



Massachusetts Gaming Commission Meeting Minutes

Date/Time: December 21, 2017– 10:00 a.m.

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

Present: Chairman Stephen P. Crosby
Commissioner Lloyd Macdonald
Commissioner Bruce Stebbins
Commissioner Enrique Zuniga
Commissioner Gayle Cameron

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

Call to Order

See transcript page 2

[10:00 a.m.](#) Chairman Crosby called to order the 231st Commission meeting.

Approval of Minutes

See transcript pages 2 – 4

[10:00 a.m.](#) *Commissioner Macdonald moved to approve the minutes of the meeting of December 7th subject to typographical errors and other nonmaterial matters. Commissioner Cameron seconded. Commissioner Stebbins would like the minutes updated to explain his objection regarding the retroactivity of the split that was discussed in the horse racing section, as well as a typographical error. Motion passed unanimously.*

Administrative Update

See transcript pages 4 – 6

[10:02 a.m.](#) **General Update:**

Executive Director Ed Bedrosian stated that he did not have a general update, however there were a couple of items on the agenda that he wished to address later in the meeting, as there were guests attending to hear Ombudsman John Ziemba's agenda items. Director Bedrosian wanted to accommodate those individuals first.

Ombudsman, John Ziemba

See transcript pages 6 - 108

10:01 a.m. Ombudsman Ziemba updated the Commissioners that he and the MGM team are currently reviewing MGM's schedule and the current status of their numerous commitments. Ombudsman Ziemba stated that he will return to the Commissioners with a report on this in the new year.

Ombudsman Ziemba introduced Mike Mathis, President and COO, MGM Springfield; Brian Packer, Vice President Construction and Development; Alex Dixon, General Manager, MGM Springfield; and Courtney Wenleder, Vice President, CFO for MGM Springfield.

Mr. Packer presented the MGM Quarterly Report, which included hotel construction and overall site progress. Mr. Packer also reported on Union Chandler construction, YWCA Façade Recreation, 95 State construction progress and garage construction progress.

Ms. Wenleder presented the Q3 2017 Cost Estimate and quarterly report with Design & Construction Commitments, Design & Construction Payments, Design & Consulting Commitments, Construction Commitments, Diverse Construction Companies, Workforce Diversity Statistics, and Current Quarter Site Progress.

11:03 a.m. The Commission took a brief recess.

11:08 a.m. The meeting reconvened.

11:08 a.m. Ombudsman Ziemba presented the 2017 Focus Springfield Mitigation Fund Request from the City of Springfield. Ombudsman Ziemba also went over his memo to the Commissioners and asked for guidance on how to proceed with the application, which had been placed on hold, giving consideration to the fact that their lease extension that has been executed.

Commissioner Cameron stated that per the memo, Focus Springfield is not eligible for a community mitigation fund grant award because the impacts will not occur in 2017, but they are eligible to reapply. Commissioner Cameron added that she felt that was the best course of action. Commissioner Stebbins and Commissioner Zuniga also agreed that they should submit a new application.

11:28 a.m. *Commissioner Macdonald moved to take no further action on the application of Focus Springfield for the 2017 period. Commissioner Zuniga seconded. Motion passed 5 - 0.*

Ombudsman Ziemba presented the Mitigation Fund Reserve Request for Revere. Revere would like to engage the services of a consultant to help the City devise and assist in implementing actions aimed at better positioning the city to realize economic development opportunities associated with the Wynn Casino in neighboring Everett and to advance several key economic development initiatives now underway or about to commence. Revere has proposed to use \$50,000 of its

Reserve, therefore keeping with the Commission's requirement that Saugus and Revere inform the Commission how the two would satisfy the requirement in their recent joint 2017 Transportation Planning Grant requiring each community to allocate some of their reserve monies to the joint application. Ombudsman Ziembra recommended that the Commission approve Revere's request for a \$50,000 planning grant for this purpose.

11:32 a.m. *Commissioner Macdonald moved to approve Revere's request for a \$50,000 planning grant, in keeping with the guidelines for use of the reserve. Commissioner Cameron seconded. Motion passed 5 – 0.*

Construction Project Oversight Manager Joe Delaney presented the City of Melrose's request to utilize \$26,904 for transportation studies relative to a section of Melrose Avenue and the connections to the casino.

Commissioner Zuniga noted that they had already voted for that reserve, and that the proposal made sense.

