



Massachusetts Gaming Commission Meeting Minutes

Date/Time: August 15, 2019 – 11:00 a.m.

Place: Massachusetts Gaming Commission
101 Federal Street, 12th Floor
Boston, MA 02110

Present: Chair Cathy Judd-Stein
Commissioner Eileen O'Brien
Commissioner Bruce Stebbins
Commissioner Enrique Zuniga
Commissioner Gayle Cameron

**Time entries are linked to the
corresponding section in the
Commission meeting video.**



Call to Order

See transcript page 1

[11:02 a.m.](#) Chair Cathy Judd-Stein called to order public meeting #275 of the Massachusetts Gaming Commission.

Encore Boston Harbor Update on Suitability Decision Condition –Independent Monitor RFP

See transcript pages 1 - 39

[11:03 a.m.](#) The Chair updated the Commission on the status of the conditions imposed on Encore Boston Harbor to procure an independent monitor. The Chair thanked the procurement team that was convened for the purpose of selecting this entity for their work on the task. Specifically, she thanked Commissioner O'Brien; Todd Grossman, Deputy General Counsel; Loretta Lillios, Chief Enforcement Counsel and IEB Deputy Director; Derek Lennon, Chief Financial and Accounting Official; and Agnes Beaulieu, Finance and Budget Office Manager and Chief Procurement Specialist.

Mr. Grossman described the Commission's decision on April 30, 2019, relative to the suitability of Wynn MA, LLC, to include a condition that required the

Commission to appoint an independent monitor at the company's expense and with the company's full cooperation. He described the Commission's expectations of the independent monitor assigned to Encore and the tasks they would perform. He stated that the law firm of Miller & Chevalier was the presumptive successful bidder to be appointed as the monitor and that the team would be led by Alejandra Montenegro Almonte. He described the criteria and process of choosing the candidates.

Mr. Grossman then asked, on behalf of the procurement team, that the Commission ratify the review team selection of Miller & Chevalier and to authorize the execution of a contract so that the monitorship may commence.

Commissioner Stebbins asked if there is an opportunity to work out some details within the scope of the contract relative to reporting requirements and a reporting schedule. Mr. Grossman stated that the procurement team is working on including language that would require the successful bidder to submit a work plan to the commission for approval within 30 days of the execution that would articulate all of the proposed elements of the monitorship.

The Chair noted for the record that she enjoyed working with everyone and choosing the candidates in this process. She added that they were all outstanding. She then thanked all those who participated in this process.

[11:15 a.m.](#)

Alejandra Montenegro Almonte, Vice-Chair of the International Department at Miller & Chevalier, introduced herself, thanked the procurement committee for providing such a smooth review process. The team members introduced themselves and gave a brief description of their credentials.

Ms. Almonte then explained how their evaluation process will work with Encore Boston Harbor, noting that her team understands that there has been alleged misconduct that has given rise to them being before the Commission today. She stated that they will have that in the backdrop, but more importantly, they are going to look at what the compliance structure of the company has in place today for its risk profile, its business reality, and the Commission's expectations.

[11:28 a.m.](#)

Preston Pugh, Executive Committee Member of Miller & Chevalier, provided a high-level overview of their proposed work plan with Encore Boston Harbor.

Ms. Almonte stated that they would provide a baseline report in six months that would outline the team's initial findings, and like with any monitorship and compliance review, there would be a number of recommendations that they would make at that point.

Commissioner Stebbins stated that if a situation arises that is timely and that the Commission needs to know about, he would expect that the team would not wait for a prescribed reporting period, and would report the matter immediately so that the Commission can try to address it. Ms. Almonte replied that this would

be something they would commit to and would also be asking from the company.

Commissioner Zuniga noted that the public is aware that the costs of this monitorship are going to be born by the company, and the costs by the Commission are born by the licensees, and the Commission takes that freedom very seriously and responsibly. He requested that Ms. Almonte speaks about any scenarios where they may reassess their cost estimate.

