

**MARYLAND STATE LOTTERY COMMISSION
FEBRUARY MINUTES**

DATE: February 24, 2011

TIME: 9:00 a.m.

PLACE: Maryland Lottery Headquarters

PRESENT: Vice Chairman Matthew Thomas
Commissioner F. Vernon Boozer
Commissioner Diane L. McGraw
Commissioner W. Ray Presley
Commissioner Bruce L. Reeder
Commissioner Kimberly D. Robertson
Commissioner George M. Wagner

Stephen Martino, Director
Gina Smith, Assistant Director/CFO
Robert Fontaine, Principal Counsel
Jill Baer, Director, Creative Services
Paul Dorsey, Director, Policy and Development
Robert Howells, Director, Procurement
John Mooney, Director, Enforcement
Holly Knepper, Deputy Counsel
Michael Eaton, Director, Internal Audit
Jennifer Kelley, Responsible Gambling Program Coordinator
Marie Torosino, Executive Associate

OTHERS: Representative from Hollywood Casino/Perryville
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 9:29 a.m. Commissioners present were F. Vernon Boozer, Diane L. McGraw, W. Ray Presley, Bruce Reeder, Kimberly D. Robertson and George M. Wagner. Kirby Fowler was absent.

APPROVAL OF THE AGENDA

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

APPROVAL OF MINUTES

Vice Chairman Thomas stated the January 19, 2011, 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 Presley. The minutes were approved by unanimous vote of the Commission.

CONSENT AGENDA

Vice Chairman Thomas said the Consent Agenda contains new instant ticket games (Exhibit #1), and VLT Games and Component Testing—GLI and BMM Games, Hardware and Software Certification (Exhibit #2) for the Commission's approval.

For the record, the new instant ticket games were: Game #876 *Money Match*, Game #878 *Cash Blowout*, and Game #881 *Money Magnet*.

Vice Chairman Thomas requested a motion to approve the new instant games as well as the VLT Games and Component Testing. Motion was made by Commissioner Wagner, seconded by Commissioner Reeder, and motion carried by unanimous vote of the Commission.

OPERATOR REPORTS

Hollywood Casino Perryville

Mr. Marc DeLeo, Director of Marketing, said for January, the gross terminal revenue was \$7.7 million with \$165 win per terminal per day. This is the facility's best month since they opened in October. With the end of the holiday season and additional marketing

promotions, they are seeing an increase in visitors to casino. They also continue to receive positive feedback from customers.

An update was requested on the signage issue that was mentioned last month. Mr. DeLeo said that Mr. Sinopoli met with town of Perryville and there is no positive movement on that issue at this time. They will continue to work with Perryville, and another meeting is scheduled in two weeks. They will keep the Commission updated.

Last month the issue of the 8 a.m. to 2 a.m. casino hours of operation was raised. Mr. DeLeo said weekends at the facility are very busy up until 2 a.m. and guests are not happy when they are asked to leave at the 2 a.m. closing time. Question was raised regarding how changes could be made to the hours of operation. Mr. Martino responded it would have to be changed by legislation, and no bills as yet have been introduced.

Commissioner Reeder asked what geographic areas the players are coming from on the weekends. Mr. DeLeo said 30 percent are from Baltimore County, 18 percent from Harford County, 6 percent from Cecil County, and approximately 5 percent from Anne Arundel and Prince George's Counties. There are not too many players visiting from Delaware or New York.

Mr. DeLeo said they have increased advertising of the casino in the Baltimore Market. However, Prince George's County falls into the Washington market zone and they are looking at some options in that area for advertising.

COMMISSION ITEMS

VLТ Facilities MBE Compliance Status Report as Prepared by GOMA

Mr. Martino said the Commission was provided with a copy of GOMA's report hopes they had an opportunity to review it. GOMA hired an outside consultant to prepare the report, and these reports will continue to be prepared on a semi-annual basis. A question was raised regarding Ocean Downs not meeting the 10 percent goal for women and minorities. Mr. Martino said he is unable to respond to that question and suggested that a representative from GOMA attend a future meeting. The Commission requested that a representative attend a meeting to brief them on the process.

