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## Massachusetts Gaming Commission Meeting Minutes

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**Date/Time:** March 14, 2022, 10:00 a.m.  
**Place:** Massachusetts Gaming Commission  
VIA CONFERENCE CALL NUMBER: 1-646-741-5292  
PARTICIPANT CODE: 112 195 5793

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](#) (00:21)

Chair Judd-Stein called to order the 374<sup>th</sup> Public Meeting of the Massachusetts Gaming Commission (“Commission”). Roll call attendance was conducted, and all four Commissioners were present for the meeting.

#### 2. [Approval of Meeting Minutes](#) (5:00)

1. June 3, 2021

Commissioner O’Brien moved that the Commission approve the Public Meeting minutes from June 3, 2021, included in the Commissioners’ Packet, subject to any necessary corrections for typographical errors or other non-material matters. Chair Judd-Stein made a note that these minutes do not involve Commissioner Hill, as he was not present during those meetings. Chair Judd-Stein offered Commissioner Hill the option to abstain from this vote. The motion was seconded by Commissioner Cameron.

*Roll call vote:*

<i>Commissioner Cameron:</i>	<i>Aye.</i>
<i>Commissioner O’Brien:</i>	<i>Aye.</i>
<i>Commissioner Hill:</i>	<i>Abstain.</i>
<i>Chair Judd-Stein:</i>	<i>Aye.</i>

*The motion passed unanimously 3-0, with one abstention.*

2. June 14, 2021

Commissioner O'Brien moved that the Commission approve the Public Meeting minutes from June 14, 2021, included in the Commissioners' Packet, subject to any necessary corrections for typographical errors or other non-material matters. The motion was seconded by Commissioner Cameron.

*Roll call vote:*

*Commissioner Cameron: Aye.*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Abstain.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously 3-0, with one abstention.*

Commissioner O'Brien moved that the Commission approve the Public Meeting minutes from June 3, 2021, and June 14, 2021, included in the Commissioners' Packet, subject to any necessary corrections for typographical errors or other non-material matters. Chair Judd-Stein made a note that these minutes do not involve Commissioner Hill, as he was not present during those meetings. Chair Judd-Stein offered Commissioner Hill the option to abstain from this vote. The motion was seconded by Commissioner Cameron.

*Roll call vote:*

*Commissioner Cameron: Aye.*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Abstain.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously 3-0, with one abstention.*

3. [Administrative Update](#) (7:38)

a. On-Site Casino Updates

Executive Director Karen Wells introduced Assistant Director of Investigations & Enforcement Bureau and Gaming Agents Division Chief Bruce Band to give a report about ongoing operations at the gaming establishments. Assistant Director Band reported that PPC is running a slots promotion and celebrating responsible gaming month. He continued that MGM added a poker table to their poker room, and that they now have 14 total poker tables. He reported that Encore celebrated the Celtics 75<sup>th</sup> anniversary with players and VIPs, and will be hosting an MMA fight on March 17<sup>th</sup> in the ballroom. The Commission thanked Assistant Director Band for his update.

4. [Racing Division](#) (9:40)

## 1. Jockeys' Guild Recognition

Chief Veterinarian and Director of Racing Dr. Alexandra Lightbown introduced Mindy Coleman, Attorney for the Jockeys' Guild. Dr. Lightbown provided a summary regarding G.L. 128A, §5(h)(4), which requires part of pari-mutuel tax funds to be used to pay organizations determined by the Commission to represent the majority of jockeys licensed by the Commission. While Suffolk Downs was not having live racing at the time of the meeting, simulcasting was still occurring, and funds were available to pay the \$65,000. Seventeen jockeys qualify, thirteen retired and four permanently disabled, and each would receive approximately \$3,800. Dr. Lightbown recommended the Commission approve the Jockeys' Guild as the representative organization. Commissioner Cameron agreed with Dr Lightbown's recommendation.

Commissioner Cameron moved that the Commission find the Jockeys' Guild meets the requirement of §5(h)(4) of Chapter 128A for the reasons discussed today and accordingly authorize the \$65,000 payment described in the statute. The motion was seconded by Commissioner O'Brien.

*Roll call vote:*

*Commissioner Cameron: Aye.*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously.*

## 5. [Research and Responsible Gaming](#) (14:24)

### 1. Presentation on *Responsible Gaming Considerations for Gambling Advertising* White Paper

Mark Vander Linden, Director of Research and Responsible Gaming, and Research Manager Marie-Claire Flores-Pajot presented their paper on responsible gaming considerations for gambling advertising.

