



Massachusetts Gaming Commission Meeting Minutes

Date/Time: August 18, 2022, 10:00 a.m.
Place: Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 112 499 4620

The Commission conducted this public meeting remotely utilizing collaboration technology. 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](#) (00:08)

Chair Judd-Stein called to order the 389th Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all five commissioners were present for the meeting.

2. [Administrative Update](#) (1:00)

a. Release of Notice of Intent

Executive Director Wells reiterated the importance of the Notice of Intent and requested that any party seeking a license for sports wagering go to the Commission website where the Notice of Intent form was posted. Executive Director Wells stated that the Notice of Intent was designed to give the Commission an approximate number of interested parties, and that the Notice of Intent would ease communications between the Commission and prospective sports wagering operators. Executive Director Wells noted that the Notice of Intent was due by August 31, 2022. The *Notice of Intent* was included on pages 4 through 5 of the Commissioner's Packet.

b. Additional Updates

Executive Director Wells stated that the job listing for Director of Sports Wagering had been posted on Taleo, MassCareers, and the Commission website.

3. [Round Table Discussion](#) (4:05)

a. Presentation of Initial Preparations for In-Person Sports Wagering Operations

Chair Judd-Stein provided a brief recap of the sports wagering legislation signed into law on August 10, 2022, and the Commission's responsibilities as the regulator of sports wagering. She stated that the sports wagering legislation referenced existing entities, providing separate categories of licensing. She stated that the category one sports wagering licenses were intended for gaming establishments currently licensed under G.L. Chapter 23K § 2, including Encore Boston Harbor ("EBH"), MGM Springfield ("MGM"), and Plainridge Park Casino ("PPC"). Chair Judd-Stein stated that category two sports wagering licenses were intended for entities authorized to conduct simulcast wagering, including Raynham Park and Suffolk Downs. She continued that category three licenses were intended for mobile sports wagering operators.

Chair Judd-Stein noted that this meeting was to address retail sports wagering locations and that additional roundtables would be conducted for operators under the category three license. She stated that there would also be a roundtable discussion regarding responsible gaming and advertising. The *Presentations of Initial Preparations* were included on pages 6 through 22 of the Meeting Packet.

1. [Plainridge Park Casino](#) (11:28)

PPC General Manager North Grounsell stated that Penn Entertainment ("Penn"), the operator of PPC, has 24 sports wagering locations across 13 states, and that PPC executives are experienced in retail sports wagering. He stated that there was support from Penn, and that PPC had developed project timelines, job descriptions, standard operating procedures, and best practices. Mr. Grounsell stated that PPC had provided the Commission staff with a retail vendor list and identified potential locations for PPC's retail sports wagering operation. Mr. Grounsell noted potential obstacles included licensing, certifications needed for hardware and software, and whether the Commission would accept temporary reciprocity agreements.

2. [MGM Springfield](#) (17:22)

Vice President and Legal Counsel at MGM Springfield Augustine Kim stated that MGM had already constructed a sports wagering lounge with a cage. He stated that MGM is ready to launch as soon as a regulatory framework is implemented. He continued that MGM had provided a vendor list, proposed internal controls, and standard operating procedures to the Commission. Mr. Kim stated that MGM maintained sports wagering operations in five states and had partnered with previously used operators to assist with the setup in Massachusetts. He stated that MGM would be ready within 90 days of regulations being finalized.

3. [Encore Boston Harbor](#) (22:00)

Senior Vice President and General Counsel for EBH Jacqui Krum explained that construction was completed, and the WynnBet sports bar was operational for viewing of sports. Counselor Krum stated plans to include sports wagering kiosks throughout the gaming establishment. She stated an interest in employees from affiliated Las Vegas companies training employees, as there was a provision allowing similar training in the Gaming Act. She noted concern regarding the timeline for vendor licensing and having the IT team work on obtaining required certificates.

4. [Suffolk Downs](#) (25:33)

Chief Operating Officer of Suffolk Downs Chip Tuttle stated that Suffolk Downs was looking at two paths. He stated one concern was securing a sports wagering partner, and while Suffolk Downs had contact with sports wagering operators, no firm decision had been made. He stated that the second issue was securing a real estate option for the sports wagering operation as Suffolk Downs had been a tenant since 2017.

