



Massachusetts Gaming Commission Meeting Minutes

Date/Time: March 3, 2022, 10:00 a.m.
Place: Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 111 504 6388

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 Eileen O'Brien
Commissioner Bradford Hill

1. [Call to Order](#) (0:00)

Chair Judd-Stein called to order the 372nd public meeting of the Massachusetts Gaming Commission. Roll call attendance was conducted, and all four commissioners were present.

2. [Approval of Minutes](#) (1:45)

- a. June 3, 2021
- b. June 14, 2021
- c. June 24, 2021
- d. August 4, 2021
- e. September 9, 2021

Acting as the Commission's Secretary, Commissioner O'Brien stated that more time was necessary for Commissioners to review the minutes listed on the agenda. She anticipated that the drafts would be ready for presentation and approval at subsequent public meetings on either March 10th or March 14th, respectively.

3. [Administrative Update](#) (2:43)

- a. On-site Casino Updates

Bruce Band, Assistant Director of the IEB, and Gaming Agents Division Chief announced that the City of Springfield lifted MGM Springfield's mask mandate earlier this week. Director Band stated there were no updates to share for updates for Plainridge Park Casino ("PPC") at this time. Director Band concluded by sharing that Encore Boston Harbor would resume their live entertainment promotions within the casino with an event taking place on March 17th, which Commissioners would discuss later in the meeting.

b. [COVID-19 Updates](#) (4:03)

Executive Director Wells reported that the MGC Boston office re-opened the week of February 28th, and employees were happy to be back within the office. Executive Director Wells presented the current mask-wearing protocols within the Commission and explained that consistent with CDC and Health Guidelines, the recommendation was to lift the mask wearing mandate, but recommended mask wearing for individuals with a high risk of illness. Executive Director Wells also noted that employees should feel comfortable to wear their masks and are encouraged to speak to HR or their respective supervisor with questions. Executive Director Wells has also noted that the building where the Commission sits, masks will be lifted on Saturday March 5, 2022

Commissioner Cameron supported the recommendation and extended her gratitude to the MGC working group for feedback they received and utilized in their decision-making process. Commissioner O'Brien agreed and encouraged employees of the Commission to feel comfortable if they still needed or wanted to wear a mask.

Assistant Director Band shared that he would work with the Gaming Agents who are stationed at different gaming establishments and provide Commissioners with an update in the coming days regarding mask wearing at the properties.

c. [Internal Audit and Compliance Working Group Update](#) (9:39)

Executive Director Wells provided an overview of what was accomplished by the working group last year including, the Risk Matrix, the Internal Control plan, and a Compliance Calendar, in partnership with Chief Financial Accounting Officer ("CFAO") Derek Lennon.

Commissioner O'Brien commended Executive Director Wells for her work and being able to utilize the research and analysis in her decision-making. Commissioner Cameron agreed and stated her belief that the Commission was a very high-performance agency and commended Executive Director Wells for her high-quality work.

d. [Encore Boston Harbor Scheduled Event Discussion](#) (19:17)

Executive Director Wells provided an update on the reports of concern pertaining to the ILEV agreements between Encore Boston Harbor and the entertainment venues. She reported that the Commission was made aware of concerns previously, but that this was the first instance that someone had reported to the Commission that an event could be viewed as violative of the relevant provisions of G.L. c. 23K, that pertain to ILEV agreements. Executive Director Wells

shared that this issue may not be ripe for discussion as the MMA event scheduled to occur on March 17 may not be within the 1,000 to 3,500 attendee range to trigger an analysis and review of the provisions.

Chair Judd-Stein thanked Executive Director Wells for the update and agreed that the issue would be more thoroughly discussed once the Commission had more information ideally at a public meeting on March 10 or March 14.

Transcribers Note: Upon return from the lunch break at 1:30pm Executive Director Wells confirmed that she had received notification from Encore Boston Harbor General Counsel Jacqui Krum and that the MMA event would have less than 1000 people, thus not violating the ILEV agreements.

