

**MARYLAND STATE LOTTERY COMMISSION
OCTOBER MINUTES**

DATE: October 22, 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 Diane L. McGraw
Commissioner Bruce L. Reeder
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
John Mooney, Director, Enforcement
Michael Eaton, Director, Internal Audit
Marie Torosino, Executive Associate

OTHERS: Representatives from Penn National Gaming/Penn Cecil Maryland
Members of the Public

CALL TO ORDER

There being a quorum present, Vice Chairman Thomas called the meeting of the Maryland Lottery Commission to order at 10:48 a.m. Commissioners present were F. Vernon Boozer, Diane L. McGraw, Kimberly D. Robertson, and George M. Wagner. J. Kirby Fowler and Bruce L. Reeder had not yet arrived and W. Ray Presley was absent.

APPROVAL OF THE AGENDA

Vice Chairman Thomas said he would entertain a motion to approve the Agenda. Motion was made by Commissioner Robertson, seconded by Commissioner Wagner and the motion carried by unanimous vote of the Commission.

APPROVAL OF MINUTES

Vice Chairman Thomas stated the September 16, 2010, minutes were provided to the Commissioners for review and asked if there were any corrections. There were none. Commissioner Wagner motioned that the minutes be approved, and it was seconded by Commissioner Robertson. The September 16, 2010, Commission minutes were approved by unanimous vote of the Commission.

CONSENT AGENDA

Mr. Martino said the Consent Agenda contains new instant ticket games (Exhibit #1) and the VLT Game and Hardware and Software Certification (Exhibit #2) for the Commission's approval.

For the record, the new instant ticket games on the Consent Agenda were: Game #851 *Cruise for Cash*, Game #852 *Lucky Hearts*, Game #855 *Got Luck?*, Game #856 *Score 4s*, Game #860 *Dream Green*, and Game 862 *Instant Maryland Money*.

Vice Chairman Thomas requested a motion to approve the Consent Agenda items. Motion was made by Commissioner Wagner, seconded by Commissioner Robertson and motion carried by unanimous vote of the Commission.

COMMISSION ITEMS

Regulations

Mr. Fontaine said that three regulations were previously provided to the Commission members for their review.

Regulation 14.01.10.01 General. This regulation was approved by the Commission in October 2009 but for unknown reasons was not published in the Maryland Register. This regulation clarifies that for the purpose of the VLT program, “Commission” may include Lottery Agency staff unless the context indicates otherwise. Because a significant amount of time has passed since the Commission initially approved this amendment, it is recommended that the Commission re-approve it for submission to the *Maryland Register*.

Regulation 14.01.10.03 Process. This amendment provides that an applicant whose gaming license has been suspended or revoked in another jurisdiction may be disqualified on that basis in Maryland.

Regulation 14.01.20. Unannounced Inspections. The VLT law provides the Commission the authority to conduct unannounced inspections of VLT facilities. This new chapter clarifies the manner in which that authority will be exercised to give licensees notice that an unannounced inspection may occur any time during business hours, the purpose of an inspection, and that an inspection may be conducted periodically, as determined by the Commission.

Vice Chairman Thomas said he would entertain a motion to approve amended regulation 14.01.10.01. Motion was made by Commissioner McGraw, seconded by Commissioner Robertson, and motion carried by unanimous vote of the Commission.

Vice Chairman Thomas said he would entertain a motion to permit Lottery staff to submit amended regulation 14.01.10.01 approved today on both an emergency and regular basis. Motion was made by Commissioner Robertson, seconded by Commissioner McGraw, and the motion carried by unanimous vote of the Commission.

Vice Chairman Thomas said he would entertain a motion to approve amended regulation 14.01.10.03. Motion was made by Commissioner McGraw, seconded by Commissioner Robertson, and motion carried by unanimous vote of the Commission.

Vice Chairman Thomas said he would entertain a motion to permit Lottery staff to submit amended regulation 14.01.10.03 approved today on both an emergency and regular basis. Motion was made by Commissioner Robertson, seconded by Commissioner Wagner, and the motion carried by unanimous vote of the Commission.

Vice Chairman Thomas said he would entertain a motion to approve new regulation 14.01.20. Motion was made by Commissioner Robertson, seconded by Commissioner Wagner, and motion carried by unanimous vote of the Commission.

Vice Chairman Thomas said he would entertain a motion to permit Lottery staff to submit new regulation 14.01.20 approved today on both an emergency and regular basis. Motion was made by Commissioner Robertson, seconded by Commissioner McGraw, and the motion carried by unanimous vote of the Commission.

DIRECTOR'S REPORT

Mr. Martino said Lottery sales and revenues continue to run behind last year's numbers at 2.27% and 4%, respectively. Mega Millions sales are running 50% behind last year which is a reflection of larger jackpots at this time last year. The current Mega Millions jackpot is \$101 million and radio advertising has been running to promote the jackpot. Multi-Match sales are down 33%. After the first of year, another Multi-Match meeting will be held to discuss concerns about the game. Pick 3 sales are down less than 1.5%, but revenue is down 14.26%. This is due to numerous Pick 3 triple digit numbers that hit during both mid-day and evening drawings. Mega Millions and Multi-Match revenues are down nearly identical to their sales.

