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## Massachusetts Gaming Commission Meeting Minutes

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**Date/Time:** May 29, 2019 – 10:00 a.m.

**Place:** Massachusetts Gaming Commission  
101 Federal Street, 12<sup>th</sup> Floor  
Boston, MA 02110

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

**Time entries are linked to the  
corresponding section in the  
Commission meeting video.**



### **Call to Order**

See transcript page 1

[10:00 a.m.](#) Chair Cathy Judd-Stein called to order public meeting #270 of the Massachusetts Gaming Commission. Commissioner Zuniga is traveling on business and participating in the meeting by phone. Commissioner Zuniga confirmed that he could hear the meeting, and the Chair confirmed that the Commission and public could hear him.

The Chair stated that yesterday the Commission did receive payments totaling \$35.5M, from Wynn Resorts, satisfying the two fines imposed by the Commission, and going forward the Commission will ensure that the additional conditions imposed are complied with. She added that the Commission looks forward to the June 23<sup>rd</sup> opening of Encore Boston Harbor.

With regard to questions asked about how the fines will be processed, the Chair explained that fines are handled the same as the taxes on Gross Gaming Revenue, and described how the funds would be dispersed. Details are provided on the bottom of the [Revenue page](#) of the Commission's website.

## **Administrative Update**

See transcript pages 1 – 2

### 10:01 a.m.    **General Update**

Executive Director Ed Bedrosian stated that he has no administrative update today as the focus has been on preparations to open Encore Boston Harbor. However, at the next Commission meeting, he plans to introduce a host of new employees to the Commission, and will provide and update on the preparations made for Encore's June 23<sup>rd</sup> opening.

## **Ombudsman**

See transcript pages 2 - 12

### 10:05 a.m.    **Encore Boston Harbor – Summary of Material Changes Since Design Approval**

Ombudsman Ziemba first introduced and described the two items up for the Commission's consideration, being Material changes to the Encore Boston Harbor project since design approval, and the draft Second Amended Encore Boston Harbor Section 61 Findings. Also present for the discussion were Joe Delaney, the Commission's Construction Project Oversight Manager; Mina Makarious, Outside Counsel for the Commission from Anderson & Kreiger; Encore Boston Harbor President Robert DeSalvio; and Jacqui Krum, Encore Boston Harbor Senior Vice President, and General Counsel.

### 10:12 a.m.    Attorney Krum explained the potential impact on Encore's number of gaming positions due to reductions in anticipated traffic impacts that are reflected in the draft Second Amended Section 61 Findings in the [Commissioner's Packet](#).

Mr. Delaney reported on some material changes to Encore Boston Harbor's final design since the Commission's original design approval on October 26, 2016. With him was Attorney Krum as well as Peter Campot, Director of Construction for Wynn Design and Development.

Attorney Krum updated the Commission on the status of employee parking at Encore, stating that Encore will now be able to obtain at least 700 spaces at Station Landing. There are also current negotiations taking place for additional parking spaces.

Commissioner O'Brien asked Attorney Krum for the status of the temporary day care facility. Attorney Krum responded, stating that the provider has agreed to accept children into their program at other locations, pending Encore's opening, and they are also working with Care.com.

Attorney Krum added that the on-site day care facility, once opened, will not be a 24-7 operation. However, they are looking into extended hours for that and using Care.com as an additional resource.

Ombudsman Ziemba recommended that the Commission approve the material changes included in their packet.

[10:25 a.m.](#) *Commissioner Stebbins moved that the Commission approve the described Material Changes to the Final Design of the Encore Boston Harbor Project, provided that such approval shall not be construed:*

- *to supersede any obligations pursuant to M.G.L. c. 23K to the Commission's Section 61 Findings, as they may be amended from time to time, or to the conditions of Encore Boston Harbor's license, including but not limited to, Condition #14 relative to compliance with the information included in the application filed by the Designated Licensee and the evaluation reports filed by the Commission;*
- *to relieve Encore Boston Harbor from providing prior notice to the Commission of any future changes to the design for the Commission's review and approval; and,*
- *be construed to demonstrate that the Commission has made any determinations specified in 205 CMR 135.06(2) and 205 CMR 151.00..*

*Commissioner Cameron seconded the motion.*

*Roll Call Vote:*

*Chair Judd-Stein: Aye*

*Commissioner Cameron: Aye*

*Commissioner O'Brien: Aye*

*Commissioner Stebbins: Aye*

*Commissioner Zuniga: Aye*

*The motion passed unanimously.*

[10:27 a.m.](#) **Second Amended Encore Boston Harbor Section 61 Findings**

Ombudsman Ziemba summarized the substantive updates to the Section 61 Findings. With regard to the potential to change the number of gaming positions, he explained that the Commission can reopen a mitigation measure under its regulations. He added that if the Commission approves these Second Amended Section 61 findings, staff and Encore Boston Harbor will both need to file them by May 31<sup>st</sup> so that they will appear in MEPA's June 10th, 2019, Environmental Monitor.

The Chair requested clarification as to what the Commission is statutorily allowed to do regarding making changes to the Section 61 Findings. Attorney Makarious clarified that Commission could reopen mitigation essentially under MEPA, and not just under its regulations.