4. [Research and Responsible Gaming](#) (24:00)

Before introducing Director Vander Linden, Chair Judd-Stein noted that March was Problem Gambling Awareness Month. She highlighted that the Commission was fortunate to have significant resources and expertise to address responsible gaming and shared that the Commission was continually committed to the mission of this month by increasing public awareness of problem gambling in the areas of prevention, treatment, and recovery services. Chair Judd-Stein recognized the GameSense program and commended the GameSense advisors who provide critical intervention services at all three gaming establishments, adding that their expertise was a key resource to promote responsible gaming in the Commonwealth. She also expressed her gratitude to Governor Baker and Lieutenant Governor Polito for officially declaring March as Problem Gambling Awareness Month in the Commonwealth and issuing an official proclamation, included on page 11 of the meeting packet.

a. [Problem Gambling Awareness Month](#) (25:59)

Director Vander Linden reported that the theme for Problem Gambling Awareness Month 2022 was awareness and action. Director Vander Linden added that the theme represented the Commission's commitment to promoting the nation's most comprehensive gaming research agenda, and the Commission drive to organize the findings from the research into programs and services that were aimed at reducing gambling related harm. Director Vander Linden explained that the agenda had been underway for about 10 years and had generated over 50 reports covering all aspects of gambling impacts in Massachusetts, such as social impacts, economic impacts, and the impacts that casino openings had on public safety. Director Vander Linden expressed that the agenda would be used to improve the programs and services that the Commission currently provided through program evaluations.

Chair Judd-Stein and Director Vander Linden thanked the licensees for their full collaboration in the research efforts. Director Vander Linden mentioned that the Play My Way program was a collaboration, and it demonstrated the importance of collaborative relationships when casinos own the tools to support positive play. He reported that PPC had offered the Play My Way program since 2017, and MGM and EBH would be introducing the program later in the year.

Executive Director Wells thanked Director Vander Linden, his team, Marlene Warner, and Chelsea Turner for their efforts.

b. [GameSense Quarterly Report](#) (35:30)

Director Vander Linden introduced MA Council on Gaming and Health (“MACGH”) Director of Responsible Gambling Chelsea Turner, and Executive Director Marlene Warner to present provide an update on GameSense. The *GameSense Quarterly Report* was included on pages 12 through 34 of the Meeting Packet.

Director Turner and Executive Director Warner provided an overview of interaction between GameSense Advisors and guests at all three establishments, activities at the centers, for example.

Director Turner and Executive Director Warner thanked the gaming establishments for participating in the program, and the Commission for partnering with MACGH to address problem gambling. Executive Director Warner highlighted that the research resulted in positive play, lower-risk gambling guidelines, the *SEIGMA* and *MAGIC Studies*. Chair Judd-Stein thanked Director Turner and Executive Director Warner for the presentation and added that everyone appreciated the work of the GameSense advisors. Commissioner Cameron stated that the presentation contained so much positive information regarding affirmations, patrons telling the advisors what they had accomplished, and the advisors encouraging the patrons. Commissioner Cameron expressed that the experience of the new GameSense advisors was amazing, and acknowledged the GameSense team’s work with language, and mental health. Commissioner Cameron added that collaboration among all the gaming establishments was difficult at the beginning, but everyone came together. Commissioner Cameron observed that she was very impressed by the work GameSense does. Chair Judd-Stein commented that Commissioner Cameron would not be present for the next GameSense Quarterly Report presentation and would be seeing the presentation from a different perspective. Executive Director Warner noted that it was bittersweet presentation because Commissioner Cameron was always a great supporter of GameSense and provided MACGH with direction when asked. Executive Director Warner added that Commissioner Cameron would be missed. Commissioner Cameron thanked Executive Director Warner for the kind words and expressed that she would miss everyone also.

