



Massachusetts Gaming Commission Meeting Minutes

Date/Time: August 17, 2023, 10:00 a.m.
Place: Massachusetts Gaming Commission

VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 111 755 4999

The Commission conducted this public meeting remotely utilizing collaboration technology. The use of this technology was intended to ensure 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 471st 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](#) (00:59)

The *January 23, 2023 public meeting minutes* were included in the Commissioner's Packet on pages 4 through 9. The *January 26, 2023 public meeting minutes* were included in the Commissioner's Packet on pages 10 through 18.

Commissioner Maynard moved that the Commission approve the minutes for the January 23, 2023 and January 26, 2023 public meetings that are included in the Commissioner's Packet, subject to any necessary corrections for typographical errors or any other non-material matters.

Commissioner Skinner asked that there be separate motions for each set of minutes as she was not present at the January 26 meeting.

a. [January 23, 2023](#) (01:35)

Commissioner Maynard moved that the Commission approve the minutes for the January 23, 2023 public meeting that are included in the Commissioner’s Packet subject to any necessary corrections for typographical errors or any 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

b. [January 26, 2023](#) (02:18)

Commissioner Maynard moved that the Commission approve the minutes for the January 26, 2023 public meeting that are included in the Commissioner’s Packet subject to any necessary corrections for typographical errors or any other non-material matters. Commissioner O’Brien seconded the motion.

Roll call vote:

Commissioner O’Brien: Aye.

Commissioner Hill: Aye.

Commissioner Skinner: Abstain.

Commissioner Maynard: Aye.

Chair Judd-Stein: Aye.

The motion passed 4-0 with one abstention.

3. [Administrative Update](#) (03:04)

Interim Executive Director and General Counsel Todd Grossman stated that the Department of Revenue (“DOR”) had indicated that the intercept program for past due child support and overdue state tax obligations, as required by statute, was up and running within sports wagering operations. He stated that sports wagering operators were required to have a memorandum of understanding (“MOU”) with the Commission and DOR. He noted that the operators were using a web-based program, eServices, with an agreement to transfer to an application program interface (“API”) by April 1, 2024. He noted that the MOUs would have to be updated to reflect this change.

Interim Executive Director Grossman stated that the Executive Director was previously authorized to execute MOUs, and that he was willing to take responsibility for reviewing and executing the forthcoming amendments. Chair Judd-Stein noted that the previous expected implementation date for API was in September and asked why it had changed to April. Interim Executive Director Grossman stated that DOR thought it was a proper adjustment due to technical issues. He noted that eServices were working well in the meantime.

The Commission reached unanimous consensus to allow Interim Executive Director Grossman to execute the MOUs with the operators and DOR. Interim Executive Director Grossman noted that DOR was promulgating a new regulation regarding withholding winnings from sports wagering patrons that would be subject to the same income tax withholding rules as wagers placed at gaming establishments. He stated that if the winnings were over \$5,000 and at least 300 times larger than the amount wagered, it would trigger a taxable event. He stated that a public hearing on this regulatory amendment was scheduled for August 30, 2023.

4. [Legislative Update](#) (09:13)

External Relations Manager Grace Robinson stated that Governor Maura Healey had signed a budget within the past week. She noted that eight sections were sent back to the legislature with proposed amendments and that one of the sections sent back was related to the enforcement, regulation, and distribution of alcohol at gaming establishments. Ms. Robinson stated that she would keep the Commission apprised of any further developments on this issue.

Chair Judd-Stein sought clarification regarding the next step for the legislature in this process. Commissioner Hill explained that it would go to committee like a new bill, and if accepted, it would pass through the legislative process as a bill would. He stated that if the proposed amendments were not accepted, the Legislature would notify the Governor, and she would have the opportunity to veto or sign the bill. Chair Judd-Stein asked if there were any time constraints. Commissioner Hill stated that vetoes of this sort typically occurred between September and October, but they could go up until December 31.

5. [Investigation and Enforcement Bureau](#) (12:23)

a. Overview of Casino Property Public Safety Efforts

I. Executive Session

Chair Judd-Stein stated that the Commission anticipates that it will meet in executive session in accordance with G.L. c. 30A, §21(a)(4), to discuss the use and deployment of security personnel or devices, or strategies with respect thereto at gaming establishments. She stated that the public session of the Commission meeting would reconvene at the conclusion of the executive session.