Ms. Almonte stated that as the team has so much collective experience, they are able to discern true areas of concern that need to be investigated from areas that do not, which will ultimately ensure that funds are being spent appropriately. However, she added that if a need were to arise to change the scope of their work, potentially impacting the budget, they would come to the Commission well beforehand.

[11:50 a.m.](#) *Commissioner Cameron moved that the Commission ratify the selection by the procurement review team of Miller & Chevalier Chartered as the independent monitor of Wynn MA, LLC as described in the Commission's April 30, 2019 suitability decision, and that the Commission enter into a contract with the firm outlining the terms of the engagement. Commissioner O'Brien seconded the motion.
The motion passed unanimously.*

The Chair asked that Mr. Grossman explain the position of Contract Manager to the Commission. Mr. Grossman explained the contract manager serves as a conduit between the vendor, in this case, Miller & Chevalier, and the Commission.

[11:56 a.m.](#) *Commissioner Cameron moved that the Chair be designated by the Commission as the contract manager for purposes of providing supervision over the monitorship. The contract manager shall be authorized to make decisions necessary to ensure that the monitoring activities remain fluid, but will utilize her best judgment to determine whether any particular issue should be brought before the Commission for review. Commissioner Zuniga seconded the motion.
The motion passed unanimously.*

*Commissioner Cameron further moved that the Chair be authorized to execute the contract between the Commission and Miller & Chevalier after consultation with the legal department. Commissioner Zuniga seconded the motion.
The motion passed 4 - 1 with the Chair abstaining.*

Ombudsman

See transcript pages 39 - 77

[12:04 p.m.](#) **Town of Plainville Presentation**
Ombudsman John Ziemba introduced Jennifer Thompson, Plainville Town Administrator; Jeff Johnson, Chairman of the Board of Selectmen; Mark

Bertonassi, Building Commissioner; James Alfred, Chief of Police; and Justin Alexander, Fire Chief, to provide the Commission with a presentation regarding the Town of Plainville's recently completed municipal complex.

Ms. Thompson invited the Commission to visit the new complex in person to see it. She then reviewed PowerPoint slides with the Commission, describing how the Plainridge Park Casino has, since its opening, created over 500 jobs in the region. These jobs were specifically created from the facility, and from the construction of the casino and municipal complex. She noted that the community hosting agreement has benefited the town 2.5M per year in real estate and property tax, and goes up 2.5% every year.

Next, Ms. Thompson noted the benefit of community impact fees, detailing that in the first through the fifth years after the casino's opening, they pay Plainville \$2.7M per year. In years six through ten, it will shift to a payout to the town of 1.5% of Gross Gaming Revenue (GGR), and after eleven years and beyond, it will then shift to a payout to the town of 2% of the GGR.

She presented slides that illustrated the new, existing conditions to the previous conditions of the town hall and the public safety building.

Next, Ms. Thompson described the Town of Plainville's 2016 presentation entitled, "Visions for our Future." She stated that in 2016 they appeared before a town meeting for an appropriation for a feasibility study and a design for the renovation of the Old Wood School that had been vacant for 12 years. She stated that they received the appropriation at that town meeting to move forward with the feasibility and new construction in the study and they used the funds from the host community agreement to fund it.

Ms. Thompson then presented the town's 2017 slide presentation to the Commission where they presented at town meeting a plan and a rendering of what the buildings might look like, and had proposed a new municipal complex at a cost of \$34M which included demolition of the old school.

She then displayed slides depicting the groundbreaking celebration, the construction, and then the finished municipal complex. She described the open houses that took place in March 2019, and the ribbon-cutting in April 2019.

Ms. Thompson thanked the citizens of Plainville, the Commission, and everyone that supported them in their efforts.

[12:37 p.m.](#)

Commissioner Zuniga asked if there is a prospect of any further economic development or additional commerce coming to Plainville. Mr. Johnson replied that they have seen an uptick in interest by the public in the area around the casino. He noted that the horse racing business is doing much better now, which is also doing positive things for the area.

[12:39 p.m.](#)

Plainridge Park Casino (PPC) Quarterly Report

Ombudsman Ziembra presented to the Commission the PPC quarterly report for the second quarter that ended on June 30th, 2019. With him was Lance George, General Manager; Mike Mueller, VP of Operations; and Michele Collins, VP of Marketing.