Commissioner O’Brien agreed with the sentiments expressed by Commissioner Cameron and Executive Director Warner. Commissioner Hill stated that the presentation was excellent. Commissioner Hill added that he and Chair Judd-Stein had the opportunity to tour the facilities, and the staff was very energetic, and provided great information. Commissioner Hill congratulated GameSense on its work with veterans, and the issues they face after returning from conflict. Commissioner Hill also commended the employees at PPC, MGM Springfield and EBH who were named Champion Awardees for their participation in the Mental Health First Aid Training.

Chair Judd-Stein asked if there was a link to the video of “Gambling and Military Service; an Unexpected Risk” available to post on the Commission’s website. Executive Director Warner responded that she should be able to provide a link, but she had to confirm. Chair Judd-Stein

acknowledged Mr. Sherwood's work with geo-fencing and providing ads that address problem gambling. Executive Director Warner stated that the ads had received about 200,000 hits which was remarkable because the cost to amplify the ads was so low, approximately \$250-300, to a targeted group.

5. [Investigations & Enforcement Bureau](#) (1:41:45)

a. VICI-MGP REIT Transaction and Request for Trust Approval

Director Lillios introduced Chief Enforcement Counsel Heather Hall and representatives from VICI and MGM Resorts International and MGM Springfield to discuss the REIT Transaction and Request for Trust Approval. Documents detailing the *REIT Transaction and Request for Trust Approval* were included on pages 35 through 55 of the Meeting Packet. Counselor Hall stated that the documents provided a description of the transaction and the IEB's recommendation of approval to the Commission. Counselor Hall explained that IEB had investigated the suitability of entities and individuals involved with the transaction. Counselor Hall extended her gratitude to attorneys Elena Keil, Pat Madamba, Jon Albano, Mike Fabius, and Jed Nosal for their responsiveness and cooperation throughout the IEB's investigatory process.

Counselor Hall then introduced General Counsel Grossman to offer an overview of the law relating to the transfer of interest involving a Real Estate Investment Trust (REIT). General Counsel Grossman stated that the transaction was similar in nature to two previous transfer of interest transactions that the Commission had recently reviewed. General Counsel Grossman highlighted that Chapter 23K expressly allowed for transfers of interest. General Counsel Grossman added that the Commission has supplemented the statutory provisions within the regulatory framework that outlined the process of review for approval of transfers of interest in G.L. 23K, §§ 116.08 through 116.10. General Counsel Grossman explained that the Commission's review process was designed to:

- i. Ensure that the Commission had the opportunity to determine whether the transfer would result in any new qualifiers, and if so, ensure that the new qualifiers submit to the Commission's FAI suitability process, such that an appropriate investigation could be conducted, and a decision issued by the Commission; and
- ii. Determine whether the transfer would result in any change of control over the gaming license such that the quality of the operation or any licensed conditions, including host and surrounding community agreements, or other commitments would be affected in any way.

General Counsel Grossman observed that while the transaction at issue involved a REIT, it would be unlikely that any evidence regarding change of control would emerge, but that it is an important factor for the consideration. General Counsel Grossman noted that this meeting was not to review for interim authorization or final approval, and that those would occur on future dates. He further noted that the meeting today was to introduce the parties, receive an overview of the proposed transaction, and review the proposed Trust Instrument.

General Counsel Grossman noted that there cannot be a transfer of a gaming license, gaming establishment, or associated structure without notice to the Investigations and Enforcement

Bureau (“IEB”). He noted that this requirement had been performed by the licensee. General Counsel Grossman stated that in the present case, parties asserted no change in control or operation of gaming establishments.

General Counsel Grossman stated that the necessary elements of Trust are contained in 205 CMR 116.10. He further noted that he had reviewed the Trust, and it met all regulatory requirements. The applicant’s request for approval of the Trust was in the Commissioner’s Packet on pages 35 to 37.

General Counsel Grossman noted that Chapter 23K allows for interim authorization with the recognition that full suitability may take a long period of time to complete. He outlined that the next step for the Commission would be to render a decision on interim authorization, and if granted, the closing of the deal may occur prior to a final suitability decision. He noted that if a prospective transferee failed to timely transfer interest to the Trust, they would automatically receive a negative determination of suitability.