Commissioner O'Brien moved that the Commission go into executive session on the matter and for the reasons just stated by the Chair. 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

Transcribers note: The Commission put up a screensaver indicating to the public that the meeting had entered an executive session.

6. [Sports Wagering Division](#) (2:37:33)

a. BetMGM Quarterly Report (Q2)

Joshua Wyseman, Director of Licensing from BetMGM, presented BetMGM's Q2 quarterly report with topics including revenue, human resources, vendor utility, compliance, responsible gaming, the lottery, and community outreach. *BetMGM's Q2 quarterly report* was included in the Commissioner's Packet on pages 25 through 42.

Commissioner Hill noted that the numbers for veterans' employment were lower in resource diversity and asked if BetMGM had any efforts to try to attract more veterans. Mr. Wyseman stated that one of BetMGM's employee resource groups was geared towards hiring veterans. Commissioner Hill stated that a lot of national veterans' organizations were available that BetMGM could reach out to prior to the next quarterly report.

Commissioner Skinner asked what BetMGM's diversity goals were. Mr. Wyseman stated that the intent of the company was to increase numbers across all diversity categories but there was not a set goal. He stated that one way to achieve this was through employee resource groups.

Commissioner O'Brien asked what BetMGM was doing to increase the number of women at the executive level. Mr. Wyseman stated that one of the employee resource groups BetMGM was focusing on was to focus on career development for women in the company. He stated that it was a work in progress and that BetMGM would also like to see an 18% increase. Commissioner O'Brien asked if the six employees who were Massachusetts residents fell into any other diversity categories. Mr. Wyseman stated that he did not believe the Massachusetts residents were included in other diversity categories.

Commissioner Skinner asked if BetMGM had plans to develop diversity goals. Mr. Wyseman stated that the current goal was to increase diversity in all categories. He stated that BetMGM

would discuss their diversity goals as a team and include more information related to their goals in the next report. Commissioner Skinner stated that the information would be helpful.

Chair Judd-Stein sought clarification as to which vendor was Massachusetts-based. Mr. Wyseman stated that it was a know-your-customer vendor that helped to verify customers' personal details.

Commissioner Hill asked how the one underage patron who placed a wager was identified. Mr. Wyseman stated that the account owner had reported they had not placed a wager and that another individual had used their account. Commissioner Hill asked if BetMGM had shut down the patron's account even though the account owner self-reported. Mr. Wyseman confirmed that they had shut down the patron's account.

Commissioner Skinner asked if there would only be self-reported instances of underage youths wagering if know-your-customer was successful. Mr. Wyseman stated that her understanding was correct.

Commissioner Hill asked what percentage of patrons utilized time-out and voluntary self-exclusion in comparison to the total number of users. Chair Judd-Stein noted that Director of Research and Responsible Gaming Mark Vander Linden was beginning to get statistics on that topic. Commissioner Skinner noted that it would be helpful to know whether the specific timeout tool used put a limitation on wagering or limitation on depositing. Mr. Wyseman stated that he would follow up with that data for the next quarter. Commissioner Maynard requested information on the length of the time-outs.

Chair Judd-Stein suggested that a template could be developed regarding what the Commission would like to see in the quarterly reports on sports wagering licensees.

Chair Judd-Stein commended BetMGM for their innovation in responsible gaming tools and partnership with GameSense. Commissioner Hill sought clarification regarding the interactions and partnerships BetMGM has with the Massachusetts Council on Gaming and Health, Mr. Wyseman stated that there were plans to bolster responsible gaming efforts wherever possible. He stated that he would speak to BetMGM's senior manager of responsible gaming in order to provide the Commission with more details.

Commissioner Maynard asked if BetMGM had spoken to representatives from the Lottery. Mr. Wyseman stated that there had not been any active conversations. Commissioner Maynard expressed disappointment and stated that contact should be a bare minimum. Sports Wagering Business Manager Crystal Beauchemin stated that in her discussions with BetMGM they had indicated that MGM Springfield was more active in contacting the lottery. Commissioner Hill requested that BetMGM provide the Sports Wagering Division with answers to any questions and requests that arose during this quarterly report.

b. [WynnBet Quarterly Report \(Q2\)](#) (3:09:18)

Ms. Beauchemin noted that Wynn Bet's presentation had been moved to September 7, 2023, as they needed time to rework their slideshow regarding their goals.

c. [Betr Quarterly Report \(Q2\)](#) (3:09:37)

Compliance Lead from Betr Robert Warren and Betr's Head of Legal Affairs Ashwin Krishnan presented Betr's Q3 quarterly report with topics including revenue, workforce diversity, vendor diversity, compliance, responsible gaming, lottery mitigation, and community outreach. *Betr's Q2 quarterly report* was included in the Commissioner's Packet on pages 43 through 60.