11:35 a.m. *Commissioner Stebbins moved that the Commission approve the City of Melrose's request to use \$26,904 of its reserve for the purposes outlined in its application, as included in the packet. Commissioner Macdonald seconded. Motion passed 5 – 0.*

Ombudsman Ziembra brought forth the 2018 Community Mitigation Fund Guidelines. He noted that there was one substantive change to the guidelines where it now states that, "no community is eligible for more than one regional planning incentive award." The addition of this language is to curtail the assumption that a number of community combinations can or should be used for these dollars. The way it had been presented previously could lead one to believe that they could only apply for one joint transportation project. It's not a total of one, so this needed to be specified in the final guidelines.

Ombudsman Ziembra stated that he addressed the concerns in the last Commission Meeting regarding police training costs that should be included in the guidelines. Specifically, there were questions regarding the expense and the potential recurring nature.

Commissioner Zuniga voiced his concern of police costs potentially turning into a recurring cost; specifically up-front training costs. Commissioner Zuniga wondered if funding this will result in applications being denied, or passed over. He also stated that he believed that there was not a huge need in the current period, but we may find out that there are different needs in February relative to construction impacts.

Commissioner Cameron stated that she did not see up-front training costs for police as being recurring because Massachusetts has one casino per region, whereas other states open new casinos every year for many years.

Chairman Crosby asked how Ombudsman Ziembra arrived at changing the language in the guidelines to read, "dollar-for-dollar" instead of "significant" when

addressing grants and host community guidelines. Ombudsman Ziembra explained that the change was to clarify to host communities that they are to match funding literally dollar-for-dollar so that there is no confusion as to what can be considered an “in-kind” or “significant” contribution.

Commissioner Zuniga recognized that this change in language may indeed be necessary, as communities are very different and value certain contributions differently at the community level.

[11:53 a.m.](#) *Commissioner Cameron moved to approve the 2018 Community Mitigation Fund guidelines, to include the changes outlined by Ombudsman Ziembra and any non-material changes. Commissioner Stebbins seconded the motion. The motion passed 5 – 0.*

Investigations and Enforcement Bureau – Karen Wells, Director

See transcript pages 109 - 169

[11:54 a.m.](#) Director Karen Wells asked for more clarification on the regulation that governs the Excluded Persons List, both on policy level as well as regulatory level. Specifically, there needs to be clarification as to what it means for the Commission to exclude someone from Massachusetts casinos by posing an “injurious threat to the interest of the Commonwealth in the gaming establishment.” Director Wells asked for guidance on how to best utilize the authority given in the statute, as well as further clarification on the regulation 205 CMR 152.00. She also asked the Commission to consider whether or not a policy change would be helpful.

Deputy General Counsel Loretta Lillios explained that within the regulation, it does not explicitly state whether or not the list of five factors that would determine an individual’s placement on the list is an exhaustive or a non-exhaustive list.

Counsel Lillios stated that the IEB interpreted the list to be non-exhaustive. She requested that the Commission amend the regulation to clarify that point, as the hearing officer interpreted the list of the five factors to be exhaustive in nature, and the regulation does not contain explicit language on that point.

Counsel Lillios recommended a new procedure be adopted for placing names on the Excluded Persons List, whereby the IEB would make a referral to the Commission to consider whether or not to place an individual on the list. Under this new procedure, the IEB would notify the individual of the referral, and then the individual would have the opportunity to be heard by the Commission itself, and, the Commission would determine whether or not to place the individual on the list.

Commissioner Cameron stated that she viewed the aforementioned five factors in the regulation as a non-exhaustive list. She also stated that she did not believe it was necessary for every instance to be brought before the Commission. However, she believed that the ability to be heard by the Commission would make sense if someone wants to challenge the hearing officer’s decision, after an initial IEB hearing was held.

Commissioner Stebbins stated that he viewed the Commission as having the ability to exercise their consideration about injurious threat expansively. He agreed that a more broad authority for the Commission to take any number of factors into consideration was important. He would like to keep the initial hearing process in place, where one is heard by a hearing officer and is able to appeal the hearing office decision to the Commission.

Chairman Crosby stated that he was in favor of reading the Excluded Persons list as a narrow list, but agreed that in the case of an extremely egregious act, he would be inclined to broaden the list.

