



Massachusetts Gaming Commission Meeting Minutes

Date/Time: May 7, 2020 – 10:00 a.m.

Place: Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5293
MEETING ID: 112 771 1475

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 #301 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 Stebbins: Aye.

Commissioner Zuniga: Aye.

Chair Judd-Stein: Aye.

Approval of Meeting Minutes

10:01 a.m. *Commissioner Stebbins moved to approve the minutes from the Commission meeting of April 23, 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 Stebbins: *Aye.*
Commissioner Zuniga: *Aye.*
Chair Judd-Stein: *Aye.*
The motion passed unanimously.

Administrative Update

10:04 a.m. Interim Executive Director Karen Wells stated that staff is continuing to work remotely effectively, and are preparing for the eventual reopening of the casinos. She reported that the Commission's Restart Working Group has convened, and that process is ongoing (assisting with the development of an overall work plan, identifying issues for the Commission's consideration to facilitate nimble action on key policy and regulatory matters). Licensees have been asked to submit specific reopening plans, and the Group expects to have submissions by tomorrow. There will be a Commission meeting next week to review those plans with the licensees. The group also continues to monitor information and the mandates issued from the governor's office, including any information resulting from the state's [Reopening Advisory Board](#).

10:06 a.m. Commissioner Zuniga stated that he would like to know if licensees have considered possibly opening available outdoor areas of properties first. He noted the early conversations the Commission had with licensees regarding the part of the statute governing smoking and mentioned a previous discussion regarding outdoor tent areas.

10:08 a.m. Commissioner Cameron then commented to Ms. Wells and Racing Director Dr. Alexandra Lightbown that the Commission should also be considering any plans Penn National (Plainridge Park Racecourse) is considering for reopening safely.

10:10 a.m. Construction Project Oversight Manager Joe Delaney provided the Commission with an update on the 31 Elm Street Project to construct market-rate housing. The Department of Housing and Community Development (DHCD) has approved the transfer of the property from the city to the developer. He will continue to report to the Commission the status as more details arise.

Commissioner Zuniga recalled that the project relies on tax credits, and he wonders how this may be affected, given all the recent economic developments. Mr. Delaney will discuss this with the DHCD on this as well as other entities; however, he is confident that it is working or they would not have allowed the project to move forward.

Research and Responsible Gaming

10:15 a.m. **Six-Month Public Safety Report for Everett, Massachusetts**

Mark Vander Linden, Director of Research and Responsible Gaming, summarized the Six-Month Public Safety report for the Commission, stating that this is the first follow-up report, covering crime trends and considering baseline and historical data. He added that the report is a specific call for the link between crime and gambling. It also considers crime rates at similarly sized facilities. He then introduced Christopher Bruce, Crime Analyst Consultant to the Commission to present his analysis.

Mr. Bruce outlined his analysis and presented slides, providing crime totals for Everett and the region for the last six months. He emphasized that as this is only six-months of time, there is little data to analyze. Mr. Bruce stated that based on historical averages or trends, the basis of his work is to create an expected range of values that each crime would fall into. Mr. Bruce then described patterns to monitor; however he stated that there had been no link to Encore Boston Harbor demonstrated yet for such crimes. He did note that for traffic collision OUIs, Encore was listed four times as a “last drink” location.

Next, Mr. Bruce stated that there are only two additional months of data gathered before Encore Boston Harbor was temporarily closed. He remarked that the closures would make analysis irrelevant for March through May. Lastly, he reported that COVID-19 has affected crime rates of all types and probably will continue to have an effect once restrictions are lifted. He will be consulting experts in quantitative evaluative research for help with more sophisticated models to help control for COVID-19.

10:41 a.m. Commissioner Cameron commended the Everett Police Department’s Crime Analysis Team for working with Mr. Bruce regarding the “last drink” locations.

10:43 a.m. Commissioner Stebbins asked how he considers the population in the local community/region as part of his research when measuring Encore Boston Harbor against other casinos of the same size, and normalizing that research by the number of visitors. Mr. Bruce replied he has not determined how this information will be factored in as of yet; however, it is part of the equation.

