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## Massachusetts Gaming Commission Meeting Minutes

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**Date/Time:** September 12, 2019 – 10:00 a.m.

**Place:** Massachusetts Gaming Commission  
101 Federal Street, 12<sup>th</sup> Floor  
Boston, MA 02110

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

**Absent:** Commissioner Gayle Cameron

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



**Call to Order**  
See transcript page 1

10:00 a.m. Chair Cathy Judd-Stein called to order public meeting #276 of the Massachusetts Gaming Commission.

**Approval of Minutes**  
See transcript pages

[10:00 a.m.](#) *Commissioner Stebbins moved to approve the minutes from the Commission meeting of August 15, 2019, subject to correction for typographical errors and other nonmaterial matters. Commissioner Zuniga noted a change needed on page five from “junkets and Macau” to “junkets and not Macau.” Commissioner Zuniga seconded the motion. The motion passed 4 – 0 pending the edit.*

## **Administrative Update**

See transcript pages 1 – 3

### 10:05 a.m.     **General Update**

Executive Director Ed Bedrosian reminded the Commission that the Gross Gaming Revenue (GGR) for the previous month would be released on Monday, September 16, 2019. The Commission traditionally releases the GGR on the 15<sup>th</sup> of the month. However as it falls on a Sunday, the figures will be released on Monday the 16<sup>th</sup>.

Mr. Bedrosian then provided an update on staffing, summarizing current open positions, and encouraged the public to apply at [massgaming.com/jobs/](http://massgaming.com/jobs/)

Next, Mr. Bedrosian stated that Mark Vander Linden, Director of Research and Responsible Gaming, has been asked to serve on the International Advisory Panel of the Singapore National Council on Problem Gaming. Mr. Bedrosian recognized this as a tribute to the work that Mr. Vander Linden and the Commission, in part, has been conducting on responsible gaming.

Commissioner Zuniga noted that Singapore is a premier market in Asia from which the Commission can learn. He asked that Mr. Vander Linden come back and comment at a later time, providing more details of the trip that he already took. The Chair congratulated Mr. Vander Linden.

## **Legal Division**

See transcript pages 3 - 32

### 10:09 a.m.     **Region C – Motion for Reconsideration**

The Chair stated that the Commission would be considering a petition filed with the Commission relative to the 2016 denial of the application for a gaming license submitted by Mass Gaming Entertainment (MG&E). She then described the process that would be followed today.

Next, the Chair acknowledged receipt by the Commission of numerous written comments relative to Region C-related issues. She noted that as the comments were primarily not directed at the narrow point being considered today, they were not included in the Commissioners' packet. She stated that there would be an appropriate time for public comment and input on the subject of a gaming establishment in Region C in the future.

The Chair then asked to pause for a moment to remember the late Bill Carpenter, the former mayor of Brockton. She then thanked Mayor Rodrigues of Brockton for attending today. She later clarified what the outcome of the Commission's vote on the petition would consist of, and set expectations for the parties.

[10:14 a.m.](#) Commissioner O'Brien clarified that as there were several submissions by MG&E's counsel, particularly the one received by the Commission this week, and from her perspective going forward, anything beyond page five in that submission is beyond the scope of what the Commission is considering today.

[10:17 a.m.](#) Catherine Blue, General Counsel, with Todd Grossman, Deputy General Counsel, introduced the questions presently before the Commission. The first is whether the Commission can reconsider or reopen a previous decision relative to the award of a gaming license. The second is the question of what the appropriate grounds are upon which to base such a decision, and if the Commission should be able to do so. Mr. Grossman then provided a slide presentation describing the threshold issue, the Commission's authority, the discretion afforded by statute, and potential statutory limitation on the matter.

[10:32 a.m.](#) Commissioner O'Brien and Mr. Grossman clarified for the record that the Commission is handling this matter procedurally, as there are no regulations for this process.

Mr. Grossman continued the presentation, reviewing the remaining slides covering examples of appropriate grounds for an administrative agency to reconsider a decision, and the issue of timeliness. Mr. Grossman then concluded the presentation and welcomed any questions, to which there were none.

[10:45 a.m.](#) Attorneys David Apfel and Robert Braceras from the firm of Goodwin Proctor representing MG&E, and Neil Bluhm, Chairman Rush Street Gaming/ MG&E presented to the Commission a slide presentation. The first slide addressed the question of whether or not the Commission has the discretion to reconsider MG&E's application. The following slides described grounds for reconsideration, the changed circumstances since the initial decision to deny the application in 2016, reasonableness for reconsideration of the application, and a quote from former Commissioner Lloyd MacDonald. The remaining slides depicted improvements to the Niagra Falls area after a Rush Street Gaming casino was erected and a new image of the casino proposed for the after a \$700M+ investment.