General Counsel Blue summarized the hearing process for the Commissioners. She articulated that ultimately there are two questions. The first is, how should the process work? Second is the policy issue of what the Commission would like to do with the list and how the Commission wants those items treated.

Commissioner Zuniga stated that he interpreted the purpose of the five criteria listed in the regulation was to infer that there was a pattern of behavior. He also voiced his concern about the secondary damage, or ripple effect of placing an individual on the Excluded Persons List.

Commissioner Macdonald stated that he would be in favor of changing the regulation so that the process conforms to the procedures that are followed in other circumstances. He was not in favor of removing the hearing officer's role in the hearing process. Commissioner Macdonald stated that he would be in favor of giving the IEB the right to appeal an adverse finding by the hearing officer, which doesn't exist in the present circumstances. He also noted that he agreed with Commissioner Zuniga in that he believed that there are serious adverse consequences to somebody being placed on the Excluded Persons List. Therefore he would be in favor of some language in the regulation that would state that the Excluded Persons List should be reserved for a specific group of people.

Chairman Crosby stated that his interpretation is that the legislature gave the Commission the authority to protect what goes on in the gaming establishment only. However, he would give broader discretion on things having to do with the gaming establishment and children and seniors being left in cars, or being left behind in the establishment.

Director Wells asked the Commissioners, could there be a situation where someone left a child in a car, would the Commission want the IEB to have the authority to put them on the Excluded Persons List, considering them on a case by case basis?

General Counsel Blue suggested that the regulation be re-drafted and brought before the Commissioners for review.

12:59 p.m. Commission took a 30 minute break
1:30 p.m. Commission reconvened.

Legal Division – Catherine Blue, General Counsel

See transcript pages 172 - 286

[1:33 p.m.](#) Deputy General Counsel Todd Grossman addressed the current issue of what category of information should be covered under a nondisclosure agreement for a licensee. The language addresses documents that the MGC may receive that if released publicly, could be detrimental to the gaming licensee.

Counsel Grossman recommended that the Commission include some language in a nondisclosure agreement that would allow the Commission to afford protection to sensitive documents and still allow them to be received, while giving comfort to the licensee that they won't be disclosed publicly.

Commissioner Macdonald stated that as a general matter, it would be in the Commission's best interest to have consistency between the standards that are applied to one licensee or the other. Therefore, he was inclined to follow the standards previously approved with Plainridge Park Casino.

Chairman Crosby asked if the nondisclosure agreement would supersede the Public Records Law. Counsel Grossman clarified that it would not; that it works in conjunction with it.

Counsel Grossman proposed that if the Commission was comfortable with the recommendations discussed with the nuances, the Legal Department could then put together a draft nondisclosure agreement, and the Commission could handle as they see fit.

Massachusetts Gaming Commission Annual Report – Commissioner Zuniga

See transcript pages 219 – 222

[2:20 p.m.](#) Commissioner Zuniga addressed the status of the MGC Annual Report, and stated that the director of communications would be working very soon with the Commission's consultants and staff to finalize the report.

Economic Development Fund White Paper Outline – Commissioner Stebbins

See transcript pages 226 - 243

[2:25 p.m.](#) Commissioner Stebbins asked the Commissioners if they would contribute their thoughts and ideas to be incorporated into the Economic Development Fund White Paper. He presented an outline and reviewed the components of the report. Commissioner Stebbins stated specifically that the expanded gaming statute, which sought to create revenue sources for several critical spending areas within the Commonwealth, created a number of funds that would be capitalized beginning in FY 2019. He stated that the Commission expected that these funds would become fully capitalized beginning in FY 2020.

Commissioner Macdonald suggested adding another bullet point to state that a goal of Economic Development Fund would be to balance the economic benefit of expanded gaming to the whole Commonwealth.

Chairman Crosby suggested that when the white paper does come to fruition, the Commission may want to take a formal position in favor of the money being used via the Gaming Economic Development Fund going out to other communities and regions of the state where economic development initiatives are also valued, instead of all funds just being used in the immediate regions around the casinos. He added that the Commission would need to work with the legislature to achieve this goal.

Legal Division – Catherine Blue, General Counsel (con’t)

See transcript pages 243 - 286

2:48 p.m.

Associate Counsel Carrie Torrisi addressed junkets in order to begin the promulgation process for some proposed regulations. She had with her Assistant Director /Gaming Agents Division Chief Bruce Band and Regulatory Compliance Manager Sterl Carpenter.