Chair Judd-Stein asked for parties to introduce their teams. Jonathan Albano, Counsel to VICI Properties, Inc. from Morgan Lewis, thanked the Commission for the opportunity to address the Trust Instrument. He introduced: Executive Vice President, General Counsel, and Secretary of VICI Properties, Inc, Samantha Sacks Gallagher; VICI Property’s Associate General Counsel, Elaina Otero Keil; Counsel to VICI Properties from Ballard Spahr, Michael Fabius; and Successor Trustee, Carl Sottosanti.

Acting on behalf of MGM Resorts International, Jed Nosal, a partner at Womble Bond Dickinson (US) LLP, introduced Senior Vice President and Legal Counsel of MGM Resorts International Pat Madamba; Senior Vice President and Legal Counsel of MGM Resorts International Laura Norton and Vice President and Legal Counsel of the Northeast Group, which included MGM Springfield General Counsel, Gus Kim.

Counsel Madamba stated that was a \$17.2 billion transaction, which included the assumption of \$5.7 billion in debt. He noted that control would not change, and there would be vertical integration where all entities remain in place, except for MGM Growth Properties, LLC, which would merge into a subsidiary of VICI Properties, Inc.

Counsel for VICI stated that VICI was amending and restating the existing master lease, and that the amended lease was in the Commissioner’s Packet. She noted that MGM would continue to control operations of the property, and capital expenditure requirements would remain the same under the amended restated lease. She further noted that ownership of the structure would rest with VICI Properties, and as the tenant MGM will be responsible for all maintenance.

Commissioner O’Brien sought clarification as to whether VICI Properties Inc.’s interest in Penn National Properties included an interest in Plainridge Park Casino (“PPC”), located in Plainville. Counsel for VICI confirmed that VICI Properties did not have an interest in the property located in Plainville, Massachusetts. Commissioner O’Brien inquired whether there was concern of VICI gaining an interest in multiple licensees as a landlord in the future. General Counsel Grossman

stated that if that situation were to occur, it would require further analysis, but that it was not presently a concern held by the IEB or the Legal Division.

Mr. Albano noted that the Proposed Trust was an amendment of the previous Trust approved by the Commission in 2021. He discussed relevant provisions of the Trust including transferring property in and out of the Trust and that the amended Trust provided that in the finding of the final negative finding of suitability, the property would return to Blue Tarp Redevelopment, LLC. These provisions remained the same from the previous Trust.

Chair Judd-Stein sought clarification regarding Section 5A of the Trust Instrument, regarding the end of the clause; inquiring whether an “and” was missing from the sentence. Mr. Albano clarified that Clause 5A stated that “property could not be disposed of without a prior determination of Suitability.” He further stated that he would take another look of the provisional language and confirm with the Commission soon.

Chair Judd-Stein asked whether a final Suitability determination had to be made at this point. Chief Enforcement Counsel Hall replied that Commission making an interim suitability determination was the first step, and that IEB would continue the investigation before seeking final approval in the future. General Counsel Grossman noted that the final review was not just regarding Suitability itself, but also whether there had been no change in control and the Trust was properly in place.

Commissioner O’Brien moved that the Commission find that the amended and restated Springfield Nominee Trust discussed here today and appearing in the Commissioner’s Packet will, upon execution, comply with the requirement set out in 205 CMR 116.106. The motion was seconded by Commissioner Cameron.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O’Brien: Aye.

Commissioner Hill: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously 4-0.

6. [Legal Division](#) (2:21:10)

General Counsel Todd Grossman introduced Associate General Counsel Judith Young to present proposed amendments to regulations. The Proposed Amendment to Regulations 205 CMR 138.26(4), and 205 CMR 147, and Small Business Impact Statements were included of pages 56 through 67 of the Meeting Packet.

- a. 205 CMR 138.26(4): Key Maintenance and Inventory – and Small Business Impact Statement, for approval to begin the promulgation process

Attorney Young explained that the proposed amendment to regulation 205 CMR 138.26(4) would require key inventory at all three gaming establishments to occur every three months, instead of every 12 months. Chair Judd-Stein inquired about what prompted the amendment. Director Band suggested that the key inventory be conducted more often based on a recommendation from the outside audit team.

