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## Massachusetts Gaming Commission Meeting Minutes

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**Date/Time:** May 4, 2023, 9:00 a.m.  
**Place:** Massachusetts Gaming Commission

VIA CONFERENCE CALL NUMBER: 1-646-741-5292  
PARTICIPANT CODE: 112 788 8293

The Commission conducted this public meeting remotely utilizing collaboration technology. The 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 Eileen O'Brien  
Commissioner Bradford Hill  
Commissioner Nakisha Skinner  
Commissioner Jordan Maynard

*Transcriber's note: Commissioner O'Brien departed the meeting prior to the discussion of Agenda Items 7a, 8, and 9.*

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

Chief Administrative Officer to the Chair Grace Robinson explained Chair Judd-Stein had a personal commitment the morning of this meeting and that Chair Judd-Stein would join the meeting shortly. She stated that Chair Judd-Stein had requested that Commissioner O'Brien lead the meeting until the Chair was able to join.

Commissioner O'Brien called to order the 450<sup>th</sup> Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all commissioners except Chair Judd-Stein were present for the beginning of the meeting.

#### 2. [Minutes from Commission Meetings](#) (00:50)

a. November 17, 2022

The *November 17, 2022, public meeting minutes* were included in the Commissioner's Packet on pages 4 through 15. Commissioner Hill stated that he would wait until the end of the meeting before moving on approving the minutes as Chair Judd-Stein would be joining the meeting later. He expressed an interest in allowing Chair Judd-Stein the opportunity to comment on the minutes. Commissioner O'Brien noted that she joined the November 17, 2022, meeting late, which was noted in the minutes, but she was also listed as responding in the opening roll call. Associate General Counsel Judith Young stated that she would make that correction.

### 3. [Administrative Update](#) (01:39)

#### a. Derby Day Update

Director of Racing and Chief Veterinarian Dr. Alex Lightbown stated that all of the racetracks and simulcast facilities were gearing up for Kentucky Derby Day. She stated that Plainridge Park Casino was opening their outdoor patio and hosting live music, that Suffolk Downs was using both floors of their facility, and that Raynham Park was going to open early. She expressed an interest in seeing the handle on FanDuel's parimutuel platform as the Commission recently approved a link between the parimutuel platform and FanDuel's sports wagering platform.

Dr. Lightbown stated that the Derby was set to begin right before 7:00. She stated that several injuries and deaths had occurred at the Derby and that investigations would be conducted. She stated that veterinarians would continue to examine horses leading up to the event.

### 4. [Research and Responsible Gaming](#) (04:21)

#### a. Assessing the Influence of Gambling on Public Safety in Massachusetts Cities and Towns During the COVID-19 Pandemic: Analysis of the Influence of Encore Boston Harbor on its Surrounding Community

Director of Research and Responsible Gaming Mark Vander Linden stated that General Law Chapter 23K § 71 required the Commission to carry out an annual research agenda and assess the relationships between casinos and crimes in host cities and the surrounding communities. He stated that this research was an analysis of changes in activities in the surrounding communities of Encore Boston Harbor ("EBH") over five distinct timeframes both during and since the Covid-19 related closure. He stated that areas around EBH did not experience significant increases in crime when compared to other areas within the regions.

Director Vander Linden introduced Principal Investigator with Justice Research Associates Dr. Noah Fritz. Dr. Fritz presented research related to the influence of gambling on public safety with topics including crime pattern theory; findings, vehicle crimes; jurisdiction comparisons; and risk terrain modelling. The *report on public safety and snapshot presentation* were included in the Commissioner's Packet on pages 20 through 134.

Director Vander Linden stated that the research and responsible gaming division was focused on making their research and data more accessible in addition to getting feedback from local police departments' crime analysts. He stated that local police chiefs were invited to a meeting to overview the data and provide feedback a few weeks before this meeting.