10:45 a.m. Massachusetts State Police Captain Brian Connors concurred with Mr. Bruce’s analysis and stated that the Gaming Enforcement Unit (GEU) continues to monitor all activity and assist in any way they can to ensure that reports are accurate.

10:48 a.m. Mr. Vander Linden stated that the next step would be for Mr. Bruce to gather data for a one-year report. He stated that he looks forward to continuing to examine impacts on Everett, Springfield, and Plainville.

10:50 a.m. Commissioner O'Brien remarked that she is very impressed with Everett's crime analysts, and she hopes to obtain more data from Medford, the MBTA, and hopefully Cambridge moving forward.

Racing Division

10:50 a.m. **Plainridge Park Racecourse 2020 Live Racing Update**

The Commission's Director of Racing and Chief Veterinarian Dr. Alexandra Lightbown stated that live racing was postponed until June 1, 2020, previously, and noted that this date might not be realistic, considering the continued orders from the governor's office to extend the shutdowns. She has met with the horsemen, and the Commission's Acting General Counsel Todd Grossman, Licensing Specialist for Plainridge Racecourse Bill Egan, and Vice President of Racing for Penn National Chris McErlean have convened to try to determine the best way to reopen safely and regulate the industry. She noted that in this meeting, strategies for reopening live racing were also discussed. The Harness Horsemen's Association of New England (HHANE) presented a Risk Management Plan as a response.

Dr. Lightbown noted that there are some Thoroughbred tracks open in the country, attributed to the prescribed manner of operations for these tracks that are different from the Standardbred industry, allowing them to remain open. She noted that she is seeking guidance on the procedure from the tracks that are continuing to operate as well as the governor's Reopening Advisory Board.

10:58 a.m. Commissioner Zuniga asked about racing without spectators. Dr. Lightbown explained the circumstances and restrictions for the tracks that are operating this way and outlined the considerations for doing so.

11:02 a.m. Commissioner Stebbins stated that a critical component of the considerations for reopening would be to review the schedule for potential days of racing ahead. Dr. Lightbown noted several factors that will be considered once they have an idea of how many racing days have been missed due to postponements. Another factor will be to consider the effects the postponements have had on the purse accounts and the Race Horse Development Fund, as well as when funds will start coming back into the accounts and Fund.

Dr. Lightbown recommends that the Commission postpone live racing at Plainridge Racecourse indefinitely until the Commission is comfortable reopening the facility.

11:05 a.m. *Commissioner Cameron moved that the Commission postpone the June 1, 2020, live racing opening of Plainridge Racecourse until further notice, as described in the memorandum dated May 7, 2020, in the [Commissioners' Packet](#).*

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.

11:05 a.m.

Quarterly Local Aid Payments

Financial Analyst Chad Bourque, Chief Financial Analyst, directed the Commission to his memo entitled, "Local Aid Quarterly distribution for Q1 CY 2020". He reviewed the Commonwealth of Massachusetts Budget's portion regarding local aid payable to each city and town within which racing activities are conducted. He then verified the March 31, 2020, Local Aid Quarterly Payment in the amount of \$226,583.95 and requested authorization from the Commission to pay the appropriate cities and towns.

11:07 a.m.

Commissioner Stebbins moved that the Commission approve the Local Aid Quarterly Distribution for Q1 of 2020 in the amount of \$226,583.95 pursuant to the Commonwealth of Massachusetts Budget and Appropriation 1050-0140, and as described in the memorandum dated April 29, 2020, in the Commissioners' Packet. 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.

Investigations and Enforcement Bureau (IEB)

11:08 a.m.

MGM Qualifier

IEB Enforcement Counsel Katherine Hartigan requested that the Commission approve Kevin Charles Miller, Vice President of Privacy for MGM Resorts International, Inc. as a Qualifier of MGM Springfield. She described investigators' findings on this matter and recommended that the Commission approve Mr. Miller.

11:13 a.m.

Commissioner O'Brien moved that the Commission find Kevin Charles Miller, Vice President of Privacy for MGM Resorts International, Inc., suitable as an MGM Springfield Qualifier. 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.