[10:58 a.m.](#) Commissioner O'Brien asked if there is something in the vote, the public record, or the decision in 2016 that Mr. Apfel would want to point to that would indicate why the Commission should reconsider MG&E's Region C application. Mr. Apfel noted his position on the role of the Mashpee Wampanoag tribe in the Commission's denial. There was then a discussion regarding the Mashpee Wampanoags' pending bill currently in congress.

[11:11 a.m.](#) Mr. Braceras stated that the reconsideration and granting of a license to MG&E would create jobs, acquire additional tax revenues for the Commonwealth, bring tax dollars from Rhode Island and Connecticut back to the Commonwealth, and revitalize Brockton.

Commissioner Zuniga summarized some of the other bases for the Commission's decision in 2016, concerning the vote and the proximity to a school.

11:49 a.m.

The Chair allowed Mayor Rodriguez of Brockton to speak and welcomed him on behalf of the Commission. He stated that as Brockton has the same issues that any major city has, a casino could bring in tax revenues that will afford Brockton resources to benefit the community.

Mr. Apfel then concluded by stating a few points for the Commission to consider. First, he noted that further market research could be performed in the context of a robust reconsideration process before a determination is made whether or not to approve the reconsideration.

Second, he suggested that alternatives, including opening up a new process, are unreasonable because they cause additional delay of at least three years for any construction to begin on a casino. Reconsideration would give \$85M to the Commonwealth immediately, and construction could start quickly, if not by the end of this year then in early 2020.

Lastly, Mr. Apfel asked the Commission to consider putting out an informal solicitation of interest to see if anybody else is interested and willing to commit. He noted the commitment that Mr. Bluhm has made over the course of the last five years. Mr. Apfel stated that if no one responds, given enough time to do that, that would be an essential factor to consider before determining whether to reconsider MG&E's proposal.

There was discussion around this hybrid approach to reconsidering MG&E's application by the Commission; the issues discussed included requesting public comment/solicitation of interest to apply for a Region C license and conducting a market analysis for any competitors.

Commissioner Zuniga stated that it is intriguing to split it and ask for additional comments; however, he expressed concern about time constraints for someone to put together a proposal. He stated that the arguments made by MG&E are compelling, but they may actually support opening the Region C bidding process, rather than a reconsideration of just the one application. Commissioner Stebbins agreed.

12:06 p.m.

*Commissioner O'Brien moved that the Commission find that it has the discretion to reconsider the Commission's decision denying MG&E's January 2015 application for a gaming license in Region C as outlined in the presentation made by Commission legal staff and further moved that after review of the materials submitted and the presentations made by Commission staff and counsel for MG&E, that sufficient grounds do not exist to support a reconsideration of the Commission's decision denying MG&E's January 2015 application for a gaming license in Region C. Commissioner Stebbins seconded the motion.*

Mr. Apfel asked to make one last comment, which the Chair allowed. He suggested that concerning Commissioner Zuniga's statement, a solicitation of interest does not need to have a narrow time frame and that the Commission could open up a six-month window for any candidates to respond before foreclosing reconsideration of MG&E's existing plan.

Mr. Bluhm expressed concern about his future involvement in the project, should the Commission deny MG&E's request for reconsideration of their application.

Commissioner Zuniga stated that he feels there is a compelling argument for soliciting public comment now because closing the door on reconsideration may unnecessarily delay the process.

*The motion passed 3 – 1, with Commissioner Zuniga dissenting.*

#### **Ombudsman**

See transcript pages 32 – 40

[12:30 p.m.](#)

#### **Encore Boston Harbor Quarterly Report**

Robert DeSalvio, President of Encore Boston Harbor and Jacqui Krum, Senior Vice President and General Counsel of Encore Boston Harbor reported on the activities surrounding Encore Boston Harbor's opening in their Quarterly Report.

Joe Delaney, Construction Project Oversight Manager, stated that Encore is making good progress in completing the items that were conditions of the final Operation Certificate. He noted that the Commission is waiting for further documents and that he plans to meet individually with each commissioner before the 90-day period concludes, to provide an exact status. Several of these issues are listed in a memo contained in the Commissioners' Packet from the [June 27<sup>th</sup> Commission meeting](#) where the Commission directed the licensee to resolve all issues within 90 days of opening the casino.

Commissioner O'Brien asked if the issues would be resolved within 90 days. Mr. DeSalvio answered in the affirmative.

