



Massachusetts Gaming Commission Meeting Minutes

Date/Time: May 21, 2020 – 10:00 a.m.

Place: Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5292
MEETING ID: 111 606 1798

Present: Chair Cathy Judd-Stein
Commissioner Gayle Cameron
Commissioner Enrique Zuniga
Commissioner Bruce Stebbins
Commissioner Eileen O'Brien

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.

Call to Order

10:00 a.m. Chair Cathy Judd-Stein called to order public meeting #303 of the Massachusetts Gaming Commission (Commission).

The Chair confirmed a quorum for the meeting with a Roll-Call Vote.

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Zuniga: Aye.

Commissioner Stebbins: Aye.

Chair Judd-Stein: Aye.

The Chair expressed condolences on behalf of the Commission to all of the families affected by COVID-19, and to all of those who have been working to provide care.

Approval of Commission Meeting Minutes

10:02 a.m. *Commissioner Stebbins moved to approve the minutes from the Commission meeting of April 29, 2020, subject to correction for typographical errors and other nonmaterial matters. Commissioner Cameron seconded the motion.*

Roll Call Vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Zuniga: Aye.

Commissioner Stebbins: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

Commissioner Stebbins further moved to approve the minutes from the Commission meeting of May 1, 2020, subject to correction for typographical errors and other nonmaterial matters. Commissioner O'Brien seconded the motion.

Roll Call Vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Zuniga: Aye.

Commissioner Stebbins: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

Commissioner Stebbins then moved to approve the minutes from the Commission meeting of May 7, 2020, subject to correction for typographical errors and other nonmaterial matters. Commissioner Cameron requested an edit to the update regarding the rescheduling of the International Masters of Gaming Law (IMGL) joint conference. Commissioner O'Brien seconded the motion, pending the edit.

Roll Call Vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Zuniga: Aye.

Commissioner Stebbins: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

Administrative Update

10:05 a.m. Interim Executive Director Karen Wells provided a preliminary update on Commission offices reopening and casino reopening plans. The governor issued substantial guidance on business reopening in Boston and across the Commonwealth, and Ms. Wells stated that telework operations will remain in place for the present time. The Restart Working Group is creating protocols consistent with the governor's directives for Commission staff that will need to

report to the property once the casinos open. Commission offices will then be opened with an incremental approach. The Restart Working Group will provide these guidelines to the Commission for discussion.

[10:09 a.m.](#) Commissioner Zuniga noted that there might be some incremental costs that will come with reopening the Commission's offices, and stated that the Commission will need to convene to discuss updates as necessary.

Ms. Wells stated that the Commission will be guiding the licensees using the governor's mandates, other state and federal requirements, expert public health guidance, and lessons learned from other jurisdictions that reopened before Massachusetts.

Legal/IEB/Licensing Divisions

[10:12 a.m.](#) **Plainridge Park Casino (PPC) License Renewal Status Update**
Ms. Wells, with Todd Grossman, Interim General Counsel; Loretta Lillios, Chief Enforcement Counsel/Deputy Director; Joe Delaney, Construction Project Oversight Manager; and Bill Curtis, Licensing Manager provided an update to the Commission on the status of the renewal of PPC's license.

[10:13 a.m.](#) Ms. Lillios reported on the status of the renewal process for PPC's Category 2 license renewal. She reported that all suitability application materials have been submitted. The IEB has completed the suitability review, and PPC has satisfied all submission requirements. Once the reports are finalized, the matter will be brought to the Commission for a vote. Ms. Lillios expects to provide completed suitability reports to the Commission before the due date of June 24.

[10:18 a.m.](#) Mr. Delaney stated that he has been in contact with PPC regarding information that is needed to fulfill the application's requirements. He explained some of the staffing challenges that PPC is currently working with PPC's Compliance Manager Lisa McKenney has a schedule in place to complete and submit the remaining required information to the Commission in two batches; first by June 1, and the second on June 15. Mr. Delaney then stated that once all is received, the Commission may then implement a schedule for conducting the public hearing and other related matters. Should PPC begin reopening the casino during this time, this may cause a delay in the process; however, it will not affect the license status.

PPC will seek temporary relief from payment of the renewal fee before the license is issued. Ms. Lillios affirmed that the Commission had set the fee, and it is not a statutory or regulatory requirement. Ms. Lillios then suggested that this relief is considered at the June 4th Commission meeting. Commissioner Zuniga clarified that the fee is deposited into the Gaming Revenue Fund.

[10:28 a.m.](#) Commissioner Zuniga stated that he would like the Commission to be flexible and accept an affidavit, certification, or a statement from PPC that reflects the completion of their application.

