



Massachusetts Gaming Commission Meeting Minutes

Date/Time: June 15, 2023, 9:00 a.m.
Place: Massachusetts Gaming Commission

VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 111 232 7656

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

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

Chair Judd-Stein called to order the 459th Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all five commissioners were present for the meeting.

2. [Meeting Minutes](#) (00:34)

The *December 15, 2022, public meeting minutes* were included in the Commissioner's Packet on pages 3 through 12. The *December 29, 2022, public meeting minutes* were included in the Commissioner's Packet on pages 13 through 16.

Commissioner Hill moved that the Commission approve the minutes from the December 15, 2022, and December 29, 2022, public meetings that are included in the Commissioner's Packet subject to any necessary corrections for typographical errors or other non-material matters. 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.

3. [Commissioner Updates](#) (01:31)

Chair Judd-Stein stated that Executive Director Karen Wells had submitted a letter of resignation and was planning to step down on July 14, 2023. Chair Judd-Stein stated that the process by which the Commission would search for a new Executive Director would be determined by the Commission in a future public meeting. The Chair added that there would be a public sendoff to acknowledge Executive Director Wells' accomplishments closer to her departure date.

4. [Administrative Update](#) (04:15)

a. MGC COVID-19 Policy Review

Executive Director Wells explained that the Governor had rescinded the executive order regarding the vaccine mandate. She introduced Human Resources Manager Trupti Banda to discuss and review the Commission's internal COVID-19 policy.

Ms. Banda stated that the Governor's Office had rescinded Executive Order 595 effective May 11, 2023. She reported that Suffolk County was testing at rate of 2.71% positive for COVID-19. She noted that the casino properties were not requiring vaccination of their employees. Ms. Banda explained that the Commission had been following the CDC guidelines since August 2021, and was still following the CDC's guidelines.

Ms. Banda stated that the HR team did not include a recommendation in its memorandum, and that the Commissioners could discuss and determine whether a vaccination requirement was still appropriate. Commissioner Hill expressed that he was comfortable with the Commission aligning with the governor's recent rescission of Executive Order 595.

Commissioner Hill moved that the Commission align with the governor's rescission of Executive Order 595 and rescind the Commission's COVID-19 Exposure and Positivity Policy as discussed today. 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.

5. [Legislative Update](#) (10:26)

Grace Robinson, Chief Administrative Officer to the Chair explained that there were multiple bills before the legislature associated with extending horseracing simulcasting into the future. She presented a proposed letter supporting the simulcasting bills for the Commission's approval. The *Proposed Letter* was included in the Commissioner's Packet on pages 25 through 26.

Commissioner Skinner suggested an edit to the letter, and recommended inserting the word "favorably" into the first sentence of the second paragraph. She offered a typographical correction in the second sentence of the letter.

Commissioner Skinner moved that the Commission adopt and distribute the Letter to the legislature related to extending live horseracing and simulcasting in the Commonwealth as included in the Commissioner's Packet and discussed here today. 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.

Ms. Robinson stated that the Commission had submitted a letter regarding a bill which would permit veterans' organizations to have slot machines at their facilities. She noted that there were two bills on this topic, and asked whether the Commission would want to write a new letter as a result. Commissioner Hill stated that there was still discussion taking place in the legislature, and suggested holding off on writing a letter until the Commission is made aware where the bills would go in Committee. He explained that the bills would either be passed or not passed by Committee within the next thirty to sixty days.

Chair Judd-Stein posited that the Commission staff could meet with legislative staff members working on the bill to address the ramifications to the operations of the Commission. She stated that a follow-up letter could be sent after that, if necessary. Commissioner Hill agreed.

Ms. Robinson reported that North Carolina and Vermont had passed legislation legalizing sports wagering. She stated that the bills were sent to the states' respective governors and that those governors had indicated their intended to sign them.

6. [Succession of Officers and Positions Document Distribution](#) (17:24)

Commissioner O'Brien stated that a draft memorandum, which detailed the basic overview of the succession of officers and positions and the two options discussed at the last meeting, had been distributed to Ms. Robinson and would be distributed to the rest of the Commission for review. Commissioner O'Brien stated that this topic would be further discussed, and a vote would be reserved during the June 29, 2023, public meeting. The *Memorandum* was included in the Commissioner's Packet on pages 27 through 28.