5. [Raynham Park](#) (29:33)

Attorney with Rimon, P.C. and outside counsel for Raynham Park Steven Eichel stated that Raynham Park was searching for a sports wagering partner. He noted that potential partners had questions about fee structures, licensing structures, and whether it is permitted to have different sports wagering operators for the retail license and mobile license. He stated that the existing greyhound simulcast location would be demolished and replaced with a 58,300 square foot structure with 30,000 square feet devoted to the gaming area.

b. [Operations](#) (39:19)

1. Placement/Floor Plans

Executive Director Wells stated that the licensees should know the Commission's parameters and restraints on sports wagering on the premises. Counselor Krum asked if the ballroom can be temporarily turned into a viewing party, and if kiosks could be transferred to the ballroom with appropriate security. Counselor Krum continued that EBH had considered the potential of kiosks in the garage. Commissioner O'Brien asked if these were short-term solutions until on-premises sports wagering was available, or were they an intended change in the structure of how sports wagering would be provided at EBH. Counselor Krum stated that they would be short term to address volume and ensure there were enough sports wagering locations. Commissioner Hill asked what floorplans looked like in other jurisdictions. Counselor Krum stated that Wynn only had one location with sports wagering in Las Vegas. Mr. Grounsell stated that sports wagerers enjoy other forms of gaming, and the ability to have kiosks near other games is helpful. He stated that horse racing patrons were accustomed to self-service and PPC anticipated that patrons may also be willing to wager on an active game.

Chair Judd-Stein inquired whether any other sports wagering facility utilized the garage area, and noted PPC had used drive-up wagering for the Kentucky Derby. She sought clarification as to

whether the garage location would be drive-up or if the patrons would have to exit the vehicle. Counselor Krum stated that the garage location would be an enclosed space to walk into. Commissioner Maynard asked if the garage kiosk would be the only interaction some patrons would have with the property. Counselor Krum replied that patrons could enter the casino from the proposed location, but that short term parking would be available for patrons who did not intend to stay. Commissioner Maynard asked if the Las Vegas sports wagering location had a similar structure, and Counselor Krum replied that it did not.

Mr. Kim stated that MGM would not provide kiosks outside of the space already designated as the casino, and stated an interest in the watch parties previously mentioned by Counselor Krum. Counselor Krum stated that EBH had no immediate concern regarding long-term expansion of the casino floor.

2. [Staffing/Hiring](#) (49:20)

Mr. Grounsell stated that PPC had made determinations regarding organizational structure, supervision, and what positions were required. He stated that hiring depended upon how the Commission proceeded regarding the prioritization of retail or mobile sports wagering. He noted that the number of employees required for sports wagering was dependent upon the sports seasons.

Commissioner Hill voiced concerns about hiring issues the licensees had reported in prior months, and inquired whether more employees would be required for retail locations than mobile. Mr. Grounsell explained that the hiring issues had been in the culinary industry, but the numbers had been returning to normal. He stated that potential employee interest in sports wagering peaked when it became legal in the new jurisdiction, and that PPC feels comfortable in being able to meet the hiring demand. Commissioner Maynard commented that the new positions would be a great way to meet employment diversity goals.

Chair Judd-Stein asked how many sports wagering operation jobs take place outside of Massachusetts, and recognized that the numbers may differ between retail operators and mobile operators. Mr. Eichel stated that Raynham Park expected the retail side to operate locally, and that mobile was dependent upon the sports wagering operator they chose to partner with. Mr. Tuttle echoed Mr. Eichel's concerns of uncertainty regarding the mobile sports wagering operator's hiring, but noted that retail sport wagering employees would be within the existing Suffolk Downs union. Mr. Tuttle stated that existing employees had expressed an interest in additional shifts, so their hours would be expanded in addition to hiring. Counselor Krum stated that the positions hired for sports wagering would likely be culinary, security, surveillance, IT, and cashiers. She anticipated that mobile sports wagering positions would likely not be based in Massachusetts.