STAFF REPORTS AND COMMISSION ACTION ITEMS

Director's Report – Stephen Martino

Mr. Martino said a ground breaking ceremony was recently held at Maryland Live! Casino at Arundel Mills. However, all construction was stopped because of an appeal filed concerning the zoning. The hearing on the appeal takes place this evening in Anne Arundel County. Mr. Weinberg was not present at today's meeting to present an update to the

Commission because he is preparing for that hearing. We will continue to have all the casino representatives on the agenda for monthly updates.

An updated sales and revenue sheet was provided to the Commission. As of February 20, total sales are ahead of last year by \$11.7 million or 1.1 percent. Total revenue is ahead of last year by \$3.1 million or 1.0 percent.

The expanded VLT Gaming Revenue Report now includes one page for Hollywood Casino/Perryville, one page for Ocean Downs and one page showing the totals for both facilities. At bottom of the report there is a running total as well as month-to-month revenue comparisons. We will continue to monitor the revenue on a daily basis.

The Powerball jackpot is currently at \$155 million and yesterday the Lottery did \$400,000 in ticket sales. Powerball advertising can be seen on the electronic billboards on I-95. Mega Millions jackpot is currently at \$76 million.

The Lottery's budget hearing before the House Subcommittee is this afternoon, and the budget hearing before Senate Subcommittee is Monday. Recommendations were received from the Legislative Analyst regarding the budget submission.

Commissioner Wagner asked if any studies have been done as to why the Unclaimed Prize Fund (UCPF) balance is so high. Mr. Martino responded the Lottery utilized \$5.8 million from the UCPF during this fiscal year on various promotions. Information is received on a monthly basis by game and she will provide that information. It is the usually the smaller dollar prize amounts that go unclaimed, not the larger prizes. By law, the UCPF must go back to players in the form of prizes. The website is one way of getting that information out to the players. Also, the installment of LIMs at retailer locations would be an additional way to inform the players. Vice Chairman Thomas asked staff to look into this further.

Mr. Martino said a tour of the GTECH facility for the Commissioners will take place after today's meeting. It will take approximately 10 minutes, and he asked that no more than four Commissioners visit the facility at one time in order to avoid an open meeting.

Mr. Martino congratulated Chairman Fowler and Commissioner Presley, who were re-nominated to the Commission for another four-year term.

Mr. Martino asked Ms. Kelley to speak on the VLT voluntary exclusions. Ms. Kelley said applications were being accepted for voluntary exclusions. After two months, six applicants are part of the program with four exclusions for a lifetime and two at least two years. Five applicants are from Maryland and one is from out of state. As more information is received, she will provide a breakdown by geographic area, male/female, etc. She will update the Commission at future meetings.

Vice Chairman Thomas asked if there is any further information regarding filling the vacancy left by Commissioner Denis. Mr. Martino said the Appointments Office is aware of the vacancy and they are working on appointing a replacement.

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

Ms. Smith said included with her report were the financial statements for October and November as well as a copy of the Comprehensive Annual Financial Report (CAFR). The CAFR will be submitted to the Government Finance Officers Association (GFOA) for certification.

Commissioner Presley asked how many casino enforcement employees are currently at both casino facilities. The response was eight or nine. There are currently two vacancies at Perryville and three vacancies at Ocean Downs. Interviews are in progress to fill those vacancies.

Vice Chairman Thomas asked if the Lottery is still recruiting new lottery retailers. Ms. Smith responded recruitment of new retailers is an ongoing effort performed by Sales. You will note that the number of Agent Plus retailers has not increased. A meeting is scheduled to review the current criteria used to approve agent plus locations.

Commissioner Reeder brought to the Commission's attention an article that appeared in a recent weekly tabloid regarding a Canadian man's claim that he cracked the code for scratch-off tickets. Mr. Martino said he is aware of this article and will follow up with the Commission.

Creative Services – Jill Baer, Director

Ms. Baer said the *Cruise for Cash* scratch-off ticket is doing well. Approximately 4,200 entries were received for the second chance drawing (over 33,000 on-line and over 8,000 mail-in). Next month, the new \$20 scratch-off ticket *Black* will launch with outdoor and radio advertising.