Ms. Krum stated that Encore has a commitment tracker that contains thousands of items. She noted that some of the items should be completed before the 90-day deadline. However, they may need an extension to produce some of the paperwork to demonstrate that they have closed out all of those commitments.

[12:33 p.m.](#)

Mr. DeSalvio began a slide presentation. He stated that there were no traffic issues upon Encore Boston Harbor's opening. As they approach their 90 days of being open, he finds that the casino traffic does not interfere with the commuter hour. He also noted that night business is arriving at the casino later than anticipated, providing for no traffic overlap.

Mr. DeSalvio noted efforts made to ensure repatriation from residents who otherwise were leaving Boston to visit casinos. He also stated that foreign patrons are now arriving from overseas. He stated that there are currently four business drivers. The first driver is the accelerating hotel business. The second is the introductory deals through the Encore website and online travel agencies. The third is restaurants, which is making adjustments to match what the local market looks for, and the fourth is table games being extremely strong and continuing to grow. Encore is currently adding more tables to the gaming floor. He stated that slot business has been “soft” and they are making adjustments to the gaming floor to accommodate patrons.

The Commission reviewed slides of photos capturing the festivities of opening day.

Next, Mr. DeSalvio reported on Encore Boston Harbor’s construction schedule, stating that they now have only 91 items left on their list to complete. He added that they started with a record in the thousands.

He stated that the construction of the daycare center is underway. He anticipates that it will be completed in November to turn over to Encore’s operator, Action for Boston Community Development ([ABCD](#)). He added that ABCD is looking to complete the project by the end of the year. Ms. Krum stated that they are working with employees regarding their childcare needs and schedules.

Mr. DeSalvio reviewed contracts awarded to Women-owned Business Enterprises (WBEs) and Veteran-owned Business Enterprises (VBEs) for the construction phase. Overall, they exceeded their goals. He stated that there was \$263M worth of work performed during the construction phase. Participation for the construction phase of these categories’ goals was also exceeded.

In terms of hiring, Mr. DeSalvio stated that there are currently 64 open positions remaining with a total of 4982 active employees onboard and 220 additional employees in the onboarding process.

Ms. Krum reviewed slides with the Commission. She reported on Encore Boston Harbor’s progress with the license condition commitments, noting the status of several items. She also described a survey that was conducted, entitled the “Great Place to Work” with favorable results submitted by employees. She highlighted partnerships with organizations and other successful community outreach initiatives and highlighted community investments made, to such as raising money to support local nonprofits and donating \$2.3M in 2019 for local charitable organizations.

Finally, Ms. Krum clarified for the Commission that the Board of Directors of

Wynn Resorts has selected with Matt Maddox's approval an executive coach for him. This individual has entered into a contract, and Mr. Maddox has started meeting with the executive coach. She added that it is going well.

**Legal Division, con't.**

See transcript pages 40 – 45

12:59 p.m.     **Initial Draft Versions of 205 CMR 134.01 and 134.06 Re: Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations and Small Business Impact Statements**

The Commission reviewed the initial draft version of [205 CMR 134.00: Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations](#) that described amendments to 134.01: Key Gaming Employee Licensees to add Junket representatives, whom are not employed by a gaming licensee or affiliate of the gaming licensee or a junket enterprise licensed as a gaming vendor, as Key Gaming Employees. Further, 205 CMR 134.06: Junket Enterprises and Junket Representatives would be added to the regulation to describe the scope of responsibility and compliance imposed upon the licensee to employ a junket enterprise or junket representative.

There is one additional amendment that staff plans to make to section 5(b) regarding marketing, where the licensees would be required to provide one large list to junkets that combines individuals from both the Exclusion list and the Voluntary Self-Exclusion (VSE) list. This method would protect the privacy of individuals enrolled in the VSE program while ensuring they do not receive marketing.

Commissioner O'Brien asked if the privacy concerns surrounding this that were addressed in previous public meetings had been resolved. Mr. Vander Linden explained that privacy concerns revolved mostly around the VSE list and that the solution drafted by Associate General Counsel Carrie Torrisi and the team is effective, as it combines both lists into one for non-marketing. Commissioner O'Brien requested affirmation that this approach is not violating any nondisclosure provisions on the VSE list. Ms. Torrisi stated that staff would confirm this in the process.

