

**MARYLAND STATE LOTTERY COMMISSION  
AUGUST MINUTES**

DATE: August 26, 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 Kimberly D. Robertson  
Commissioner George M. Wagner

Stephen Martino, Director  
Gina Smith, Assistant Director/CFO  
Robert Fontaine, Principal Counsel  
John Gallagher, Chief Information Officer, Information Technology  
Jill Baer, Director, Creative Services  
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, Games Online Entertainment Systems  
Patrick Moore, Gaming Laboratories, Inc.  
Members of the Public

## **CALL TO ORDER**

There being a quorum present, Chairman Fowler called the meeting of the Maryland Lottery Commission to order at 10:13 a.m. Commissioners present were J. Kirby Fowler, Jr., Matthew Thomas, F. Vernon Boozer, Kimberly D. Robertson, and George M. Wagner. Diane L. McGraw, W. Ray Presley and Bruce L. Reeder were absent.

## **APPROVAL OF MINUTES**

Chairman Fowler stated the July 22, 2010, minutes were provided 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 Robertson. The July 22, 2010, Commission minutes were approved by unanimous vote of the Commission.

## **SCIENTIFIC GAMES ONLINE ENTERTAINMENT SYSTEMS (SGI)**

Mr. Steve Smith said things are running smoothly and there have been no issues system-wide. SGI is working on the implementation of the items as part of the contract extension.

## **DIRECTOR'S REPORT**

Mr. Stephen Martino reviewed the Lottery sales and revenue report through August 22. Sales are down 2.24% over last year, and revenues are down 1.13% over last year. Sales of all games are down across the board with the exception of Pick 4.

Sales of the Ravens Cash Fantasy instant game began on August 9. The Lottery had the opportunity to launch the ticket at Ravens training camp. As of August 26, 18% of the tickets have been activated.

The RFP for the Televised Drawings of the Lottery's On-line Games was issued on August 13. A Pre-Proposal Conference will be held on August 27. Commissioner Wagner will be part of the RFP Evaluation Committee.

The Maryland State Fair opens tomorrow, for the 11 best days of summer. The Lottery will do a live drawing tomorrow night at the fairgrounds.

On August 11 the Board of Public Works approved the purchase of 750 VLTs for Ocean Downs. Their scheduled opening is the end of December 2010, subject to regulatory approval.

Captain John Mooney, who is on loan to the Lottery by the Maryland State Police, is the supervisor for the VLT Compliance Division and five casino enforcement officers have been hired and will be based at Perryville. They will be visiting the facility tomorrow. Captain Mooney will remain with the Lottery while another search for a supervisor is conducted. Mr.

Eaton has hired two internal auditors. There are still a few positions to be filled in the IT and Accounting Divisions. Next month's Commission meeting on September 16 will have an extensive agenda of items for review and approval.

On September 25 an invitation only controlled demonstration will be held at Hollywood Casino in Perryville from 11 a.m. to 8 p.m. This controlled demonstration will include live game testing of the system and controls, and the accounting system. He reminded the Commission that no more than five members can gather in the same place at same time because that would trigger a public meeting. Their attendance will be staggered so that five members are not present at the same time. The session breakdowns are 11 a.m. to 2 p.m., 2 to 5 p.m. and 5 to 8 p.m. Mr. Martino asked that the Commissioners e-mail him with times when they would like to attend. Penn National will submit a plan for the controlled demonstration. The slot machines have been delivered and installed. Commissioner Wagner asked if the Commissioners will be allowed to play the machines on September 25. Mr. Martino responded both the Commissioners and their spouses cannot play the machines.

## **REPORTS**

### *Administration, Finance & Operations and Sales – Gina Smith, Assistant Director/AFO*

Ms. Smith said FY2010 year-end closing has been completed and work has begun on the budget for FY2012 that is due to the Department of Budget and Management on September 1. The May 2010 audited financial statement was provided to the Commission. The Commission will not be receiving any further financials statements until after October when the conversion to GAAP is completed. Recruitment is underway to fill the recent vacancy left by the resignation of the Controller and well as two new VLT accounting positions.

Ms. Smith said Lottery in Motion (LIM) will be deployed, and the Sales team will play an active role in the project. During the first week of September, Jeff Senacori, an expert on retailer makeovers, will be working with Sales reps and retailers to discuss point-of-sale at agent locations for the next fiscal year. Some Sales reps will be going to Pennsylvania to see how their LIM displays are set up. We will be setting up a pilot program to test the system at 150 agent locations and developing criteria.

Ms. Smith said she is continuing to work with the Penn National's Director of Finance and Comptroller for the Perryville facility as they further establish their operations.