3. [House Rules and Internal Control Submissions](#) (1:01:09)

Chair Judd-Stein stated that licensees must present house rules for approval to the Commission prior to operation. Counselor Krum stated that house rules for sports wagering would look similar to the house rules for other games offered, and that EBH is ready to submit the house

rules to the Commission, based upon Wynn's other sports wagering operations. She stated that internal controls will largely be dependent upon the regulations, and that EBH would develop internal controls once the regulations were received.

Investigations and Enforcement Bureau (IEB) Field Manager Burke Cain stated that IEB was preparing for physical property inspections for sports wagering, but that internal controls would be dependent upon regulations. Executive Director Wells stated that any licensee who had developed house rules should submit them to the Director of the IEB, Loretta Lillios.

4. [Security \(Physical/Cybersecurity, Data, Age Restrictions, KYC, Compliance\)](#) (1:04:16)

Mr. Kim stated that MGM's intent was to keep sports wagering limited to the existing casino floor, and utilize the existing surveillance, security operations, and standard operating procedures. He noted that cameras and lighting would be changed to adequately cover the sports wagering kiosks. He stated that once MGM is licensed the casino will implement existing protocols used by sports wagering operations located in other jurisdictions.

Mr. Grounsell stated that PPC will use systems currently in use, and intended to add additional systems for unusual betting patterns. Chair Judd-Stein expressed concern that horse racing allows betting for ages 18 and older, while sports wagering requires patrons to be 21. She asked how PPC will manage to distinguish patrons who are old enough to wager on horse racing but not sports wagering, as sports wagering kiosks cannot discern player age. Mr. Grounsell stated that monitoring would occur, and staff could check identification to monitor for underage patrons. Commissioner O'Brien asked whether any other jurisdiction had the dichotomy of dual age-requirements for horse racing and sports wagering. Mr. Grounsell stated that West Virginia and Pennsylvania had similar issues. Commissioner O'Brien asked if any additional security protocols had been implemented in those jurisdictions. Mr. Grounsell stated that the protocol was the human element of monitoring the transactions. Commissioner O'Brien expressed she was uncomfortable with the existing protocol, and wanted more protection in place.

Counselor Krum stated that EBH was operating under the assumption that the Commission would require the same level of security and surveillance that it requires for other forms of gaming, and that EBH would have that level of security and surveillance in each area where sports wagering would be authorized.

5. [Equipment and Technology \(Geofencing, Kiosk Testing, IT Certifications\)](#) (1:12:32)

Executive Director Wells stated that the expectations from Commission staff were that Gaming Labs International ("GLI") certifications for sports wagering equipment would be to the Massachusetts rules and regulations. Mr. Grounsell stated that retail operators would require the definition of "gaming equipment" for certification. He inquired as to whether the licensees would require a Massachusetts-specific GLI letter, or simply a certification that the equipment complies with GLI. Chair Judd-Stein replied that Chief Information Officer Jagroop-Gomes was not present, but could answer these questions at a later date. Executive Director Wells stated that the

Commission would create regulations for GLI standards and any additional requirements, and that an independent test lab will test to specific state standard. Chair Judd-Stein stated that the next step in this process was to identify any additional requirements for Massachusetts.

Commissioner O'Brien asked how many states have specific standards in addition to the base GLI standards. Mr. Grounsell stated that he was unsure, but many states allowed reciprocity, where another jurisdictions' GLI standards could be used on a temporary basis during the implementation of new standards and regulations.

6. [Identified Challenges and Regulatory Implications](#) (1:19:47)

Counselor Krum stated that EBH foresaw challenges in the GLI timeline and reciprocity. She stated that in other jurisdictions reciprocity was allowed, and the licensees were given a time period of 90 days to amend the GLI standards to be state-specific. She also stated potential operational issues in contracting with vendors, as while there is a framework in place for licensing, the licensees need clarification regarding what employees and vendors are required to do. Executive Director Wells stated that vendors presumably have a similar licensing process for vendors for their gaming operations, and that the establishment of a framework for temporary licensure would help impact the timeline.