Mr. Band explained the nature of junkets, and how the U.S. junket system in casinos differs greatly from the system in operation at casinos in Macau, China. Attorney Torrisi then referred the Commissioners to her submitted memo that discussed how several other states handle junkets, and how they are regulated in those states.

Counsel Torrisi asked the Commission for guidance in order to begin drafting regulations on the topic. Specifically, she asked if the Commission will require licensure for both the junket representatives and the junket enterprise, and if so, if there would be any particular requirements for exemption from the licensing rules from anyone. Mr. Band recommended that the Commission require licensure of junket operators.

Commissioner Zuniga asked Mr. Band to explain the difference in licensure, between the representative and the enterprise. Mr. Band stated that perhaps the Commission could treat the enterprise like a gaming vendor, and the representative like a qualifier for investigative and licensure purposes. However, Mr. Band emphasized that there are different scenarios to be considered with regard to junket licensure, for example, when junket operators are independent of any one enterprise.

Commissioner Macdonald stated that he was in favor of more rather than less licensure for junkets and junket operators in order to avoid substantial risks to the Commission imposed by the structure of the junket system.

There was a discussion about how much information needed to be recorded regarding junket clients in case there was ever the need to issue a refund, etc. Commissioner Zuniga was in favor of regulations being drafted that would mirror some of the processes that are already in place for gaming vendors, just focusing on the individuals immediately involved and not getting too broad, as a starting point. Commissioner Cameron added that this would help the Commission assess risk.

Counsel Torrisi stated that she would draft some regulations and bring them to the Commission in the new year.

General Counsel Catherine Blue addressed amendments to 205 CMR 146.00 – Gaming Equipment. The amendments were specific to the outline of standards applicable to the various types of equipment used in the table games offered for play in a gaming establishment. Counsel Blue asked that the Commission be authorized to move the regulation through the final promulgation process so it could be filed with the Secretary of Commonwealth and promulgated.

[3:18 p.m.](#) *Commissioner Cameron moved that the Commission approve the amended Small Business Impact Statement and final version of 205 CMR 146, as included in the packet, and authorize the staff to take all necessary steps to file the regulation with the Secretary of the Commonwealth and complete the regulation promulgation process. Commissioner Stebbins seconded the motion. Motion passed 5 – 0.*

Counsel Blue addressed an amendment to 205 CMR 138.20 – Firearms Update. This amendment was a technical correction that would allow the IEB to put in an appropriate phone number for each property, on the sign that is required by the regulation to be placed in each casino with their phone number. Counsel Blue asked that the Commissioners vote to allow the Legal Division to start the promulgation process and to move it forward.

[3:19 p.m.](#) *Commissioner Stebbins moved that the Commission approve the Small Business Impact Statement amendments to 205 CMR 130.20 as included in the packet, and authorize the staff to take the steps necessary to begin the regulation promulgation process. Commissioner Macdonald seconded the motion. Motion passed 5 – 0.*

Counsel Blue addressed an amendment to 205 CMR 133.04 - Voluntary Self-Exclusion. The amendment was the deletion of the six-month term, to make the shortest period of time that one could sign up for VSE to be one year. Counsel Blue asked the Commission to allow the Legal Division to start the promulgation process.

[3:21 p.m.](#) *Commissioner Macdonald moved that that the Commission approve the Small Business Impact Statement and amendments 204 CMR 133.04 as included in the packet, and authorize the staff to take the steps necessary to begin the regulation promulgation process. Commissioner Cameron seconded the motion. Motion passed 5 – 0.*

Counsel Blue addressed an amendment to 205 CMR 138.07 – Internal Controls, which would add language to regulate the process for amending a floor plan when new equipment is brought into a casino. Counsel Blue indicated that this new section in the regulation is important to the opening of MGM, so she asked that the Commission approve it to begin the promulgation process.

[3:22 p.m.](#) *Commissioner Cameron moved that the Commission approve the Small Business Impact Statement and amendments to 205 CMR 138.07, and 205 CMR 151 is included in the package, and authorize staff to take the steps necessary to begin the regulation promulgation process. Commissioner Macdonald seconded the motion. Motion passed 5 – 0.*

Counsel Blue addressed 205 CMR 141.06 – Surveillance. These were amendments to include language that requires the licensee to submit any updated surveillance plan to the Commission before the change is implemented. There were also two that cross-referenced parts of the regulation that outlined information about slot machines and table games.