Commissioner O'Brien asked if Betr had any recruitment efforts underway for women. Mr. Warren stated that Betr was still growing out its operations in Massachusetts. He stated that, while there was not a specific plan, ensuring underrepresented communities are highlighted was at the forefront of Betr's hiring decisions. Commissioner O'Brien requested that the next quarterly update include some more formulated outreach efforts.

Commissioner Skinner asked if Betr had set goals regarding workforce and vendor diversity. Mr. Krishnan stated that Betr was expanding in unpredictable ways as different needs arose. He stated that specific goals could be developed for the next quarterly report.

Commissioner Maynard noted that diversity numbers, especially at entry level, were high. He stated that Betr had a unique opportunity to be intentional with diversity, and that he looked forward to seeing the diversity numbers progress over the next few quarters. Commissioner Hill expressed disappointment with the number of veteran employees and suggested that Betr reach out to veterans' groups to increase diversity in that category.

Commissioner Skinner asked if Betr exclusively relied on self-identification for identifying vendors as small businesses. Mr. Warren stated that Betr currently relied on self-identification but was in the process of implementing a tool that would allow Betr to assist in the determination being made for designation. Commissioner Skinner asked if that process would include some type of verification process. Mr. Warren replied that it would.

Commissioner Maynard commended Betr on including information about LGBTQ-owned vendor spending. Commissioner Skinner requested that their overall spending be included in future slide presentations. Mr. Warren stated that the information on overall spending would be sent to the Commission and included in all future presentations. Chair Judd-Stein asked if overall discretionary spending should be included as well. Commissioner Skinner stated that it made sense to include discretionary spending as was required for gaming quarterly reports.

Commissioner Hill suggested that Betr reach out to responsible gaming groups as no Betr patrons had yet utilized the voluntary self-exclusion list. He expressed an interest in providing

help to those who need it. Mr. Warren stated that Betr had a relationship with the National Council on Problem Gambling and was working on implementing AI related tools to help improve responsible gaming. He noted that Betr imposed deposit limits on patrons twenty-five years of age and younger and banned credit card payments in all jurisdictions, even in jurisdictions where it was not required. He stated that Betr had taken a strong stance against non-responsible play.

Commissioner O'Brien thanked Betr staff for reaching out to the Massachusetts Lottery. Commissioner Maynard stated that this type of relationship was what the Commission envisioned.

d. [DraftKings Quarterly Report \(Q2\)](#) (3:29:27)

Jake List, Senior Director of Regulatory Operations for DraftKings, Christina Ackas, HR Vice President from DraftKings, Chrissy Thurmond, Head of Responsible Gaming Relations from DraftKings, and Jared Hess, Director of Communications from DraftKings presented DraftKings's Q2 quarterly report with topics including revenue, workforce diversity, vendor diversity, compliance, responsible gaming, lottery mitigation, and community outreach. *DraftKings Q2 quarterly report* was included in the Commissioner's Packet on pages 61 through 86.

Commissioner Skinner stated that goals signified the level of importance and intentionality put toward diversity efforts. She expressed that she would like operators to establish goals. She requested more information on total spending and discretionary spending included in future presentations. Ms. Ackas confirmed the data would be sent to the Commission.

Commissioner O'Brien sought further details regarding the reports on underage activity. Mr. List stated that they are typically reported when a family member accessed the account and investigated further if it seemed there was a sudden change in betting behavior. He stated that if there was some evidence that somebody else was operating the account, then the account would be suspended.

Chair Judd-Stein asked if closing out the account was by regulation or best practices for the business. She asked General Counsel Grossman to follow up on this question. Commissioner Maynard stated that he was interested in seeing how DraftKings' relationship with the lottery developed.