Commissioner Skinner asked how reciprocity would work in terms of technical standards. Counselor Krum stated that if the Commission would consider accepting a GLI certification prepared for another jurisdiction as the initial submission, the licensee can get a certification letter addressing any additional Massachusetts standard within 90 days. Commissioner Skinner asked how the terms of another jurisdiction's equipment would tie into the Massachusetts GLI standards. Counselor Krum stated that the GLI standards for another jurisdiction would likely be baseline acceptable in comparison to Massachusetts standards. Mr. Cain noted that in field checks, the IEB tests that the approved GLI standard is replicated on the kiosks, and that licensees would have to confirm the software in the kiosk matches the certification.

c. [Licensing Procedures – Applications, Suitability, Reciprocity](#) (1:25:55)

1. Operator License

Chair Judd-Stein asked whether there should be a distinction between the operator licenses provided for retail sports wagering and mobile sports wagering. Executive Director Wells stated that as the gaming licensees already went through rigorous background checks that the prospective mobile sports wagering operator's had not, she recommended distinguishing between the licenses provided. She stated that the process and criteria will be developed by the licensing staff for the Commission to consider.

2. [Occupational Licensing](#) (1:28:15)

Executive Director Wells recommended looking at the jobs compendium for the hiring of employees for retail sports wagering operations. Director Lillios stated that the licensing division had a communication for potential retail operators delineating job descriptions which would be

sent later in the day. Chair Judd-Stein stated that regulations did not need to be in place for this process, and would be put in place later. Director Lillios stated that Commission staff could receive job descriptions and attempt to identify similar job codes.

Commissioner Hill asked what the expected volume of employees would be for sports wagering establishments. Counselor Krum stated that EBH would hire an additional 75 employees. She stated that from the licensing perspective the new positions would largely fall under existing titles, and only a few new job descriptions would have to be created. Commissioner Hill asked for an example of a new job description. Counselor Krum stated that one new title would be the Director of Sports Wagering. Mr. Grounsell stated that PPC's new positions would be the lead of the sports wagering department, supervisory team members, and ticket writers. Commissioner Hill asked how many employees the licensees expected to hire. Mr. Grounsell stated that PPC anticipated between 20 and 50 new hires. Mr. Kim stated that until MGM finalized the role team members would play, the number would be uninformed and he would require more research. Mr. Eichel stated that Raynham Park would likely double its existing staff of 75. Mr. Tuttle stated that Suffolk Downs had anticipated 50 to 100 new employees. Commissioner Hill expressed that he was concerned about getting employees hired, but is feeling more comfortable with the implementation. Director Lillios stated that hiring numbers had been shared, but the plan hinges upon the ongoing renewal process for two locations.

3. [Vendor Licensing \(Scoping/ Organizational Complexity/ Exemptions\)](#)
(1:39:58)

Counselor Krum stated that EBH had turned in a list of proposed retail vendors and expected that the vendors will submit their application in a timely manner. Executive Director Wells explained that vendor licensing was not included in the legislation, but temporary licensure would be important. She stated that the existing infrastructure and staff knowledge for licensing gaming vendors for casinos can be applied to licensing sports wagering vendors, but the Commission staff required confirmation from the Commission to do so.

Director Lillios stated that the licensing division had no questions regarding the vendor lists provided, but expressed interest regarding the potential exemption list, that is often used in other jurisdictions. Counselor Krum stated that EBH had no objections to using the same exemption list used for casinos. Chair Judd-Stein asked if there were any potential expanded exemptions. Counselor Crum stated an interest in retail products that would not pose a threat. Executive Director Wells asked whether the Commission wanted to grant specific exemption requests or allow IEB to grant the exemptions. She continued that a common exception in other jurisdictions is spending under a monetary threshold, such as an operator spending less than \$10,000. Commissioner O'Brien stated the issue of deferring specific exemption requests can be circled back to at a later point.

Commissioner Skinner clarified that exemption of non-gaming vendors had traditionally been the responsibility of the Director of Licensing, and not required to go to the Commission for determination. Commissioner O'Brien asked whether it was internal policy guidelines that drove the decision-making process, or if the authority was vested in the chief of the licensing division. Commissioner Skinner clarified that the authority was not entirely vested in the chief of the

licensing division, and that there was collaboration with IEB. Commissioner O'Brien stated that the Commission voted on statutory exemptions for employment based upon a list of criteria whether to exempt the position, and asked if there was a similar list of criteria for exempting vendors. Director Lillios stated that the exemptions are often straightforward based upon the statutory exemptions, such as the previously mentioned threshold dollar exemption. She also stated that there are exemptions for professional entertainers and public interest exemptions. Chair Judd-Stein asked whether G.L. Chapter 23K included this delegation of authority. Director Lillios stated that the delegation was not in the statute but had been used by the Commission. She noted that the statute may authorize the exemption but the authority over who granted the exemption is in the regulation.