Legal Division

11:14 a.m. **Final Draft of Amendments to 205 CMR 134.09: Investigation, Determination, and Appeals for Gaming Establishment Employees and Vendors**

Acting General Counsel Todd Grossman described the proposed amendments to this regulation. He stated that a hearing took place, as well as public comments being received that were discussed at the hearing.

One comment was discussed pertaining to the use of information relevant to juvenile delinquency matters, as opposed to the topic of the use of sealed or expunged records that was up for discussion. Mr. Grossman recommended that this issue be separated from the amendments brought to the Commission today. It was not part of the noticing of this matter, but Mr. Grossman noted it is important and should be handled on its own.

Mr. Grossman requested approval for the Small Business Impact Statement as well as for the draft of the regulation with amendments.

11:18 a.m. Commissioner Stebbins made remarks regarding the hearing that took place and stated that stakeholders had provided clarification. He said this change would allow for proper access to paths in this industry for Massachusetts residents. He concurred with Mr. Grossman that the Commission should review the suitability for the use of juvenile delinquencies in this process separately, at a later date.

11:21 a.m. The Chair stated that the Commission must be fully compliant with the law regarding the issue of considering juvenile delinquencies in suitability investigations. Ms. Wells replied that the IEB had done this initially and that Chief Enforcement Counsel Loretta Lillios is going to consult the record in response to the comment, to ensure that the Commission is compliant with the law. The Chair then stated that the Commission will keep Greater Boston Legal Services informed, should any changes be made to the regulation in that context.

11:22 a.m. *Commissioner Cameron moved that the Commission approve the Amended Small Business Impact Statement for 205 CMR 134.09: Investigation, Determination, and Appeals for Gaming Establishment Employees and Vendors, as included in the Commissioners' Packet. Commissioner Stebbins seconded the motion.*

Roll Call Vote:

Commissioner Cameron: Aye.
Commissioner O'Brien: Aye.
Commissioner Stebbins: Aye.
Commissioner Zuniga: Aye.
Chair Judd-Stein: Aye.

The motion passed unanimously.

Commissioner Cameron further moved that the Commission adopt the version of amendments to 205 CMR 134.09: Investigation, Determination, and Appeals for Gaming Establishment Employees and Vendors as included in the Commissioners' Packet and authorized the staff to take all steps necessary to finalize the regulation promulgation process. Commissioner Stebbins seconded the motion.

Roll Call Vote:

Commissioner Cameron: Aye.

Commissioner O'Brien: Aye.

Commissioner Stebbins: Aye.

Commissioner Zuniga: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

11:24 a.m.

Final Draft of Amendments to 205 CMR 133.04: Duration of Exclusion and Removal from the List

Associate General Counsel Carrie Torrisi described the proposed amendments to this regulation. She stated that a hearing took place, and no public comments were received regarding the changes. She requested that the Commission approve the Small Business Impact Statement and the draft of the regulation with amendments.

11:26 a.m.

Commissioner O'Brien moved that the Commission approve the Amended Small Business Impact Statement for 205 CMR 133.04: Duration of Exclusion and Removal from the List, as included in the Commissioners' Packet. 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 O'Brien further moved that the Commission adopt the version of amendments to 205 CMR 133.04: Duration of Exclusion and Removal from the List as included in the Commissioners' Packet and authorized the staff to take all steps necessary to finalize the regulation promulgation process. 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.*

11:27 a.m. **Review of the draft of 205 CMR 109.01: Authority of the Commission to Act in an Emergency Situation**

Ms. Torrisi stated that staff had reached out to the licensees for comments on this new regulation, and has received feedback. Based on this feedback, edits were made to the regulation, and Ms. Torrisi explained the changes that were made for the Commission.

11:29 a.m. There was discussion around the Commission's authority to act immediately concerning the procedure of notice in connection with the IEB.

11:31 a.m. Ms. Torrisi requested that the Commission adopt this regulation by emergency, allowing it to become effective immediately. Commissioner O'Brien added that the circumstances for promulgating by emergency are to be able to implement this regulation in reopening and shutting down.