7. [Community Affairs Division](#) (19:00)

a. Community Mitigation Fund Public Safety Application Review

Chief of the Community Affairs Division Joe Delaney presented Public Safety Applications for funds from the Community Mitigation Fund. A *Memorandum Detailing The Community Mitigation Fund Applications And Review Team Recommendations* was included in the Commissioner's Packet on pages 72 through 88.

Chief Delaney explained that the City of Boston's Police Department had requested \$176,100 in funding for their human trafficking unit, an undercover vehicle, overtime funding, funding for the youth violence strike force, funding for the drug control unit, and additional traffic control measures. He stated that the review team found sufficient evidence of a casino impact related to human trafficking, and recommended funding for that overtime. He noted that the City of Boston had requested funding for two vehicles in the prior year, and that the Commission had approved funding for only one vehicle, as that was the Community Mitigation Fund's fair share. He stated that the City of Boston did not indicate any additional needs.

Chief Delaney stated that there did not seem to be a nexus between the casino and youth violence or drug control. He noted that traffic as an impact from Encore Boston Harbor ("EBH") did have an impact on Sullivan Square. He reported that the review team recommended funding in the amount of \$65,000 for the human trafficking unit overtime and overtime funding for additional traffic patrols.

Chief Delaney explained that the City Of Everett's Fire Department had requested \$53,039 in funding to purchase an inspectional vehicle. He stated that there was an impact from the casino, but the Community Mitigation Fund guidelines required all applications to demonstrate that the funds would supplement existing funds and not supplant historical operations funding. He noted that Everett Fire Department was not expanding their fleet, and only replacing the oldest vehicle

in their fleet. He stated that this funding would work to supplant the city's historical funding rather than supplementing it, and that the review team did not recommend funding for this grant.

Chief Delaney explained that the City Of Everett's Fire Department had also requested \$45,000 for training on hazards associated with EBH. He explained that EBH had introduced unique challenges for the Fire Department. He stated that the review team recommended full funding for this grant.

Chief Delaney explained that the City Of Everett's Police Department had requested \$138,477 for two electric vehicles. He noted that the application was initially under the Specific Impact Grant category but had been moved to the public safety category, as the vehicles would be for a public safety agency. He noted that the funding was sought to replace old vehicles and would supplant historic funding. He stated that the review team did not recommend funding for this request, because of this reason.

Chief Delaney explained that the City of Everett had requested \$145,000 for water safety enhancements and additional patrols in or around EBH. He noted that the City modified its request to remove the cost of water safety enhancements. He explained that the additional patrols had been funded by the Community Mitigation Fund for the past few years. He summated by stating that the review team recommended \$104,100 funding for additional police patrols.

Chief Delaney explained that the City of Everett had requested \$18,700 for additional equipment to outfit the Conex container near EBH that was funded previously. He stated that the additional equipment would include security cameras, a radio system, and police graphics. He stated that the review team recommended full funding of this request.

Chief Delaney explained that the Town of Foxborough had requested \$143,400 for officer training, the purchase of a motorcycle, a drone, and mapping equipment for their crash investigation unit. He noted that the motorcycle would not be expanding the fleet and would replace an older motorcycle. He explained that this would supplant historic funding. He additionally noted that there was not a lot of traffic through Foxborough related to the casino, and that only 0.6% of traffic on Route 1 comes from casino. He stated that the review team did not recommend funding for traffic overtime, or the purchase of the motorcycle, and drone. Chief Delaney stated that patrons of the casino utilized hotels in Foxborough and may contribute to some public safety issues, and for that reason, the review team recommended overtime funding and funding for Police training. He stated that the review team recommended partial funding of \$61,400 for this request.

Chief Delaney explained that the Town of Hampden had requested \$15,300 for the installation of mounted radar units and additional patrols to curb speeding. He stated that the review team agreed that some traffic impact exists. but it was fairly minor. He stated that the Community Mitigation Fund had funded radar speed boards in the past, and that the review team recommended full funding of this request.

Chief Delaney explained that the Town of Longmeadow had requested \$192,400 for speed boards and cameras. He stated that Longmeadow had previously received a grant for cameras at another location and reported that the cameras had proven to be successful. He stated that there has also been an increase in crashes since the opening of the casino. He stated that the review team recommended full funding for this request.

