



Massachusetts Gaming Commission Meeting Minutes

Date/Time: August 1, 2023, 10:00 a.m.
Place: Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 112 725 9952

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 469th Public Meeting of the Massachusetts Gaming Commission (“Commission”). Roll call attendance was conducted, and all five commissioners were present for the meeting.

2. [Legal Framework Relative to The Award of a Sports Wagering License](#) (02:39)

Interim Executive Director and General Counsel Todd Grossman explained that the Commission was continuing its evaluation of a category two sports wagering license application submitted by Massasoit Greyhound Association Inc. d/b/a Raynham Park (“Raynham”). He stated that should the Commission grant Raynham a license, it would permit Raynham to operate an in-person sports wagering on the premises where Raynham was authorized to offer simulcast wagering on horse or greyhound racing, and not more than one individually branded mobile application.

General Counsel Grossman reported that the Commission had commenced the evaluation of Raynham’s application on June 12, 2023 and June 20, 2023. He stated that the Commission had reached consensus regarding several sections of the application, and that the Commission had requested supplemental information regarding Raynham’s willingness to foster racial, ethnic, and

gender diversity, equity, and inclusion (“DEI”). He noted that the Commission had not reached a consensus regarding preliminary suitability.

General Counsel Grossman stated that on July 27, 2023 Raynham had submitted written requests for the withdrawal of two qualifiers: Christopher J. Carney as an individual qualifier and the Christopher J. Carney Subchapter S Trust as an entity qualifier. General Counsel Grossman stated that both requests for withdrawal were submitted to the Commission, and that the Commission must decide the order of which it would like to address the requests for withdrawal.

General Counsel Grossman stated that 205 CMR 218 set out the application requirements, standards, and procedures. He stated that the regulation set forth factors and considerations for the Commission to analyze in the evaluation process, but that the regulations did not set out a particular order to review factors or assign particular weight to the factors. He stated that the Commission may also consider the supplemental information and documents provided by the applicant to the Commission.

General Counsel Grossman added that the evaluation of this application was being conducted in public, and that all deliberations made by the Commission must take place in public. He stated that G.L. Chapter 30A, § 21(a)(7) allowed the Commission to move into executive session to comply with or act under the authority of any general law, such as G.L. Chapter 23N, § 6(i) regarding competitively sensitive information in the course of the application process. He stated that if the Commission requested competitively sensitive information, the applicant could request to move the meeting to an executive session.

Chair Judd-Stein stated that hearing from Raynham’s representatives and the Commission’s legal team would benefit the Commission’s decision-making. Counsel for Raynham, Attorney Jed Nosal from Womble Bond Dickinson (US) LLP, stated that he would be happy to provide the rationale behind the withdrawal request. Chair Judd-Stein stated that the substance of the request could be considered after continuing on to the Investigation and Enforcement Bureau’s (“IEB”) preliminary suitability report.

Attorney Nosal stated that the request for withdrawal was based upon good cause. He stated that the Commission’s determination regarding Raynham’s request for withdrawal would determine the scope of the review for preliminary suitability. Attorney Nosal stated that at this stage of the application process, Raynham’s requests to withdraw its qualifiers require the Commission’s review.

Director of the IEB, Loretta Lillios, stated that the applicant should have a chance to present its requests to withdraw, and agreed with Attorney Nosal that the requests for withdrawal were a matter for Commission review. She stated that the Commission should also have time to prepare. She noted that the IEB had received the requests to withdraw after business hours on Thursday July 27, 2023. She stated that the requests to withdraw were not submitted to the Commission

until Friday, July 28, 2023. She noted that the IEB had received additional documents in support of the requests to withdraw as recently as the morning of this meeting.

Director Lillios stated that the Commission must decide if there was good cause to allow these qualifiers to withdraw at this stage of the application process. She stated that the requests to withdraw were deserving of substantive written input from the IEB and requested that the IEB be given a reasonable period of time to draft a response. She stated that the withdrawal should not be considered in a vacuum.