7. [Research and Responsible Gaming](#) (3:53:48)

a. Selection of Ad Hoc Study for FY24 Research Agenda

Mark Vander Linden, Director of Research and Responsible Gaming, introduced Principal Investigator for the Social and Economic Impacts of Gambling in Massachusetts ("SEIGMA")

team Dr. Rachel Volberg, Tom Peake from the UMass Donahue Institute, and Research Manager Dr. Bonnie Andrews.

Director Vander Linden stated that the FY24 gambling research agenda that was approved on May 8, 2023, included an ad hoc economic impact report to be conducted by the SEIGMA team and UMass Donahue Institute. He noted that ad hoc reports provided flexibility in defining the topic of study after the start of the fiscal year. The *proposed ad hoc research topics* were included in the Commissioner's Packet on pages 22 through 24.

Director Vander Linden stated that the ad hoc study should be a brief report as it needs to rely on secondary data. Commissioner Skinner stated that at the time the Commission approved the FY24 research agenda, the Commission also provided input for potential ad hoc topics. She stated that a list of those topics would be helpful for this discussion. Director Vander Linden stated that he would look at his notes, but he did not have that information prepared.

Director Vander Linden noted that the ad hoc study was built into the SEIGMA contract through the interagency service agreement with UMass Amherst. He stated that the first proposed study was to increase understanding of the early economic impacts of sports wagering. He stated that the two sources of data would be revenue data and patron behavior data from SEIGMA's online patron survey from 2023. He stated that this study would set the groundwork for future work to understand economic impacts of sports wagering in Massachusetts.

Commissioner Skinner asked if there would be enough data for this study in such early stages of sports wagering. Dr. Volberg stated that while it was early to study the economic impacts, the study would allow for the implementation of data collection systems. She stated that the gambling industry was not familiar with the needs of research teams or needs of the Commission that were data driven. She stated that it was important to build relationships with the operators so that they were more comfortable with turning over data.

Commissioner Skinner asked how the system for collecting data would be translated into a research report. Director Vander Linden stated that understanding economic impacts from the launch of sports wagering was important for understanding the industry. Mr. Peake stated that it would be a brief report that could build infrastructure for the research team to leverage moving forward.

Commissioner Skinner asked if a responsible gaming tie-in could be included in this research topic. Director Vander Linden stated that the ad hoc report was limited to economic impact, but that he would like additional efforts focused on the uptake, utilization, and effectiveness of responsible gaming tools. Commissioner Skinner stated that it would be something to consider if the FY24 research agenda was revisited. Dr. Volberg stated that relationship building to get the economic data for the ad hoc report would be important in establishing relationships to request additional data.

Commissioner Maynard expressed an interest in researching the economic impact illegal gaming operators have in relation to captured market share. Chair Judd-Stein reiterated Commissioner Skinner's interest in addressing potential research topics discussed in earlier meetings. Director Vander Linden stated that the topics identified by the Commission could not be progressed until the research team was able to provide a scope within limitations of the study. Dr. Volberg noted that the online panel survey for 2023 had questions related to unregulated sports wagering websites that may address Commissioner Maynard's concerns.

Commissioner Skinner stated that the Commission had also previously discussed anti money laundering ("AML") and human trafficking. Director Vander Linden noted that AML had been discussed but ultimately was not included in the FY23 research agenda. He stated that the topic was being monitored and considered for future agendas, however. He confirmed that a human trafficking study was included in the FY24 research agenda. Commissioner Hill stated that there was a lot of information in data and technology that would allow the proposed sports wagering study to be a fulsome report.

Director Vander Linden stated that the second proposed study would examine equity impacts from casino operations through supplier diversity spending agreements. He stated that this study would highlight the nature of diverse vendor contracting and help identify gaps which could inform other supplier diversity programs in the state.

Chair Judd-Stein asked if the research team would include minority representation while researching this topic. Dr. Volberg stated that several researchers on the team represented communities of color and would be helpful in key informant interviewing and outreach to diverse business owners. Chair Judd-Stein stated that intentionality in regard to diversity was important.