The Ombudsman provided a brief status update regarding the potential extension of bus service to the PPC facility, stating that whole the service has not been established, PPC continues to work with local partners on this.

Mr. George and his team reviewed with the Commission a slide presentation showing gaming revenue and taxes for all four quarters of 2018 and for the first and second quarters of 2019. They reported on the categories of lottery sales, spend-by-state, local spend, vendor diversity, employment, and compliance.

[12:44 p.m.](#)

Commissioner Stebbins voiced concern that the Massachusetts spending trend, over time, has been going in the wrong direction. He noted that this may be on account of national contracts. He then stated that this might warrant having a meeting to understand where the trends are going to get a clearer picture of how this is unfolding. Mr. George answered affirmatively.

Ms. Collins provided an update on the Women Leading at Penn program to the Commission. She then reported on local community projects, sponsorships, and marketing highlights.

Investigations and Enforcement Bureau (IEB)

See transcript pages 77 - 102

[12:59 p.m.](#)

Junket Licensing and Reporting Requirements

Karen Wells, IEB Director, stated that she worked with Carrie Torrisi, Associate General Counsel on junket licensing and reporting requirements. Junkets are described (see memo entitled "Junkets" in the [Commissioners' Packet](#)) as an arrangement intended to induce a person to come to a gaming establishment to gamble, where the person is selected or approved for participation on the basis of the person's ability to satisfy a financial qualification obligation related to the person's ability or willingness to gamble or on any other basis related to the person's propensity to gamble and pursuant to which and as consideration for which, any of the cost of transportation, food, lodging, and entertainment for the person is directly or indirectly paid by a gaming licensee or affiliate of the gaming licensee.

Ms. Wells stated that Encore Boston Harbor requested some movement on using junkets to bring customers into their casino. She clarified that when the IEB is referring to junkets in this context, they are specifically referring to junkets and not Macau.

She stated that the IEB is requesting from the Commission a determination on the level of licensure required for what she calls an “Independent Operator” or a “Solo Practitioner Junket Operator”.

The IEB is also requesting feedback from the Commission on the junkets regulation. Ms. Wells stated that Attorney Torrasi has been working on the regulation and would like to present a draft of it at the next meeting to start the promulgation process.

Jacquie Krum, Senior Vice President and General Counsel of Encore Boston Harbor, explained that it would be an independent contractor relationship where they would be bringing in people. She explained that they would not allow junket operators to give credit. So they would be essentially bringing in people and introducing them to the Encore team, effectively hosting them, but as independent contractors and not as employees.

Commissioner Stebbins asked how Nevada deals with some of these independent contractors, such as professional athletes with followings. Ms. Krum stated that she would get back to the Commission with an answer, and said that she doesn't think it is as highly regulated as some other jurisdictions.

Commissioner Cameron asked that Ms. Wells elaborate on why the IEB believes the Key Gaming Standard employee designation is the right designation for junket enterprise operators. Ms. Wells stated that the type of information that the IEB would request in the screening process for a junket representative would fit the Key Standard form.

[1:18 p.m.](#)

Regarding fees for licensure, Commissioner Stebbins stated that being a part-time sole proprietor does not rise to the level as a junket enterprise and should not be held to that standard concerning fees for licensure.

Ms. Wells clarified that someone who does not incorporate who chooses to take the risk not to be an LLC who could still function as an individual representative would be a Key Gaming Standard license.

[1:22 p.m.](#)

Commissioner Zuniga moved that the Commission approve the recommendation of the IEB and Legal Department that individuals operating as independent junket representatives be licensed as Key Gaming Employees as more fully described in the memorandum from IEB Director Karen Wells and Associate Counsel Carrie Torrasi dated August 8, 2019 included in the Commission packet and further that the IEB begin to accept license applications from independent junket representatives while the Commission is promulgating regulations regarding independent junket representatives and junket reporting requirements. Commissioner Cameron seconded the motion. The motion passed unanimously.