Chair Judd-Stein stated that this discussion was meant for the order in which the Commission would hear the requests, and not the substantive matter. General Counsel Grossman stated that there may be a little overlap in describing the substance of the request while setting forth the process in which the requests would be heard.

Director Lillios stated that Raynham had submitted written requests to withdraw two qualifiers. She stated that the withdrawal request was separate from the applicant's preliminary suitability. She stated that the request asked the Commission to cut out those two qualifiers and review the applicant's future suitability moving forward without those qualifiers. She stated that the withdrawal of qualifiers should not be considered in a vacuum as those qualifiers were relevant to the suitability of the applicant and other qualifiers. She stated that Christopher J. Carney's ties to Raynham were not limited to the trust.

Director Lillios explained that Raynham was a closely held family company which Christopher Carney was closely tied to. She noted that while Christopher Carney did not hold a title, he was still integrally involved with Raynham for years. She stated that Christopher Carney held himself out to represent Raynham at the highest level, and that Christopher Carney was involved in Raynham's construction through his construction and trucking businesses.

Attorney Nosal stated that Director Lillios' statements addressed the heart of Raynham's request, which had yet to be presented. He stated that her statements went beyond the scope of the initial sequencing of the requests. Chair Judd-Stein stated that the discussion should be tailored to the sequencing and not the substantive points.

General Counsel Grossman stated that Director Lillios had made her point as to why the requests to withdraw were not ripe for a decision at this meeting and stated that further discussion should focus on the process.

Chair Judd-Stein asked if the Commission should hear Raynham's requests for withdrawal in advance of the IEB report or after it. Director Lillios stated that there was an overlap of facts between the IEB report and the requests for withdrawal. She stated that issues identified in the IEB's review, which were reflective of Christopher Carney, also reflected on the applicant and its other qualifiers.

Director Lillios stated that IEB's preliminary suitability report was completed and distributed to the Commission prior to the requests for withdrawal being submitted by the applicant. She stated that moving forward with the withdrawal as a process separate from the suitability review would change the report. She stated that the issues raised in the applicant's requests for withdrawal were integrally tied to the suitability review conducted by the IEB. She stated that both the withdrawal and the suitability should be decided in one comprehensive decision. She noted that there were three instances in the past where the Commission decided on requests for withdrawal.

Attorney Nosal stated that the withdrawal of the two identified qualifiers would not insulate Raynham or its remaining qualifiers from questions raised in connection with the IEB report. He stated that Raynham had discussed the removal of Christopher Carney with the IEB in May, but that the impetus for the removal changed following the issuance of the July 17, 2023 IEB report. He stated that it took a while to effectuate the changes and draft the basis for withdrawal. He reiterated that the request to withdraw Christopher Carney was not a new issue.

Director Lillios explained that the applicant was correct, that the applicant had requested to withdraw Christopher Carney as a qualifier in May. She reiterated, however, that the withdrawal was for an entirely different basis than the current request for withdrawal that was before the Commission at this meeting. She stated that the basis for the request in May was because Christopher Carney would not be involved in any future management role, and that Christopher Carney played a role in a matter that was better reserved for executive session. Director Lillios stated that the IEB declined to disturb Christopher Carney's designation as a qualifier in May, as it was a statutory requirement that he remain a qualifier. She emphasized that the basis for the request for withdrawal submitted on July 27, 2023 was not the basis for withdrawal in Raynham's initial request in May.

Chair Judd-Stein inquired as to when the IEB learned of the new basis for withdrawal. Director Lillios noted that the IEB had previously asked Raynham if there would be a withdrawal for the basis now stated in the July 27, 2023 request and that Raynham had previously stated that a withdrawal for such reason was not being considered.

Attorney Nosal stated that Raynham was not comfortable submitting the request at the time the IEB inquired. He noted that with the benefit of the IEB report, Raynham was now comfortable submitting the request for withdrawal. He stated that he called to notify the IEB of Raynham's intent to submit a request for withdrawal on Monday, July 24, 2023.