Commissioner Skinner noted that a diversity audit of category one licensees had been in preparations to be conducted. She expressed concern about the SEIGMA team relying on data that the Commission was still reviewing for accuracy. Director Vander Linden asked if the audit focused on vendor diversity as well as operator employee diversity. Commissioner Skinner stated that it would focus on both vendor and employee diversity for category one operators. Mr. Peake asked what the timeline for the audit was. Commissioner Skinner stated that the audit would be completed around the end of the calendar year. Mr. Peake stated that there was work that could be conducted ahead of the audit's results. Director Vander Linden stated that the UMass Donahue Institute would bring economic modelling to understand the broader economic impact of diverse vendor spending.

Director Vander Linden stated that the third proposed topic for the ad hoc report would be to research the quality of jobs within the casino industry. He stated that this study would provide a more developed analysis of local impact. He noted that one question that arose during the research review committee was the topic of paid leave and vacation time.

Director Vander Linden stated that the research team planned to gather data over this fiscal year to inform the scope of the AML study. He stated that he would like to further develop the scope of any study related to participating in the illegal gambling market with the SEIGMA team. Chair Judd-Stein stated that there is a challenge in regulating a market if the illegal market is flourishing and competing with the regulated market. Director Vander Linden stated that there is a social component as well as an economic component to determine Massachusetts' effect on the illegal market.

Commissioner Maynard noted that he had received anecdotal evidence that someone who used to work for him had used an illegal sports wager platform. He stated that he sent this individual a link to the Commission website which listed regulated operators. He expressed concern about the illegal wagering market.

Chair Judd-Stein reiterated Commissioner Skinner's concerns that the second study would overlap with the audit. Commissioner Skinner stated that the research team seemed comfortable that there would not be adverse effects of the overlap and that she was therefore comfortable with that study. Commissioner Skinner asked if the Commission had considered studying the use of AI. Director Vander Linden stated that he did not think AI would fit into the economic impact work that the UMass Donahue Institute researchers do. He stated that the research agenda could be amended if the Commission wants to revisit the topic of AI.

Chair Judd-Stein stated that she wanted to ensure AI was not used in a way that compromised integrity. Commissioner Skinner stated that the Commission had yet to explore the effects of AI on responsible gaming and sports wagering. Chair Judd-Stein asked what the budget for the ad hoc study was. Dr. Volberg estimated that the budget was approximately \$50,000. Director Vander Linden stated that the budget with UMass was not broken up by deliverables, and that it would be hard to break it down in that manner.

Commissioner Hill stated that he wanted to focus on sports wagering and recommended selecting the first proposed study. Commissioner Skinner expressed concerns with running a parallel project with the diversity audit and stated that the third option's timeline seemed too compressed. She stated that the sports wagering study seemed the most relevant and practical.

The Commissioner reached unanimous consensus in selecting the sports wagering topic for the ad hoc report. Commissioner Maynard suggested that the study also include the usage of play management tools. Director Vander Linden recommended allowing the responsible gaming team to build a baseline understanding regarding the utilization and effectiveness of responsible gaming tools, separate from the ad hoc project.

Commissioner Maynard expressed that he viewed the market share of illegal operators to be part of the responsible gaming subject. Director Vander Linden suggested developing the scope for research into this topic and either amending the gaming research agenda or including that study into next year's research agenda.

Dr. Andrews stated that the kiosk study contained a question about anticipated black market recapture. She stated that the information from that study could inform the scope of a study into the illegal market. Chair Judd-Stein requested that a list of research topics that touched on the issue of the illegal market be sent to the Commission.

Commissioner Hill moved that the Commission identify early impacts of sports betting as a topic of study for the ad hoc study for the FY24 Commission research agenda 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

8. [Investigation and Enforcement Bureau](#) (4:51:28)

a. Update on Penn Entertainment, Inc's and Plainridge Park Casino's New Branding Partner (ESPN)

Director of the Investigations and Enforcement Bureau ("IEB") Loretta Lillios explained that Penn Entertainment ("Penn"), the parent company of two sports wagering licensees, announced that it had entered an online sports wagering agreement with ESPN Inc. She stated that this agreement would give Penn exclusive right to the ESPN BET trademark for online sports wagering in the United States for an initial ten-year term with the option to extend for an additional ten years. She stated that Penn agreed to pay \$1,500,000,000 over the initial ten-year period and granted ESPN \$500,000,000 in warrants to purchase common shares in Penn that would vest in ten years. She stated that ESPN agreed to provide marketing services and branding rights to Penn.