1:14 p.m.     *Commissioner O'Brien moved that the Commission approve the small business impact statement for the amendment to 205 CMR 134.01 and the new regulation section 134.06 Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations; as included in the Commissioners' packet. Commissioner Stebbins seconded the motion. The motion passed 4 – 0.*

*Commissioner O'Brien further moved that the Commission approve the version of the amendment to 205 CMR 134.01 and the new regulation section 134.06:*

*Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations as included in the Commissioners' packet, as amended at this meeting, and authorize the staff to take all steps necessary to begin the regulation promulgation process.*

*Commissioner Zuniga seconded the motion.*

*The motion passed 4 – 0.*

## **Research and Responsible Gaming**

See transcript pages 45 – 63

[1:56 p.m.](#)

### **MA Gaming Impact Cohort Study Wave 3**

Mr. Vander Linden noted Responsible Gaming Education Week and described how it works. Joining him is Dr. Rachel Volberg, who presented the Massachusetts Gambling Impact Cohort ([MAGIC](#)) Study: [Analyses Across Three Waves](#). Mr. Vander Linden summarized the study for the Commission.

Ms. Volberg stated that the three primary research goals of the MAGIC study are to determine the incidence of problem gambling, understand the stability and transitions associated with problem gambling, and to develop an etiological model of problem gambling. She then reported the research study's findings and presented slides that illustrated the background of the study and the processes implemented by the research team.

[2:35 p.m.](#)

Ms. Volberg discussed the study's most important finding, which was a statistically significant increase in the proportion of participants in the study who had gambled at an out-of-state casino in the past year but were now gambling at a Massachusetts casino. The percentage of patrons in the study who gambled out-of-state decreased from about 33% to 22%. She stated that this finding triangulates very well with information gathered from the Plainridge Park Casino (PPC) patron survey where she was able to ascertain that a very significant number of the people who were patronizing PPC in that first year actually would have spent their money gambling at an out-of-state casino if PPC had not opened. She added that this was corroborating evidence of the success in recapturing Massachusetts gambling dollars that were leaving Massachusetts and going elsewhere.

[3:13 p.m.](#)

Mr. Vander Linden concluded by stating that this research is contributing to a much larger study and group of studies of cohorts where the research team is in the process of developing low-risk gambling guidelines. Creation of low-risk gambling guidelines is one of the team's goals. He also noted that GameSense provides guidance, influencing gamblers to do so in a way that is no harm to the individual, to their family, or the community.



## **Investigations and Enforcement Bureau (IEB)**

See transcript pages 63 – 84

### **Licensee Policies on “Switching” Jackpots**

The Investigations and Enforcement Bureau’s Gaming Agents Division has been surveilling incidents of “switching,” which is when a slot machine player switches seats after winning a jackpot of \$1200 or more with a friend, accomplice or another player. This act is illegal and hinders the enforcement of [MGL Chapter 23K Section 51](#) and [205 CMR 133.06 \(7\)\(a\)](#) because it allows players, who may be on the Self Exclusion List or Voluntary Self Exclusion list or owe monies directly to the Massachusetts Department of Revenue or US Government, to improperly collect winnings.

[3:27 p.m.](#)

Commissioner Stebbins stated that he appreciates that the IEB team has confronted this issue and worked with gaming agents and licenses to raise awareness of it. He added that this is just a reminder of how the Commission is trying to help protect some vulnerable patrons as well as meet some of its statutory obligations.

Reporting this issue to the Commission was Bruce Band, IEB Assistant Director / Gaming Agents Division Chief, Burke Cain, Field Manager of Gaming Operations / Deputy Gaming Agent Division Chief, and Valeriya Trendafilova, Supervising Gaming Agent at Encore Boston Harbor. Mr. Band stated that this topic is unique to Massachusetts and that Mr. Cain and Ms. Trendafilova are the pioneers in Massachusetts to find some of the inconsistencies with the jackpots.

Mr. Cain and Ms. Trendafilova led the Commission through a PowerPoint presentation that described the slot machine jackpot process, the review of 2210 jackpots that was conducted by gaming agents, tracked incidents of “switching,” and surveillance stills of individuals caught in the act of “switching.”

Property surveillance will now review footage of individuals who win a jackpot of \$1200 or more to determine if “switching” occurred and report back to the slot attendant. This can be done quickly and should not pose an inconvenience to the patron.

The IEB also reminded licensees via a memo submitted in the [Commissioners’ packet](#) to abide by the Commission’s regulations and provide assistance to help prevent VSE list participants from gaming and evasion by players seeking to avoid paying any outstanding taxes or penalties.

[3:58 p.m.](#)

### **Modification of Massachusetts Supplemental Form**

Karen Wells, IEB Director, proposed that the IEB add questions to the Massachusetts Supplemental license application form relative to settlement agreements, and that capture instances of sexual harassment, misconduct, or

unlawful discrimination. There was discussion around different ways to edit the form.

