes in connection with his new role with Wynn Resorts Limited. Mr. Strom has shown to the IEB by clear and convincing evidence that he is suitable and the IEB recommends that the Commission vote to find him suitable as a qualifier for Wynn MA LLC.

Commissioner Cameron stated she had no questions as the IEB presented a clean report.

Commissioner Cameron moved to issue a positive determination of suitability to Darnell Strom as a member of the Board of Directors for Wynn Resorts Limited. Commissioner O’Brien 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 Cameron noted that Wynn continues to diversity its board.

01:18:05: Executive Director Evaluation

Executive Director Compensation Discussion

Commissioner O'Brien opened the conversation by stating that Director Wells is doing an outstanding job. She noted that there should be a further discussion at a later date about base salary, especially in comparison with other jurisdictions. In light of the current economic environment, however, she recommended that Director Wells' salary does not change at this time. Retroactive action may be taken later.

Chair Judd-Stein asked for clarification regarding Director Wells' salary. Clarification was provided by Commissioner O'Brien.

Commissioner Zuniga addressed the Commission's history of hiring executive directors and related salary considerations. He added that he believed the comparisons in the Commissioner's packet were appropriate, although it is difficult to compare states of different sizes.

Commissioner Zuniga shared Commissioner O'Brien's concern regarding managing the overall budget, although he was prepared to propose a modest increase in light of the difficulties of this year and Director Wells' outstanding work.

Commissioner Cameron agreed that the numbers were helpful to look at and noted that Ms. Wells came into the position with extensive gaming background, which the last executive director did not have. She also noted the great work that is being done in a very trying year. In a normal circumstances, she would be inclined to raise the salary based on those factors, but she agrees with Commissioner O'Brien that this is a different environment and the salary should not change at this time.

Chair Judd-Stein agreed with Commissioner Zuniga's and Commissioner Cameron's statements, including that Director Wells joined with a great depth of experience in the gaming field. Given this, she is aware of the equity concerns associated with keeping Director Wells' salary at the same level and that issue will need to be addressed down the road. Chair Judd-Stein noted the challenging environment faced by the licensees at this time and agrees that waiting to address the compensation question make sense and is fair to the licensees. While she found the comparison data helpful, she highlighted that different states have different obligations, numbers of licensees to oversee, and governing structures. Given the complexities and challenges of this last year and potential future responsibilities, including the possible addition of sports wagering, the salary issue could be revisited at the end of the year in conjunction with a timely second evaluation. Chair Judd-Stein would also be comfortable with a slight boost, as addressed by Commissioner Zuniga.

Commissioner O'Brien stated that in light of the Commissioners' discussion, she maintains the recommendation not to modify Director Wells' salary at this time.

General Counsel Todd Grossman advised that if no changes are being made, a vote does not need to be taken.

Director Wells added that she and Commissioner O'Brien are in agreement. Staff members are not getting raises due to the pandemic and she could not accept an increase until the staff gets a raise as well.

Chair Judd-Stein said that the salary issue can be raised again in December and Commissioner O'Brien agreed, unless circumstances dictate otherwise. Commissioner Zuniga and Commissioner Cameron also agreed.

Chair Judd-Stein stated that the Commissioners had reached a consensus and Director Wells' compensation will remain the same until the next review.

01:37:29: Commissioner Updates

Commissioner Zuniga updated the Commission regarding his attendance at a virtual conference hosted by the British Columbia Lottery Corporation concerning responsible gaming.

Chair Judd-Stein thanked Victor Ortiz of the Department of Public Health for presenting at the previous public meeting with respect to gambling awareness month.

Commissioner Zuniga moved to adjourn 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.

List of Documents and Other Items Used

1. Notice of Meeting and Agenda dated March 11, 2021.
2. Draft Commission Meeting Minutes of November 5, 2020
3. Draft Commission Meeting Minutes of November 19, 2020
4. Draft Commission Meeting Minutes of November 25, 2020
5. Communication Document
6. Memorandum of Gaming Service Employee (SER) Exemption Request: MGM Springfield
7. Minimum Requirements for (1) Expanding Blackjack-Style Tables to Include a 4th Player Position and (2) the Reintroduction of Craps at the Category 1 Gaming Establishments
8. Memorandum of Executive Director Compensation