Director Lillios stated that Penn had divested the entirety of the stock in Barstool Sports Inc. back to its founder for a nominal amount. She stated that there was a term that in the event of a sale or any monetization event, that 50% of the proceeds of the sale would go to Penn. She stated that Penn currently held no ownership of Barstool Sports Inc. She stated that Penn would rebrand from Barstool Sportsbook to ESPN BET and that the branding would be completed in November of 2023.

Director Lillios noted that the sportsbook would use the same platform, and it was only the branding that was changing. She stated that the company was in the process of de-branding assets and that the retail sportsbook at Plainridge Park Casino would not be branded as Barstool.

She noted that there were two conditions on the operators' sports wagering licenses. She stated that the first condition was that the company cooperate in the review of branding for Barstool sports and the IEB's review. She stated that the second condition was related to Barstool's college football shows, but that she was not sure if that condition was still relevant.

Director Lillios stated that there were responsible gaming and compliance issues relevant to the agreement and asked for time to review the ESPN agreement. She stated that documents were requested from Penn and that the Commission would receive an update in the coming weeks. Commissioner Maynard asked when the Barstool branding would be pulled off of Penn property and online branding. Director Lillios stated that Penn's goal was to remove Barstool branding by November.

Commissioner O'Brien asked if there would be a gap when transferring to ESPN BET and asked how the platform would be managed if there was a gap. Director Lillios stated that she would have more information for Commissioners at the next briefing. Chair Judd-Stein noted that marketing was an important part of the sports wagering license application and stated that the operator should come to the Commission to provide updates. Director Lillios stated that it was expected the Commission would hear from Penn on this issue.

Commissioner Skinner asked if Penn was still operating the sports wagering platform. Director Lillios stated that Penn had complete authority over operating the sportsbook and it was simply a branding change. Chair Judd-Stein expressed an interest in hearing from the licensee in September.

9. [Selection of Interim Director of Investigation and Enforcement Bureau](#) (5:01:59)

Chair Judd-Stein stated that in a prior meeting, she had recommended Chief Enforcement Counsel Heather Hall be appointed the Interim Director of the IEB. Commissioner O'Brien stated that Chief Enforcement Counsel Hall seemed willing to take the appointment. The Commission reached unanimous consensus in support of selecting Chief Enforcement Counsel Hall for the Interim Director of the IEB position.

Commissioner O'Brien moved that the Commission approve the selection of Heather Hall to serve as the Interim Director of the Investigations and Enforcement Bureau. 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

Interim Director Hall stated that Director Lillios was an incredible leader and thanked Director Lillios for all of her work.

10. [Permanent Executive Director Hiring Process](#) (5:15:47)

a. Continued Discussion of Potential Use of a Search Firm

Chief People and Diversity Officer David Muldrew stated that he had worked with the Local Enterprise Assistance Fund (“LEAF”) to identify five executive search firms that were minority-owned and women-owned that could be utilized in the search for the permanent executive director. He stated that two of the firms were certified through SDO (MA Supplier Diversity Office) and three were not. Chief Financial and Accounting Officer (“CFAO”) Derek Lennon stated that this is a targeted spend opportunity to increase diversity spending. He noted that LEAF would work with the uncertified firms to get them certified.

Chair Judd-Stein asked if the Commission needed to select only one of the firms. CFAO Lennon stated that only the firm that ultimately provided the final candidate would get paid as the fee structure was a percentage. He stated that managing five vendors would be difficult, and that it would be up to the screening committee to determine which firm and how many search firms were used.

Chief Muldrew recommended against giving an agency exclusivity as the Commission wanted to cast a wide net in finding candidates. Chair Judd-Stein stated that it was not clear that the screening committee would be making this choice rather than the Commission. CFAO Lennon stated that the Commission decided whether a search firm would be used, but the screening committee decided which search firm was used. Commissioner Skinner stated that she was not prepared to make a decision as the answers to the questions sent to the search firms were not yet available to the Commission. She stated that it would be difficult to make the decision based solely on the names of the search firms. CFAO Lennon stated that he was concerned about the search committee process and whether the open meeting law allowed him to provide the search firms’ responses to the entire commission.