Commissioner O'Brien expressed an interest in having the IEB present its report in order to keep the process moving. Commissioner Skinner stated that while the two matters seemed to overlap, she agreed with Commissioner O'Brien's suggestion to have the IEB report presented.

Commissioner Skinner stated that a decision on suitability should not be made in a vacuum, and that giving the IEB an opportunity to respond to the applicant's requests for withdrawal would be beneficial to the Commission. She requested that additional information and briefing be provided

before the Commission evaluate the applicant's requests to withdraw. Commissioner Hill stated that he agreed with his fellow Commissioners, and that he wanted further information from the IEB regarding the request for withdrawal.

Commissioner Maynard stated that he did not want to make a decision in a vacuum and then later had that decision disturbed. He stated that he wanted all available information before making the decision. Chair Judd-Stein noted that much of what was in the IEB report could be incorporated into the deliberation on the withdrawals. She agreed with Attorney Nosal that the withdrawals would not insulate Raynham during the assessment of suitability.

Chair Judd-Stein noted that previous requests for withdrawal before the Commission were related to G.L. c. 23K and not G.L. c. 23N. She asked if Raynham was willing to move forward with the IEB's report at this meeting. She suggested that discussion of the IEB's report and Raynham's requests for withdrawal could also be postponed until a later date.

Commissioner Skinner stated that while a pause may be the most efficient way to address these issues, there had already been two days of deliberation on Raynham's application. She raised concern that there could be information overload and that it could be difficult to keep up with the numerous facts and documents. She stated that she would support the Chair's recommendation to postpone these proceedings if the applicant was amenable and the Commission would have more time to fully review the issues. She said that she did not expect any decisions regarding preliminary suitability to be made at this meeting.

Commissioner O'Brien stated that she had two concerns regarding delaying the topics further. She noted that the IEB was procedurally in a position to move forward with presenting its report as it was included on the agenda. She also stated that if the request for withdrawal was prioritized, Raynham would be subject to continued cooperation with the Commission, but Christopher Carney would not be. She stated that Christopher Carney and Raynham were integrally intertwined and expressed hesitation at moving forward on the motion to withdraw before a substantive hearing on suitability.

Commissioner O'Brien stated that her other concern was that Director Lillios was departing the Commission within a few weeks. She stated that there could be internal issues in delaying this matter further. Commissioner O'Brien anticipated that the matter could be fully addressed before Director Lillios' date of departure, but that she wanted to be realistic regarding Commission business.

The Commission reached a consensus to host a public meeting on Friday, August 18, 2023 to discuss Raynham's category two sports wagering application.

Director Lillios stated that the significant body of work within the report had already been completed. She expressed that the IEB's preference was to move forward with what was possible

in this meeting. She stated that the prior decisions of the Commission might be helpful in providing further rationale for moving forward with preliminary suitability at the meeting.

Counsel for Christopher Carney, Attorney Michael Morizio, noted that even if Mr. Carney and his trust were allowed to withdraw, the trustees and Mr. Carney would make themselves available whenever the IEB or Commission requested. He stated that the legal standard of withdrawal was a narrow issue. He stated that the applicant demonstrated in its requests that Mr. Carney and the trust had no financial interest in the category two sports wagering license, and that Mr. Carney exercised no control over the applicant.

Attorney Nosal stated that the request to withdraw these qualifiers was integral to Raynham's response to the IEB's report. He explained that the due process of the applicant was paramount, and that Raynham should have the opportunity to present on the issue of withdrawal first. He stated that Raynham did not oppose giving the IEB an opportunity to draft a response to the requests for withdrawal. He stated that the applicant's due process rights were at stake and that Raynham believed this was the proper pathway forward.

Commissioner Skinner asked what factors the Commission should consider when determining good cause for the withdrawal requests. Attorney Nosal replied that good cause required a non-arbitrary reason. He stated that substantial changes had been made to the structure of the application to eliminate the trust and the beneficiary interest of Christopher Carney. He stated that Raynham could demonstrate reasonable grounds as the basis for the request to withdraw.