3:24 p.m. *Commissioner Macdonald moved that the Commission approve the Small Business Impact Statement and amendments to 205 CMR 141.06 as included in the packet, and authorize the staff to take the steps necessary to begin the regulation promulgation process. Commissioner Stebbins seconded the motion. Motion passed 5 – 0.*

Commissioners' Updates

See transcript pages 286 – 291

3:25 p.m. Commissioner Stebbins announced that the Commission is now conducting periodic calls with folks from the vendor advisory team and MGM's procurement team, in terms of getting the word out about workforce opportunities with MGM. Director of Workforce, Supplier Development, and Diversity Initiative Jill Griffin had also been working with the Hampden County Regional Employment Board, to conduct monthly workforce calls, to make sure the Commission was aware of what MGM was doing to drive their recruitment efforts. A number of local stakeholders and state agencies had also been helping out as well.

Chairman Crosby announced that he had been working with individuals from the International Center for Gaming Regulation, and they had agreed to set up three work groups. The first group would be to standardize the collection of, and collect the status of licensure on individuals and companies in other jurisdictions. Chairman Crosby stated that this group intends to nominate people to serve on these workforces. The second group's purpose would be to collect all budgets from other jurisdictions and develop a "baseline budget" that could set a "best practice" standard for operation items like staffing, problem gambling research, and compliance audits. The third group would function to standardize sports betting, should it be legalized in our jurisdiction. The purpose of these three groups would be to work together to streamline and standardize the regulatory environment and promote stronger relationships across jurisdictions amongst people on an operating level.

3:30 p.m. *Having no further business, a motion to adjourn was made by Commissioner Zuniga. The motion was seconded by Commissioner Cameron. Motion passed unanimously.*

List of Documents and Other Items Used

1. Notice of Meeting and Agenda dated December 21, 2017
2. Massachusetts Gaming Commission Meeting Minutes dated December 7, 2017
3. Sixth Annual Report of the Massachusetts Gaming Commission

4. Updated Massachusetts Gaming Commission Enhanced Code of Ethics
5. Reinvesting the Gaming Economic Development Fund – Strategy Formulation and White Paper dated December 21, 2017
6. MGM Quarterly Report for 3rd Quarter of 2017 dated December 21, 2017
7. Public Comments
8. Memo to Commissioners: 2017 City of Springfield Community Mitigation Fund Application dated December 19, 2017
9. Use of Community Mitigation 2015/2016 Reserve Fund Reserve Application for City of Revere dated October 16, 2017
10. Letter of Intent to File a Joint Application from the City of Saugus dated December 12, 2017
11. Memo to Commissioners: City of Melrose – Use of Reserve Fund Application dated December 19, 2017
12. Use of Community Mitigation Fund Reserve Fund Reserve Application for the City of Melrose dated December 9, 2017
13. Appendix to Use of Community Mitigation Fund Reserve Fund Reserve Application for the City of Melrose dated December 9, 2017
14. Impacts to MBTA Operations and Transit – Wynn Resort in Everett
15. Mitigation Measures and Section 61 Findings – Wynn Resort in Everett
16. Main Street Corridor Study for the Town of Reading, Wakefield, and the City of Melrose
17. 2018 Community Mitigation Fund
18. Memo to Commissioners from IEB Deputy General Counsel Loretta Lillios dated November 30, 2017
19. M.G.L. c. 23K § 45
20. 205 CMR 152.00
21. Massachusetts Gaming Commission Request for Non-Disclosure Agreement from MGM dated November 7, 2017
22. Memo Re: Junkets from Staff Attorney Carrie Torrisi
23. Amended Small Business Impact Statement for 205 CMR 146.00
24. 205 CMR 146 Draft
25. Public Comments RE: 205 CMR 146 Amendment
26. Gaming Labs Certified Dealer Controlled Electronic Table Games Standard dated September 6, 2011
27. Gaming Labs Certified Dealer Card Shufflers and Dealer Shoes Standard dated July 20, 2012
28. Small Business Impact Statement and 205 CMR 138.20 Draft
29. Small Business Impact Statement and 205 CMR 133.04 Draft
30. Small Business Impact Statement and 205 CMR 138.07, 138.66, and 151.05 Draft
31. Small Business Impact Statement and 205 CMR 141.06 Draft

/s/ Catherine Blue
Assistant Secretary