Chairman Fowler asked if additional advertising funds were requested in the FY2012 budget. Ms. Smith responded she is working on the justification for the additional funding.

### *Creative Product Services/Communications – Jill Baer, Director*

Ms Baer said Ravens Cash Fantasy game is 18% activated. Over 14,000 players have signed up on website to establish an account to register their yards. Over seven players have

registered over 5,000 yards. David Brady from Edgewater claimed the first of three \$1 million top prizes.

A Keno Sprinkler promotion is running from August 23 to September 6. A Racetrax 6 for \$5 promotion is running from August 23 to September 19. This past Monday the \$20 Big Money Mega Play instant ticket launched. She will present additional product enhancements at future meetings.

Ms. Baer extended her appreciation to Ms. Everett and the Communications Division for the nice job they did at MACO. The Lottery will have a booth at the State Fair and will be selling both on-line and instant tickets.

Ms. Baer said there are five new instant tickets to present to the Commission for approval: Game #849 *Classic Black*, Game #854 *Crown Jewel 7's*, Game #845 *Aces & Deuces*, Game #835 *Easy Money*, and Game #842 *Blackout Bingo*. (See attached Exhibit #1.)

After discussion, Chairman Fowler requested a motion to approve the above new instant games. Motion made by Commissioner Wagner and seconded by Commissioner Robertson. The new instant games were approved by unanimous vote of the Commission.

The Commission was provided with the final analysis of four instant games that were closed. (See attached Exhibit #2.) The closed games were Game #714 *Poker Royale*, Game #724 *Blackout Bingo*, Game #747 *Lucky Lines*, and Game #760 *Sunny Money*.

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

Mr. Gallagher said set up of the GTECH central system at Hollywood Casino has been completed. The 1,500 VLTs have been installed and are being configured to the central system. He is meeting weekly with the VLT manufacturers at the casino. GTECH Central System training for Lottery staff is scheduled in September.

Chairman Fowler asked if he is actively recruiting for IT positions. Mr. Gallagher responded he has received and reviewed the applications and will be conducting interviews for three positions.

#### *Procurement* – **Robert Howells, Director**

Mr. Howells said the Facility Location Commission issued the RFP for a Video Lottery Operation License in Allegany on July 21, a Pre-Proposal Conference was held on August 12, and proposals are due November 9. The Rocky Gap site location is on state property owned by the Department of Natural Resources (DNR), and operated by MEDCO. One of the RFP requirements is that potential applicants are required to meet with DNR and MEDCO during the RFP process before proposals are submitted to work out terms and conditions with DNR and MEDCO. He has a meeting scheduled with an interested party this afternoon and one or

two more scheduled with potential applicants in the next few weeks. One of the RFP requirements states that by September 27 interested applicants are to submit their preliminary operator license application and initial fee for background investigations. The identities of potential applicants will not be made public.

*Internal Audit – Michael Eaton, Internal Auditor*

Mr. Eaton said two internal auditors for the VLT program have been hired. They will be going to the Penn National casino in Pennsylvania to view their operation. He continues to monitor the internal controls process at the Lottery. He is in the planning stages of the Promotional Drawings Internal Audit and it is scheduled to begin in June.

*Legal Unit – Robert Fontaine, Principal Counsel*

Mr. Fontaine said he has no additional information to add to his report. He noted that the Commission will be going into closed session later in the meeting.

*Policy and Development – Paul Dorsey, Director*

Mr. Dorsey said Mr. Patrick Moore, the representative from Gaming Laboratories International (GLI) is present today to review one of the reports so the Commission can better understand what is being done to protect the equipment, software and hardware at the facility. The Commission will be requested to approve all hardware and gaming software.

**COMMISSION BUSINESS**

Ms. Knepper said the Commission was provided with drafts of several proposed regulations earlier this week for review and approval at today's meeting, and presented each in turn. She said that Commissioner McGraw also emailed a number of comments on the regulations, which she will identify and present today in Commissioner McGraw's absence.

*Regulations – Lottery*

COMAR 14.01.03.02, Methods of Purchase. This proposed amendment clarifies that a purchaser of a lottery subscription shall be a resident of Maryland, that at least one individual in a group that purchases a Lottery subscription must be a Maryland resident, and that an application for a group subscription shall have a maximum of 15 members. After discussion, Chairman Fowler said he would entertain a motion to approve the proposed amendment to COMAR 14.01.03.02. The motion was made by Vice Chairman Thomas and seconded by Commissioner Robertson, and the motion carried by unanimous vote of the Commission.