Ombudsman Division

[10:31 a.m.](#) **Community Mitigation Fund Summary**

Mr. Delaney and Program Manager Mary Thurlow provided an update on the status of the 2020 Community Mitigation Fund applications (CMF). Included in this update are the comment letters received through MGC comments, MassDOT and Plainridge Park. The Review Team provided an extension of time for the licensees to comment on the applications until May 22, 2020, due to COVID-19.

Mr. Delaney summarized that 37 grant applications were received totaling \$13.4M, which amounts to more than the \$11.5M available for grants. Over the next few weeks, the Review Team will meet several times to evaluate and develop the recommendations to the Commission.

The Commission is currently scheduled to review the applications at the Commission meetings on June 18 and June 25.

[10:39 a.m.](#) Commissioner Zuniga remarked that even if the Commission met the targets that Mr. Delaney described, next year the casino's targets will be less as there have been no funds going into the CMF due to closure. Commissioner Zuniga then confirmed for the Chair that the dollar amount that applications come in under target, those amounts will carry over to the following year.

[10:42 a.m.](#) Commissioner Stebbins thanked Mr. Delaney and Ms. Thurlow for all of their work and remarked that Mr. Delaney consistently providing feedback from the applicants during this crisis has proven to be helpful. Commissioner Stebbins then raised some questions that the Commission may want to consider this fall for the CMF.

Commissioners' Update

[10:47 a.m.](#) **Wynn Independent Monitor 6-Month Baseline Report**

Miller & Chevalier Chartered independent monitor members Alejandra Montenegro Alamonte, Preston Pugh, and Ann Sultan presented this report to the Commission.

The Chair thanked the independent monitor for the comprehensive and constructive baseline assessment, and stated that the report has been posted on the Commission's website. She acknowledged colleagues from Wynn, who are not present today, but their response is also posted on the Commission's [website](#).

- [10:49 a.m.](#) Ms. Montenegro introduced her team as well as other participants in the project who collaborated on the baseline report's production and outlined the baseline assessment goals for the Commission.
- Next, Ms. Montenegro described overall observations concerning harassment and discrimination compliance. She noted that the monitor team observed a sincere commitment already present in the Human Resource Division's compliance program.
- [10:54 a.m.](#) Ms. Sultan provided a summary of the review and testing activities that were conducted to include documentation, interviews, and Focus Groups.
- [11:02 a.m.](#) Mr. Pugh reviewed Wynn's risk profile with the Commission, in the context of the Equal Employment Opportunity Commission (EEOC) risk factors and company-specific risk factors upon beginning the monitorship. This risk profile helped inform the monitor's assessment of the effectiveness of the program.
- [11:09 a.m.](#) Commissioner Zuniga asked how the Commission should contextualize what Wynn is experiencing compared to other companies. Ms. Montenegro stated that it is not uncommon, and is similar to other companies. She then noted Wynn's investment in critical positions and significant investment in training in Human Resources programs. There is also increased transparency in reporting by Wynn. All allegations of sexual harassment are now elevated to the general counsel in Las Vegas, as well as to a compliance committee for review. The monitor is ensuring that the company implements a program that can be sustained long-term.
- [11:21 a.m.](#) The Chair asked Ms. Montenegro to elaborate on Wynn's development of plans to monitor and track data that they collect from their investigations to help inform their policies on patron activity. Is that data analysis unique or expected? Ms. Montenegro replied that this analysis is expected and that the premise is to test the effectiveness of Human Resources compliance programs.
- [11:25 a.m.](#) Commissioner Cameron noted that hiring credible leadership is critical to ensure that the values are upheld that are put forth by the monitorship. Ms. Montenegro described how they would make sure the values would live on, should leadership change in the company.
- [11:35 a.m.](#) Commissioner O'Brien asked about a comment in the report that states the Corporate Governance Compliance Officer (CGCO) is currently not licensed to work in Massachusetts, and that Encore Boston Harbor's general counsel has been temporarily fulfilling the role of Compliance Officer for the property while the Wynn awaits his license. Commissioner O'Brien inquired where this understanding originated, as she believes that it is not entirely accurate. Ms. Montenegro replied that it came primarily through interviews with personnel, and found that the CGCO is not able to engage as closely with the Boston operation as expected. The Chair requested that Ms. Montenegro collaborate with Ms. Lillios

to ensure that this accurately reflects the Commission's regulatory structure and amend the report accordingly.