Commissioner Hill sought clarification as to the definition of burglaries. Dr. Fritz stated that the research used codes from the FBI uniform crime report and that burglary was of a residence or commercial building as opposed to a car. Commissioner Hill noted street jumping was listed but there was not a lot of data pertaining to that crime. Dr. Fritz explained that there was a lot of property around EBH that was undeveloped, and that there was security and covered parking near the casino. He stated that Everett Police had raised the issue that there was more theft in employee lots due to the lack of cameras. He stated that a similar study was being conducted in Springfield and that there was a potential for a higher possibility of street jumping there.

Commissioner Hill stated that human trafficking was a concern for the Commission and asked for further detail about trafficking. Dr. Fritz explained that trafficking was a hard crime to monitor as the victims were less likely to come forward and were often intimidated into not reporting. Commissioner Hill asked if data showed an increase in human trafficking since the casino opened. Dr. Fritz stated that there had not been an increase in reported human trafficking, but even though it was not reported it could still be occurring. Director Vander Linden stated that a study related to human trafficking and its relationship with gaming operations in Massachusetts was on the FY24 research agenda.

Commissioner Maynard noted that the EBH's bars had a later last call than other bars in the surrounding communities, and asked if that affected the risk terrain modelling. Dr. Fritz explained that risk terrain modelling targeted areas that have certain social characteristics that would make them more prone to the risk of crime. Commissioner Skinner thanked Dr. Fritz for the report and stated that she anticipated the findings relative to the other casinos.

Commissioner O'Brien stated that EBH's expansion across the street would provide a tremendous research opportunity as it was developed. She noted that the public safety subcommittee would be meeting later in the month and one discussion topic was human trafficking. She stated that the goal was to discern how human trafficking was influenced by the casino nexus. She explained that police in the neighboring communities to Springfield had reported an uptick in domestic disputes in hotels where response indicated that the parties did not know each other well, which lead to a suspicion of human trafficking.

Chair Judd-Stein joined the meeting. Director Vander Linden stated that Dr. Fritz and his team were working diligently on a report examining the public safety impacts in Springfield and the surrounding communities. He noted that the FY24 Research agenda also had a study on human trafficking.

Commissioner Hill moved that the Commission approve the minutes from the November 17, 2022, public meeting that were included in the Commissioner’s Packet subject to any necessary corrections for typographical errors or other non-material matters. He noted that the correction suggested earlier by Commissioner O’Brien had been made. Commissioner O’Brien seconded the motion.

*Roll call vote:*

*Commissioner O’Brien: Aye.*

*Commissioner Hill: Aye.*

*Commissioner Skinner: Aye.*

*Commissioner Maynard: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 5-0.*

5. [Legal](#) (54:42)

a. FBT Everett Realty, LLC v. Massachusetts Gaming Commission

I. Executive Session

Chair Judd Stein stated that the Commission anticipates that it would meet in executive session in accordance with G.L. c.30A, §21(a)(3) to discuss strategy with respect to FBT Everett Realty, LLC v. Massachusetts Gaming Commission, as discussion at an open meeting may have a detrimental effect on the litigating position of the Commission. She noted that the Commission anticipated returning to the public meeting.

Commissioner O’Brien moved that the Commission go into executive session for the reasons and on the matter that was just specified in the Chair’s recitation. Commissioner Skinner seconded the motion.

*Roll call vote:*

*Commissioner O’Brien: Aye.*

*Commissioner Hill: Aye.*

*Commissioner Skinner: Aye.*

*Commissioner Maynard: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 5-0.*

The Commission entered executive session and later reconvened the public meeting.

b. [205 CMR 152.00](#): Individuals Excluded from Gaming and Sports Wagering – Regulation and Amended Small Business Impact Statement for final review and possible adoption (2:26:00)

Outside Counsel from the law firm Anderson and Krieger Attorney Paul Kominers presented the changes to 205 CMR 152. The Amended Small Business Impact Statement, draft of 205 CMR 152, and public comments were included in the Commissioner’s Packet on pages 136 through 152.