Regulations – Lottery and Video Lottery Terminal (VLT)

COMAR 14.01.02.08 - .13, General Regulations. The proposed amendments to Regulation .08, Limitations on Lottery and Video Lottery Terminal Play, restrict from playing VLTs the same individuals who are currently restricted from playing Lottery games, and adds Commission members to that list of individuals who are prohibited from playing either Lottery games or VLTs. Ms. Knepper said Commissioner McGraw suggested adding “partner or domestic partner” where “spouse” appears and to add “parent-in-law” where “parent” appears. After discussion the Commission approved adding “domestic partner” and “parent-in-law” in the sections identified by Commissioner McGraw.

Regulation .09, Unclaimed Lottery Prizes. The proposed amendment cleans up existing language regarding deadlines for claiming lottery prizes, and specifically applies the deadlines to instant tickets games.

Regulation .10, Unclaimed Video Lottery Terminal Jackpots. This new subsection establishes that a VLT player has 182 days within which to redeem VLT jackpot winnings, or else the winnings become the property of the State.

The regulations following new Regulation .10 are renumbered. Regulation .11, Petition for Declaratory Rulings by Agency is now Regulation .12. Regulation .12, Code of Conduct is now number Regulation .13, and includes a new requirement that the Director shall establish a Code of Conduct for the Commission and employees of the Agency.

After discussion, Chairman Fowler said he would entertain a motion to approve the proposed amendments to COMAR 14.01.02.08 through .13, incorporating the changes suggested by Commissioner McGraw that the Commission approved. The motion was made by Commissioner Robertson and seconded by Commissioner Wagner, and the motion carried by unanimous vote of the Commission.

Regulations – VLT

COMAR 14.01.10.13, Video Lottery Employee Licenses. Along with 14.01.10.16, this section has been amended a number of times. This current proposed amendment establishes that: (1) an individual may not be licensed as a video lottery employee if he/she was a Commission member or employed by the Commission within the last 365 days; (2) video lottery employees cannot play VLTs at a facility where they are employed; and (3) video lottery employees cannot play VLTs at a facility that is operated by their employer. Ms. Knepper said Commissioner McGraw suggested on page 2 line 22 to delete “Commission” and add “Lottery,” and that she made the same suggestion for page 3 line 13. The Commission’s discussion indicated a preference for “Agency” over “Lottery.” After discussion, Chairman Fowler said he would entertain a motion to approve the proposed amendment to COMAR 14.01.10.13 with changes on pages 2 and 3 from “Commission” to “Agency.” The motion was made by Commissioner Wagner and seconded by Commissioner Robertson, and the motion carried by unanimous vote of the Commission.

COMAR 14.01.10.16, Principal Employee Licenses. This amendment establishes that: (1) an individual may not be licensed as a principal employee if he/she was a Commission member or employed by the Commission within the last 365 days; (2) principal employees cannot play VLTs at a facility where they are employed; and (3) principal employees cannot play VLTs at a facility that is operated by their employer. Ms. Knepper said Commissioner McGraw's suggestion for Regulation .13 (to replace "Commission" with "Lottery") would apply to page 2 line 18. The Commission again decided to replace "Commission" with "Agency." After discussion, Chairman Fowler said he would entertain a motion to approve the proposed amendment to COMAR 14.01.10.16 with the change on page 2. The motion was made by Vice Chairman Thomas and seconded by Commissioner Robertson, and the motion carried by unanimous vote of the Commission.

COMAR 14.01.10.18, Hearings. This amendment establishes a procedure by which an application (other than an application for a video lottery operation license, which is specifically excluded by §B's reference to Regulation .03A(1) may be denied. The proposed process of denial, reconsideration, and possible Commission hearing mirrors the process for denial of an application for a Lottery agent license. This amendment also reflects the General Assembly's recent clarification of the VLT law that the Commission is required to hold a licensing hearing to grant a license for operation license applicants. Because the Commission has held hearings for all applicants for a manufacturer license, staff suggested that it continue to do so, and to therefore add "manufacturer license" to §A(1) to establish that requirement. After discussion, Chairman Fowler said he would entertain a motion to approve the proposed amendment to COMAR 14.01.10.18 that included staff's suggestion as to applicants for manufacturer licenses. The motion was made by Commissioner Robertson and seconded by Vice Chairman Thomas, and the motion carried by unanimous vote of the Commission.

COMAR 14.01.14.16, Possession of a Weapon in a Facility. This regulation presently prohibits possessing a weapon at a facility with two exceptions: law enforcement and an individual who the Commission has authorized. The way the regulation is currently worded, in order for employees of an armored car company to be legally armed while on a facility's premises, the Commission would need to authorize every single employee of the company to carry a firearm. The proposed amendment would fix the problem by creating a third exception for individuals who are employed by an armored car company or other entity that transports cash for a facility. After discussion, Chairman Fowler said he would entertain a motion to approve the proposed amendment to COMAR 14.01.14.16. The motion was made by Commissioner Wagner and seconded by Commissioner Robertson, and the motion carried by unanimous vote of the Commission.