Director Vander Linden presented an analysis of existing law, including the Commission's regulations as well as provisions of G.L. c. 23K related to marketing restrictions and the voluntary self-exclusion list. Director Vander Linden also briefly described the Massachusetts responsible gaming framework, first developed in 2014 and revised in 2018, which advises on how licensees should develop and implement strategies to ensure their promotions are delivered in a responsible manner. Director Vander Linden then outlined the American Gaming Association ("AGA") Code of Conduct as all licensees are AGA members, and the code of conduct roughly aligns with the Massachusetts responsible gaming framework.

Research Manager Flores-Pajot discussed the study's findings regarding exposure to gambling advertisements and noted that Asian communities have been identified as a population at risk.

Long Banh, Responsible Gaming Program Manager, provided an overview of regulations in the United States and regulation of other industries, including responsible gaming messaging, target audience, content, placement and frequency, and approval process. Mr. Banh noted that Massachusetts has regulation in two of the five categories: responsible messaging and target audience.

Director Vander Linden recommended that the Commission consider additional measures where feasible and consistent with statute, including strengthening regulations within Massachusetts, establishing a complaint process in compliance with the AGA model, raising awareness through licensee trainings, revising the Massachusetts framework, and increasing research into the effects of advertisement on gaming to address ambiguity or lack of research.

Commissioner Hill commented regarding advertisement and marketing of collegiate betting. Commissioner Hill cited AGA requirements for sports betting, noting that betting should not be advertised in college or university-owned news assets or advertised on college or university campuses and that there needs to be regulation on collegiate sports betting given that college students are a high-risk group. Commissioner Hill continued that regulations on casino gaming that prevent marketing towards those underage individuals are sufficient and can be rewritten to encompass sports betting.

Commissioner Hill then raised questions regarding speech limitations, and how regulations of advertising may run into issues with the first amendment. General Counsel Todd Grossman stated that he would need to conduct further research into the limitations on advertising due to the first amendment, but noted that there are laws restricting advertisement in other similarly situated industries, such as alcohol, tobacco, and cannabis.

Commissioner O'Brien commented that the mixed population on college campuses makes them at risk as they contain both underage students and students reaching the age where they can gamble. Commissioner O'Brien stated that the regulation by the Cannabis Control Commission requiring 85% of the target audience to be of age would protect this uniquely vulnerable population.

Commissioner O'Brien also raised the issue of requiring prior approval of advertisements, as it may be labor intensive for the Commission. Commissioner O'Brien requested more information regarding the process and how content would be tested. Chair Judd-Stein requested that that this information be presented at a future meeting regarding content evaluation.

Chair Judd-Stein questioned when the frequency and intensity of distribution of advertising should be considered a prevalence. She noted that while content may be neutral the prevalence in amount of gambling advertisement can become an issue, and that there would need to be a test for marketing frequency.

Director Vander Linden stated that the proposal was in draft form and would be opened up for public comment. The Commission thanked Director Vander Linden and his team for their presentation.

6. [Commissioner Updates](#) (1:08:02)

a. Annual Report Update

Chair Judd-Stein introduced Crystal Beauchemin, Chief Administrative Officer to the Chair and Special Projects Manager, to provide an update on the Commission's 2021 Annual Report. Ms. Beauchemin explained that the Commission had a draft of the annual report and that they are prepared to receive remarks from the Commission. Chair Judd-Stein asked Commissioner Cameron to review the report and reply with her insights.

7. [Community Affairs Division](#) (1:10:35)

a. Development East of Broadway in Everett, MA

Chief of the Community Affairs Division Joe Delaney continued the discussion from March 10<sup>th</sup> meeting regarding the four-part test as to whether a particular amenity or component of an amenity would be considered part of the gaming establishment, and a draft set of conditions regarding Wynn's development of East of Broadway in Everett. Chief Delaney introduced Jacqui Krum, General Counsel for Encore Boston Harbor, and Attorney Tony Starr from Mintz Levin. General Counsel Todd Grossman provided a summary of the previous meeting on this topic, which included a comprehensive review of a four-part test as to whether a particular amenity or component of an amenity would be considered part of the gaming establishment. He noted that part four of the test was whether the Commission has a regulatory interest that would be addressed by conditions on the development.