Mr. Kominers stated that Caesars had requested the requirement to review the exclusion list on a regular basis be changed to a weekly basis. He recommended against adopting this change as the regular basis language had worked well with the gaming licensees.

Mr. Kominers stated that BetMGM expressed concerns about the self-exclusion list being posted publicly. He explained that this was a misconception and only the involuntary exclusion list was to be posted publicly. He explained that BetMGM suggested operators be able to delete personally identifiable information regarding involuntarily excluded patrons that were no longer involuntarily excluded. He recommended against this change as the legal team was in the process of developing regulations regarding the use and retention of personally identifiable information, and that a freestanding provision should not be necessary.

Mr. Kominers explained that BetMGM had asked to change the notification requirement to the Gaming Enforcement Unit (“GEU”) that an excluded individual was present to allow the operator time to gather additional information or factfinding. He recommended against adopting this change, and stated that while there may be reasons not to take immediate action, that was something to be discussed with the GEU. He noted that BetMGM’s request for clarification related to the discipline section was adopted.

Commissioner Hill thanked the legal team for collaborating with the players’ association and stated he was satisfied with the changes. Commissioner O’Brien agreed.

Commissioner Hill moved that the Commission approve the Amended Small Business Impact Statement and the draft of 205 CMR 152 as included in the Commissioner’s Packet and discussed here today and further that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth to finalize the regulation promulgation process. Commissioner O’Brien seconded the motion.

*Roll call vote:*

*Commissioner O’Brien: Aye.*

*Commissioner Hill: Aye.*

*Commissioner Skinner: Aye.*

*Commissioner Maynard: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 5-0.*

c. [205 CMR 222.00](#): Capital Investment and Monitoring of Project Construction – Regulation and Small Business Impact Statement for review and approval to commence the promulgation process and/or adoption via emergency. (2:37:03)

Mr. Kominers explained that General Law Chapter 23N § 3 required category two licensees to make a capital investment of at least \$7,500,000 in the three years following the issuance of the license. He stated that the statute was silent as to why the legislature mandated this spending and that the Commission had room to decide what objectives the spending was meant to meet.

Mr. Kominers suggested that the two objectives the spending were to meet was for category two operators to upgrade their facilities in exchange for the privilege of running a sports wagering operation and as a potential tool for economic development to ensure the benefits associated with the issuance of sports wagering license were fairly distributed.

Mr. Kominers stated that this regulation provided tools for the Commission to ensure that operators adhere to the representations they made during the licensing process and allowing the Commission to engage in dialogue should the operator deviate.

Mr. Kominers presented the changes to 205 CMR 222. The *Amended Small Business Impact Statement, draft of 205 CMR 222, and public comments* were included in the Commissioner's Packet on pages 163 through 198.

Chair Judd-Stein inquired whether the changes to the regulation could cause additional expenses towards construction. Mr. Kominers noted that one of the prospective licensees, Raynham Park, had raised those objections with the concern that additional guidelines could induce additional regulatory complexity, especially as they had already contracted for the construction. He stated that the language aided the Commission in reviewing and monitoring each project and that the clarifying guidelines helped the Commission carry out its duties.

Commissioner O'Brien expressed that adopting affirmative action goals through license conditioning felt like it devalued the affirmative action goals. She stated her preference that the Commission discuss further options. She stated that she would be loath to change the regulation based on one prospective operator's contractual obligations.

Chair Judd-Stein sought clarification regarding Commissioner O'Brien's objections to the change regarding affirmative action goals. Commissioner O'Brien questioned whether there could be a middle ground between having the goals in the regulation versus having the goals in a license condition. Commissioner Skinner echoed Commissioner O'Brien's concerns and stated that while the Commission had the option to build diversity, equity, and inclusion requirements into the licensing approval process, there was also the opportunity to address diversity in a positive way through this regulation.

