



Massachusetts Gaming Commission Meeting Minutes

Date/Time: June 4, 2020 – 10:00 a.m.

Place: Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5292
MEETING ID: 111 606 1798

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 #304 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 Zuniga: Aye.

Commissioner Stebbins: Aye.

Chair Judd-Stein: Aye.

The Chair made opening statements, maintaining sincere gratitude for medical personnel, front-line workers, and first responders who continue to guide the public through the pandemic. She pointedly remarked on recent events, commending all who have engaged in peaceful protests. She noted that the Commission has worked to create a diverse and equitable gaming industry and continues to take the steps necessary to advance diversity and promote equality.

Approval of Commission Meeting Minutes

10:03 a.m. *Commissioner Stebbins moved to approve the minutes from the Commission meeting of May 14, 2020, subject to correction for typographical errors and other nonmaterial matters. Commissioner O'Brien requested that her reference to a conflict of interest issue is inserted into the minutes. Commissioner Cameron seconded the motion with the amendment.*

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 Stebbins moved to approve the minutes from the Commission meeting of May 21, 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 Zuniga: Aye.

Commissioner Stebbins: Aye.

Chair Judd-Stein: Aye.

The motion passed unanimously.

10:06 a.m. Commissioner Zuniga made remarks concerning the handling of issues between patrons and/or employees that could occur when the casinos open. He specifically referenced the need for mutual respect, understanding, and proportional response to any situation.

Workforce, Supplier and Diversity Development

10:10 a.m. **Massachusetts Cultural Council Gaming Mitigation and Safe Harbors Programs**

Executive Director of the Massachusetts Cultural Council Anita Walker provided the Commission with information about the Gaming Mitigation Program, established to support nonprofit and municipal performing arts centers that are adversely impacted by casinos.

Ms. Walker also reviewed the Safe Harbors COVID-19 Initiative for Cultural Organizations with the Commission. She described it as support for cultural nonprofits to encourage access to COVID-19 assistance offered through the federal government and to assist organizations in determining a strategy to address their current financial challenges.

[10:24 a.m.](#) The Chair requested that the organization revisit the Commission in collaboration with the GameSense advisors to work with the Mass Cultural Council on these issues. Ms. Walker stated that she feels strongly that these issues are a priority for the Mass Cultural Council.

[10:26 a.m.](#) Commissioner Stebbins requested a strategy session at some point involving the council and the gaming licensees. Ms. Walker noted that she will be looking at best practices for assembling people in venues, and is seeking guidance and expertise. If that is available in the casino industry, she would be interested in collaboration.

[10:29 a.m.](#) Commissioner Zuniga would like another update from Ms. Walker when business resumes. The Chair then stated that Ms. Walker will be retiring and noted that there will be another representative. Ms. Walker assured the Commission that the strong partnership in the Mass Cultural Council will continue. The Chair wished her well on behalf of the Commission.

Administrative Update

[10:32 a.m.](#) **Office Status Review**

Interim Executive Director Karen Wells updated the Commission on their continued work on the guidelines for casino reopening. There will be a separate Commission meeting on June 11 to discuss this.

She noted that COVID-19 has affected vendors as well. Small businesses that grew rapidly due to casinos have been particularly hard-hit. The division has responded by offering resources, providing information, technical assistance, and a series of webinars.

Next, Ms. Wells stated that Commission staff in Boston will be continuing to telework until the governor's phase four of reopening. Horse racing will open in phase three. The Racing Division will be the primary focus at this time. Ms. Wells then provided descriptions of the governor's different phases, and how the process will work. Training on protocols for Commission employees will be identified within the next ten days for the Racing Division. Any measures taken regarding working conditions for the Commission staff will be complimentary to state requirements and in partnership with the office building's protocols.

[10:49 a.m.](#) **Plainridge Park (PPC) License Renewal Update**

Construction Project Oversight Manager Joe Delaney provided the Commission with a status update on what submissions to the application have been received and what is still outstanding, to include the application fee. Mr. Delaney stated that PPC will not be asking for a postponement of the application fee as discussed at the last meeting, and the payment will be received on June 15. There would be a vote at the June 18 Commission meeting on the adequacy of the application. A

schedule for the Commission's deliberation on the license renewal itself will follow.

[10:52 a.m.](#) Ms. Wells confirmed for the Chair that the schedule for deliberations would be addressed at the next agenda-setting meeting with any other components of the deliberation that need to be scheduled. Mr. Delaney provided some criteria for discussion and will provide copies of the final review procedure to the Commissioners in advance of the agenda-setting meeting.

