

**MARYLAND STATE LOTTERY COMMISSION
FEBRUARY MINUTES**

DATE: February 19, 2010

TIME: 10:00 a.m.

PLACE: Maryland Lottery Headquarters

PRESENT: Chairman J. Kirby Fowler, Jr.
Vice Chairman Matthew Thomas
Commissioner F. Vernon Boozer
Commissioner Howard A. Denis
Commissioner Diane L. McGraw
Commissioner W. Ray Presley
Commissioner George M. Wagner

Gina Smith, Interim Director
Robert Fontaine, Principal Counsel
John Gallagher, Chief Information Officer, Information Technology
Tracey Cohen, Deputy Director, Creative Services & Product Development
Paul Dorsey, Director, Policy and Development
Robert Howells, Director, Procurement
Michael Eaton, Internal Audit
Holly Knepper, Deputy Counsel
Marie Torosino, Executive Associate

OTHERS: Steve Smith, Scientific Games Online Entertainment Systems
Jeff Hale, Scientific Games Online Entertainment Systems
Joseph Basara, WhiteSand Consulting
E. Alan Mercer, WhiteSand Consulting
Brett Basara, WhiteSand Consulting
Member of the Public

CALL TO ORDER

There being a quorum present, Chairman Fowler called the meeting of the Maryland Lottery Commission to order at 10:07 a.m. Commissioners present were J. Kirby Fowler, Jr., Matthew Thomas, F. Vernon Boozer, Howard A. Denis, Diane L. McGraw, W. Ray Presley, and George M. Wagner. Kimberly D. Robertson and Bruce L. Reeder were absent.

APPROVAL OF MINUTES

Chairman Fowler stated the January 15, 2010 Minutes were previously sent to the Commissioners for review and asked if there were any corrections. There were none. Vice Chairman Thomas motioned that the Minutes be approved and it was seconded by Commissioner Denis. The January 15, 2010 Commission Minutes were approved by unanimous vote of the Commission.

SCIENTIFIC GAMES ONLINE ENTERTAINMENT SYSTEMS (SGI)

Mr. Steve Smith said the implementation of Powerball was a success. For the next few months, SGI will be in maintenance mode working on requests from the Lottery. Mr. Gallagher expressed his thanks to SGI for the round the clock hours put in during the recent snow storms.

INTERIM DIRECTOR'S REPORT **and Administration, Finance & Operations and Sales Reports**

Ms. Gina Smith said total sales are \$444,000 ahead of last year. Over the two storm periods, the Lottery lost approximately \$12 million in sales. Even though lost sales are hard to recoup, hopefully the Mega Millions and Powerball jackpots will continue to roll to make up for the loss.

Total revenues are ahead of last year by \$25.1 million. Fortunately, the Lottery did not lose that much in revenue due to the storms. Weekly sales needed to reach the BRE estimate are \$36.7 million and the Lottery is currently averaging \$31.6 million per week in sales. Weekly revenues needed to reach the BRE estimate is \$11.3 million and the Lottery is currently averaging \$9.8 million per week. Chairman Fowler asked if the Lottery was on target before the snow storms. Ms. Smith responded the Lottery has been tracking behind even before the storms. The BRE meets in March and will review the Lottery's estimate. She is not sure if they will take into consideration the loss of sales due to the storms.

Powerball launched successfully and since the launch, the Lottery has done approximately \$2 million in sales and \$1.5 million in revenue. However, with the jackpot being hit and the two snow storms, it is hard to tell how well the game is performing in Maryland.

Chairman Fowler asked if Powerball has had any impact on Mega Millions. Ms. Smith responded no impact seen as yet. Mega Millions is tracking the exact same way as usual. Next month as sales go up to where they should be, she will be able to provide an analysis.

Ms. Smith said the Lottery's budget hearings in both the House and Senate were held and they went well. The Budget Analyst did not recommend any further cuts. Both the House and Senate asked the Lottery asked for a status of the VLT program and to also speak on how the lack of advertising affecting sales. Advertising funds were already committed for first half of the fiscal year. An impact will be felt in the next six months and an even greater in the next fiscal year due to the decrease in advertising funding. Crestwood Associates was asked to perform a research study on how advertising affects sales and the information was provided to both the House and the Senate.

Commissioner Denis asked for the status of the social media outlets, e.g. Twitter, Facebook, etc. that the Lottery has been using. Ms. Smith responded it is currently being monitored and she will provide a report at next month's meeting.

REPORTS

Legal Unit – **Robert Fontaine, Principal Counsel**

Mr. Fontaine said there are proposed VLT regulations to be presented to the Commission today, which Mr. Dorsey will introduce.

Regarding the license revocation of Freddie's Variety Store, the licensee is aware of potential criminal proceedings against her. Mr. Fontaine does not know how this will impact the hearing on the license revocation. The Lottery may still proceed with the revocation hearing, possibly at the April Commission meeting.