Mr. Grounsell stated that PPC is comfortable with the exemptions in 205 CMR 134.04(6), assuming the same exemptions would apply in sports wagering. Chair Judd-Stein stated that with respect to marketing the Commission would require further guidance from other jurisdictions. Commissioner O'Brien stated that marketing and advertisement of online gaming is a first in the Commonwealth. Commissioner O'Brien raised the issue of third-party marketing payments including clauses allowing for remuneration based upon client signup, as it may create problems with predatory advertising. Commissioner Skinner expressed interest in looking at differences in the environment between casino gaming and sports wagering when developing marketing exemptions. Chair Judd-Stein stated that given Commissioner Skinner's experience, this should be a prioritization for staff.

4. [Identified Challenges and Regulatory Implications](#) (1:59:50)

Mr. Eichel raised a number of questions his client wanted to address. He sought clarification whether the Notice of Intent was only required for category three sports wagering operators. Executive Director Wells stated that the Notice of Intent was expanded to include categories one and two, and that the Notice of Intent should be submitted for Raynham Park.

Mr. Eichel asked if the \$5 million license fee was payable upon granting of the license, and if separate licenses would be required for retail operation and mobile operation. He asked whether the \$1 million Public Trust Help Fund applied to each operator, or if the operators would pay an equal share of the \$1 million. He asked whether the licensee would require a single operator for both retail and mobile sports wagering, or if separate operators could be hired for each category. He inquired as to when the \$7.5 million capital investment required by category two licenses was to be spent by, as Raynham Park had undergone significant investment in their \$24 million facility prior to the legislation passing.

Executive Director Wells stated that the Commission staff will revisit these questions once research and discussion had taken place.

d. [Responsible Gaming and Advertising](#) (Licensee's Perspective) (2:46:20)

1. Voluntary Self-Exclusion

Counselor Krum asked if the Commission envisioned combined lists for voluntary self-exclusion (VSE) for casino gambling and sports wagering. Chair Judd-Stein agreed that the legislation was ambiguous language, and the Commission could implement either combined or separate VSE lists. Chair Judd-Stein asked if operations in other jurisdictions had experience. Mr. Grounsell stated that Penn's national policy is a combined VSE list, excluding those on the list from all forms of gaming at Penn properties. Chair Judd-Stein asked if this form of VSE was more restrictive than what the jurisdictions require. Mr. Grounsell confirmed that the policy was more restrictive than jurisdiction requirements.

Commissioner Hill inquired if there had been issues with patrons wanting to be excluded from one form of gaming but not another. Mr. Grounsell stated that different forms of exclusion can be requested and that responsible gaming exclusions are honored across all Penn locations.

Mr. Kim stated that it makes sense to have a combined VSE list. Mr. Kim introduced Daniel Miller, Director of Compliance at MGM Springfield. Mr. Miller stated that MGM properties have a similar program to Penn, including a self-limit program in other jurisdictions limiting availability of the gaming establishment if the patron was on a VSE list. Chair Judd-Stein asked if a patron who was on the VSE list could not gamble at MGM properties in other jurisdictions. Mr. Miller stated that the patron can only play as a cash-player and would not have access to rewards points if they were on the VSE list.

Chair Judd-Stein stated that there is not a VSE list for simulcast. Mr. Tuttle stated that Suffolk Downs maintained a VSE list. Chair Judd-Stein asked if the VSE list was for a particular timeframe or provided other options. Mr. Tuttle stated that the VSE list is permanent, and he did not have information regarding the patron's process of removing themselves from the VSE list. Chair Judd-Stein asked if Raynham Park maintained a VSE list. Mr. Eichel stated that Raynham Park did not have a VSE process, but the simulcast center was in the initial stages of meeting with GameSense and installing additional responsible gaming signage.