[10:58 a.m.](#) **Licensee Sexual Harassment Policies Discussion; 205 CMR 138.72: Policies and Procedures for Ensuring a Workplace Free from Unlawful Discrimination, Harassment, and Retaliation, requiring a system of internal controls for a licensee that includes policies and procedures to ensure a workplace free from unlawful discrimination, harassment, and retaliation.** Commissioner Cameron opened the discussion affirming that the Commission is cognizant of the current global events that are unfolding, and is supportive of some public safety reforms that are urgently needed. The Commission will also be vigilant in ensuring that employees and patrons are treated with dignity and respect.

[11:00 a.m.](#) Commissioner O'Brien stated that as a subcommittee was formed in 2019 specifically to address sexual harassment allegations at that time, it has now expanded its plan to create a baseline and monitor all types of unlawful harassment and discrimination. Therefore, she noted that it should not be presumed that the subcommittee is in any way denigrating any other forms of harassment or discrimination. In contrast, it is designed to ensure that employees and patrons at these establishments are afforded fundamental fairness in treatment in all of their encounters.

[11:02 a.m.](#) Next, Associate General Counsel Carrie Torrisi provided a summary of the proposed regulation to the Commission. She added that the subcommittee had consulted with the Commission's outside labor employment counsel, Maura McLaughlin of Morgan, Brown & Joy, on best practices for labor and employment issues. Ms. McLaughlin was participating on the call and has contributed to the formulation of this regulation also.

[11:05 a.m.](#) Commissioner Stebbins asked if the regulation establishes a protocol for licensees to disclose to the complainant any steps taken in response to the complaint. Ms. McLaughlin then answered that a complaining party will be told the results of an investigation where appropriate, in following the Massachusetts Commission Against Discrimination (MCAD) model regulation.

Next, Commissioner Stebbins asked if there any best practices that suggest having a diverse team as a resource for anyone filing a claim about discrimination. Ms. McLaughlin responded that there is no best practice established, as having an individual of every protected category aside from gender (religion, national

origin, race) is not feasible. Still, licensees will have staff that receives complaints trained and fully aware of all processes so that complainants are taken seriously.

[11:10 a.m.](#)

The Chair asked when the MCAD's model policy was last updated. Ms. McLaughlin replied that it has been several years. She added that when in an employment setting, the policy does address all forms of unlawful harassment. The Chair then expressed the need for the MCAD to be made aware that the Commission is using their model for guidance. She asked that the independent monitor is also notified of all movement on this regulation and policy to ensure transparency with them.

[11:17 a.m.](#)

Commissioner Cameron moved that the Commission approve the Small Business Impact Statement for 205 CMR 138.72: Policies and Procedures for Ensuring a Workplace Free from Unlawful Discrimination, Harassment, and Retaliation, as included in the Commissioners' Packet. Commissioner O'Brien 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 Cameron further moved that the Commission approve the version of 205 CMR 138.72: Policies and Procedures for Ensuring a Workplace Free from Unlawful Discrimination, Harassment, and Retaliation as included in the Commissioners' Packet and authorize the staff to take all steps necessary to begin the regulation promulgation process. Commissioner O'Brien 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.

Racing/Legal

[11:19 a.m.](#)

Horse Racing Opening Status Review and Discussion

Director of the Racing Division Dr. Alex Lightbown recapped that the reopening process for horse racing has been moved into phase three. The Racing Division continues to develop a reopening plan with materials that have been shared amongst other organizations, such as the Department of Agricultural Resources.

The Racing Division, HHANE, and Penn National are still meeting to discuss best practices for reopening. Dr. Lightbown then provided the Commission with a general status update on internal actions.

[11:22 a.m.](#) Commissioner Zuniga raised concerns about potential interstate travel restrictions that may have to be considered for jockeys. The Racing Division will consider the circumstances upon reopening to see what has transpired. The Chair stated that the governor's office will issue protocols that are directly related to this industry.

There was a discussion about the preparation and inspection of the race track, barn, and paddock. Dr. Lightbown stated that it would be appropriate to have a Commission meeting regarding these procedures.

[11:36 a.m.](#) **205 CMR 149.04: Race Horse Development Fund: Distributions; Escrow Accounts**

This is a proposal to amend the regulation above at the request of the Horse Racing Committee (Committee). The Committee has requested that the Commission adopt this proposal by emergency to allow the Horse Race Committee and the Commission flexibility to perform the percentage distribution contemporaneously with the possible commencement of the racing season. The specific amendments would ensure the Committee's and Commission's ability to distribute funds precisely.