The Commission agreed to eliminate question #19 from the form, as it is too broad. The Commission then decided to add at the end of question #21 (to now become question #20) after the word “qualification,” “*including any other misconduct not disclosed above.*”

[4:25 p.m.](#) *Commissioner O’Brien moved that the Commission approve the modifications to the Massachusetts Supplemental Form as described by Commission staff, as included in the Commission packet. Also, as further amended to strike proposed question #19 and add to the end of question #21, the phrase including any other misconduct not disclosed above. Commissioner Zuniga seconded the motion. The motion passed 4 – 0.*

### **Modification of Criminal History Section in License/Registration Application Forms**

Next, Ms. Wells requested that the Commission approve clarified language in the Gaming License application that would make it easier for individuals to complete and understand. She noted a suggestion that was made to add to the front of the License Management System (LMS) webpage, language that states the applicant should seek assistance from the licensee in their Human Resources office for help in filling out the form.

Commissioner Zuniga asked if the Commission can state on the form or LMS that there is someone in the Licensing Division that applicants can speak to with any questions, perhaps listing Mary Pulgarin, Licensing Specialist, as a resource who is bilingual. Ms. Wells replied that she would check to make sure this information is posted and agreed that the licensing specialists would be a useful resource for applicants, adding that they provide feedback on the process as well. He also asked about coordinating with the lottery and their approach to “10 percenters”.

[4:37 p.m.](#) *Commissioner O’Brien moved that the Commission approve the modifications to the Criminal History Section in the License/ Application forms as described by Commission staff today and as included in the Commissioners’ packet. Commissioner Zuniga seconded the motion. The motion passed 4 – 0.*

### **Plainridge Park Casino License Renewal Process Discussion**

See transcript pages 84 - 87

[4:41 p.m.](#) In light of Plainridge Park Casino’s license expiration on June 24, 2020, Mr. Grossman provided a brief overview of the agenda item to be discussed further at the September 26<sup>th</sup> Commission meeting in Springfield, which is a proposed policy for the renewal of a gaming license for Category 1 and Category 2

licensees. There was a brief discussion around the statutory renewal provisions that require the Commission to establish procedures for this process.

Mr. Grossman outlined three areas to be initially addressed when creating a license renewal scheme. The first is the question of fee assessment by the Commission. The second is the question of whether or not the Commission would be inclined to adjust the renewal periods. The third area of concern is types of issues the Commission would be interested in exploring as part of the renewal process. Finally, any problems with the statute that would require legislative updating should be addressed.

### **Commissioners' Updates**

See transcript page 87

[4:53 p.m.](#) There were no Commissioners' updates.

[4:54 p.m.](#) *With no further business, Commissioner Stebbins moved to adjourn the meeting. The motion was seconded. The motion passed 4 – 0.*

### **List of Documents and Other Items Used**

1. Notice of Meeting and Agenda dated September 12, 2019
2. Draft Commission Meeting Minutes dated August 15, 2019
3. PowerPoint presentation – Region C Reconsideration dated September 2019
4. PowerPoint presentation – Mass Gaming & Entertainment: Request for Reconsideration of Licensing Decision
5. PowerPoint presentation - Gaming Market Assessment: Brockton Fairgrounds Casino
6. Letter re: Mass Gaming & Entertainment LLC and Region C dated August 14, 2019
7. Letter re: Response to Request for Public Comments on Mass Gaming & Entertainment LLC's Motion for Reconsideration of Region C License Decision dated September 6, 2019
8. Decision Denying a License to Operate a Category 1 Gaming Establishment in Region C dated August 11, 2016
9. Memo Re: Junkets dated September 5, 2019
10. Regulation Review Checklist for 205 CMR 134.01
11. Draft Regulation 205 CMR 134.01
12. Regulation Review Checklist for 205 CMR 134.06
13. Draft Regulation 205 CMR 134.06
14. Draft Small Business Impact Statement for 205 CMR 134.01 and 134.06
15. PowerPoint Presentation: Encore Boston Harbor Quarterly Report dated September 12, 2019
16. Encore Boston Harbor Monitoring of Project Construction and Licensee Requirements as of June 30, 2019
17. Memo re: Renewal of a Gaming License

18. Memo re: “Switching” Enforcement and Regulations
19. PowerPoint Presentation: Taxable Jackpot “Switching” Between Patrons
20. Massachusetts Supplemental Form
21. Civil, Criminal and Investigatory Proceedings questionnaire form
22. MAGIC Study Wave 3 Presentation
23. MAGIC Wave 3 Report dated June 28, 2019
24. MG&E Presentation to the Massachusetts Gaming Commission

/s/ Catherine Blue  
Assistant Secretary

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