



Gaming Policy Advisory Committee Meeting Minutes June 14, 2021

Present:

Meg Mainzer-Cohen, Chair
Cathy Judd-Stein
Helen Caulton Harris
Rep. Angelo L. D'Emilia
Sen. Fattman
Brian Lang

Sen. Lesser
Victor Ortiz
Paul Picknelly
Rep. Ann-Margaret Ferrante

1:03 p.m. Call to Order

Meg Mainzer-Cohen, Gaming Policy Advisory Committee (GPAC) Chair, called the meeting to order. All GPAC members were present and a quorum was established. She provided an overview of the meeting agenda and introduced Cathy Judd-Stein, chair of the Massachusetts Gaming Commission.

1:05 p.m. Opening Comments

The Commission Chair, Ms. Judd-Stein, reminded the committee that the mission is to “assist and advise gaming policy” and reconfirmed Ms. Mainzer-Cohen’s appointment as chair to the committee. Ms. Judd-Stein provided an update of the Community Mitigation Funds, noting that they exist to offset the impacts of a gaming establishment in the host and surrounding communities. Awards granted for 2021 totaled \$4.8 million and included funding for transportation, construction, tourism, workforce development and other projects in the Commonwealth. The Community Mitigation Fund process is overseen by chief of community affairs, Joe Delaney.

Next, Ms. Judd Stein stated that the Commission had just that morning authorized the release of two white papers on the topic of sports betting, including *Applying Principles of the Massachusetts Responsible Gaming Framework to Sports Wagering Policy and Practice* which offers responsible gaming policy advice from the Commission’s expert, Mark Vander Linden, and a fact-based paper by staff member Crystal Howard which made no particular policy recommendations, but provided an update on the state of play throughout the U.S.. Ms. Judd Stein stated that the papers would be provided to the legislature as they deliberated on the potential to legalize sports betting in Massachusetts.

Chair Judd-Stein then introduced the Commission staff members on the agenda who would be presenting to the committee. That included Caitlin Monahan, a new hire to the legal division who was onboarded virtually last year after nine years at Wilmer Hale. Ms. Judd-Stein noted that Ms. Monahan’s report would fulfill a statutory obligation, Chapter 23K, Section 67, providing that the Commission shall continue to evaluate the economic development of tribal gaming in the Commonwealth. Also introduced was Dr. Alex Lightbown, responsible for ensuring the integrity of horse racing. Given national headlines on doping and medication control resulting from the Derby, Ms. Judd-Stein requested that Director Lightbown provide an update on the integrity in racing. The Commission Chair also noted that Director Mark Vander Linden would present on responsible gaming matters. Ms. Judd-Stein also noted that Director Loretta Lillios would kick off the meeting with a casino status update. She specified that Ms. Lillios had been recently promoted and that her former title had been included in the agenda inadvertently. She is now the Director of Investigations and

Enforcement Bureau (IEB). Ms. Lillios has served with the Commission since 2014, serving first as Deputy General Counsel and then as Chief Enforcement Counsel/Deputy Director of the IEB.

Ms. Judd-Stein thanked the committee for their continued efforts and returned the agenda to Chair Mainzer-Cohen.

1:13 p.m. Approval of Minutes

Ms. Mainzer-Cohen directed the committee to review the February 9, 2021 minutes, which were included in the packet, and encouraged questions. A motion to approve the minutes was made by Mr. Paul Picknelly. All committee members were in favor. The meeting minutes were voted approved.

Ms. Mainzer-Cohen congratulated Ms. Lillios on her promotion and turned the meeting over for an update on the status of the casinos.

1:14 p.m. Status of the Casinos

Ms. Lillios provided a brief recap of how the casinos addressed the unprecedented impacts of the past year. This included not only the gaming floor, but movie theatres, hotels, bowling alley, night clubs, and retail. The Commission's licensing division made sure the licenses of casino employees remained valid during closures and furloughs to remove barriers in getting back to work. In order to return to opening status, public health consultants were retained by the licensees to advise with expertise. Additionally, each property was required to designate a pandemic safety officer to their compliance team. Ms. Lillios stated that one of the responsibilities of this individual is to notify the board of health and the Commission when a Covid diagnosis was confirmed. She said that the Covid numbers trended with state metrics and there were no concerning trends amongst the casino employee population with the exception of potential cocktail servers at one property. After that was realized, the casino took action to remedy it. (There were no patron outbreaks.) Ms. Lillios specified that while capacity restrictions were implemented during the pandemic, attendance had only been at around 20-25% capacity at its highest, so it did not have a great impact.

Ms. Lillios also addressed the topic of poker, and how it had not yet been reinstated, as licensees were evaluating their capacity to do so. There were opportunities for dealers to be retrained on other table games in the interim.