[10:34 a.m.](#) *Commissioner O'Brien moved that the Commission adopt the Second Amended Section 61 Findings and incorporate into the Region A Category 1 Gaming*

*License. Project name Encore Boston Harbor, formerly known as Wynn Everett Wynn Boston Harbor. Project location, 1 Broadway, Everett, Massachusetts. Project proponent Wynn Mass LLC, also known as Wynn. EOEEA number 15060, final agency action Category 1 gaming license.*

*WHEREAS on April 25, 2016, the Massachusetts Gaming Commission (the "Commission") voted to adopt the Commission's Section 61 Findings (the "2016 Section 61 Findings") with respect to the Encore Boston Harbor Project (the "Project"), to grant to Wynn the final Region A Category 1 Gaming License, to incorporate by reference the 2016 Section 61 Findings into Wynn's License for the Project, and to require, as a condition of the License, that Wynn comply with the terms, conditions, mitigation measures and other requirements identified in the 2016 Section 61 Findings;*

*WHEREAS the Commission expressly reserved the right to take further action with respect to the 2016 Section 61 Findings, the License for the Gaming Establishment, and any conditions contained in the 2016 Section 61 Findings or the License for the Gaming Establishment.*

*WHEREAS on or about February 28, 2017, Wynn filed a Notice of Project Change ("NPC") regarding a sediment remediation plan for a portion of the Project site and an adjacent area of the Mystic River with the Executive Office of Energy and Environmental Affairs' ("EOEEA's") Massachusetts Environmental Policy Act ("MEPA") Office;*

*WHEREAS on April 7, 2017, the Secretary of EOEEA issued a Certificate on the NPC in which the Secretary determined that Wynn's proposed project changes did not require the submission of additional filings under MEPA (the "NPC Certificate");*

*WHEREAS, on July 13, 2017, the Commission approved an amendment to the 2016 Section 61 findings to address a minor modification of one condition in the 2016 Section 61 Findings with respect to the Mystic River Pedestrian-Bicycle Bridge Feasibility Study, but without otherwise addressing the findings in the NPC or the NPC Certificate (the "First Amended Section 61 Findings");*

*WHEREAS Wynn has proposed these Second Amended Section 61 Findings, attached hereto, to reaffirm Wynn's commitment to avoid or minimize impacts to the environment of the Project and to update the 2016 Section 61 Findings and the First Amended Section 61 Findings;*

*NOW THEREFORE, I move that the Massachusetts Gaming Commission:*

- 1. Approve the proposed modifications and refinements to the Project described in the NPC, the NPC Certificate, the First Amended Section 61 Findings, and the Second Amended Section 61 Findings attached hereto;*

2. *Adopt the Second Amended Section 61 Findings regarding the Project in the form attached hereto pursuant to the Massachusetts Environmental Policy Act G.L. c. 30, §§ 61-62I, G.L. c. 23K, § 15(12), 301 CMR 11.12, and 205 CMR 120.02, to update and restate the 2016 Section 61 Findings and the First Amended Section 61 Findings;*
3. *Find, pursuant to G.L. c. 30, § 61 and 301 CMR 11.12(5), that all feasible measures have been taken to avoid or minimize impacts to the environment of the Project, for the reasons stated in the Commission's Second Amended Section 61 Findings attached hereto, and all other documents, approvals, and certifications incorporated by reference therein;*
4. *Incorporate by reference, pursuant to G.L. c. 30, §§ 61-62I, G.L. c. 23K, §§ 4(15), 15(12), and 21(c), 301 CMR 11.12(5)(b) and 205 CMR 120, the Commission's Second Amended Section 61 Findings attached hereto into Wynn's License for the Project and require, as a condition of the License, that Wynn comply with the terms, conditions, mitigation measures and other requirements identified in the Commission's Second Amended Section 61 Findings;*
5. *Authorize the Commission to execute the Commission's Second Amended Section 61 Findings in the form attached hereto;*
6. *Authorize the Commission's General Counsel to take all necessary procedural actions to effectuate the Commission's Second Amended Section 61 Findings in accordance with the Massachusetts Environmental Policy Act, the Massachusetts Gaming Act, and the regulations implementing each statute; and*
7. *Require as a condition of the License a regular quarterly review by the Commission of Wynn's compliance with the Commission's Second Amended Section 61 Findings and the terms and conditions of the License..*  
*Commissioner Cameron seconded the motion.*

*Roll Call Vote:*

*Chair Judd-Stein: Aye*

*Commissioner Cameron: Aye*

*Commissioner O'Brien: Aye*

*Commissioner Stebbins: Aye*

*Commissioner Zuniga: Aye*

*The motion passed unanimously.*

## **Commissioner's Updates**

See transcript pages 12 - 13

10:40 a.m. Commissioner Stebbins stated that he is going to be speaking at the Cambridge College Gaming School graduation this Saturday, June 1<sup>st</sup>. He reported that he had a chance to visit the gaming school, and he was impressed with the operation.

10:41 a.m. *With no further business, Commissioner Cameron moved to adjourn the meeting. Commissioner Stebbins seconded the motion.*

*Roll Call Vote:*

*Chair Judd-Stein: Aye*

*Commissioner Cameron: Aye*

*Commissioner O'Brien: Aye*

*Commissioner Stebbins: Aye*

*Commissioner Zuniga: Aye*

*The motion passed unanimously.*

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

1. Notice of Meeting and Agenda, dated May 29, 2019
2. Memo re Encore Boston Harbor – Approval of Changes to Encore Boston Harbor Design, dated May 28, 2019
3. Redline of Second Amended Section 61 Findings (proposed final draft, dated May 30, 2019)
4. Letter re Wynn MA, LLC – Section 61 Findings, dated May 28, 2019
5. Email exchange between Lionel Lucien and Jacqui Krum re Section 61 Findings dated May 29, 2019

/s/ Catherine Blue  
Assistant Secretary