Commissioner Skinner noted that a new regulation can serve as basis for the amendment of the operator's contract. Chair Judd-Stein agreed and noted that the \$7,500,000 capital investment must be made after licensure. She suggested that Raynham Park could use the supplier diversity pipeline to find a construction group that meets the diversity goals.

Mr. Kominers stated that the construction of the project and proposed timeline would be part of the representations the operators make during the licensing process. He stated that the Commission would be able to discuss the diversity, equity, and inclusion commitments the Commission expects with the applicant during the licensing process.

Commissioner O'Brien stated that the regulation as proposed did not give guidance as to the Commission's expectations of diversity, equity, and inclusion goals. She suggested referencing goals the Commission indicated they prioritized. Mr. Kominers stated that if the Commission did not want to reference an external document, they could add an adjective to the term "affirmative action program" to note that it was prioritized.

Commissioner O'Brien suggested that the regulation request the diversity, equity, and inclusion numbers be similar to the data from the category one casino construction phase. Commissioner Skinner stated that the current language was vague, and questioned when the Commission would discuss the expectation for goals and communicating its values on this topic. Deputy General Counsel Caitlin Monahan stated that if the Commission wanted further review for this regulation, a new draft could be presented on May 16.

Commissioner Maynard expressed an interest in utilizing the Massport model as it was a broad approach that was held as a standard across the country. Chief Financial and Accounting Officer ("CFAO") Derek Lennon stated that the Massport model was originally modelled after the Commission's work. He stated that the Commission had whitepapers on this topic, but it was resource intensive; as it required three full-time equivalent employees to be assigned.

CFAO Lennon suggested that Commission staff review the Raynham contract and the subcontractors aligned with the contract. He stated that this independent research could work with the Office of Supplier Diversity and other construction groups in the Commonwealth to identify diverse vendors. Commissioner O'Brien noted that the category two facilities were on a much smaller scale than the casinos and stated she was confident it would not require three full-time employees. She stated that there were now known entities which would make the process easier.

Commissioner Skinner requested the white paper CFAO Lennon referenced be sent to the Commissioners. She stated that as part of the licensing process, the Commission had placed tremendous emphasis on internal hiring practices and diverse vendor practices. She expressed an interest in developing a process that allows the Commission to hold operators accountable for promises made in the licensing process. Chair Judd-Stein stated that the Commission would look for input from the public and stakeholders on this issue.

Mr. Kominers stated that both prospective operators had requested the Commission's oversight authority be limited in certain respects to be centered on the sports wagering areas rather than the entire facility. He recommended against adopting this change as the sports wagering license was

what enabled the project and the Commission may reasonably consider the entire project in considering how the license application benefits the Commonwealth. He explained that it was beneficial to the operators as it allowed non-sports wagering aspects to count toward the \$7,500,000 capital investment requirement.

Chair Judd-Stein sought clarification as to whether the statute addressed ongoing capital investments. Mr. Kominers stated that the capital investment must occur after the issuance of the sports wagering license.

Commissioner Skinner inquired as to why the prospective licensee requested the language requiring the operator notify the Commission within twenty days of filing the appeal be removed. Mr. Kominers stated that he would double check the prospective operators' reasoning behind the request. He stated that this provision was removed with the assumption that the operators would be highly communicative with the Commission regarding the status of the project and any litigation that would interfere with construction.

Chair Judd-Stein asked if the final design package requirement would be helpful to the operators. Mr. Kominers stated that the initial design for the project would help inform the Commission's review of the license application. He explained that he had Chief of the Community Affairs Division Joe Delaney review this provision, and that Chief Delaney was comfortable with the language.

Mr. Kominers stated that the prospective licensees can begin making expenditures when they have applied for approval of a project plan, provided that the expenditures were consistent with a later approved project plan. He reiterated that the capital expenditure would not begin until a license was awarded. He noted that Raynham had submitted materials in their license application that were consistent with a project plan, and that Raynham would be able to promptly submit the project plan should their license be approved.