The Unclaimed Prize Fund has a current balance of \$7.9 million. The fund is used to support various product promotions such as Keno and Racetrax. The Ravens Cash Fantasy instant ticket continues to be a good selling product for the Lottery. Currently, 61.7% of the tickets have been activated. Last week the second \$1 million top prize was claimed and there is one \$1 million prize remaining. The winner was from the Eastern Shore area and participated in media. Also the prizes that go along with the second chance drawings continue to be awarded.

Mr. Martino said a copy of the September revenue report for Hollywood Casino at Perryville was provided to the Commission. A press release with this information was recently issued to the media. For the first four days, activity was strong with an average of approximately \$346 per machine per day. Revenue was \$2.075 million with \$1 million going to the Education Trust Fund. Hollywood Casino received \$685,000 and disbursements were made to other funds set up by law—Lottery, Purse Dedication, Small Minority Women Businesses, Local Impact Grants and Racetrack Facility Renewal Account.

Commissioner Reeder entered the meeting at 11:06 a.m. followed shortly thereafter by Chairman Fowler at 11:09 a.m.

Mr. Martino said two new staff members have joined the Lottery. Captain John Mooney of the Maryland State Police has been the temporary Director of the VLT Compliance Division. He has now accepted a position at the Lottery as the Director of Enforcement having responsibility for casino compliance, background investigations and licensing, and lottery investigations.

Ms. Jennifer Kelley is the new Responsible Gambling Program Coordinator. She previously worked at the Department of Health and Mental Hygiene. She will be overseeing the responsible gambling program.

Mr. George Currie, the head of the VLT Licensing and Background Division has left the agency to accept a position at the University of Colorado. The Lottery is working towards filling that vacancy.

Mr. Martino said he recently attended an alliance meeting regarding problem gambling. This effort is being lead by the Department of Health and Mental Hygiene and other participants include responsible gaming representatives from the State as well as representatives from Penn National's headquarters and casino.

Mr. Martino said depending on facility construction, Ocean Downs is working towards opening the casino by the end of the year.

Mr. Martino said reports from SGI and Pollard have not been on the agenda. He asked the Commission if they wished to have them present each month or to submit a monthly written report. After discussion, it was decided that SGI and Pollard would present their reports to the Commission on a quarterly basis beginning in December.

Mr. Martino said the next Commission meeting has been scheduled for Thursday, November 18. Unfortunately, he will be out of town at a conference and asked the Commission if they would consider moving the meeting to Friday, November 19. After discussion, it was decided to keep the meeting on the 18th.

STAFF REPORTS

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

Ms. Smith said she had no further information to add to her report. Commissioner McGraw questioned the MBE participation percentages for the VLT program. Mr. Howells responded that not enough data has been collected as yet, and it will take a few months to obtain the MBE reports.

Creative Services – Jill Baer, Director

Ms Baer said two of the four holiday scratch-off tickets have launched and are showing good activity. The Lottery is pleased with the performance of the Ravens Cash Fantasy scratch-off ticket. Her report contains information on the upcoming Instant Powerball/Mega Millions scratch-off tickets that will launch on November 1. These types of crossover tickets have been successful in the past. The tickets offer instant prizes of free Mega Millions/Powerball on-line plays. This is a way to introduce jackpot games to the scratch-off players. A Bonus Match 5 Doubler (Taxes Paid) promotion will run from October 25 to November 21. The Communications Division continues to participate in numerous events across the State.

Information Technology – John Gallagher, Chief Information Officer

Mr. Gallagher said he had no additional information to add to his report.

Chairman Fowler asked if there have been any issues with regards to the Ocean Downs facility. Mr. Gallagher responded cables are in place and should be completed by next

week. Infrastructure for GTECH will begin in November. Vice Chairman Thomas thanked Commissioner McGraw for the photos of Ocean Downs that she has been providing to the Commission. He asked how far along is the construction of the building. Mr. Dorsey responded work is now being done inside the facility. Ocean Downs feels they will still be ready to open in December.

Procurement – Robert Howells, Director

Mr. Howells said he has two items to present to the Commission for their review and approval.

Licensing Contract for Royal Caribbean International® (#2010-10) with Alchemy 3, LLC. This contract is similar to the licensing contracts that were done in the past for Ravens Cash Fantasy and Reese's scratch-off tickets. It is a sole source contract with a Not to Exceed (NTE) amount of \$413,269. It is scheduled to be submitted to the Board of Public Works at the November 3 meeting subject to the Commission's approval. The contract covers the licensing fee and cruise packages that will be awarded as prizes on the ticket. He is requesting the Commission's approval of the licensing contract.