As of the meeting, Ms. Lillios stated the casino gaming floors were fully reopened, with some ongoing pandemic protocols in place. The hotels at both MGM and EBH have also reopened. Restaurants, commercial establishments and nightclubs have opened or were in the process of returning to operations. Currently, all three properties offer incentives for employees receiving vaccination. MGC has urged the casinos to review the pandemic's impact on working women (such as losing seniority if not reporting back after furlough immediately). Licensees ensured that seniority would not be lost during the first round of recalls and aim to make accommodations on a case by case basis. Each property has indicated that hiring continues to be affected by the current labor market challenges, even though job fairs are being held and recruitment is ongoing.

Ms Lillios continued with a financial update stating that since reopening July 2020 through May 2021, Plainridge Park Casino generated \$111.3 million in gross gaming revenues (GGR), \$44.5 million in tax revenues, and \$10 million went to the racehorse development fund. Encore Boston Harbor generated \$437.2 million in GGR and \$109.3 million in taxes. For MGM, the total GGR was \$102.8 million and \$45.7 million in taxes. During that time period, the facilities together generated between 56% and 77% of the previous year's GGR even with only 44-57% of gaming positions actively working. Ms. Lillios contributed this to the licensee's dedication toward problem solving and communications.

After the casino update, Ms. Mainzer-Cohen introduced Caitlin Monahan, Associate General Counsel to provide the update on the status of the tribal casinos.

1:35pm

Tribal Litigation Update

Ms. Monahan provided some background for the GPAC regarding the status of Tribal gaming in the Commonwealth, including recent legal developments. She focused on cases to which the Mashpee Wampanoag and the Wampanoag Tribe of Gay Head (Aquinnah) are parties. In short, the Mashpee Wampanoag are currently awaiting a decision from the Department of the Interior that will determine whether land may continue to be held in trust for the Tribe, and in turn, whether the Tribe may move forward with opening a casino on its reservation. With regard to the Wampanoag Tribe of Gay Head, a federal court has recently determined that the Tribe must comply with state a local permitting laws in building a gaming facility on Martha's Vineyard.

There were no questions for Ms. Monahan from the committee. The Chair thanked her for the update and turned the meeting over to address updates from GPAC members.

1:53 p.m. Member Update

Senator Eric Lesser offered an update on the status of sports wagering legislation in the Commonwealth. He stated that a hearing on sports betting was to be held June 17th at 10 a.m. to cover all 19 proposed bills. Mr. Lesser summarized that the bills run the gamut of legalization and regulation from sports betting bills that only touch a piece of legislation (such as where money should go), all the way to the fully developed and comprehensive bills. He provided a little background saying that after PASPA (legislation) was invalidated a few years ago, the path was cleared to allow for sports betting legalization in the states. Nevada and Delaware already had sports betting, but New Jersey (which was plaintiff in the PASPA case) became the first state to legalize it afterwards. At the time of the meeting, Mr. Lesser said about 30 states had some form of legalization, and there was quite a wide variability of how it's implemented. He said that legislators have many data sets and are learning more every day about what's working in certain jurisdictions.

Mr. Lesser confirmed he'd filed his own bill this session, and that last session he and Chair Ferrante held a two-day marathon hearing from all stakeholders. There was a house bill that moved forward. House Ways and Means made some changes to it before it hit the floor and became a component of the 2020/21 economic development bill. The Senate then chose to withhold on sports betting, and the bill died in legislation. He stated that in this session, there's a general sense it'll be a standalone bill and utilize the committee process to work through standalone elements. Mr. Lesser described some of the issues being considered, including how to scope the licenses, whether limiting to brick and mortar or expand to online, how many licenses should be issued, how many online "skins" the state may want to see, whether to limit brick and mortar to freestanding casinos or include potential race tracks, and how the state lottery might play in. He said there are concerns about whether betting should be limited strictly to professional sports, include college athletics, or both and noted that D1 schools have been very public that they don't want legal betting on them. Another important component for consideration is the appropriate tax rate, which varies heavily from state to state. Mr. Lesser stated that the states with higher tax rates on sports betting tend to have much narrower licensing scopes, such as New Hampshire, and those with more licenses tend to have a lower rate. A major question is how much should be determined by legislation and how much the regulator should decide.

Mr. Lesser thanked MGC Chair Judd-Stein and the Commissioners and staff for providing research, expertise and comments during the legislative process. He noted that anyone is allowed to offer testimony at the hearing and encouraged committee members to submit for that opportunity if interested.

Ms. Mainzer-Cohen asked if other members would like to offer any updates or suggest future topics. It was recommended that perhaps Brian Laing would be able to provide an overview of impacts to the hospitality industry in a future meeting and Mr. Laing agreed. No other members offered updates at this time. The Chair then introduced Director Alex Lightbown for the next segment on horse racing.