Attorney Morizio stated that the factual question of withdrawal was resolved by having the trust no longer connected to Raynham. He stated that as a matter of law, the trust cannot enjoy the financial benefits should the Commission issue a license, as George Carney was the only shareholder. He stated that there was no legal connection between Raynham and the trust, and no financial connection between Raynham and Christopher Carney. He noted that Christopher Carney was never an officer, director, or employee of Raynham.

Director Lillios stated that many factors show significant entanglement between Christopher Carney and Raynham. She added that the changes to the trust also required additional review, such as how the changes to the trust affected the financial suitability of George Carney. She explained that the IEB only received these documents the afternoon before the meeting, and that the documents may have a significant impact on the rest of the application.

Chair Judd-Stein stated that if the Commission proceeded with the preliminary suitability review without first addressing the withdrawals, the Commission could have to develop two decisions dependent on whether the qualifiers were included. Commissioner O'Brien stated that the two issues were inextricably intertwined, and that it was hard to envision a path forward without first hearing the IEB's report. She expressed appreciation that Christopher Carney would make himself available to the Commission but noted that the statutory obligation would evaporate once he was no longer a qualifier. She reiterated that the Commission was prepared to hear the IEB's

report at this meeting, before Raynham requested the two qualifiers to be withdrawn. She reasoned that it would be most efficient to move forward as the Commission scheduled on the agenda.

Commissioner Skinner asked if General Counsel Grossman could weigh in on how to determine good cause. Chair Judd-Stein also asked if General Counsel Grossman could clarify whether the request for withdrawal had to be heard in an adjudicatory hearing rather than a public meeting.

General Counsel Grossman stated that the applicant made a number of assertions and advanced proposals to move forward but noted that the applicant's statements had not yet been vetted to ensure the Commission had a complete understanding of the impact of these qualifiers withdrawing. He added that there was discretion in the Commission's regulations to designate those with business associations with the applicant as qualifiers. He noted that a factual understanding was critical to making a good cause determination.

General Counsel Grossman stated that the regulations did not specify whether withdrawals must be conducted in adjudicatory proceedings. He explained that requests for withdrawal had historically been addressed in public. He stated that the first question to answer would be whether the Commission was inclined to move forward on the withdrawal requests at this meeting.

Chair Judd-Stein asked if prior withdrawal requests occurred within adjudicatory hearings. Director Lillios confirmed that was correct. She stated that in one previous matter, even though an individual resigned and requested to withdraw, the Commission determined that his conduct was still integrally tied to the applicant's business practices.

Director Lillios stated that the incidents involving Christopher Carney took place over a lengthy period of time and were reflective of Raynham's business practices. She noted that the business practices of the applicant were statutory defined criteria for determining suitability. She noted that the Commission had previously considered overall suitability and withdrawal motions as part of the same decision. She stated that in previous requests for withdrawals, the Commission had considered whether the party withdrawing still had association with the applicant. She summated that Christopher Carney's actions provided context to the business practices of Raynham, and that the withdrawal matter should not be decided before the overall preliminary suitability discussion.

Attorney Nosal noted that all previous withdrawals were made in different circumstances under G.L. c. 23K, not G.L. c. 23N. He stated that there was nothing in the IEB's report challenging specific business practices of Raynham. He stated that all of the concerns were related to Christopher Carney and other unrelated businesses. He noted that the Commission had previously determined suitability separately from withdrawals, and that the Commission did not have to discuss suitability first. He stated that nothing in the Commission's regulations allowed for an adjudicatory hearing regarding requests to withdraw.

Attorney Nosal stated that Raynham would be amenable to providing the IEB with additional time to review the withdrawal documentation; and to the IEB providing a response. He reasoned that moving forward with the IEB report without hearing the motion to withdraw would put Raynham at an “incredible” disadvantage in presenting its full application.