[11:40 a.m.](#) Acting General Counsel Todd Grossman described the process of the government of the Race Horse Development Fund itself and the process that is currently used to make determinations in the fund.

[11:49 a.m.](#) In response to an inquiry from Commissioner Zuniga regarding the original methodology of the regulation, Commissioner Cameron explained the rationale behind the amendment proposal to the Commission.

[11:52 a.m.](#) The Chair noted that there was one abstention on the vote that was taken in support of this amendment at the Horse Race Committee prior to this Commission meeting. Mr. Grossman clarified further questions from the Commission on the Commission's role in the regulation's process.

[12:06 p.m.](#) *Commissioner Stebbins moved that the Commission approve the Small Business Impact Statement for 205 CMR 149.04: Race Horse Development Fund: Distributions; Escrow Accounts, as included in the Commissioners' Packet.*

Roll Call Vote:

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|-------------------------------|-------------|
| <i>Commissioner Cameron:</i> | <i>Aye.</i> |
| <i>Commissioner O'Brien:</i> | <i>Aye.</i> |
| <i>Commissioner Zuniga:</i> | <i>Aye.</i> |
| <i>Commissioner Stebbins:</i> | <i>Aye.</i> |
| <i>Chair Judd-Stein:</i> | <i>Aye.</i> |

The motion passed unanimously.

Commissioner Cameron moved that the Commission adopt the version of 205 CMR 205 CMR 149.04: Race Horse Development Fund: Distributions; Escrow Accounts as included in the Commissioners' Packet on an emergency basis and authorize the staff to take all steps necessary to begin the regulation promulgation process. 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.

Investigations and Enforcement Bureau (IEB)

12:10 p.m. **MGM Suitability Qualifier**

IEB Enforcement Counsel Katherine Hartigan requested that the Commission approve Keith Arlyn Meister, Non-Executive/Independent Director 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.

12:15 p.m. *Commissioner O'Brien moved that the Commission find Keith Arlyn Meister, Non-Executive/Independent Director for MGM Resorts International, suitable as a Qualifier for Blue Tarp reDevelopment, LLC. 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.

Finance Division

12:17 p.m. **Budget Discussion/Incremental Costs Year 2021**

Chief Financial Officer Derek Lennon, Commissioner Enrique Zuniga, Finance and Budget Manager Agnes Beaulieu, and Revenue Manager Doug O'Donnell led a discussion on the proposed budget and anticipated incremental costs associated with the reopening of offices.

12:20 p.m. Commissioner Zuniga provided an overview of the draft budget that will be presented to the Commission in the near future for a vote.

12:37 p.m. Mr. Lennon stated that the traditional presentation is on the agenda for the next Commission meeting on June 18. 2x2 meetings with the Commissioners will be scheduled to take place before this meeting to prepare. The proposed budget will then be posted for public comment for two weeks, and a vote from the Commission will be requested at the following Commission meeting.

2:45 p.m. *With no further business, Commissioner Cameron 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 June 4, 2020
2. Draft Commission Meeting Minutes dated May 14, 2020
3. Draft Commission Meeting Minutes dated May 21, 2020
4. Memorandum: Mass Cultural Council Mitigation Program Overview dated March 12, 2020
5. Mass Cultural Council Gaming Mitigation Program overview
6. Mass Cultural Council Safe Harbors COVID-19 Initiative for Cultural Organizations
7. Memorandum: Working Group on Anti-Harassment Internal Control Regulations dated June 4, 2020
8. Small Business Impact Statement: 205 CMR 138.72: Policies and Procedures for Ensuring a Workplace Free from Unlawful Discrimination, Harassment, and Retaliation
9. Regulation Cover Sheet: 205 CMR 138.72: Policies and Procedures for Ensuring a Workplace Free from Unlawful Discrimination, Harassment, and Retaliation
10. Draft Regulation: 205 CMR 138.72: Policies and Procedures for Ensuring a Workplace Free from Unlawful Discrimination, Harassment and Retaliation
11. Small Business Impact Statement: 205 CMR 149.04: Race Horse Development Fund: Distributions; Escrow Accounts
12. Regulation Cover Sheet: 205 CMR 149.04: Race Horse Development Fund: Distributions; Escrow Accounts
13. Draft Regulation Amendment: 205 CMR 149.04: Race Horse Development Fund: Distributions; Escrow Accounts

/s/ Bruce Stebbins
Secretary