General Counsel Grossman explained that there were seven proposed conditions. The first condition was regarding seating limitations at live entertainment venues. Executive Director Wells and Chair Judd-Stein raised an issue of ambiguity within the second sentence of this condition, as it did not include the 3,500 seat language as allowed statutorily in G.L. c. 23K. Commissioner O'Brien suggested reintroducing language regarding "live entertainment events that exceed 3,500 ticketed seats" in addition to the language regarding events under 1,000 seats.

General Counsel Grossman noted that the Commission had never discussed the definition of "live entertainment event." Chair Judd-Stein questioned whether the current description would be inclusive of events such as gardening exhibitions, presidential debates, or conferences. Chair Judd-Stein noted that such events are not typically competing with the ones regulated here, and that they should not be implicated by this proposed condition. Commissioner Hill agreed that such exhibitions were not a concern, and that he considered live entertainment to be a live event or theater. Commissioner Cameron agreed with Chair Judd-Stein and Commissioner Hill, and General Counsel Grossman stated that he would work to define the term "live entertainment."

General Counsel Grossman explained that the second proposed condition was a ban on provisions regarding radius restrictions of entertainers that would prevent them from performing elsewhere within the Commonwealth. The Commission had no further questions or comments on this condition.

General Counsel Grossman explained that the third condition was regarding the Massachusetts Environmental Policy Act (“MEPA”), as the project may trigger MEPA considerations. The condition requires the licensee to comply with MEPA and provide their filings to the Commission. The Commission had no further questions or comments on this condition.

General Counsel Grossman explained that the fourth condition was regarding the security plan for the parking garage and required the licensee to submit the plan for approval 60 days before the garage opens and conduct regular security checks for minors left in motor vehicles. Chair Judd-Stein provided a suggestion that regular monitoring of the garage occur, in addition to the checks for minors in motor vehicles. Commissioner Cameron suggested the use of “patrolling” as language to encompass this. Commissioner O’Brien suggested that reports of children in motor vehicles while their parents are in the gaming establishment be reported to the IEB. Commissioner Cameron noted that situations of that nature are rare, but the gaming establishment security and IEB work closely on these issues. General Counsel Krum noted that if parents are in the gaming establishment, the report goes out to everyone quickly to reconnect the child with the parent, including the IEB.

General Counsel Grossman noted that the fifth condition was that proposed future developments by Wynn in Lower Broadway in Everett must be submitted to the Commission for review prior to or contemporaneous with any filings with other government agencies. Commissioner O’Brien asked for clarification as to whether the decommissioned area is considered part of the Lower Broadway development. Chief Delaney responded that he was not sure if it incorporated that area, but “Lower Broadway” refers to the area south of the circle to the city line. To prevent ambiguity, Commissioner O’Brien asks to change the language of the condition from “Lower Broadway” to “the Lower Broadway district urban renewal plan area.”

General Counsel Grossman noted that the sixth condition was that employees of the facility at the project site not be given access to restricted sections of the gaming establishment unless they follow the applicable visitor access protocol. The Commission had no further questions or comments on this condition.

General Counsel Grossman noted that the final condition was regarding the construction of a pedestrian bridge, requiring the licensee to submit a plan within 60 days of the execution of the decision. General Counsel Grossman noted that 90 days would be more workable for the licensee. General Counsel Krum and the Commission all agreed to extend the deadline to 90 days.

Commissioner O’Brien moved that the Commission find that each of the components of the development of East Broadway in Everett as submitted by the licensees as discussed on March 10, 2022, and today, that is situated across the street from Encore Boston Harbor, satisfies the first three parts of the four-part test discussed at the meetings on March 10, 2022, and today.

Commissioner O'Brien further moved that the conditions attached to the category one gaming license awarded to Wynn MA, LLC be amended to add the new conditions discussed and edited here today with the addition of these conditions.

Commissioner O'Brien further moved that pursuant to the fourth part of the test, the Commission does not find that it has a regulatory interest in including the components of the development as presented as part of the present gaming establishment, as its concerns will be adequately addressed through the conditions. Commissioner Hill seconded this motion.

*Roll call vote:*

*Commissioner Cameron: Aye.*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously*

8. [Other Business](#) (2:10:35)

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

Commissioner Cameron moved to adjourn. Commissioner Hill seconded.

*Roll call vote:*

*Commissioner Cameron: Aye.*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously. Meeting Adjourned.*

### **List of Documents and Other Items Used**

1. Notice of Meeting and Agenda dated March 9, 2022
2. June 3, 2021, Meeting Minutes
3. June 14, 2021, Meeting Minutes
4. [Commissioners' Packet](#) from the March 14, 2022, meeting (posted on massgaming.com)