2. [Promo Play](#) (2:57:45)

Chair Judd-Stein prompted the licensees for a definition of promo play. Counselor Krum stated that it is a coupon the patrons can use to assist in placing a wager. Commissioner Hill noted the issue of taxing promotional play had been raised in the past. Chair Judd-Stein asked how promotion play is taxed in other jurisdictions. Counselor Krum stated that promotional play is not counted for taxation for casino gaming in Massachusetts. General Counsel Todd Grossman noted that the legislation contained the definition for promotional play, but was silent as to the taxation issue. Chair Judd-Stein clarified that the potential tax exemptions surrounding promotional play were for Massachusetts taxes and would not apply to federal taxes.

General Counsel Grossman stated that the taxation of promotional play would be a matter of Commission policy, and whether the Commission would consider promotional play a part of the operator's gross revenue. He stated that the other jurisdictions had a variety of approaches. Mr. Eichel stated that the Commission was conflating two issues, whether promotional credit is

taxable to the individual and whether promotional credit should be included in calculating net gaming revenue for state taxation. General Counsel Grossman clarified that the current conversation was regarding tax payments by the licensee rather than the individual.

A member of the public entered the meeting unmuted. Chair Judd-Stein stated that a member who was not invited could be invited with the Chair's permission if they identified themselves and took part in a constructive fashion. The member of the public identified himself as Kevin McDevitt, and stated the Commission should include members more knowledgeable on sports wagering. Chair Judd-Stein stated she did not want to dismiss his concerns and that the Commission would have public hearings to address the public's concerns.

Executive Director Wells stated that with the emergence of sports wagering operations, promotional play will be used to draw in long-term customers that offset the initial costs of promotional play. She stated that the downside to this approach, as seen in other jurisdictions, was decreased and therefore a decreased benefit to the state. Chair Judd-Stein stated that in addition to the taxation issue, there was another issue regarding responsible gaming.

Commissioner O'Brien read the definition of gross sports wagering receipts from the legislation, defined as "total gross receipts from total Sports Wagering less the sum of 1) the total of all winnings paid to participants and 2) all excise taxes paid pursuant to federal law provided however that the total winnings paid to participants shall not include the cash equivalent of any merchandise or thing of value that is awarded as a prize". Commissioner O'Brien stated that the legislation did not mention promotional play, and the Commission would have to define it.

Mr. Kim stated MGM would be accepting of promo play as it is crucial to attracting customers to the market, awarding customer loyalty, and the success of a new venue. He stated that MGM would endorse excluding promotional play from gross receipts. Commissioner O'Brien asked if promotional play is more critical to early success upon launching. Mr. Kim stated that there was a preference for permanent promotional play, but it is more effective earlier in the process. Counselor Krum stated EBH wanted promotional play to be deducted from gross receipts, and that promotional play makes a big difference in retail launches. She stated excessive promotional play is a problem for the casino as well as the state. Mr. Grounsell stated that PPC would be in favor of deducting promotional pay from gross receipts, but PPC would be reliant on the Commission's interpretations as guidance.

Commissioner O'Brien asked about the impact of promotional play on other jurisdictions. Mr. Grounsell noted that Penn had been relatively stable in providing promotional play. Counselor Krum stated that from a launch perspective promotional play offsets upfront cash spent to attract patrons and gets patrons comfortable with playing. Mr. Tuttle stated that while he was interested in the discussion, he had nothing further to offer. Mr. Eichel stated that Raynham Park has heard from potential operator partners that promotional play is a large part of their strategy, but Raynham Park has no current experience with promotional play.

Counselor Krum stated that other jurisdictions have sunset provisions, which allow for promotional play for a limited time of 12 to 24 months, and these provisions would make Massachusetts competitive with surrounding states. Mr. Eichel stated that promotional play was

almost self-regulating as the operators do not want to give excess money away. Chair Judd-Stein stated that the need to attract customers cannot come at the cost of predatory advertising.

3. [Advertising/Marketing Guidelines](#) (3:19:21)

Counselor Krum stated that during the launch of casino gaming at EBH, EBH staff worked with Director of Research and Responsible Gaming Mark Vander Linden to develop and provide feedback for the responsible gaming framework. She stated that EBH was willing to develop a similar plan for sports wagering. Mr. Kim stated that MGM created a GameSense space and adopted the Play My Way program. He stated that MGM will defer to Director Vander Linden for best policy regarding marketing sports wagering. Mr. Grounsell stated that PPC staff will be trained to notice similar behaviors to those with responsible gaming issues, and continue staff member interventions and provide resources. Chair Judd-Stein stated sports wagering mobile promotional play differs from retail promotional play, and that different approaches might need to be taken.