Commissioner Cameron moved that the Commission approve the small business impact statement and the amendment to 205 CMR 138 as included in the Commissioners' Packet and authorize the staff to take the steps necessary to file the required documentation with the Secretary of the Commonwealth and to proceed with the regulation promulgation process. 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 4-0.

- b. 205 CMR 147: Uniform Standards of Rules of the Games – and Small Business Impact Statement, for approval to begin the promulgation process

Attorney Young explained that the proposed amendment to 205 CMR 147 addressed the procedure the dealer would follow when a patron bet over the table maximum limit. The current procedure was that if the patron bet above or below the table limits, the dealer would acknowledge the bet, and remind the patron of the table limits without touching the patron's chips. Commissioner O'Brien requested clarification regarding the dealer touching the patron's chips. Burke Cain clarified that the patron might stack chips of different values that amount more than the table maximum, and after the hand was dealt, the dealer would return the chips which were over the table maximum. Mr. Cain added that superstitious patrons would not want the dealer to touch the chips before the hand was dealt. Chair Judd-Stein asked whether the casino would take the full amount that was bet if the patron lost. Mr. Carpenter replied that at EBH, the casino would pay the full amount if the patron won, and would take only the table maximum, if the patron lost.

Commissioner O'Brien asked why there was a table minimum and maximum if a statement by the dealer could bypass them. Mr. Carpenter responded that the scenario rarely occurred, however, the properties do recognize the occasion where a patron would wish to wager a higher amount of money, and that patron being allowed to do so at the dealer's discretion. Mr. Carpenter further elaborated that the table maximum and minimum were clearly printed on a sign at every table, and that the proposed amendment was service to superstitious patrons who did not want the dealer to touch the chips. Mr. Carpenter highlighted that the current regulation stated that if the patron bet over the limit, the casino would take the full amount, and the dealer would have to count the chips to remove the excess amount after the dealing the hand. Mr. Carpenter added that the dealer would make the statement when the patron's bet appeared to be close to or over the table limit, but not given upon every hand.

Commissioner Hill moved that the Commission approve the small business impact statement and the amendments to 205 CMR 147 as included in the Commissioners' Packet and authorize the staff to take the steps necessary to file the documentation with the Secretary of the Commonwealth and to proceed with the regulation promulgation process. The motion was seconded by Commissioner Cameron.

Roll call vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Hill: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously 4-0.

7. [Research and Responsible Gaming](#) (3:32:26)

a. MGM Play My Way Launch

Director Vander Linden provided an update on the Play My Way launch at MGM Springfield. His report, *The Update of the Implementation of Play My Way at MGM Springfield* was included in the meeting packet on pages 68 through 85. Director Vander Linden provided a brief overview of the Play My Way program's features and explained that the two goals of the program were to: (1) sustain recreational gambling by establishing feasible parameters; and (2) eliminate the regret arising from loss of control. Director Vander Linden shared that the launch of the program will occur at the end of the month. Director Vander Linden explained that Play My Way was a voluntary program that helped patrons set a spend budget, and patrons received notifications as they approached the set budget. The program would not prevent patrons from spending beyond the budget.

Commissioner O'Brien congratulated Director Vander Linden and the Research Team on their efforts to launch the program at MGM Springfield, despite numerous delays, including the pandemic. Commissioner Cameron noted that the communications plan had improved and asked if the evaluation plan was different from the evaluation completed at PPC. Director Vander Linden confirmed that the evaluation plan was different, but comparable to the evaluation of Play My Way at PPC. Director Vander Linden thanked Gaming Technical Compliance Manager Scott Helwig, and the IT Team for their work on the technological aspects of the programs launch, including testing.