Commissioner Hill inquired as to why simulcasting equipment and upgrades were not being included while calculating the capital investment under 205 CMR 222.07. Mr. Kominers stated that what costs were included in calculating the capital investment was a policy decision for the Commission. Commissioner Maynard stated that it would be difficult to divorce the sports wagering piece from the simulcasting piece as the category two sports wagering license was linked to simulcasting. Commissioner Skinner agreed.

General Counsel Todd Grossman stated that the only requirement in the statute was that the operator make a \$7,500,000 capital expenditure, and that the definition of capital expenditure was decided on by the Commission. He stated that it was a policy question whether the investment must solely be related to sports wagering operations.

Commissioner Hill stated that simulcasting equipment should be included as the cost of technology was included in the cost of building. Commissioner O'Brien stated that certain slot



machines were considered part of the capital investments for the casinos. Mr. Kominers stated that 205 CMR 222.02(g) included equipment including sports wagering equipment. He stated that the language could be easily changed to include simulcasting equipment. Commissioner O'Brien expressed concern about a prospective operator emphasizing simulcasting equipment over sports wagering, and suggested the Commission should have discretion.

Commissioner Hill reiterated his belief that simulcasting equipment should be included as part of the capital investment. Chair Judd-Stein suggested adding cautionary language that sports wagering should be the primary focus of the capital improvement, even if simulcasting equipment was allowed in the calculation. Commissioner Skinner and Commissioner Hill agreed with her suggestion. Commissioner Maynard stated that the incentive of the capital investment should be for the licensee to spend the money necessary to ensure they have a world-class facility for offering sports wagering.

Mr. Kominers stated that the legal team would have to discuss how to structure the language, and suggested a cap on the amount of simulcasting equipment that would count towards the capital investment. Chair Judd-Stein asked if the language could be more general and not tied specifically to simulcasting. Commissioner O'Brien noted that the cap should be based on the percentage of the project rather than dollar amount. Deputy General Counsel Monahan stated that a revised version of this regulation would be presented on May 16.

d. [205 CMR 234.00](#): Sports Wagering Vendors - Regulation and Amended Small Business Impact Statement for final review and possible adoption (3:45:45)

Mr. Kominers presented the changes to 205 CMR 234. The *Amended Small Business Impact Statement, draft of 205 CMR 234, and public comments* were included in the Commissioner's Packet on pages 200 through 222. He noted that the redline was adopted by the Commission in the previous meeting and that the legal team did not recommend any further changes.

Mr. Kominers stated that comments were received by operators but that he did not recommend adopting those comments. He stated that adopting the comments would require the Commission to limit its own regulatory authority and delay the operators' obligations to provide information. He stated that none of the comments addressed changes adopted during the previous meeting.

Commissioner Skinner moved that the Commission approve the Amended Small Business Impact Statement and the draft of 205 CMR 234 as included in the Commissioner's Packet and discussed here today and further that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth to finalize the regulation promulgation process. Commissioner Maynard seconded the motion.

*Roll call vote:*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Aye.*

*Commissioner Skinner: Aye.*  
*Commissioner Maynard: Aye.*  
*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 5-0.*

e. [205 CMR 255.00](#): Play Management - Regulation and Small Business Impact Statement for review and approval to commence the promulgation process and/or adoption via emergency (3:53:02)

Deputy General Counsel Carrie Torrisi explained that the Commission discussed 205 CMR 255 in January and that the legal team had made changes as a result of that discussion. The *Amended Small Business Impact Statement and draft of 205 CMR 255* were included in the Commissioner's Packet on pages 225 through 231. Attorney Annie Lee from Anderson and Krieger presented the changes to 205 CMR 255.

Commissioner Skinner suggested 205 CMR 255.01(a) be changed to add the word "single" before the word "wager" to distinguish it from subsection (b). Ms. Lee stated that she would make that change.