Chair Judd-Stein asked General Counsel Grossman to read the provisions in the legislation regarding restrictions on advertising. General Counsel Grossman stated that a bulk of the advertising language would be held in the regulations the Commission would promulgate, and the legislation contained principles to be included. He stated that the prohibited advertisements are those that would use biometric data of an athlete; advertisements that would be untrue, deceptive, or misleading; unsolicited pop-up advertisements; any advertisement to an individual on the VSE list; any advertisement appealed directly to a person under the age of 21; advertising on billboards that fails to comply with state, federal, or local laws; and any marketing or branding the Commission deems unacceptable or disruptive to the viewer experience at the sports event.

Counselor Krum raised the issue of competitor sports wagering vendors from other states already advertising in Massachusetts. Chair Judd-Stein stated she had recently seen sports wagering advertisements with no responsible gaming language on the billboard. She stated that the Commission staff should approach the Massachusetts Department of Transportation regarding the billboard.

Counselor Krum stated that EBH would not use any of the prohibited practices, and EBH had no problem with the language in the Act. Mr. Grounsell agreed that PPC would not have used any of these marketing practices, and in addition would include responsible gaming messages in all advertisements for sports wagering.

Commissioner Hill stated a concern regarding the volume of sports wagering advertisements during sports championships, but that he was not sure how to address the issue due to first amendment considerations. Chair Judd-Stein asked whether the volume of advertisement could be included in the category the Commission deems unacceptable or disruptive to the viewer experience. Chair Judd-Stein sought clarification as to whether “view experience at the sports event” would consider television viewing. Commissioner O’Brien stated curtailing advertising was a primary issue discussed at her previous training, but that the wording of the statute limit’s the Commission in how to address the volume of advertisements. She stated that the prohibition

on advertising designed to target individuals under the age of 21 might be a way to address the volume of advertisements.

Mr. Kim stated that the Commission could look towards the Federal Trade Commission and federal law which would have authority over the interstate advertisements. Commissioner Hill stated that other state's advertisements come across the border into Massachusetts and he would not want Massachusetts operators having to compete with the existing advertisements. He stated the Commission will research a potential solution, but a review of constitutionality would have to occur.

Commissioner Skinner stated it would be worthwhile to consider this discussion in more depth, but it is assuring that the licensees are conscientious about responsible gaming. Commissioner O'Brien stated concerns regarding advertisements that incidentally target individuals under the age of 21, and that the Commission should have the ability to protect those who cannot gamble. Mr. Eichel suggested the Commission look at the advertisement limitations on smoking, vaping, and cannabis, as they might prove to be useful guidance. He also stated that advertisements across borders fall under federal regulation and cannot be regulated to the same degree. Counselor Krum stated that the Americans with Disabilities Act has a responsible marketing code for sports wagering that might address these concerns more in depth. Chair Judd-Stein stated that the Commission has looked closely at the ADA.

e. [Timelines](#) (3:47:40)

1. Licensee Milestones for Standing up Retail Operations

Executive Director Wells addressed Mr. Eichel's earlier questions, and was prepared to give tentative answers. She stated that the capital expenditure of \$7.5 million was to occur within three years after receiving a sports wagering license. Mr. Eichel stated that construction of Raynham Park's facility was intended to be completed by February, and an issue would occur as this spending has to occur after being licensed.

Executive Director Wells stated that the licensee could choose to partner with either a single sports wagering operator for both retail and mobile operations, or contract with one operator for retail sports wagering and a second for mobile sports wagering. She stated that it would likely be easier from a licensing standpoint to only work with a single operator.

Executive Director Wells stated that an answer to the question regarding licensing fees and public health trust fund fees would have to be addressed later, when the Commission had received more information from Commission staff. Chair Judd-Stein sought clarification regarding Raynham Park's question about the Public Health Trust Fund. Mr. Eichel clarified that the question was whether the \$1 million fee was per operator or to be split amongst the nine potential operators. Executive Director Wells asked Mr. Eichel to email the questions in writing to the Commission. Chair Judd-Stein stated that the three casino licensees already contributed funds to the Public Health Trust Fund, and are exempt from paying funds in category one.