Commissioner Hill stated that he had not changed his opinion from earlier. He requested that the IEB provide a written response to the requests to withdraw, and that the Commission be provided time to review the request from Raynham. He stated that he was comfortable moving forward with other parts of the application, such as the supplemental information regarding diversity.

Commissioner Maynard stated that the withdrawal and the suitability report were hard to separate. He expressed his opinion that the IEB should be granted the time to submit a response to Raynham’s requests for withdrawal. He noted that the applicant would not be at a disadvantage, as they had the right to question any analysis within the IEB’s report. He reiterated that the IEB’s report was intertwined with the withdrawal request.

Commissioner O’Brien moved that the Commission move forward with the presentation from the IEB on the suitability question on the applicant as noticed in the agenda.

Chair Judd-Stein offered an amendment to clarify that there would not be a vote upon conclusion of the Commission’s review at this time.

Commissioner O’Brien moved that the Commission move forward with the presentation from the IEB on the suitability of the applicant as noticed in the agenda for today, reserving any supplementation by the IEB or adjudication by voting on the question of suitability and on the question of the motion to withdraw by a qualifier. Commissioner Hill seconded the motion.

Commissioner Maynard suggested that the presentation of the IEB’s report be moved to a future date. He noted that this would give the IEB time to respond to Raynham’s withdrawal requests, and it would keep the discussion of the intertwined topics of withdrawal and suitability on the same date.

Commissioner Skinner asked Attorney Nosal if the disadvantage to Raynham by moving forward would be based on the presentation of the IEB’s report, or the Commission’s vote on suitability. Attorney Nosal replied that Raynham would prefer to hear the withdrawal requests before the suitability discussion, but that it was clear the Commission did not support that sequence of events. He agreed with Commissioner Maynard that the two topics should be heard on the same date. Commissioner O’Brien expressed confidence that the Commission could continue with the discussion of the IEB’s report without prejudicing future discussions regarding withdrawals.

Attorney Nosal clarified that it would not prejudice the Commission to discuss both the IEB report and the withdrawals at the August 18, 2023 meeting. Commissioner O’Brien asked if

Raynham was willing to move forward with the preliminary suitability report and supplemental information on that date. Attorney Nosal replied that Raynham’s procedural posture had changed because the Commission desired to discuss the two issues together. He stated that the IEB’s response would be beneficial for that discussion. He noted that the applicant had additional documents it could provide. He stated that this suggestion was more realistic, as the Commission was not accepting Raynham’s proposals to hear the withdrawal requests first.

Chair Judd-Stein expressed that she would prefer to review the withdrawal requests first, due to efficiency. She stated that holding the discussion at the August 18, 2023 meeting would provide the IEB the opportunity to respond to Raynham’s submissions. She stated that the Commission would benefit from the IEB’s response.

Commissioner Maynard inquired if the IEB would be willing to return to this topic at the August 18, 2023 meeting. Director Lillios stated that the IEB was prepared to present the IEB’s report at this meeting, but that she could understand the different interests being weighed. She stated that an opportunity to respond to the applicant’s requests was important, and that the IEB would review the documents submitted in relation to the withdrawal requests.

Commissioner O’Brien stated that given the Commission’s consensus to continue the IEB’s presentation on August 18, 2023, she would consider amending her motion. Commissioner Hill stated that he was still comfortable moving on the initial motion.

Commissioner O’Brien moved to amend the motion that the Commission move forward on the presentation by the IEB on the preliminary suitability report that is drafted and presented, and at that same time after, the Commission take up the issue of the motions to withdraw by the qualifier, Chris Carney, and the trust that were presented, and that those matters be continued for no longer than August 18, 2023. 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.

The Commissioners reached consensus that they would also review the applicant’s diversity plans at the public meeting on August 18, 2023.

3. [Other Business](#) (2:18:22)

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

Commissioner O’Brien moved to adjourn. The motion was seconded by Commissioner Hill.

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 July 28, 2023](#)