Chair Judd-Stein asked if there was information on the number of patrons who overrode their budget at PPC. Director Vander Linden confirmed that the Research Team collected the data, and that there was a significant percentage. Director Vander Linden stated that he would review the data and provide the Commission with the percentage later. Chair Judd-Stein further inquired whether there was feedback from patrons indicating that they did not want to be able override their budget. Director Vander Linden acknowledged that patrons had provided such feedback but stated previously that Play My Way was a voluntary program which did not prevent patrons from playing.

8. Commissioner Updates
a. [Legislative Update](#) (4:07:11)

Chief Administrative Officer and Special Projects Manager Crystal Beauchemin updated the Commission on the Open Meeting Law Chapter 22 of the Acts of 2022, which allowed the Commission to continue to meet remotely until July 15, 2022.

9. Community Affairs Division

a. [MGM Springfield Quarterly Report](#) (4:09:02)

Chief of Community Affairs Joe Delaney introduced MGM Springfield Director of Compliance Daniel Miller, Executive Director of Finance Arlen Carballo, and Director of Community Affairs Beth Ward to present the Q4 2021 Report. The report was included of pages 86 through 106 of the Meeting Packet. Among the topics discussed, the report included updates on compliance, spend, employment, and development.

Director Miller provided the compliance update. Chair Judd-Stein asked Director Miller to elaborate on incidents concerning minors and underage patrons. Director Miller responded that in one incident, a minor age 19 or 20 entered the gaming area with an adult who was over 21 years old, the adult ordered an alcoholic drink, and gave it to the minor. Director Miller added that MGM staff did not serve the drink to the minor. Director Miller explained that there were two incidents where minors were intercepted gaming. Director Miller stated that on one occasion, security did not check the minor's identification, and on another occasion, the minor used a fraudulent identification. Director Miller remarked that due to these events, the staff members involved were retrained, and disciplined. Chair Judd-Stein expressed appreciation for the family-friendly activities and noted that MGM should make efforts to lower the number of minors accessing the gaming area. Director Miller agreed and mentioned that the number had dropped significantly since 2019.

Executive Director Carballo presented on the spend update. Chair Judd-Stein inquired whether there was a significant change in the operating spend because of the pandemic. Executive Director Carballo responded that there was not a significant change, but there had been a slight deficit which MGM Springfield was addressing.

Director Miller updated the Commission on the employment rates at MGM Springfield and mentioned that although the number of employees were increasing, MGM Springfield did not meet its employment goal for minority and women employees. Commissioner Cameron asked whether the employment numbers were continuing to increase. Director Miller confirmed that the numbers were increasing and added that hiring events for food, and beverage positions were conducted weekly or bi-weekly. He was hopeful that these events would help raise the number of women employed. Commissioner Cameron further inquired about whether efforts were made to identify why MGM Springfield had not met its employment goal for minorities and women. Director Miller stated he would contact human resources regarding the matter and provide a more detailed response later.

Director Ward updated the Commission on the developments underway at the MassMutual Center; adding that the garage was scheduled for demolition in June 2022. Chair Judd-Stein added that the Commissioners looked forward to a tour of the 31 Elm Street development. Commissioners thanked the Mr. Ward and Ms. Carballo for their report.

b. [Executive Session](#) (4:37:24)

Chair Judd-Stein read the following statement into the record, “the Commission anticipates that it will meet in executive session in accordance with G.L. c.30A, §21(a)(7) to comply with G.L. c.23K, § 21(a)(7) for the specific purpose of reviewing the proposed multi-year capital expenditure plan [described in 205 CMR 139.09], and any corresponding materials, submitted relative to MGM Springfield, as discussion of this matter in public would frustrate the purpose of the statute and associated legal authorities. This matter is further governed by 205 CMR 139.02 as the information at issue is covered by a non-disclosure agreement.” The public session of the Commission meeting will not reconvene at the conclusion of the executive session.

Commissioner Cameron moved to adjourn into Executive Session. 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 4-0.

List of Documents and Other Items Used

1. [Notice of Meeting and Agenda](#) dated February 27, 2022
2. [Meeting Packet](#) from the March 3, 2022, Open Meeting.