Mr. Grounsell stated that with regard to timelines a determination needed to be made whether PPC would require a temporary facility to be constructed before a permanent one. He stated that PPC would launch sports wagering in a time that fits within the regulatory framework.

2. [Prioritization of Regulatory Promulgation](#) (3:54:09)

Executive Director Wells explained the milestones required to set up a retail sports wagering operator, including space, regulator approval of the space, ordering equipment, licensing vendors, approval for the equipment, and equipment testing.

Mr. Grounsell stated that PPC would like a firm launch date, and for the Commission to prioritize the promulgation of regulations regarding licensing and technical standards. Mr. Kim stated MGM had their space set with all cabling and wiring done, and the only issue was getting the kiosks installed and improved. He stated MGM wanted guidance from the Commission on the licensing process and approval of equipment. Counselor Krum expressed interest in a launch date, and stated that it would take six weeks to hire and train staff for sports wagering. She stated that EBH was ready to purchase equipment once Commission approval is received. Mr. Eichel stated that the operators Raynham Park was considering partnering with were dependent upon the Massachusetts regulations in implementing their models and procedures. He stated finalization of the regulations is critical to the operation of the sports wagering facility. Mr. Tuttle stated that Suffolk Downs endeavored to catch up in the process and expected news regarding a sports wagering operating partner and certainty of location in the near future.

Chair Judd-Stein inquired if there were supply issues with required equipment that might impact the accelerated timeline. The licensees unanimously agreed that there was not a foreseeable problem in acquiring sports wagering equipment.

Commissioner O'Brien stated that the Commission's compliance role must also be operational during the launch of sports wagering, and asked the licensees what they interpreted launch date to mean. Mr. Grounsell stated that it would be the day where wagers could be accepted. Commissioner O'Brien stated that she had not envisioned the Commission providing an exact date as the sports wagering regulations needed to be in position to be finalized. Counselor Krum asked for an estimated timeline for regulations to calibrate EBH's planning accordingly. Commissioner O'Brien stated that communication between the licensees and the Commission would be critical. Chair Judd-Stein stated that on September 8, 2022, the legal division would present a timeline for regulatory action as a framework for the licensees' timeline. Executive Director Wells stated that the regulation process has built-in waiting periods, and staff needed a clearer picture as to what regulations can occur after licensee operation.

Commissioner Skinner stated that the conversation felt premature as the Commission had yet to hear from category three applicants. She stated the Commission shouldn't discuss mobile wagering with licensees as it may give them a leg up. Chair Judd-Stein clarified that this round table was regarding the licensee's retail locations and not mobile operations.

3. [Discussion of Staggered vs. Simultaneous In-Person Sports Wagering Launch](#) (4:12:44)

Chair Judd- Stein stated there was an issue of whether one licensee can open their location prior to other licensees. She asked whether opening of the retail locations should occur simultaneously or staggered. Mr. Grounsell asked if multiple licensees were ready for launch, would they have to wait for the other licensees to be ready. He stated that a simultaneous launch date would reasonably work, but some licensees would not be prepared at that date. Mr. Tuttle stated that he would not want to hold up other licensees that are further in development, and would work with the Commission to be prepared for launch day. Commissioner O'Brien asked Mr. Tuttle if he supported a single launch date, even if some of the licensees were not sufficiently ready. He replied that targeting a launch date would encourage the licensees to be prepared, but he would not hold up those who are more prepared. Counselor Krum acknowledged the date could not be established until further along in the process, but a singular launch date would allow for an even playing field. Mr. Eichel stated that each licensee was in a slightly different position, but he did not expect those who were more prepared to have to wait on the licensees who required more time after the regulations were in place. Commissioner Skinner expressed she was glad to hear a consensus from the licensees for a singular launch date.

Chair Judd-Stein adjourned the meeting.

List of Documents and Other Items Used

1. Notice of Meeting and Agenda dated August 15, 2022
2. [Meeting Packet](#) from the August 18, 2022, Open Meeting