Vice Chairman Thomas commented in past years there was discussion with regards to developing relationships with cruise companies, hotels or other entities. Is the Lottery moving towards that type of arrangement to utilize those types of packages as prize awards. Ms. Baer responded in recent focus groups, responses were positive for those types of prizes. The Lottery tries to be mindful of its budget because these types of prizes would increase printing costs and advertising. This is the first one done in four years. Ms. Baer said as we move forward she will keep it in mind.

Chairman Fowler said he would entertain a motion to approve the Licensing Contract for Royal Caribbean International® (#2010-10) with Alchemy 3, LLC. Motion was made by Vice Chairman Thomas, seconded by Commissioner Reeder and motion passed by unanimous vote of the Commission.

Central Monitor and Control System for a Video Lottery Terminal program Contract (#2009-11) with GTECH Corporation.

When this contract was awarded in January 2010, it was for a term of five years. However, at that time the Lottery did not know when the first VLT facility would go live; therefore, an exact ending date for the full five year operational period could not be established. This Contract Modification adds the ending date of September 26, 2015 in order to provide GTECH the full five year operational period for the contract. He is requesting the Commission's approval of the Contract Modification.

Chairman Fowler said he would entertain a motion to approve the Contract Modification to the Central Monitor & Control System for a VLT Program Contract (#2009-11) with GTECH Corporation which will extend the end date of the Contract to September 26, 2015 in order to provide a full five year operational period for the Contract. Motion was made

by Commissioner Wagner, seconded by Commissioner Robertson and the motion passed by unanimous vote of the Commission.

Mr. Howells said regarding the RFP for the Video Lottery Operation License in Allegany County at the Rocky Gap site, a new date of October 25 was established by the Location Commission for potential operators to submit their applications and deposits. The previous date was September 27. Potential bidder's names will not be released to the public. The proposals are due on November 9, 2010.

Chairman Thomas requested an update on the Baltimore City site. Mr. Howells said a hearing was held with the Maryland State Board of Contract Appeals (MSBCA) and we are waiting for their decision.

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

Mr. Fontaine said he had no additional information to add to his report. He discussed with the Commission the MSBCA hearing pertaining to the Baltimore City Entertainment Group. After the MSBCA issues its decision, there is a 30-day time within which the losing party may appeal to circuit court. Chairman Fowler asked if the MSBCA rules in favor of the State, would that open the way for the issuance of another RFP. Mr. Fontaine responded that it would be the Location Commission's decision whether to issue another RFP at that time.

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

Mr. Eaton said his Division continues to perform audits on the Lottery and VLT program and his report contains details on the areas being audited.

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

Mr. Dorsey said this week the Racing Commission approved the transfer of Ocean Downs Racetrack to OE589, which is the slots company. The facility will then be leased back to WRM, Inc. (William Rickman Management). The Lottery received notification that this had occurred.

Commissioner Reeder asked for the status of the Anne Arundel County VLT site. Mr. Dorsey responded Anne Arundel County citizens will vote on the zoning issue referendum on the November ballot.

PUBLIC COMMENTS

Valerie C. Lorenz, Ph.D., Forensic Center on Compulsive Gambling, said she has been talking with Ms. Kelley, the Lottery's Responsible Gambling Coordinator and provided her with folders of information on her organization to distribute to the Commissioners. She also provided a list of questions regarding the Problem and Compulsive Gambling

Fund. She suggested that if a vacancy occurred on the Commission, that consideration be given to filling the vacancy with someone representing the compulsive gambling field.

Chairman Fowler thanked her for her comments. He said compulsive gambling is a serious issue and the Commission will address it seriously.

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 pertaining to the Opinion recently issued by the Office of the Attorney General. Motion was made by Vice Chairman Thomas, seconded by Commissioner Wagner and motion carried by unanimous vote of the Commission. See attached Statement for Closed Meeting, pursuant to State Government Article §10-508(a) (Exhibit #3). The meeting moved to a closed session at 11:45 a.m.

In addition to the seven Commission members, the following were present during the closed session: Stephen Martino, Gina Smith, Robert Fontaine, Jill Baer, John Gallagher, Paul Dorsey, Michael Eaton, Robert Howells, John Mooney, Jennifer Kelley, and Marie Torosino. The meeting returned to open session at 12:08 p.m.

Chairman Fowler announced that during the closed session, the Commission consulted with counsel regarding the Attorney General's Opinion that was issued on November 15, 2010.

DATE AND TIME OF NEXT MEETING

The next Commission meeting will be held on Thursday, November 18, 2010, at 10 a.m.

ADJOURNMENT

There being no further business for discussion, Chairman Fowler said he would entertain a motion to adjourn. Motion was made by Commissioner Boozer, seconded by Commissioner Wagner, and motion carried by unanimous vote of the Commission. The meeting adjourned at 12:10 p.m.

Respectfully submitted,

Stephen L. Martino