

**MARYLAND STATE LOTTERY COMMISSION
SEPTEMBER MINUTES**

DATE: September 22, 2011

TIME: 10 a.m.

PLACE: Maryland Lottery Headquarters

PRESENT: Chairman J. Kirby Fowler, Jr.
Vice Chair Kimberly D. Robertson
Commissioner F. Vernon Boozer
Commissioner Diane L. McGraw
Commissioner W. Ray Presley
Commissioner George M. Wagner

Stephen Martino, Director
Gina Smith, Deputy Director/CFO
Robert Fontaine, Principal Counsel
John Gallagher, Chief Information Officer
Jill Baer, Director, Creative Services
Robert Howells, Director, Procurement
John Mooney, Director for Enforcement
Michael Eaton, Director, Internal Audit
Jennifer Kelley, Responsible Gambling Program Coordinator
Holly Knepper, Deputy Counsel
Marie Torosino, Executive Associate

OTHERS: Representatives from Hollywood Casino/Perryville
Representatives from Casino Ocean Downs
Representatives from Maryland Live! Casino
Representative from Scientific Games
Representative from GTECH
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 10:08 a.m. Commissioners present were F. Vernon Boozer, Diane L. McGraw, W. Ray Presley, Kimberly D. Robertson, and George M. Wagner. Bruce L. Reeder was not present.

APPROVAL OF THE AGENDA

Chairman Fowler said he would entertain a motion to approve the Agenda with changes made to the Legal section adding the Commission action item regarding the revocation of agent licenses. Motion was made by Commissioner Wagner, seconded by Commissioner McGraw, and the motion carried by unanimous vote of the Commission.

APPROVAL OF MINUTES

Chairman Fowler stated the August 25, 2011, minutes were provided to the Commissioners for review and asked if there were any corrections. There were none. Vice Chair Robertson motioned that the minutes be approved, and it was seconded by Commissioner Wagner. The minutes were approved by unanimous vote of the Commission.

CONSENT AGENDA

Chairman Fowler said the Consent Agenda contains new instant ticket games (Exhibit #1) for the Commission's approval. He asked if there were any questions. Hearing none, Chairman Fowler requested a motion to approve the following new instant games: Game #886 *Aces*, Game #898 *Tax Free \$50,000*, Game #911 *Xs & Os*, Game #915 *Super Tic Tac Toe*, and Game #921 *Green Bucks*. Motion made by Vice Chair Robertson, seconded by Commissioner Wagner, and motion carried by unanimous vote of the Commission.

OPERATOR REPORTS

Hollywood Casino Perryville

Mr. Bill Hayles, General Manager, said August revenues were not as good as July due to there being one less weekend in the month and the threat of the hurricane. However, the casino did remain open during the storm. Customer volume continues to be strong. In September, the casino will be celebrating its one year anniversary, and several weekend events are planned.

Signage information was recently presented to the Cecil County Commissioners in Perryville, and their regular council meeting is in two week. Mr. Hayles will report on the results at the next meeting.

Casino Ocean Downs

Mr. Joseph Cavilla, General Manager, said revenue is on track even with the lost weekend due to the hurricane threat. The town of Ocean City was shut down for four days. The casino suffered no effects from the storm. September is off to a strong start. Bike week is the last weekend event in September and they were hoping that would bring in additional customers. However, it did not help due to the rainy weekend.

Maryland Live! Casino

Mr. Robert Norton, General Manager, said casino construction is on schedule and moving toward completion. Phase one will open in June 2012 with phase two following later in 2012. Chairman Fowler asked what restaurants will be on-site. Mr. Norton responded a buffet, Get and Go, and bar will open in the first phase in the casino. The second phase will include a Bobby Flay, Cheesecake Factory and other restaurants.

VENDOR REPORTS

GTECH

Mr. Arthur Miller, Operations Manager, said meetings are being held with Maryland Live! Casino to work on the infrastructure, project plans, and testing of the VLT hardware for installation.

Scientific Games

Mr. Steve Smith, General Manager, said the Lottery in Motion (LIM) implementation was completed. As part of the contract amendment, Jackpot Signs will be purchased and installed at various agent locations to get the jackpot information to the players. During the recent hurricane threat, power was not lost. However, there was a back-up power source if that had occurred. A press conference is scheduled to announce the ability to place amber alerts on the LIMs system. There was further discussion about the LIMs system.