11:34 a.m. *Commissioner O'Brien moved that the Commission approve the Small Business Impact Statement for 205 CMR 109.01: Authority of the Commission to Act in an Emergency Situation, as included in the Commissioners' Packet. 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.*

Commissioner O'Brien further moved that the Commission adopt by emergency the version of 205 CMR 109.01: Authority of the Commission to Act in an Emergency Situation as included in the packet, and authorized the staff to take all steps necessary to commence the regulation promulgation process.

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.*

11:36 a.m. **Licensee Quarterly Reports Discussion**

Ms. Wells stated that this item is on the agenda to provide feedback to Commissioners, guidance for staff after discussing with the licensees regarding

quarterly reports. Much of the information found in the quarterly reports is no longer being generated, so there is nothing that can translate into a quarterly report currently. Licensees are asking for relief from the requirements for quarterly reporting.

[11:38 a.m.](#) Mr. Delaney spoke with the licensees, and they have requested not to make a public presentation, as they do not have staff resources to do so, and because there is no data to report.

[11:39 a.m.](#) Mr. Grossman provided a broad overview of the legal requirements that pertain to the situation. He noted [G.L. c. 23K, § 5](#) that pertains to quarterly reports. He then cited [205 CMR 139.06](#), the regulation that is governed by this statute, stating that it requires a written report and a certification by the licensees Chief Financial Officer as to the truth of the statements made in the report.

[11:42 a.m.](#) The Chair would defer that the statutorily required report could be made to the Commission at a reasonable time in the future. However, she expressed concern over not having access to some information that could prove to be critical at this time as well.

[11:44 a.m.](#) Commissioner Zuniga would like a one or two-page report that reflects certifications relative to the maintenance of bankroll, taxes, fees, and the ability to defer capital expenditures. He then stated that he is in favor of discussing the timing of this compliance.

[11:47 a.m.](#) The Chair recommended that the Commission consider granting some relief; however, due to the regulations in place, some information must be reported. The Commission is primarily interested in being informed in some way, fulfilling the purpose of the regulation.

[11:50 a.m.](#) Commissioner Stebbins recommended that the commission and our licensees continue their work on a new format for quarterly reporting moving forward. Commissioner O'Brien stated that she would like the public acknowledgment to continue for quarterly reporting. The Chair concurred.

Commissioners' Updates

[11:53 a.m.](#) Commissioner Cameron reported that the International Association of Gaming Regulators (IAGRA) and the International Masters of Gaming Law (IMGL) joint conference has officially been postponed from September of 2020 to September of 2021. There is a negotiation with Marriott Copley Place for new dates for September 2021.

[11:57 a.m.](#) *With no further business, Commissioner Zuniga 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 1, 2020
2. Draft Commission Meeting Minutes dated April 23, 2020
3. PowerPoint Presentation: Assessing the Impact of Gambling on Public Safety in Massachusetts
4. Report: Assessing the Influence of Gambling on Public Safety in Massachusetts Cities and Towns, dated April 10, 2020
5. Memorandum re: Postponement of June 1 Live Racing Opening at Plainridge
6. Letter re: 2020 Racing Schedule & Resumption of Live Racing Protocol dated April 30, 2020
7. Letter re: Plainridge Park Race Track/Possible Opening of Race Track with Strict Covid-19 Guidelines & No Fans dated May 1, 2020
8. HHANE Risk Management Plan
9. Memorandum re: Local Aid Quarterly Distribution for Q1 CY 2020
10. Amended Small Business Impact Statement for 205 CMR 134.09
11. Regulation Cover Sheet for 205 CMR 134.09
12. Draft regulation 205 CMR 134.09
13. Public Comments re: 205 CMR 134.09
14. Amended Small Business Impact Statement for 205 CMR 133.04
15. Regulation Cover Sheet for 205 CMR 133.04
16. Draft regulation 205 CMR 133.04
17. Small Business Impact Statement for 205 CMR 109.01
18. Regulation Cover Sheet for 205 CMR 109.01
19. Draft regulation 205 CMR 109.01

/s/ Bruce Stebbins
Secretary