Commissioner Skinner noted that Commissioner Hill had previously expressed an aversion to the use of search firms and asked him how he envisioned the search process moving forward. Commissioner Hill stated that he had a discussion with CFAO Lennon which had eased his prior concerns. He expressed his belief that the Commission could hire this position without a search firm, but he appreciated the large candidate pools search firms brought to the table. Commissioner O’Brien stated that search firms were not replacing the screening committee but assisting in the screening process. Commissioner Hill expressed his preference that the search firm assist in the process but not carry out the process.

Commissioner Skinner stated that she preferred the entire Commission to weigh in on which search firm was used. Commissioner O'Brien stated that she wanted as much done by the whole Commission as possible. The Commission reached a consensus for the whole Commission to review and select the search firm being used in conjunction with the screening committee for the permanent Executive Director Position.

Chief Muldrew stated that he would send responses from the firms to the Commission for review. Commissioner Hill asked if the search firm would be required to forward all resumes to the screening committee for review, or if they would only submit their top ten candidates. Chief Muldrew stated that the Commission could request a larger pool of finalists if they wanted to be more involved. Attorney Mina Makarious, outside counsel from the law firm Anderson and Krieger stated that when setting up the screening committee, the Commission could give explicit instructions regarding the type of information and minimum criteria. He stated that the Commission could change the subcommittee and search firm's tasks throughout the process.

Commissioner Skinner stated that knowing the search firms' business model or approach would be beneficial in considering which search firms to move forward. Chair Judd-Stein noted that some Commissioners may want to add additional questions for the search firms, such as whether the firm was nationwide or only regional. Commissioner Maynard noted that one of the recommended search firms was headquartered in East Longmeadow, Massachusetts. He stated that knowing where the company is based was important to him.

Chair Judd-Stein sought clarification regarding how the uncertified firms would become certified. Chief Muldrew stated that LEAF would work with uncertified firms to get them SDO certified. He stated that he would send the initial firm responses to the Commission for review and asked that the Commission identify any further questions they would like to ask the search firms.

Commissioner Hill expressed that he had a negative feeling towards search firms because he had seen search firms engage in nepotism in the past at the local level. He stated that he would like the screening committee to be able to review all applicants' resumes that were received. Commissioner Maynard stated that he wanted the subcommittee to be empowered to review all materials with a fine-toothed comb during the evaluation process. Chair Judd-Stein stated that using multiple search firms could mitigate potential favors and nepotism.

CFAO Lennon stated that the screening subcommittee could request all resumes that met the minimum metrics requirements of the job description. He stated that the Commission could review the search firm's initial responses and determine whether there were additional questions they would like to ask. He apologized for not having the search firms' responses in the Commissioner's Packet as he thought that information was for the screening committee. Chair Judd-Stein stated that this topic would be added to the agenda for the next meeting for further discussion by Commissioners.

b. [Selection of Screening Committee for Executive Director](#) (5:50:40)

Mr. Makarios stated that there was flexibility in appointing the screening committee as screening could utilize executive sessions to review applicants provided that there is not a quorum of the Commission. He stated that there could not be more than two Commissioners on the screening committee. He stated that the screening committee would whittle down the applicants to the two or more finalists to present to the Commission for public interview.

Mr. Makarios stated that a larger candidate pool may require the screening committee to cull the numbers more. He stated that the Commission could decide whether the screening committee does more in support of the search for applicants or identifying finalists to move forward. He stated that the screening committee could involve one to two commissioners and also non-commission members. He noted that the screening committee would be a public body that would initially have to meet in public.

Commissioner Maynard stated that screening committees tend to be successful when a senior member is serving on the committee. He nominated Commissioner O'Brien for the Executive Director Screening Committee and stated that she was a natural choice due to her experience.

Chair Judd-Stein noted that she previously took herself out of consideration for the screening Committee and asked all interested Commissioners to speak up. Commissioner O'Brien stated that each commissioner had qualities that would be beneficial to the screening committee.

Commissioner Hill stated that Commissioner O'Brien would be an excellent choice for this committee. He added that Commissioner Maynard brings experience from his former role that would be helpful in the search for the permanent executive director. Commissioner Hill recommended that Commissioner O'Brien and Commissioner Maynard be the choices for the screening committee. Commissioner Hill recommended CFAO Derek Lennon, Interim Director Hall, and Chief Muldrew to be the non-commissioner members on the committee.