The \$2 Million Logo Hunt on-line promotion began February 7 and runs through March 13, and is having a positive impact on sales. The promotion offers instant free play and players can collect the three lottery logos and submit their entries for prizes ranging from \$1,000 to the grand prize of \$250,000.

She continues to review potential new game concepts or product enhancements being considered for FY2012.

The Communications Division continues to be present at key events throughout the State. Vice Chairman Thomas noted that Communications did a great job at Polar Bear Plunge.

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

Mr. Eaton said the following audits were completed: Hollywood Casino—Cashiering, Credit and Main Bank; Lottery—Advertising Contract; VLT Program—Revenue and Collection; and VLT Program—Game, Software & Hardware Certification. The following audits are in progress: Ocean Downs—Cashiering and Main Bank; Hollywood Casino—Currency Transaction Reporting; and Lottery—Instant Ticket Printing Contract. The following audits are scheduled to begin in March: Ocean Downs—Currency Transaction Reporting, and Hollywood Casino—Players Club.

Procurement – **Robert Howells, Director**

Mr. Howells said two contracts for VLT related items are coming up for expiration or renewal in May.

Professional Consulting Services Related to a Video Lottery Terminal Program Contract (#2009-01) with WhiteSand Consulting, Inc.—this contract was for a two year period with three one-year renewal options. WhiteSand Consulting assisted the Lottery with the writing of the RFPs for the central system as well as the VLT procurement. The Lottery was satisfied with their job performance. It is recommended that the contract be allowed to expire at the end of the current contract term.

The Commission was in agreement to allow the Professional Consulting Services Related to a Video Lottery Terminal Program Contract (#2009-01) to expire at the end of the current contract term.

Investigative Services for Video Lottery Terminal Licensing Contract (#2009-07) with Spectrum Gaming Group (Primary Contract) and MDB International (Secondary Contract)—this contract was for a two year period with three one-year renewal options. The contract provides all services for background checks that are reimbursed by the applicant. It is not an out of pocket expense for the Lottery. Another casino will be opening with 4,750 machines and licenses will need to be approved. It is recommended to exercise the first one-year renewal option. However, we are under no obligation to spend the money if our internal staff is able to do the investigations, and it would be prudent to keep the companies under contract on a standby basis. The original contract total for the primary and secondary contracts was \$5 million for a two-year period. The renewal option for the one-year renewal is \$1 million for both the primary and secondary contract. It is recommended that we exercise the first one-year renewal option. This contract renewal would be presented to the Board of Public Works on April 6.

Vice Chairman Thomas said he would entertain a motion to exercise the one-year renewal option of the Investigative Services for Video Lottery Terminal Licensing Contract (#2009-07) with Spectrum Gaming Group (Primary Contract) and MDB International (Secondary Contract). Motion made by Commissioner Presley, seconded by Commissioner Wagner, and motion carried by unanimous vote of the Commission.

Legal Unit – Robert Fontaine, Principal Counsel

Mr. Fontaine reminded the Commission that after the regular meeting on March 24, the appeal hearings for River Market and Eastover Texaco will be held. However, he is in currently in discussion with River Market's attorney and that hearing may or may not proceed. The hearing for Eastover Texaco's denial of a lottery license will proceed.

Lottery agent Discount Tobacco Outlet located in Towson failed a compliance check of his business establishment where winning scratch-off tickets were not properly processed. A revocation letter was sent by certified mail and its signed return receipt was received by the Lottery on February 1. The agent did not request a hearing within the 10-day deadline for doing so. The Director is requesting the Commission's approval to revoke the lottery agent's license. Vice Chairman Thomas said he would entertain a motion to revoke the lottery license of Discount Tobacco Outlet. Motion made by Commissioner Wagner, seconded by Commissioner Robertson, and motion carried by unanimous vote of the Commission.

Since his last report, the Circuit Court of Baltimore City has scheduled a hearing for May 25 regarding Baltimore City Entertainment Group's (BCEG) appeal of the Maryland State Board of Contract Appeals (MSBCA) decision.