Chief Delaney stated that the Ludlow Police Department had requested \$197,000 for training, a police vehicle, and various equipment for the police department. He stated that the Town did not identify a direct impact of the casino. He stated that the Police Department would come into contact with patrons and employees of the casino in their regular duties, and that the review team recommended funding of \$31,800 for implicit bias training, de-escalation training, and overtime associated with those trainings. Chair Judd-Stein commended all of the applicants who were emphasizing training.

Chief Delaney explained that the City of Malden had requested \$200,000 for two electric police vehicles and a speed alert board. He stated that the vehicles would replace existing vehicles which would supplant historic funding rather than supplement it. He stated that the review team agreed that the speed board was appropriate and recommended partial funding of \$17,900.

Chief Delaney explained that the City of Medford had requested \$194,300 for the purchase of hybrid police vehicles, eleven dynamic speed feedback signs, and two message display signs. He reiterated that replacing old vehicles would supplant historical funding rather than supplement funding. He stated that the review team was in favor of the radar message signs and recommended a partial funding of this request of \$130,000.

Chief Delaney explained that the City of Melrose had requested \$893,500 for a new communications system for their police and fire departments. He stated that the intent of the mitigation fund was to offset costs associated with the casino, and that it was up to the City to provide the police and fire departments with an appropriate communications system, regardless of the presence of the casino. Accordingly, Chief Delaney stated that the review team did not recommend funding for this request.

Chief Delaney explained that the Town of Plainville had requested \$80,330 for funding to hire a community resource officer. He noted that Plainville had submitted a similar application the prior year that had not been approved. He stated that no nexus to the casino could be identified and that the review team did not recommend funding for this request.

Chief Delaney explained that the Plainville Police Department had requested \$123,750 for force science certification. He stated that patrons of the casino have interactions with police officers frequently and that training would be beneficial. He noted that the training was not solely for Plainville officers, but also Gaming Enforcement Unit (“GEU”) officers, and officers from the

communities that border Plainville. He noted that the review team recommended full funding for this request.

Chief Delaney explained that the Plainville Fire Department had requested \$13,200 to purchase four electric vehicle fire blankets. He noted that Plainridge Park Casino (“PPC”) had a significant number of charging stations and that electrical fires were difficult to fight. He stated that the review team recommended full funding for this request.

Chief Delaney explained that the City of Revere had requested \$64,000 for the lease of eight license plate recognition cameras for thirty-six months. He stated that Revere had provided information regarding human trafficking and drug crimes and data as to how the cameras would help in apprehending suspects. He stated that the review team recommended full funding for this initiative. Chair Judd-Stein stated that there was an opportunity for the Subcommittee on Public Safety to discuss the data provided by Revere in the future.

Chief Delaney explained that the City of Springfield had requested \$200,000 for the safe ride home project, where funding would increase public awareness, educate professionals, and fund a digital advertisement campaign to fight against operating under the influence. He noted that the application cited a study by Christopher Bruce assessing the casino impact on arrests for operating under the influence that shows an increase. He stated that the City proposed a partnership with the Massachusetts Council on Gaming and Health. He noted that the application had aspects of gambling harm reduction and research, and that the review team recommended partial funding with one condition. He stated that the review team recommended releasing the first portion of funding and checking that everything was going according to plan. He noted that the review team did not recommend funding for stipends for overtime but recommended \$191,200 with the stipulation that funding would be split into two tranches.

Chief Delaney explained that the City of Springfield had requested \$224,900 for the purchase of two police cruisers for the GEU, sexual assault training, steel barricades for pedestrian and vehicular control, the purchase of a drone, and tactical shotguns. He noted that some of these requests were not directly associated with the casino. He stated that the Commission had previously funded one vehicle for the GEU officers in Everett. He stated that the review team recommended partial funding for additional deployments, funding for the sexual assault training, funding to purchase one vehicle, steel barricades, drones to help cover outside events at MGM Springfield. He stated that the review team did not recommend funding for shotguns, as equipping officers appropriately was the responsibility of the City. He stated that the review team recommended partial funding of \$135,200 for this application.