STAFF REPORTS

Director's Report – Stephen Martino

An updated sales and revenue sheet was provided to the Commission. Ocean Downs and Hollywood Casino previously supplied their updates on revenues. Combined gross terminal revenue was \$13 million for August.

Lottery sales are \$2.8 million ahead of last year with revenue up by \$838,000. Instant sales are down \$5.4 million compared to last year. We are coming out of the summer months where sales are weaker, and are now rolling into the holiday season where sales

should pick up. Sales of Ravens Cash Fantasy instant tickets are 4% behind last year. Advertising of the ticket did not begin until the first game of season. We did not want to spend advertising dollars until the football strike ended.

Mr. Martino noted that Pollard Banknote was not listed on the agenda for the quarterly vendor reports. This is due to Lori Denton no longer being with Pollard. She is now working with Interlott, the vendor for the on-line games in DC. Pollard employee, Julin Shaw, has been working from home and providing support. Pollard is in the process of hiring someone to work on-site at the Lottery office. He and Vice Chair Robertson recently visited the Pollard facility in Winnipeg, meeting with the executives and taking a tour of the plant. Vice Chair Robertson said it was a very informative visit. They learned the process involved in the development and printing of the instant games. This trip was part of the contract with Pollard and there were no state expenses incurred.

He recently sent the Commission an e-mail regarding the two Assistant Directors that were hired as part of the reorganization. The Assistant Director for Gaming is Charles LaBoy, and he will start on September 26. The Assistant Director for Lottery is John Martin, and he will start on October 11. The Lottery looks forward to their contributions.

As previously mentioned, a press conference is being held next week with the Superintendent of the Maryland State Police (MSP) to announce the LIMs ability to display amber alerts sent out by the MSP. MSP is an outstanding partner and appreciative of our ability to add the amber alerts to the LIMs.

Mr. Martino said he will be out of town at the annual NASPL Conference the week of the October Commission meeting. He had suggested either moving the meeting to the prior week on October 20, or having the meeting on October 27 where he would phone in. The Commission agreed to leave the meeting on the 27th and Mr. Martino will call in.

Chairman Fowler asked for an update on the MBE participation goals for this year. Mr. Martino said the statewide goal is 25%. The Lottery looks at the composition of the contract and compares this to various studies where MBE spending occurs. In some contracts it is difficult meet these goals. MBE participation for GKV is over 35%, while SGI is at 15%.

Commissioner McGraw noted the recent player complaint where the incorrect Pick 4 number was displayed on the Lottery's website. Mr. Martino said the incorrect number was on the website for less than five minutes before it was corrected. The person did not have a winning ticket and therefore, will not be paid.

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

Ms. Smith said her report was provided to the Commission. The fiscal year 2011 GAAP financial statement is being prepared and due to the State on October 3. The FY2013 budget was submitted to the Department of Budget and Management (DBM), and a meeting is scheduled for November 1. The FY2013 budget submitted is the same as FY2012, with no additional funding. Unfunded requests were issued for additional

advertising funds. The Lottery is now feeling the effects of the advertising budget cuts. She will keep the Commission advised.

Lottery Internal Auditor interviews were held and no candidate was selected. The position will be re-posted with a closing date of September 30.

Chairman Fowler asked if the year-end revenue numbers were released and advertised. Mr. Martino responded the Lottery received a large portion of press coverage. It is the Lottery's 14th record year of sales.

Mr. Martino said an appointment has been made to the Lottery Commission to fill one of the vacancies and that person will be attending next month's meeting.

Creative Services – Jill Baer, Director

Ms. Baer said her report was provided to the Commission. Sales of Ravens Cash Fantasy instant tickets are behind last year. However, this could be due to the fact that advertising of the game just began this past week. We will continue to promote the game and the second chance concept.

The on-line Redskins Mega Power promotion started on September 6 and will run through football season. Any Mega Millions with Megaplier or Powerball with Power Play ticket purchased in the eligible Redskins trade counties will have a Redskins logo printed on the ticket. Non-winning tickets can be entered on-line for a second chance contest to win a Redskins ticket package and cash. This is the first year for this type of program with the Redskins. Promotion territory is limited because of NFL restrictions.