Ms. Wells then addressed junket reporting requirements and recommended that the licensee be required to submit copies of the junket requirements to the IEB for review. The IEB is also recommending that the regulations prohibit junkets

from extending credits to patrons, and marketing to specific Voluntary Self-Excluded persons (VSEs).

Ms. Wells concluded by asking the Commission for any further input regarding the draft regulation that they would like to provide. If they have nothing further, the IEB and Legal division will proceed with the draft, and present it at the next Commission meeting for a vote and public comment.

Research and Responsible Gaming

See transcript pages 102 - 126

[2:06 p.m.](#)

Gaming Research Update and FY20 Plan

Mark Vander Linden, Director of Research and Responsible Gaming, reviewed the FY 20 gaming research agenda. He stated that he would be asking the Commission for guidance and hope for a vote on the agenda.

Mr. Vander Linden outlined the proposed agenda, describing its initiatives entitled, "Social and Economic Impacts of Gaming in Massachusetts (SEIGMA)", "Social and Economic Research", "Massachusetts Gaming Impact Cohort (MAGIC)", "Public Safety Research", "Community-Engaged Research", "Data, Transfer, Storage and Access Project", and "Research Peer Review."

[2:19 p.m.](#)

The Chair noted that she would like to better understand any economic impacts on the employees with a follow-up employee survey, after them being employed for a period of time. This way, any anticipated impacts will have actually come to fruition, and baseline studies conducted from the initial surveys would be used for comparison. She noted that she is aware that there may be some legal barriers (concerning privacy, etc.) to obtaining that information, based on a previous discussion with Mr. Vander Linden.

Mr. Vander Linden answered that he would follow up on finding out what any potential legal barriers may be, and perhaps the follow-up surveys can be implemented and focused on through the next phase of the research.

[2:40 p.m.](#)

Commissioner Stebbins suggested that information from Mr. Vander Linden's studies could be shared with the number of stakeholders who would like to see it. He stated that he believes there is a lot of information that would be of value to the local tourism bureaus and economic development officials. He noted that the public safety data that Commissioner Cameron tracked could be shared with the community advisory committees so they can think of steps to take with the community mitigation funds.

The Chair asked for a more definite timeline for Mr. Vander Linden's deliverables. Mr. Vander Linden stated that he anticipates having the Public Safety report to the Commission by late October. He will then immediately begin work on the next report specifically for MGM Springfield and Encore Boston Harbor, which will be the initial three-month report (MGM will actually be a four-month report).

[2:43 p.m.](#) *Commissioner Stebbins that the Commission approves the FY20 research plan as described in the memo from Director of Research and Responsible Gaming Mark Vander Linden dated August 15, 2019 included in the commission packet. Commissioner Zuniga seconded the motion. The motion passed unanimously.*

Administrative Update

See transcript pages 126 - 135

[2:44 p.m.](#) **General Update**

Executive Director Bedrosian provided an update on Racing. He reported that on August 1st, the legislature passed Chapter 47, the acts of 2019 which extended the current horse racing and wagering statutes until January 15, 2020. However, he noted that the requirement for Suffolk Downs to hold between 1 and 50 live racing days in order to simulcast was deleted.

He also anticipates that racing applications for the next year will be due on October 1, 2019, with action by the Commission by November 15, 2019.

Mr. Bedrosian stated that in the meantime, he will work with the Commission and the staff to think about how the Commission can help the legislature and their responsibilities in the fall.

[2:52 p.m.](#) Commissioner Zuniga stated that following up on the impact of simulcasting would be a great way to provide information to the benefit of the lawmakers to make the appropriate decisions. He also noted that the Commission is tasked with recommending improvements to both the live racing and the simulcasting statutes, per , and asked about the status of 128D that was proposed previously. He does not know if the original proposal that would allow the discretion to fix all of the moving pieces of the history of the racing statutes is getting enough attention.

Mr. Bedrosian suggested staff bringing an updated proposal back to the Commission in September or October. Commissioner Zuniga agreed, stating that there are definitely revisions to be made.

The Chair requested updates on a regular basis as to status in terms of timeline.