- [11:37 a.m.](#) The team then described updated policies and procedures regarding sexual harassment and discrimination, noting what Wynn had already done to comply before the monitor arrived, and added current opportunities that they have to enhance their efforts.
- [11:40 a.m.](#) Next, Ms. Montenegro described third party relationships with patrons, vendors and service providers, and external counsel in the context of the employees' perception of the Wynn's particular focus on customer service. Commissioner O'Brien stated there is a heightened tension for Wynn in this area as opposed to other casinos because they are so focused on their brand with 5-star service. Ms. Montenegro concurred.
- [11:50 a.m.](#) The Chair asked for examples offered to Wynn from the monitor to address the tension mentioned by Commissioner O'Brien. Ms. Montenegro provided examples, such as patron standards of behavior that have been provided to Wynn to use on their website.
- [11:57 a.m.](#) Commissioner O'Brien remarked on a recurring theme of conflicts of interest in the report's findings. Ms. Montenegro replied that this is definitely going to be a focus as they move forward.
- [11:59 a.m.](#) The Chair asked about the policy on conflicts and asked about who keeps records of these conflicts. She noted that the gaming legal community is small, and no single person should be in charge of keeping records. Ms. Montenegro stated there is a need for dual approval in the payment of external counsel invoices. She recommends that the general counsel and chief financial officer oversee these records, as well as where there are decisions and review procedures that would require a second look. This will be a strong focus in the next phase.
- [12:04 p.m.](#) Mr. Pugh reviewed a slide with the Commission that described training and guidance as essential to ensure the program's effectiveness and provided further details about the training initiative.
- [12:13 a.m.](#) Next, Ms. Montenegro identified areas where they have recommended additional training as internal reporting and investigation. She described the various reporting channels available for employees and third parties to report suspected violations of the Human Resource Compliance Program (HRCP) as well as describing an investigation protocol.
- [12:24 p.m.](#) Commissioner Zuniga suggested perhaps taking steps to handle sensitive issues before launching a formal investigation would be beneficial to all involved, as the term "investigation" can be perceived as presumptive escalation, designating an

offender. Ms. Montenegro commented on the impacts of overcorrection and undercorrection and how communication plays a vital role.

[12:28 p.m.](#) The Chair asked if the multitude of reports they have received from employees has been consistent with the industry norms, concerning risk for the entity. Ms. Montenegro responded that the number and nature of the allegations are consistent with what they would expect to see in this type of company and industry.

[12:31 p.m.](#) Next, Mr. Pugh reviewed a slide that described incentives and discipline measures that Wynn has in place to discipline employees who violate the business' personal codes of conduct and Human Resources policies. He stated that the monitor team has seen evidence of such discipline, including in senior personnel. There are current opportunities to enhance formal performance-management procedures, goal-setting, and evaluation.

[12:38 p.m.](#) The concept of risk-based review was then discussed. Ms. Montenegro described it as ongoing risk-based assessments to identify where particular risks exist. Internal audits are also part of the risk-assessment plan.

[12:42 p.m.](#) Ms. Sultan reviewed the company's monitoring and testing aspects of the program, which is critical for long-term success. She noted observations in this module and provided examples of what they have seen so far.

[12:53 p.m.](#) Commissioner Zuniga provided three insights about the general concept of changing culture, and then asked Ms. Montenegro to speak to them. She made remarks, also stating that it is critical to continually communicate to managers and supervisors as to what is expected of them, and make it clear that they will be held accountable if they fail to do so.

[1:01 p.m.](#) Commissioner Stebbins asked if the monitor is making recommendations to Wynn to reduce contention between the concepts of core values vs. core behaviors. Ms. Montenegro replied affirmatively and described current efforts in place.

[1:12 p.m.](#) The Chair made closing remarks and commended Wynn and Encore Boston Harbor team for their collaborative process.

Commissioners' Update

[1:17 p.m.](#) Commissioner Zuniga will be returning with a further update on next week's Public Health Trust Fund to discuss their budget, which will have implications for the Commission's budget.

[1:18 p.m.](#) *With no further business, Commissioner Cameron moved to adjourn. Commissioner Stebbins seconded the motion.*

Roll Call Vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Zuniga: Aye.

Commissioner Stebbins: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

List of Documents and Other Items Used

1. Notice of Meeting and Agenda dated May 19, 2020
2. Draft Commission Meeting Minutes dated April 29, 2020
3. Draft Commission Meeting Minutes dated May 1, 2020
4. Draft Commission Meeting Minutes dated May 7, 2020
5. Memorandum re: 2020 Community Mitigation Fund Update dated May 21, 2020
6. Wynn Resorts Ltd. & Wynn MA, LLC Independent Compliance Monitor Baseline Assessment Report dated May 8, 2020

/s/ Bruce Stebbins
Secretary