Chief Delaney explained that the City of Springfield requested \$19,800 for defibrillators for units that respond in the casino area. He stated that the current defibrillators were not compatible with the defibrillators used by the ambulance service. He stated that the review team recommended full funding of this request.

Chief Delaney reported that West Springfield had requested \$200,000 for additional fire, police, and EMS services. He stated that funding for this request was based on the one-year lookback study which identified an increase in public safety costs over the amount West Springfield received from the Surrounding Community Agreement. He stated that the review team recommended full funding of this initiative. He noted that a five-year lookback study would be conducted and relied upon in future years.

Chief Delaney explained that Wilbraham had requested \$42,800 upgrades to their radio software for ten police radios, five fire radios, and one other portable radio to allow for interoperability with Springfield. He stated that Wilbraham was one of the surrounding communities of MGM Springfield. He stated that the review team recommended full funding of this item.

Chief Delaney explained that the Town of Wrentham requested \$156,700 for the purchase of a pickup truck, motorcycle, and two radar message signs for traffic concerns. He stated that the analysis here was similar to the Foxborough analysis, as there was only a modest impact on the traffic in Wrentham. He stated that the review team recommended partial funding of \$44,900 for the speed alert signs but did not recommend the purchase of the pickup truck or motorcycle.

Commissioner Hill moved that the Commission approve applications from the following applicants for funding from the Community Mitigation Fund for the purposes described in the submitted applications and materials included in the Commissioner's Packet and for the reasons described therein and discussed here today; and further moved that Commission staff be authorized to execute a grant instrument commemorating these awards in accordance with 205 CMR 153.04:

to the City of Everett \$45,000 funding for training for high-rise and below-grade firefighting, crowd management, and lithium battery fires;

to the City of Everett \$18,700 funding to outfit the Conex storage unit with video surveillance, an interoperable radio system, and Everett Police paint and graphics;

to the City of Revere \$64,000 funding for the lease of eight solar-powered Falcon license plate recognition cameras for thirty-six months;

to the Town of Hampden \$15,300 funding for special four-hour traffic enforcement shifts and the purchase of two pole radar units and a cruiser handheld radar unit;

to the Town of Longmeadow \$192,400 funding for the purchase of cameras and speed alert radar message signs, insulation of the side street camera detection system, and 1.8 miles of additional fiberoptic cable;

to the City of Springfield \$19,800 funding to purchase seven defibrillator units;

to the City of West Springfield \$200,000 funding for additional police, fire, and EMS;

to the Town of Wilbraham \$42,800 funding to purchase ten police vehicle radios, five fire vehicle radios, and to upgrade one police portable radio;

to the Town of Plainville \$123,750 funding for force science certification for law enforcement; and

to the town of Plainville \$13,200 funding for the purchase of four electric vehicle fire blankets.

Commissioner O'Brien offered an amendment that the motion use the plural language "instruments" as the grants would be individualized to the municipalities. Commissioner Hill accepted the amendment. 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.

Commissioner O'Brien moved that the Commission approve in part the applications from the following applicants for funding from the Community Mitigation Fund for the purposes described in the submitted applications and materials included in the Commissioner's Packet and the reasons described therein and discussed here today and subject to any of the conditions outlined in the memorandum in the Commissioner's Packet; and further, that Commission staff be authorized to execute grant instruments commemorating these awards in accordance with 205 CMR 153.04:

to the City of Boston \$65,000 funding for the city's human trafficking unit including an undercover vehicle, youth violence strike force, drug control unit, and additional traffic controls;

to the City of Everett \$104,100 funding for water safety enhancements along the Mystic River and funding for additional patrols around Encore Boston Harbor;

to the City of Malden \$17,900 funding to purchase electric vehicles and traffic safety message trailer;

to the City of Medford \$130,000 funding to purchase a hybrid police safety vehicle, speed alert radar message signs, and message display signs;

to the Town of Ludlow \$31,800 for implicit bias and de-escalation training as well as public safety equipment and tools;

to the City of Springfield \$135,200 for funding for police personnel equipment and training; also to the City of Springfield \$191,200 funding for a full-time community health worker;

to the Town of Foxborough \$61,400 funding for officer training, investigation, and traffic safety items; and

to the Town of Wrentham \$44,900 funding for vehicles and message signs.

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.