Mr. Fontaine discussed the status of the appeals that have been filed by Laurel Racing Association challenging the decision of the Location Commission to reject its application for the Anne Arundel County site and approve the operator license application for the Arundel Mills location, as well as the status of the Magna bankruptcy proceedings. The State has requested the Maryland State Board of Contract Appeals (MSBCA) to postpone any proceedings until the results of the Laurel Park auction and Magna bankruptcy proceedings are final. The auction is presently scheduled for February 23, 2010 and the bankruptcy proceedings for a date in March; however, it is likely that both proceedings may be postponed again.

Mr. Fontaine discussed with the Commission the petition drive under way in Anne Arundel County to have a referendum placed on the ballot in the next general election to overturn the Anne Arundel County zoning bill that permits a VLT facility at Arundel Mills. There was further discussion on what would happen if a referendum does or does not pass as well as the zoning issues.

Mr. Fontaine discussed the appeal filed with the MSBCA by Baltimore City Entertainment Group (BCEG) challenging the Location Commission's rejection of BCEG's proposal for a video lottery operator license. BCEG did not timely file its appeal, and the State has filed a motion to dismiss this case on that basis. BCEG has retained new legal counsel and has requested additional time to respond to the State's motion. The MSBCA notified us that the hearing on our motion to dismiss has been postponed from February 23, 2010 and to March 12, 2010. Also, a few days ago, Video Lottery Facility Location Chairman and the Lottery Director received a letter from a law firm requesting the \$3 million licensing fee submitted with BCEG's original proposal not be refunded directly to BCEG. The letter states that BCEG owes a group of vendors approximately three-quarters of a million dollars for unpaid services. Mr. Fontaine stated that he will keep the Commission updated on this issue.

Creative Product Services/Communications – **Tracey Cohen, Deputy Director, Creative Services & Product Development**

Ms. Cohen informed the Commission that she is leaving the Maryland Lottery to work for the DC Lottery and her last day is today. She has been with Maryland Lottery for 10 years and is proud of what has been accomplished. She thanked the Commission for opportunity to work with them. Chairman Fowler said it has been a pleasure working with her and she has done a fantastic job. Vice Chairman Thomas said during his time on the Commission, she has helped him understand the lottery process. He appreciates the friendship and all she has brought to the Lottery. The Commission members wished Ms. Cohen good luck at her new job.

Ms. Cohen said the Ravens Cash Fantasy scratch-off ticket sold out by the Super Bowl Sunday. All the prizes have been awarded and the game is closed.

The Medal Madness on-line promotion was a success. Advertising of the promotion was shown on WBAL-TV, the station that aired the Olympics. A final report will be presented in the future.

Chairman Fowler said he was pleased to see the amount public relations coverage of Powerball. Ms. Cohen said the media was very supportive with coverage of Powerball. The Lottery sent an e-mail to the VIP Club members and 400 people responded to attend the Powerball event held at Martin's West. In a two hour time period, the Lottery gave away \$15,000 in prizes and sold \$10,000 worth of lottery products.

There were four new instant tickets to present to the Commission for approval: Game #782 *Player's Club*, Game #799 *Gold Rush*, Game #819 *Red Hot & Blue 7s*, and Game #823 *Fire & Dice*. (See attached Exhibit #1.)

Commissioner Wagner asked if there is a potential for copyright infringement of the Red Hot and Blue name on a scratch-off ticket since there is a restaurant with the same name. Ms. Cohen responded that on the Lottery's behalf Pollard Banknote researches all scratch-off game names and works with the Lottery's Legal Unit for clearance of the names.

There being no further discussion, Chairman Fowler requested a motion to approve the above instant games. Motion was made by Commissioner Wagner and seconded by Commissioner McGraw. The instant games were approved by unanimous vote of the Commission.

Ms. Cohen said the Commission was provided with the final analysis of four instant games that were closed. (See attached Exhibit #2.) For the record, the four closed games were Game #647 *Fantastic 5's*, Game #741 *Money Bags*, Game #740 *Dubble Bubble Doubler*, and Game #744 *Hershey's Kisses & Cash*.

Information Technology – **John Gallagher, Chief Information Officer**

Mr. Gallagher said software testing went well for the Powerball game and the changes to the Multi-Match drawing days from Wednesdays and Saturdays to Mondays and Thursdays.

Procurement – **Robert Howells, Director**

Mr. Howells said he received a request from WhiteSand Consulting for a reduction of their Performance Bond from \$250,000 to \$125,000. There is a provision in the contract that after the first year of the contract, the bond can be reduced at the discretion of the Commission since this contract is in their name. There is a provision in the contract that if for any reason the Lottery encounters difficulties that the bond can be increased back to the full amount. WhiteSand has done a good job thus far and it is approaching one year into its two year contract. Mr. Howell is presenting this request to the Commission for their approval. After discussion by the Commission, Commissioner Wagner made a motion to accept WhiteSand's request for a reduction in the Performance Bond from \$250,000 to \$125,000 and it was seconded by Vice Chairman Thomas. Motion passed by unanimous vote of Commission.

Internal Audit – **Michael Eaton, Internal Auditor**

Mr. Eaton said he is currently working on the Prize Claims Process Internal Audit and the Fixed Assets Internal Audit. Chairman Fowler asked how involved will Mr. Eaton be with the internal audit functions of the VLTs. Ms. Smith responded he will be heavily involved once the facilities are in operation. There are two positions in the budget for additional internal audit staff and Lottery allocated additional space. Mr. Eaton will be ensuring that the facility complies with the regulations and their own internal control policies.

