

## State regulators face decisions on horse racing, casino requests

Written by Administrator

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BOSTON - Most of the attention paid to its work recently has focused on implementation of legal sports betting, but the Massachusetts Gaming Commission has plenty of other weighty matters pending before it, from the potential expansion of Encore Boston Harbor's gaming footprint to two applications for horse racing licenses that come with a mid-November deadline, including a bid for a track in Hardwick, and a request to end the commission's heightened scrutiny on Wynn Resorts' corporate culture.

Under pressure to get legal sports betting up and running after the Legislature slow-walked the issue for years, the commission is facing a "mammoth scheduling challenge," chairwoman Cathy Judd-Stein said Wednesday during an agenda-setting session, as it tries to plot the most efficient course toward legal wagering while not losing sight of the casino gaming or racing issues that were already on commissioners' minds before sports betting was thrown in their laps.

"There's a lot of work that will need to be done. Some is dictated by firm deadlines, not deadlines that ... any of us have any say over," the chairwoman said. Judd-Stein implored commissioners to be flexible about their availability for meetings and when it comes to the amount of time they will have to review material before public meetings so that commissioners are not an impediment to the work of the commission staff and can expedite it when possible.

"There will be times, as the chair, that I may convene a meeting where we have a quorum. There may be times, if it's essential for [Executive Director] Karen Wells and the team to get their work done. And I'm putting everyone on notice on that. I really hope I can be the chair of those meetings, but I might have to ask a different commissioner to chair those meetings if I cannot be there," Judd-Stein said. "That's how it's gonna work, if it's going to advance the work of this team."

At press time, a commission meeting scheduled for Thursday morning is expected to shed significant light on the status of the commission's sports betting implementation work and its timeline for launching legal betting. In addition to having a discussion of potential launch dates, the commission could also decide Thursday to make the application it will use for betting licenses available publicly in the coming days, commissioners said Wednesday.

### Changes for Encore Boston Harbor

Commissioners are expecting that a topic they dug deep into earlier this year will resurface before them again in 2022. Joe Delaney, the commission's chief of community affairs, said Wednesday that Encore Boston Harbor and parent company Wynn Resorts have revised their proposal for a development across Broadway from the Everett casino. Delaney said part of the new proposal is "to make the east of Broadway development part of the gaming establishment."

The Gaming Commission ruled in March that the first phase of Wynn's development along Broadway in Everett - 20,000 square feet of restaurant space, a 999-seat live entertainment venue, a 2,200-space parking garage and a 400-foot pedestrian bridge to connect the new development to the \$2.6 billion casino that opened in 2019 - would not be part of the official gaming establishment and therefore would not fall under its jurisdiction or oversight. That was the outcome that the casino company had advocated for.

But now Wynn wants at least some of its planned development to be part of the gaming establishment, possibly as it eyes an expansion of its casino gambling offerings. Encore Boston Harbor did not respond to News Service requests for more information, but Delaney suggested that an expansion is part of the plan when he said the state's gaming law is silent on the matter.

"This is a little bit uncharted territory here. You know, [Chapter] 23K didn't really address any kind of expansions or any of these types of things or expanding to a different property or anything of that nature," he said. "So we're, as I said, in a little bit of uncharted territory, and we're trying to figure it out a little bit as we go."

One issue that is under review is whether the language of the 2013 referendum that cleared the way for the casino to be located in Everett was specific to a single parcel and whether what Encore is now planning would even be allowed under the terms of that vote.

Encore will also be under the commission's microscope starting this week when it hears an update on the status of Wynn Resorts' agreement with Realty Income, a real estate investment trust, to sell the Everett casino's real estate for \$1.7 billion in cash and to then immediately enter into "a triple-net lease agreement" for Wynn to lease the property back. A similar transaction involving MGM Springfield was vetted by the commission last year and approved earlier this

year.

Heather Hall, the Gaming Commission's chief enforcement counsel, said Wynn is hoping to close the transaction by the end of the year and asked that the commission schedule its adjudicatory hearing on it in mid-November to keep the deal on track.

### Return of thoroughbred racing?

Thursday's commission meeting will also start the commission's annual horse racing application review period. The standardbred horse track at Plainridge Park Casino has been the only venue to host any type of live horse racing in Massachusetts since Suffolk Downs ran its last race in June 2019, but this year the commission also got a second application for racing days.

The commission on Wednesday did not identify the group that filed the second application, but a representative of the Commonwealth Equine and Agricultural Center said last month that he represents a group that intended to file an application to bring [thoroughbred horse racing back to Massachusetts with races at Great Meadowbrook Farm in Hardwick](#) starting next September.

"Assuming that the commission grants the thoroughbred horse racing license, we have planned to apply for a sports wagering license as well," the representative, Patrick Hanley, said last month. Licensed horse tracks are among a small group of entities eligible to seek in-person sports betting licenses in Massachusetts, an incentive that may help make the development of a thoroughbred track here more appealing and could end the years of false starts toward a new track.

The group behind the Hardwick proposal plans to spend about \$20 million on the project's design and construction phases but still needs to secure town approvals. On Tuesday, Hardwick selectmen agreed to put off a decision for at least two weeks after a public hearing.

The commission is under a firm statutory deadline of Nov. 15 to review and act on the racing applications. The process includes a public hearing in the each community where racing would take place and then a formal commission adjudicatory proceeding to consider, and potentially, approve the applications.

### Early end to Wynn monitorship?

As the commission wrapped up a nearly two-hour agenda-setting session Wednesday, commissioner Eileen O'Brien raised another matter that is likely to command some attention before the end of the year -- Wynn Resorts' petition to end the monitorship it has been under since 2019.

When the commission punished Wynn Resorts in April 2019 for its "significant" and "repetitive" failures related to sexual misconduct allegations against founder and former CEO Steve Wynn, the \$35 million fine also came with a requirement that the company pay for an independent law firm to monitor its activities for up to five years and conduct a full review of "all policies and organizational changes adopted by the Company."

"That order said that they would be under the monitorship for five years but they had the ability to come in at three [years] and petition for relief. They have done so, they have filed a petition for relief to terminate the monitorship early," O'Brien said.

Since three of the five commissioners have joined the body since the Wynn investigation and enforcement actions, O'Brien said she thinks it would be helpful for the commission to be briefed on the monitor's work and findings before an adjudicatory hearing on the request to be let out of the extra oversight early.

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