Commissioner Hill moved that the Commission deny the applications from the following applicants for funds from the Community Mitigation Fund for the reasons described in the memorandum included in the Commissioner's Packet and discussed here today:

the City of Everett for funding for the purchase of an inspectional vehicle;

the City of Everett for funding for the purchase of electric vehicles;

the City of Melrose for funding for a new communications system; and

the Town of Plainville for funding for a community resource officer.

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.

Chief Delaney reported that a proposed Project of Regional Significance for a parking garage in Springfield had been submitted. He stated that the review team did not recommend funding for this project, as it was not determined to be regionally significant. He explained that only one project of regional significance could be funded pursuant to the Community Mitigation Fund guidelines, and that the Pioneer Valley project was found to be a better proposal.

Chair Judd-Stein stated that the Commission could consider a waiver that would allow funding for both projects. She stated that Springfield's proposal followed up as a potential continuation of earlier community mitigation funding that the Commission supported. Chair-Judd Stein noted that the Mayor of Springfield had also written a letter of support for this project.

Commissioner Skinner stated that she was not prepared to have this discussion, as it was not on the agenda. General Counsel Todd Grossman noted that this topic was not on the agenda and that there were no materials in the Commissioner's Packet relative to the Regional Significance Project. Chair Judd-Stein agreed and stated that the Commission could return for a final discussion on this topic in a single-item meeting on June 21, 2023.

Chief Delaney stated that the Community Mitigation Fund guidelines plan on funding only one regional project, and that the funding of both would require a waiver. Commissioner Skinner requested that all public comments be circulated to each of the Commissioners. Commissioner Maynard noted that he had received a phone call from a former colleague and resident of Springfield that expressed support for the proposed project. He stated that he had requested the caller to produce the comment in writing and submit it to the Commission.

8. [Sports Wagering](#) (1:45:44)

a. Request For Uniform Waivers To Extend Effective Dates

I. 247.09(3) and (4) – Promotional Offers

Director of Sports Wagering Bruce Band stated that multiple operators had submitted requests for temporary waivers to certain provisions in 205 CMR 247 and 205 CMR 248. Sports Wagering Business Manager Crystal Beauchemin explained that these regulations were approved on June 1, 2023, and went into effect by emergency. She stated that the sports Wagering Division recommended an industry-wide uniform waiver to 205 CMR 247.09(4) through August 1, 2023.

Ms. Beauchemin stated that DraftKings had requested a waiver from 205 CMR 247.09(3) through August 31, 2023, to allow for technological development and testing of the platform. Commissioner Skinner stated that she was comfortable with the recommendation to provide blanket waivers to the licensee but stated that she wanted to revisit the waivers at a future meeting, as Penn Sports Interactive had indicated that compliance with 205 CMR 248.03(h) was impossible.

Ms. Beauchemin stated that the timing of the waiver was chosen to specifically address the existing promotions being run through that date. She expressed that the Sports Wagering Division wanted to have all operators have these promotions end on the same date.

Commissioner O'Brien inquired why DraftKings' request was through August 31, 2023. Ms. Beauchemin stated that there were additional concerns with how DraftKings platform was set up, as they also offered fantasy sports; which had different regulations governing it. Commissioner O'Brien noted that FanDuel operated both sports wagering and fantasy sports as well. Ms. Beauchemin explained that FanDuel used a different system.

Commissioner Hill moved that in accordance with 205 CMR 202.02(3) that the Commission issue a waiver to all licensed sports wagering operators from the requirements outlined in 205 CMR 247.09(4) through August 1, 2023, as granting the waiver meets the requirements specified in 205 CMR 102.03(4) and is consistent with the purposes of G.L. Chapter 23N. 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.

Commissioner Skinner moved in accordance with 205 CMR 202.02(3) that the Commission issue a waiver to DraftKings from the requirements outlined in 205 CMR 247.09(3) through August 31, 2023, as granting the waiver meets the requirements specified in 205 CMR 102.03(4) and is consistent with the purposes of G.L. Chapter 23N. 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.

II. [248.03\(3\)H – Account Registration](#) (1:57:34)

Ms. Beauchemin stated that the Sports Wagering Division recommended an industry wide uniform waiver through the effective date of regulation, September 1, 2023. Commissioner Skinner stated that she would like the Sports Wagering Division to bring this matter back before

the Commission in advance of September 1, 2023, if any additional issues arose. Ms. Beauchemin stated that the Sports Wagering Division anticipated bringing forth final waivers.