Commissioner Skinner sought clarification regarding the language "wager over a specified cumulative amount", and asked if the limitation would not kick in until the patron had already exceeded the limit. Ms. Lee stated that the limit prevented patrons from going over the budget. She stated that if it was not clear she would change the language to address Commissioner Skinner's concern. Commissioner Skinner expressed the same clarification was needed for 205 CMR 255.21(c) regarding budgets for deposits. Ms. Lee stated that she could strike the word "over" to make the language clearer.

Commissioner O'Brien expressed opposition to changing the monthly reminder to enroll in play management to a quarterly reminder. Director Vander Linden noted that monthly was also consistent with PlayMyWay. Commissioner Hill stated that the operators send frequent information to patrons and that he did not believe a monthly reminder was overly burdensome. The Commissioners reached consensus that the reminder to enroll in a play management system be monthly.

Ms. Lee stated that the provision requiring notification that the patron was approaching their budget limit was struck. Director Vander Linden expressed support for striking this provision, as sports wagering, and slot machines were different in terms of budgeting.

Director Vander Linden stated that the practices for identifying those under the age of twenty-five, who were at greater risk of gambling related harm should be applied for additional at-risk groups and be used to gather data for play management programs. Chair Judd-Stein stated that operators had expressed concern related to data retention, and that the Commission wanted to ensure this would not create additional problems. Director Vander Linden stated that the

operators did not provide any feedback related to data retention for these provisions, and that it would be important to understand how to target and utilize responsible gaming tools.

Commissioner O'Brien moved that the Commission approve the Amended Small Business Impact Statement and the draft of 205 CMR 255 as included in the Commissioner's Packet and as further discussed and amended here today; and further that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth by emergency and thereafter to begin the regulation promulgation process and further that staff be authorized to modify chapter or section numbers or titles and file additional regulation sections as reserved to make any other administrative changes as necessary to execute the regulation promulgation process. Commissioner Hill seconded the motion.

*Roll call vote:*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Aye.*

*Commissioner Skinner: Aye.*

*Commissioner Maynard: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 5-0.*

## 6. [Community Affairs Division](#) (4:38:39)

### a. Community Mitigation Fund Workforce Development Grant Applications

Program Manager Lily Wallace stated that two workforce development applications were received by the Community Mitigation Fund for the 2023 round. She stated that the applications were reviewed by Commission staff. Ms. Wallace noted that the guidelines for workforce grants required applications to focus on areas highly impacted by casino operations to mitigate strain in existing resources.

Ms. Wallace stated that the targeted spend was \$1,000,000, divided between Region A and Region B. She stated that an application was received from each region totaling \$1,035,500; and that the Community Affairs Division recommended funding these applications. She noted that the Commission had historically funded these two programs. *A memorandum detailing the Community Mitigation Fund applications* was included in the Commissioner's Packet on pages 237 through 239.

Commissioner Skinner asked if these programs had a pipeline for employment directly with the category one licensees. Ms. Wallace stated that the individuals who completed the program had to undergo the full HR process for hiring, but the program worked collaboratively with EBH on recruitment days. She stated that the training programs also backfilled other jobs in this industry. She noted that the Community Affairs Division had requested data on how many hospitality placements were made in comparison to casino placements, as well as gender and diversity data. She noted that MGM Springfield also liked to hire from the line cook program.

Commissioner Skinner sought clarification as to what the additional \$35,500 was used for. Ms. Wallace stated that it was used to fund English as a second language co-instructors to assist in providing additional support that allowed instruction in Spanish and English. She noted that a formal waiver was received for the \$500,000 spending guidelines, and that the waiver language was included in the memorandum.

Commissioner Skinner moved that the Commission approve the applications from the following applications for funding from the 2023 Community Mitigation Fund for the purposes described in the submitted applications and materials included in the Commissioner's Packet and as discussed here today; and further that Commission staff be authorized to execute a grant instrument commemorating these awards in accordance with 205 CMR 153.04, they were as follows: Holyoke Community College in the amount of \$535,500 and Metro North Regional Employment Board in the amount of \$500,000.