Approval of Minutes

See transcript pages 135 – 137

[2:58 p.m.](#) *Commissioner Stebbins moved to approve the minutes from the Commission meeting of July 18, 2019, subject to correction for typographical errors and other nonmaterial matters. Commissioner O'Brien commented that she would like it to be emphasized that she stated that she wanted a meeting with the MA District Attorney's Association (MDAA) and various DA office stakeholders to work together when they're developing a system for tracking the cases. Also, check for*

*accuracy of her quote regarding a motion on pages 12 and 13. Commissioner Zuniga seconded the motion.
The motion passed unanimously with requested edits to be made.*

Legal Division

See transcript pages 137 - 154

3:01 p.m. **Final Draft Version of 205 CMR 6.35: Pick (n) Pools and Amended Small Business Impact Statement**

The Commission reviewed the final draft version of the amendment to this regulation, which adds an additional set of wagers to the racing regulations.

Catherine Blue, General Counsel reminded the Commission that as this is a racing regulation, it will be sent to the legislature upon the Commission's approval, where they will have 60 days to provide any comments.

3:03 p.m. *Commissioner Cameron moved to approve the final draft version of 205 CMR 6.35: Pick (n) Pools and permit staff to take the necessary steps to complete the promulgation process. Commissioner Zuniga seconded the motion.
The motion passed unanimously.*

*Commissioner Cameron moved further moved to approve the Amended Small Business Impact Statement for 205 CMR 6.35: Pick (n) Pools.
Commissioner Zuniga seconded the motion.
The motion passed unanimously.*

Final Draft Version of 205 CMR 102.02: Definitions and Amended Small Business Impact Statement

The Commission reviewed the final draft version of amendments to this regulation to add the terms and define "Minority Business Enterprise (MBE)," "Veteran Business Enterprise (VBE)," and "Women Business Enterprise (WBE)". By these amendments, the same definitions will now apply to post-construction casino operations as well as to the construction phase.

Jill Griffin, Director of Workforce, Supplier and Diversity Development, stated that she received feedback from Plainridge Park Casino (PPC), who stated that they are interested in the Commission considering using other jurisdictions' practices of accepting all diversity certifications and affidavits from all states.

Ms. Griffin recommended that the Commission follow the Massachusetts State Supplier Diversity office procedures, consistent with the practice during construction with the exception of an update to the VBE category because now the state Supplier Diversity Office certifies VBEs.

3:19 p.m. *Commissioner Cameron moved that the Commission approve the Amended Small Business Impact Statement for 205 CMR 102.02 Definitions included in the packet. Commissioner Stebbins seconded the motion.*

The motion passed unanimously.

Commissioner Cameron further moved that the Commission approve the version of 205 CMR 102.02: Definitions as included in the packet and authorize the staff to take all steps necessary to finalize the regulation promulgation process.

Commissioner Stebbins seconded the motion.

The motion passed unanimously.

Final Draft Version of 205 CMR 143.02: Progressive Gaming Devices and Amended Small Business Impact Statement

The Commission reviewed the final draft version of amendments to this regulation which describe an update to progressive controller security provisions.

Todd Grossman, Deputy General Counsel stated that specifically, the amendment pertains to the physical security of progressive gaming devices, to now consider that an as a progressive gaming device could be integrated into the software of a slot machine, it is considered secure if it is either integrated into the software or housed in a dual key-controlled environment.

Commissioner O'Brien stated that this comes from when she had raised concern previously, and wanted to add a provision to the regulation directing the licensee to notify the Commission of a breach of security.

[3:23 p.m.](#)

Commissioner Stebbins moved that the Commission approve the Amended Small Business Impact Statement for 205 CMR 143.02 Progressive Gaming Devices included in the packet. Commissioner Zuniga seconded the motion. The motion passed unanimously.

Commissioner Stebbins further moved that the Commission approve the version of 205 CMR 143.02 Progressive Gaming Devices as included in the packet and authorize the staff to take all steps necessary to finalize the regulation promulgation process. Commissioner Cameron seconded the motion. The motion passed unanimously.