Commissioner Skinner moved in accordance with 205 CMR 202.02(3) that the Commission issue a waiver to all licensed sports wagering operators from the requirements outlined in 205 CMR 248.03(3)(h) through September 1, 2023, as granting the waiver meets the requirements specified in 205 CMR 102.03(4) and is consistent with the purposes of G.L. Chapter 23N. 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.

III. [248.04 \(4\) – Age and Identity Verification](#) (1:59:21)

Ms. Beauchemin stated that the Sports Wagering Division recommended an industry wide uniform waiver through the effective date of regulation, September 1, 2023.

Commissioner Skinner moved in accordance with 205 CMR 202.02(3) that the Commission issue a waiver to all licensed sports wagering operators from the requirements outlined in 205 CMR 248.04(4) through September 1, 2023, as granting the waiver meets the requirements specified in 205 CMR 102.03(4) and is consistent with the purposes of G.L. Chapter 23N. Commissioner Maynard seconded the motion. 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.

9. [Legal](#) (2:00:50)

- a. 205 CMR 230: Review of a Proposed Agreement with a Category 3 Licensee – Review of Regulation and Small Business Impact Statement for Possible Emergency Adoption and to Begin The Promulgation Process

Attorney Mina Makarious, Outside Counsel from the law firm Anderson and Krieger presented the draft 205 CMR 230. He explained that this regulation set out the process for Category One

and Two operators to obtain the Commission’s approval of their agreements with tethered Category Three licensees, which was contemplated in G.L. Chapter 23B, § 6(b)(4). The *Small Business Impact Statement and draft 205 CMR 230* was included in the Commissioner’s Packet on pages 58 through 63.

Chair Judd-Stein sought clarification regarding the process between preliminary approval and permanent approval. Mr. Makarios stated that the legal team did not want to develop a timeline, as the agreements could take a variety of forms. He stated that when the Commission was presented with an agreement seeking approval, the entities involved would have to make the case that preliminary approval was appropriate and necessary. He stated that this would put the onus on the licensees to make a case for approval. Mr. Makarios stated that preliminary approval allowed the Commission to do additional due diligence on issues that might not be immediately apparent.

Commissioner Skinner asked if the existing tethered operators would have to come before the Commission for approval of existing agreements. She noted that the issuance of a license could be considered to approve the agreement by implication. Mr. Makarios stated that approval was issued with the understanding that this relationship was part of the license. He explained that subsequent modifications or any new relationships would require Commission approval.

Commissioner Maynard moved that the Commission approve the Small Business Impact Statement and the draft of 205 CMR 230 as included in the Commissioner’s Packet and discussed here today, and that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth to begin the regulation promulgation process; and further that staff be authorized to modify chapter or section numbers or titles to file additional regulation sections as reserved or to make any other administrative changes as necessary to execute 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.

b. [Request for approval of Bulletproof as Qualified Independent Technical Expert in accordance with 205 CMR 243.01\(1\)\(x\)](#) (2:14:02)

General Counsel Grossman explained that under 205 CMR 243.01(1)(x), audits must be performed by qualified independent technical experts within ninety days of commencing operations. He stated that Bulletproof had submitted an application to become a qualified independent technical expert.

Gaming Technical Compliance Manager Christian Taveras stated that Bulletproof’s application was not included in the Commissioner’s Packet due to its cybersecurity sensitivity. He stated that Bulletproof met the education requirement and proficiency requirements, as they had provided security audits for sports wagering operators in other jurisdictions since 2018.

Chair Judd-Stein asked what the recommendation from staff was. Mr. Taveras stated that the recommendation was to approve Bulletproof’s applications. General Counsel Grossman stated that Bulletproof had met all of the application requirements.

Commissioner Skinner moved that the Commission approve Bulletproof as a qualified independent technical expert in accordance with 205 CMR 243.01(1)(x). 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. [Review of 205 CMR 256 related to “win or lose” advertising](#) (2:20:39)

Deputy General Counsel Caitlin Monahan stated that a discussion should occur as to whether “win or lose” advertising was permitted. The *advertising regulation, 205 CMR 256* was included in the Commissioner’s Packet on pages 64 through 71. Mr. Makarios explained that the regulation already addressed offers that suggest that a patron will succeed, “win or lose”. He stated that the regulations would need to be applied to case-specific facts.