Commissioner Hill suggested an amendment that language should be added to note that the Commission was waiving the spending guidelines. Commissioner Skinner accepted the amendment. Commissioner Hill seconded the motion.

*Roll call vote:*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Aye.*

*Commissioner Skinner: Aye.*

*Commissioner Maynard: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 5-0.*

## 7. [Commissioner Updates](#) (5:03:51)

Chair Judd-Stein stated that several comments were received from the public that there was not sufficient notice of the Commission's meeting held at Everett City Hall the prior week. She noted that Chief of Communications Bureau, Thomas Mills stated that he would post the public comments on the website and suggested a second virtual meeting on the subject.

Commissioner Hill stated that he never shied away from public input and expressed support for a second hearing. Commissioner O'Brien agreed that it would be a good idea to receive as much public comment as possible. Commissioner Skinner agreed.

Commissioner Skinner asked if the Commission should clarify whether there was an open question regarding the 2013 referendum vote, and whether it included property across the street prior to the second meeting. She stated that a lot of comments were centered on that question. Chair Judd-Stein stated that the public meeting was intended for input on the current issue, and that she was unsure whether it would be the proper venue for addressing the referendum vote. Commissioner Skinner explained that she did not want to deliberate in a public hearing, but

wanted to determine whether that question would be revisited. She stated that this clarification would help shape the tone of the hearing and comments.

Commissioner Maynard expressed his support for a second hearing. Chair Judd-Stein stated that the Commission might not be able to fully resolve the issue raised by Commissioner Skinner in advance of the second meeting but noted that it could be addressed in the future. Commissioner Skinner stated that she was comfortable scheduling a second public hearing.

Chair Judd-Stein stated that she had previously expressed an interest in expanding the research agenda to consider the impact of the legal sports wagering market on the illegal market. Director Vander Linden stated that the SEIGMA research team was already beginning to measure this impact with their survey research related to Massachusetts residents' engagement with the illegal sports wagering market. He stated that this issue would continue to be monitored.

Chair Judd-Stein noted that Tennessee had done proactive work in warning their consumers about illegal websites, and that Chief Mills had expressed an interest in developing a similar list on the Commission's website. Chief Mills stated that appropriate language could be listed on the Commission's website that listed the legal operators, and a warning that illegal operators do not have consumer protections and responsible gaming tools.

Commissioner O'Brien stated that it was previously suggested at a roundtable that operators could have an insignia or logo on their sites stating they were lawfully licensed in the Commonwealth of Massachusetts. Chair Judd-Stein stated that this was another area the Commission could explore with the Sports Wagering Division.

Chair Judd-Stein stated that there was recent legislation that may allow the Massachusetts Lottery to provide an online lottery. She expressed an interest in revisiting licensed sports wagering operators' obligation to cooperate to mitigate harm to the lottery. Commissioner Skinner suggested that Commission staff work with lottery staff and require operators specify and lay out how they would mitigate harm to the lottery. Commissioner Hill and Commissioner Maynard agreed.

Commissioner O'Brien noted for the record that she would have to leave the meeting shortly. She also stated that a baseball coach in Alabama had been terminated and that some operators had suspended wagering in response. She expressed an interest in the Commission discussing this issue. Director of Sports Wagering Bruce Band stated that a couple of operators had suspended betting and that the Sports Wagering Division was also keeping a close eye on the issue.

Commissioner Skinner agreed with Commissioner O'Brien and expressed concern that operators had proactively suspended wagering in all jurisdictions regarding this issue. She stated that she wanted to discuss this issue and the potential action the Commission might take. Director Band stated that there were no wagers in Massachusetts with potential problems.

Commissioner Skinner noted that another Massachusetts operator had a pending matter related to responsible gaming in another jurisdiction. She requested that a discussion be held as to how these matters should be brought to the Commissioners. Executive Director Karen Wells stated that any potential report regarding a sporting event could be too voluminous, and that the Commission would have to establish criteria for what was discussed before the Commissioners.