Policy and Development – **Paul Dorsey, Director**

Prior to this meeting, the Commission was provided with a draft of proposed regulation COMAR 14.01.14 – Video Lottery Facility Minimum Internal Control Standards. These regulations set out in an integrated and comprehensive manner the minimum internal control standards for VLT operators. They establish the framework for VLT operations, provide

structure upon which the operators will develop their individual policies and procedures, and constitute the basis for State enforcement. After the draft regulations went out to Commission members, staff made some changes to the draft. Mr. Dorsey provided a copy of pages containing the proposed revisions.

Mr. Dorsey then conferenced in by telephone Ms. Maureen Williamson, who is the attorney that has been working with the Lottery under the WhiteSand Consultant contract to assist staff in developing the more technical VLT regulations. She gave a brief background of her experience working with VLT regulations in other jurisdictions, and provided the Commission an opportunity to ask questions about the content of these proposed regulations.

After discussion by the Commission, Chairman Fowler entertained a motion to approve COMAR 14.01.14 – Video Lottery Facility Minimum Internal Control Standards, with revisions as noted, as an emergency regulation. Commissioner Presley made the motion, and it was seconded by Commissioner Denis. The motion passed by unanimous vote of the Commission.

Mr. Dorsey said there is currently a bill in the House of Delegates that is being sponsored by 23 legislators to develop and run a monthly scratch-off game to benefit the Veterans. He will keep the Commission advised of the status of the bill.

Mr. Dorsey said that at last month's Commission meeting, he mentioned that the AELR Committee raised a question regarding the VLT regulation pertaining to the placement of ATMs at VLT facilities that the Commission approved in October 2009. Mr. Dorsey stated that the Committee had questions about this regulation, and that he would be having further discussions with AELR. He spoke with the AELR Co-Chairs and they disagree with the current language in the regulation pertaining to limits on ATM transactions. Currently, the regulation sets the ATM withdrawal limit as that which is established between the bank and the customer.

The Commission discussed whether a person could do multiple transactions. Mr. Dorsey responded yes, but only up to the amount of money the bank allows to be withdrawn, and that it also depends on the amount of money the person has in the bank. It was suggested that the regulation be changed to include a \$300 per transaction limit, as only the bank may be authorized to limit access to an account. There was further discussion on this subject.

Chairman Fowler asked the Commission if they are comfortable delegating Lottery staff to resolve the issue with this regulation; the Commission agreed that it was. Chairman Fowler said he would entertain a motion to authorize staff to advise AELR that the Commission would entertain a revision to the regulation that sets a withdrawal limit of \$300 per transaction. Commissioner Denis made the motion, and it was seconded by Commissioner Wagner. The motion passed by unanimous vote of the Commission.

COMMISSION BUSINESS

Lottery

Chairman Fowler said he has been involved in the interview process for the new Lottery Director. He will keep the Commission updated. He appreciated the Governor reaching out to the Commission to be involved in the process.

PUBLIC COMMENTS

There were no comments.

CLOSED SESSION

The Request for Proposals (RFP) for the Video Lottery Terminals and Related Services (#2009-12) is an active procurement. Motion was made by Commissioner Denis to move to a closed session to discuss matters directly related to pre-award negotiating strategy for this RFP pursuant to State Government Article §10-508(a)(14), and the motion was seconded by Commissioner Wagner. The motion carried by unanimous vote of the Commission. See attached Statement for Closed Meeting, pursuant to State Government Article §10-508(a). The open session was moved to a closed session at 11:22 a.m.

In addition to the seven Commission members (with the exception of Commissioners Reeder and Robertson), the following were present during the closed session: Gina Smith, Robert Fontaine, Holly Knepper, Paul Dorsey, Robert Howells, John Gallagher, Michael Eaton, and members from WhiteSand Consulting—Joseph Basara, E. Alan Mercer and Brett Basara. The meeting returned to open session at 11:50 a.m.

Chairman Fowler announced that during the closed session, the Commission received a status report of the bidders who responded to the Video Lottery Terminals RFP (#2009-12).

Ms. Smith said a reporter from the Baltimore Sun has been contacting the Lottery for information regarding this Video Lottery Terminals RFP. If this reporter should contact the Commissioners, please refrain from speaking with her and forward the call to Ms. Everett for handling. This RFP is an open procurement and it cannot be discuss publicly. After today's meeting Ms. Smith, Mr. Dorsey and Ms. Everett will be calling the reporter.

DATE AND TIME OF NEXT MEETING

The next Commission meeting will be held on Friday, March 19, 2010 at 10:00 a.m.

ADJOURNMENT

There being no further business for discussion, Chairman Fowler requested a motion to adjourn. Commissioner Wagner motioned that the meeting be adjourned and it was seconded by Commissioner Denis. Motion carried by unanimous vote of Commission. The meeting adjourned at 11:53 am.

Respectfully submitted,

Gina Smith