The Commission was provided with a copy of a letter sent to MSBCA by the Office of the Attorney General regarding Laurel Racing's appeal. The Location Commission's Motion for Summary Disposition was filed with MSBCA. A hearing is scheduled for March 24, approximately two weeks before the April 7 hearing on the merit.

There were additional issues for discussion with the Commission that would be more appropriate for a closed session.

Ms. Knepper presented the following proposed amendments to three VLT regulations. COMAR 14.01.14.05 VLT Technical Standards—Review of Internal Controls; COMAR 14.01.16.09 Voluntary Exclusion and Responsible Gaming—Responsible Gaming Plan; and COMAR 14.01.17.09 Mandatory Exclusion—Facility Exclusion Plan. Currently, a facility operator is requested to submit several plans to the Commission within a specified number of days before commencement of VLT operations. The VLT regulations had set deadlines for submitting surveillance and security plans at 60 days before commencement of operations, while the deadlines for submitting plans for internal controls, responsible gaming and mandatory exclusion are 30, 45, and 45 days, respectively. These amendments would establish a single, consistent deadline for the submission of all required plans 60 days before commencement of VLT operations.

Vice Chairman Thomas said he would entertain a motion to approve amended regulations 14.01.14.05, 14.01.16.09, and 14.01.17.09. Motion was made by Commissioner McGraw, seconded by Commissioner Presley, 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 regulations 14.01.14.05, 14.01.16.09, and 14.01.17.09 approved today on both an emergency and regular basis. Motion was made by Commissioner Wagner, seconded by Commissioner Presley, and the motion carried by unanimous vote of the Commission.

Policy and Development – Paul Dorsey, Director

Mr. Dorsey said the Commission was provided with a current list of pending legislative bills related to the Lottery and Video Lottery.

Mr. Dorsey said work continues with the Ocean Downs facility regarding the performance of the VLT machines at the facility.

Commissioner Wagner noted that SB373 references non-interference of Video Lottery Operation licensees with other slot facilities. Mr. Dorsey said the second reading of the bill was yesterday, and he will check on the status. Commissioner Presley asked for the status of the legislation with regards to Rocky Gap. Mr. Dorsey said the bill hearings are scheduled for March 15 for the Rocky Gap bills.

Commissioner Wagner asked if the Commission could receive a breakdown of the slot expenses that the Lottery has incurred thus far. Ms. Smith asked that request to be deferred for a later time as this is still very new to us.

Commissioner Reeder asked for the status of HB1021 Video Lottery Operation Licenses–Frederick County. Mr. Dorsey said he has no information at this time.

PUBLIC COMMENTS

There were no public comments made.

CLOSED SESSION

Vice Chairman Thomas said pursuant to State Government Article §10-508(a)(7) and (8), he would entertain a motion to move to a closed session to consult with counsel to obtain legal advice concerning proposed SEC regulations, and to consult with staff, consultants, or other individuals about pending or potential litigation pertaining to the VLT program as well as a trademark infringement claim. Motion was made by Commissioner Robertson, 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 10:27 a.m.

In addition to the seven Commission members present, the following also were present during the closed session: Stephen Martino, Gina Smith, Jill Baer, Robert Howells, Paul

Dorsey, Michael Eaton, John Mooney, Jennifer Kelley, Robert Fontaine, Holly Knepper, and Marie Torosino. The meeting returned to open session at 10:43 a.m.

Vice Chairman Thomas announced that during the closed session, the Commission consulted with counsel regarding proposed SEC regulations, the VLT program as well as a trademark infringement claim.

DATE AND TIME OF NEXT MEETING

The next Commission meeting will be at 10:00 a.m., Thursday, March 24, followed by two hearings before the Commission.

ADJOURNMENT

There being no further business for discussion, Vice Chairman Thomas said he would entertain a motion to adjourn. Motion was made by Commissioner Reeder, seconded by Commissioner Presley, and motion carried by unanimous vote of the Commission. The meeting adjourned at 10:55 a.m.

Respectfully submitted,

Stephen L. Martino