Final Draft Version of 205 CMR 152.00: Individuals Excluded From a Gaming Establishment and Amended Small Business Impact Statement

The Commission reviewed the final draft version of amendments to this regulation which first confirm the hearing process that was originally in the section with the Commission's overall hearing process in 205 CMR 101.00: M.G.L. c. 23K Adjudicatory Proceedings, as well as now allowing an appeal by both parties. Lastly, there has been new language added to allow the Commission to revoke conditional or suspend the license of a licensee who does not take an excluded person out of the gaming establishment.

[3:26 p.m.](#)

Commissioner Obrien moved that the Commission approve the Amended Small Business Impact Statement for 205 CMR 152.00 Individuals Excluded from a

Gaming Establishment included in the packet. Commissioner Cameron seconded the motion.

The motion passed unanimously.

Commissioner O'Brien further moved that the Commission approve the version of 205 CMR 152.00: Individuals Excluded from a Gaming Establishment as included in the packet and authorize the staff to take all steps necessary to finalize the regulation promulgation process. Commissioner Stebbins seconded the motion. The motion passed unanimously.

Commissioner's Updates

See transcript pages 154 - 158

[3:27 p.m.](#) Commissioners Cameron and O'Brien met with law enforcement about an initiative to conduct problem gaming surveys with inmates and then they collaborated and shared information. Ways to collaborate on the research that the sheriff has conducted were also discussed. Commissioner Cameron stated that the sheriff was open to working with Mr. Vander Linden on this.

Commissioner O'Brien stated that the purpose of the meeting was to get a baseline before Encore opened. Mr. Vander Linden would potentially follow up with the sheriff regarding impact, as we do not have online sports betting yet and can analyze the market as it is now.

[3:34p.m.](#) *With no further business, Commissioner Stebbins moved to adjourn the meeting. The motion was seconded. The motion passed unanimously.*

List of Documents and Other Items Used

1. Notice of Meeting and Agenda dated August 15, 2019
2. Draft Commission Meeting Minutes dated July 18, 2019
3. Memo Re: Independent Monitor of Wynn MA, LLC dated August 15, 2019
4. Memo Re: Procurement Process for Wynn Monitoring RFR dated August 9, 2019
5. Wynn Final RFR Re: Independent Monitor for Wynn License Conditions
6. Miller & Chevalier RFR Response Letter
7. Miller & Chevalier RFR Response Letter Re: Fiscal Terms
8. Miller & Chevalier Summary MGC Monitorship Overview dated August 15, 2019
9. Town of Plainville Presentation dated August 15, 2019
10. Plainridge Park Casino Quarterly (Q2 2019) Report Presentation
11. Memo Re: Junkets dated August 8, 2019
12. Memo Re: FY20 Gaming Research Agenda dated August 15, 2019
13. Report Re: A Research Strategy for Gaming In Massachusetts dated May 2019
14. Draft Amended Small Business Impact Statement for 205 CMR 6.35: Pick (n) Pools
15. Final Draft of Amended Regulation 205 CMR 6.35: Pick (n) Pools
16. Draft Amended Small Business Impact Statement for 205 CMR 102.02: Definitions

17. Final Draft of Amended Regulation 205 CMR 102.02: Definitions
18. Public Comment Re: 205 CMR 102.02: Definitions
19. Draft Amended Small Business Impact Statement for 205 CMR 143.02: Progressive Gaming Devices
20. Final Draft fo Amended Regulation 205 CMR 143.02: Progressive Gaming Devices
21. Draft Amended Small Business Impact Statement for 205 CMR 152.00: Individuals Excluded from a Gaming Establishment
22. Final Draft of Amended Regulation 205 CMR 152.00: Individuals Excluded from a Gaming Establishment
23. Regulation Review Checklist for 205 CMR 102.02: Definitions
24. Regulation Review Checklist for 205 CMR 152.00: Individuals Excluded from a Gaming Establishment
25. Regulation Review Checklist for 205 CMR 6.35: Pick (n) Pool
26. Regulation Review Checklist for 205 CMR 143.02: Progressive Gaming Devices

/s/ Catherine Blue
Assistant Secretary