Chair Judd-Stein stated that Commissioner O'Brien was an excellent choice. Chair Judd-Stein stated that Commissioner Maynard had a lot of experience in placement, but she also appreciated Commissioner Skinner's judgement and sensibilities around issues related to diversity, equity, and inclusion. Chair Judd-Stein thanked Commissioner Hill for withdrawing from consideration for this screening committee.

Commissioner Skinner stated that she supported Commissioner O'Brien's nomination and Commissioner Hill's recommendation of Commissioner Maynard due to his relevant background in screening individuals for these types of roles. Commissioner Skinner, however, noted that she was interested in serving on the screening committee.

Commissioner Hill recommended that he and Commissioner Skinner be considered for the screening subcommittee for the IEB Director. Commissioner Skinner stated that she would need

additional information regarding that process as the IEB Director reports directly to the Chair. Chair Judd-Stein stated that she was not averse to what was recommended but noted that the discussion of the IEB Director Screening Committee was not on the agenda for this meeting.

Commissioner Skinner stated that she would prefer to serve on the screening committee for the executive director position. Commissioner Maynard stated that he was humbled by Commissioner Hill and Commissioner Skinner's comments and stated that he would be willing to serve on this subcommittee.

The Commission reached consensus that Commissioner O'Brien would serve on the screening subcommittee as the subcommittee chair. Commissioner O'Brien stated that any combination of Commissioners would work well. She stated that Commissioner Maynard's experience doing broader vetting would be useful as her hiring experience was smaller in scale. She expressed support for Commissioner Hill and Commissioner Skinner serving on the screening subcommittee for the IEB Director.

Commissioner Hill moved that the Commission appoint Commissioner O'Brien and Commissioner Maynard to the screening committee in regard to the hiring of the executive director of the Commission.

Commissioner O'Brien asked if the motion had to be bifurcated to allow for the Commissioners nominated to abstain. Chair Judd-Stein stated that Commissioner O'Brien and Commissioner Maynard could vote for themselves in this instance. 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 Skinner asked what the best practices were for additional members serving on the screening committee. Chief Muldrew stated that an HR official working with the HR team, such as himself, would be important. He stated that CFAO Lennon would be beneficial to have on the screening committee. Chief Muldrew stated that Interim Director Hall would provide a different point of view from the legal standpoint. He stated that the recommendations from Commissioner Hill were good choices.

Commissioner O'Brien agreed with Commissioner Hill's recommendation but stated that she wanted to ensure the individuals would want to participate in the committee. Interim Director Hall stated that she was willing to serve on the committee. CFAO Lennon noted that his position was appointed by the executive director, and he was concerned there may be a conflict of

interest. Chair Judd-Stein stated that it might be best practice to not have CFAO Lennon serve on the committee.

Commissioner Hill stated that he would like legal to look into whether there was a conflict of interest as CFAO Lennon would be a benefit to the committee if he could serve. Chair Judd-Stein noted that there was also an issue as the Interim Executive Director was also the General Counsel. Commissioner O'Brien suggested that this issue be reviewed by outside counsel.

Chair Judd-Stein stated that given the CFAO's position, she would not recommend he serve on the committee regardless of legal advice. Commissioner O'Brien agreed and questioned who else would have the best breadth of experience to serve on the committee.

Chief Muldrew recommended Director Vander Linden for the screening committee. Chief Muldrew stated that the idea of communities, addiction, and health is something that has to be integrated into the Commission's culture. He stated that Director Vander Linden could provide insight on candidates strengths in relation to those criteria.

Commissioner Hill stated that there was a lot to consider and asked that this discussion be continued until the next meeting. Commissioner Maynard proposed having Former Executive Director Karen Wells serve on the committee as she understands the job better than anyone.

Chair Judd-Stein stated that Former Executive Director Wells had just left the agency, and it might be awkward to have her come back at this juncture. Chair Judd-Stein agreed that having three employees who were not Commissioners serve on the committee was the best practice, but that she would prefer current Commission staff. She stated that Director Vander Linden was a good idea, but that the Commission could also consider someone who is not in a chief or director position. Commissioner Skinner suggested that CFAO Lennon could serve on the IEB Director search committee.

11. [Other Business](#) (6:27:42)

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

Commissioner Hill 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. [Revised Notice of Meeting and Agenda](#) dated August 15, 2023
2. [Revised Commissioner's Packet](#) from August 17, 2023 (posted on massgaming.com)