Mr. Makarios stated that 205 CMR 256.06 prohibited advertising, marketing, and branding and that stated or implied sports wagering was free of risk. He stated that a promotion stated that a bet will be paid, win or lose can be deceptive if what the operator meant was that the patron would receive promotional credit if they lost. He stated that the Commission had broad discretion under the regulations to review advertising or promotions that suggest, state, or imply that there was no risk.

He stated that operators were also required to clearly and conspicuously disclose material terms to promotions pursuant to 205 CMR 256.04. He stated that the conditions of the promotion must be stated in accordance with this provision. He stated that advertising, marketing, and branding cannot be unfair or deceptive, and that the Commission could decide whether a method of promotion was unfair.

Commissioner O'Brien noted that some of the promotional materials used by operators tweaked the language slightly and expressed that the language in the regulation was not the outside bounds of the prohibited language. She said that she wanted to ensure offers and disclosures complied with the Commission's regulations.

Commissioner Maynard stated that this discussion was intended as notice to the operators to ensure that the patrons of the Commonwealth were protected. He explained to participants that violations of this regulation would be seriously dealt with. Commissioner Hill agreed. Commissioner Skinner shared the sentiment that this was not uncharted territory, as there were other jurisdictions where regulators had acted on similar promotions offered in their jurisdictions by assessing fines. She stated that the Commission would address violations accordingly.

Chair Judd-Stein stated that this was a valuable summary that could serve as a roadmap to all relevant regulatory provisions that captured the Commission's intent. Mr. Makarious stated that the regulation did not need to be revisited at this point, and that operators should be mindful of other provisions within 205 CMR 247 and 205 CMR 248. He reported that 205 CMR 257 was in progress, and would be discussed at the prior meeting.

10. [Other Business](#) (2:35:39)

Commissioner Hill suggested that the Commission potentially write three letters. He stated that the first letter would be to request that the City of Everett include a non-binding question on their primary or general election to help the Commission discern the intent of voters regarding the 2013 vote approving the Host Community Agreement, and whether that included the property across the street.

Commissioner Hill stated that the second proposed letter would be to the City Council of Everett outlining what the Commission has done to assist the City of Everett. He noted that the testimony of the citizens expressed concern about increased public safety needs and traffic. He expressed he was uncertain if the Citizens of Everett were aware of the Commission's work funding projects through the Community Mitigation Fund. He stated that the Commission had done work over the past several years to address issues that were raised in the public comments.

Commissioner Hill stated that the third proposed letter would be to EBH and the Everett Mayor's office, suggesting that they might want to open up the Host Community Agreement. He stated that the Commission could mandate this as a condition moving forward, but expressed his belief that the two entities should negotiate without the Commission having to be involved.

Chair Judd-Stein stated that these topics would require substantive discussions that would need to be marked on the agenda. She noted that the Commission already had significant discussions in public meetings regarding the legal question of Everett's referendum. She stated that the second letter could be added to a future agenda. She stated that while the Commission had not taken formal action regarding the third topic, the topic had arisen during a hearing.

General Counsel Grossman stated that letters could be drafted to this effect, and presented for Commission discussion, but that the topics would be required to be on the agenda. Chair Judd-Stein suggested that only the second topic have a letter drafted as the other two topics had more substantive legal issues. Chair Judd-Stein and Commissioner Maynard thanked Commissioner Hill for raising these discussion topics.

Commissioner Skinner stated that the procurement team identified and selected an independent contractor in connection with the diversity, equity, and inclusion audit of all Category One casino Licensees. She stated that RSM was identified as the successful bidder. She noted that the next steps would be to finalize the statement of work with RSM, and formally notify the Licensees that the Commission was undertaking this audit. She stated that these steps were expected to occur in the following week.

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

Commissioner Skinner moved to adjourn. The motion was seconded by Commissioner O'Brien.

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.

List of Documents and Other Items Used

1. [Notice of Meeting and Agenda](#) dated June 13, 2023
2. [Commissioner's Packet](#) from the June 15, 2023, meeting (posted on massgaming.com)