COMAR 14.01.14.36 Gaming Ticket. The only amendment to this regulation is on page 1 line 17 where the term "at least" is deleted. This change would clarify that VLT tickets will expire after 182 days, the same as lottery tickets. Ms. Knepper said Commissioner McGraw suggested that on page 2 line 1 to change the word "that" to "than." After discussion, Chairman Fowler said he would entertain a motion to approve the proposed amendment to COMAR 14.01.14.36 with the recommended change. The motion was made by Commissioner Wagner and seconded by Commissioner Robertson, and the motion carried by unanimous vote of the Commission.

COMAR 14.01.19, Collection of Taxes, Fees and Civil Penalties. This new chapter would satisfy a requirement in the VLT law that the Commission must promulgate regulations establishing the manner and method of collection of taxes, fees, and civil penalties. Ms. Knepper said Commissioner McGraw suggests on page 1 line 29 replacing “criminal history” with “personal and background.” On page 2 line 35 Commissioner McGraw suggests adding “renewal fee” to the list of fees. After discussion, Chairman Fowler said he would entertain a motion to approve new chapter COMAR 14.01.19 with wording addition on page 2 line 35, but not the substitution suggested on page 1. The motion was made by Vice Chairman Thomas and seconded by Commissioner Wagner, and the motion carried by unanimous vote of the Commission.

Chairman Fowler said he would entertain a motion to permit Lottery staff to submit each of the regulations approved today on both an emergency and regular basis. The motion was made by Vice Chairman Thomas and seconded by Commissioner Robertson, and the motion carried by unanimous vote of the Commission.

Ms. Knepper will convey to Commissioner McGraw how we handled her comments.

#### *VLT Games and Component Testing*

Mr. Patrick Moore, Director of Technical Compliance, Gaming Laboratories International, provided to the Commissioner a copy of a certification document prepared by GLI. He gave an explanation of the testing that GLI will be doing.

Chairman Fowler said he would entertain a motion to delegate authority to Lottery staff to approve the VLT games and component testing based on the GLI’s report. The motion was made by Commissioner Wagner and seconded by Vice Chairman Thomas, and motion carried by unanimous vote of Commission.

#### *Delegation of Licensing Authority*

Chairman Fowler said he would entertain a motion to approve delegation of Commission authority to Lottery staff to grant, issue and renew licenses (except for operation and manufacturer licenses). Motion made by Commissioner Wagner, seconded by Vice Chairman Thomas and motion carried by unanimous vote of Commission.

### **PUBLIC COMMENTS**

Mr. Jamie Dunbar from the law firm of Venable, LLP (Venable) said that he wanted to introduce himself to the Commission. Mr. Dunbar referenced the letter sent to the Commission by the law firm of Covington & Burling LLP on behalf of Covington’s client, PPE Casino Resorts Maryland, LLC (PPE) concerning allegations that PPE raised about Penn

Cecil Maryland, Inc. (Penn Cecil). Mr. Dunbar stated Venable now represents PPE in this matter, and made himself available to answer any questions. There were no questions.

**CLOSED SESSION**

Chairman Fowler said pursuant to State Government Article §10-508(a)(7), he would entertain a motion to move to a closed session to consult with counsel to obtain legal advice on possible pending litigation concerning the VLT program and a patent issue. Motion made by Vice Chairman Thomas, seconded by Commissioner Robertson and 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 12:28 p.m.

In addition to the five Commission members (with the exception of Commissioners Reeder, McGraw and Presley, who were absent from today's meeting), the following were present during the closed session: Stephen Martino, Gina Smith, Robert Fontaine, Holly Knepper, Paul Dorsey, Robert Howells, John Gallagher, Michael Eaton, and Marie Torosino. The meeting returned to open session at 1:13 p.m.

Chairman Fowler announced that during the closed session, the Commission discussed the letter previously referenced by Mr. Dunbar during public comments. The Commission agreed to send a letter to Penn Cecil giving them 10 business days to respond to the legal matters contained in the referenced letter.

**DATE AND TIME OF NEXT MEETING**

The next Commission meeting will be held on Thursday, September 16, 2010, at 10 a.m.

**ADJOURNMENT**

There being no further business for discussion, Chairman Fowler said he would entertain a motion to adjourn. Motion made by Commissioner Wagner and seconded by Vice Chairman Thomas. Motion carried by unanimous vote of the Commission. The meeting adjourned at 1:15 p.m.

Respectfully submitted,

Stephen L. Martino