2:06 p.m. Horseracing Integrity and Safety Act

Dr. Alexandra Lightbown, Director of Racing at the Commission gave some background on the Horseracing Integrity and Safety Act (HISA) which was signed into law in December 2020. It is Federal Legislation which establishes Horseracing and Integrity Safety Authority, a private entity charged with compiling regulations under the FTC and the FTC will approve those regulations. It is mandatory for all thoroughbred racing, and will be opt in for standardbred and quarter horse racing. Dr. Lightbown reminded the committee that at this time in Massachusetts there is only standardbred racing. She stated this gives the state time to see how it works on the thoroughbred side to later evaluate and is scheduled to go into effect July 1, 2022. They've already set up nominating committees and a committee to address racetrack medications and racetrack safety. There is an existing organization called Association of Racing Commissioners International, which the Commission already belong to, which already comes up with model rules and best practices for the industry, but it cannot make them mandatory. They are passed on a state-by-state basis. She stated that in MA, we've adopted almost all of them so it might not be much of a change for the Commission. The committee will likely contract with the U.S. Anti-Doping Agency which will oversee drug testing programs and will accredit all the labs. She noted the Commission's racing division has used an accredited lab since 2013, which also happens to be the lab used by the Kentucky Derby when they found the positive test this past year. She noted that it will be interesting to see how they fund these programs, stating that our programs that regulate racing are currently funded by using a portion of handle and a percentage of funds coming from the racetracks. The Gaming Commission will hold public hearings and get input before such decisions are made.

Chair Mainzer-Cohen stated that when you see something as high stakes as the Derby triggering this, you can see how important the work the Commission and Division of Racing is. She thanked Dr. Lightbown for her work and for the information.

2:16p.m. Play My Way Presentation

Mark Vander Linden, the Director of Research and Responsible Gaming at the Commission provided an update on one component of the Responsible Gaming program, known as Play My Way, which promotes safer levels of gambling. The other programs are Game Sense, and a Voluntary Self Exclusion program which is a statutory requirement. Mr. Vander Linden noted that they've just surpassed over 1,000 people enrolled into the VSE.

Play My Way is a first of its kind budgeting tool allowing individuals to monitor their spending on slot machines. It was launched in 2016 at Plainridge Park Casino as a pilot project. The Commission is now in collaboration with MGM Springfield and Encore Boston Harbor to deploy Play My Way at their casinos. MGM will start in September, and Encore the following year. Broadly, Play My Way is a pre-commitment tool enabling gamblers to set money or time limits in advance of playing. There was a Positive Play study done which was utilized to support the program, which looked at four subscales, two related to beliefs and two related to behavior. It found that pre-commitment and literacy were two areas that needed to be focused on. Of the respondents, who had gambled in the last 12 months, 8% had gone back next day to play what was won, 7% had tried to cut back or quit, and 12% felt guilty about their habits.

Mr. Vander Linden stated that the system works by being a casino rewards member, that it is voluntary, and a player sets a self-imposed budget for daily, weekly, or monthly limits. Notifications are set to the player

starting when they've reached 50% of the budget limits they'd set. Other notifications are received at 75%, 100% and 125%. He noted that a player can gamble beyond their stated limits, but it provides a moment of reflection and reminder of their intent. Currently, Play My Way is at about 25% enrollment, around 30,000 people. (Mr. Vander Linden offered a reminder that this is still only in place at Plainridge Park.) He stated the unenrollment rate has been about 10-15%, and it's difficult to determine if that's positive or negative. He compared it to using Fitbit, in which he's seen statistics that 30% stop using it a few months after buying it. They will continue to monitor and evaluate that.

Mr. Vander Linden invited GPAC members to a real life demonstration at either Plainridge Park Casino or inside the Commission's Gaming Lab.

Victor Ortiz stated that such a program is a testament to the combined work between the Commission and the Department of Public Health and that the unique relationship between a regulator body and a public health entity is the only known collaboration in the country. He stated that he is thankful for the partnership and for the ability to minimize harms.

Helen Caulton Harris also commented, stating it is very important to the Commonwealth but especially the City of Springfield as they continue to mitigate adverse effects. She specified the funding that comes to Springfield is critical and even allows CHW's to go door to door in the city, and for preventative measures.

Ms. Mainzer-Cohen expressed appreciation for work Chair Judd-Stein and the Commission did during a public health crisis, acknowledging progress being made now as casinos reopen and unexpected positives. She mentioned ongoing work outside gaming including the thoughtful way commonwealth is looking at sports betting, tribes and every piece that continued to move forward, while adhering to legislation.

2:36p.m. Other Business/ Next Meeting

The Chair proposed that the next GPAC meeting take place in October, post-summer.

Mr. Picknelly mentioned that he would like to discuss ways cities and towns can use the mitigation funds, and be briefed on that in the next meeting, as well as guidance on what the GPAC's involvement specifically is in the Community Mitigation Fund process.

Chair Judd Stein acknowledged that the structure under the statute is that the GPAC is the appointed committee, with a Community Mitigation subcommittee under it. She stated that there could be reports or a briefing on the applicants and/or the status and would revisit it with Chief Delaney and review the statutory requirements so it could be a pointed discussion on the next agenda, and a formal reporting. She also noted that the review process is extensive and includes the local advisory committee member input.

2:43 Meeting adjourned

With no other comments, a motion to adjourn was made by Paul Picknelly, and seconded by Cathy Judd-Stein, with all in favor.