Chair Judd-Stein stated that currently the Sports Wagering Director had the ability to assess whether an incident rose to the level of an integrity issue. Director Band stated that there were approximately fifteen to twenty reports a week, and that with constant assessment, some of the reports ended up as non-issues. Chair Judd-Stein asked if this determination was captured in a regulation or internal controls. Executive Director Wells stated that the Commission would need to clarify what was considered significant to the Commonwealth and rely on its relationships with other regulators and investigators.

Commissioner Skinner requested that the licensees contact the Sports Wagering Division directly if the operators acted in response to an issue being investigated in another jurisdiction. She expressed a preference to hear about issues from the Sports Wagering Division rather than a news article. Director Band stated that he would gather more information on this issue. Commissioner Maynard stated that he understood the issue outlined by Commissioner O'Brien and Commissioner Skinner, but that he had full confidence in the Sports Wagering Division to determine what needs to be sent to the Commission.

a. [FY24 Commissioners Budget Review](#) (5:39:44)

Chair Judd-Stein stated that she would like Commissioner O'Brien to be a part of the budget review and requested that the budget review occur in a later meeting. She stated that the delegation of authority discussion related to horseracing, that was scheduled later in today's agenda, would also be rolled over into a later meeting.

8. [Sports Wagering](#) (5:39:52)

a. NBA Draft Lottery Inquiry

Sports Wagering Operations Manager Sterl Carpenter stated that DraftKings had requested clarification regarding the NBA Draft Lottery set to occur on May 16. Mr. Carpenter stated that in essence, only four spots in the NBA Draft Lottery were chosen for the fourteen teams that missed the playoffs. He stated that wagering could only be offered on those four positions. He stated that NBA events were approved in the event catalog.

Mr. Carpenter stated that betting on the draft lottery was allowed in Arizona, Illinois, Louisiana, New Hampshire, New Jersey, Oregon, Wyoming, West Virginia, Maryland, and Ontario, Canada. He stated that the Sports Wagering Division felt the draft lottery was covered by the

NBA as an approved governing body. He suggested that if approved by the Commission, the wagering should cease; as it does for special events.

Commissioner Hill sought clarification as to what was being bet on. Mr. Carpenter clarified that the wagers would be on what team receives each pick, and that the Draft in June accepted wagers on which player was drafted. Commissioner Hill asked if the Sports Wagering Division felt comfortable with the integrity of the event. Mr. Carpenter stated that envelopes were sealed before the live broadcast, and that it was acceptable to offer wagers with the caveat that wagering was stopped before the envelopes left the locked room. Commissioner Hill noted that it was similar to the Oscars or Emmys.

Commissioner Skinner noted that some of the larger Sports Wagering Divisions such as Colorado, Ohio, and Nevada did not offer wagering on this event, and asked if there was a reason why. Mr. Carpenter stated that he was unaware of any reason those jurisdictions chose not to offer wagering for the event. Commissioner Skinner stated that she was not opposed to allowing wagering on this event. Commissioner Maynard agreed.

Commissioner Hill moved that the Commission find that wagering on the NBA Draft Lottery was permitted as it was included in the Official Catalog of Events And Wagers approved by the Commission. Commissioner Skinner seconded the motion.

Chair Judd-Stein noted that the request was from DraftKings, but once approved, all operators could offer wagers on this event.

*Roll call vote:*

*Commissioner Hill: Aye.*

*Commissioner Skinner: Aye.*

*Commissioner Maynard: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 4-0.*

## 9. [Other Business](#) (5:50:25)

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

Commissioner Hill moved to adjourn. The motion was seconded by Commissioner Skinner.

*Roll call vote:*

*Commissioner Hill: Aye.*

*Commissioner Skinner: Aye.*

*Commissioner Maynard: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 4-0.*

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

1. [Revised Notice of Meeting and Agenda](#) dated May 2, 2023
2. [Revised Commissioner's Packet](#) from the May 4, 2023, meeting (posted on massgaming.com)