Distribution of the holiday instant tickets began within the last few weeks.

The Lottery currently has a contract with WBAL-TV to broadcast the drawings but it is geographically limited. We have reached an agreement with Maryland Public Television (MPT) to rebroadcast the drawings. This will give us statewide coverage and begin in early October. This is duplicate coverage in the Baltimore area; however, the value we are getting for statewide coverage outweighs the cost.

The winner of the \$108 million Powerball jackpot claimed their prize and has decided to remain anonymous. This is the first Powerball jackpot winner for Maryland. The Set for Life scratch-off ticket grand prize was awarded and a press conference was held at Sabatinos in Little Italy where the winner is employed.

Information Technology – John Gallagher, Chief Information Officer

Mr. Gallagher said his report was provided to the Commission. He is working with SGI on the software development for changes that will take place to the Powerball game in January and testing will begin shortly.

Regular meetings are being held with Maryland Live! Casino and GTECH regarding the project plan and infrastructure needs. In addition to amber alerts, the LIMs will also carry silver alerts for adults 65 and older. Chairman Fowler asked if this is a revenue producer. Mr. Gallagher said no, it is a public service.

Internal Audit – Michael Eaton, Director

Mr. Eaton said his report was provided to the Commission. The VLT audit report for Ocean Downs was issued. He is in the process of conducting the VLT audit for Hollywood Casino, the drop and soft count audit for Ocean Downs and the Lottery VLT revenue reporting and collection audit.

There was further explanation and discussion of one of the issues in the VLT audit of Ocean Downs regarding the slot change requirement forms that are submitted to the Lottery for approval.

Enforcement – John Mooney, Director

Mr. Mooney said his report was provided to the Commission. There were no major incidents reported at the casinos.

Responsible Gambling Program – Jennifer Kelley, Coordinator

Ms. Kelley said her report was provided to the Commission. There are currently 42 participants in the Voluntary Exclusion Program and the number continues to grow.

She presented amendments to three regulations. COMAR 14.01.11.08 Video Lottery Facility Operation Licenses - Predatory Marketing. These amendments enhance the definition of conduct that is prohibited as predatory marketing. COMAR 14.01.14.47 Video Lottery Facility Minimum Internal Controls – Signs. These amendments consolidate and reword certain signage requirements from Chapter 14 into Chapter 16. COMAR 14.01.16 Voluntary Exclusion and Problem Gambling. These amendments impose certain requirements on operators regarding advertisements, signage and underage/problem gambling prevention, and also make some technical corrections.

After extensive discussion by the Commission, Chairman Fowler said he would entertain a motion to approve amended regulation 14.01.11.08, with the addition of an effective date of January 1, 2012. Motion was made by Vice Chair Robertson, seconded by Commissioner McGraw, and motion carried by unanimous vote of the Commission.

Chairman Fowler said he would entertain a motion to approve amended regulation 14.01.14.47, with the addition of an effective date of January 1, 2012. Motion was made by Commissioner McGraw, seconded by Vice Chair Robertson, and motion carried by unanimous vote of the Commission.

Chairman Fowler said he would entertain a motion to approve amended regulation 14.01.16, with the addition of an effective date of January 1, 2012 as well as the addition

of the wording “in person” on page 2 line 13 of the regulation. Motion was made by Commissioner McGraw, seconded by Commissioner Presley, and motion carried by unanimous vote of the Commission.

Legal Unit – Robert Fontaine, Principal Counsel

Mr. Fontaine said his report was provided to the Commission. He said the Director is seeking the Commission’s approval to revoke the agent license of Minnick’s Restaurant. Mr. Fontaine summarized the facts leading to the license revocation. Chairman Fowler said he would entertain a motion to uphold the Director’s recommendation to revoke the lottery sales agent license of Minnick’s Restaurant. Motion made by Commissioner Wagner, seconded by Commissioner Presley and motion passed by unanimous vote, with Commissioner Boozer recusing himself from the vote.

Mr. Fontaine said that the Director recommended that the agent license of G & M Spirits, Inc., T/A Ross Liquors be revoked. Ross Liquors requested an appeal of the revocation of its license. However, counsel for Ross Liquors submitted a request to withdraw its request for a hearing before the Commission. The business has been sold and a new owner has applied for the lottery license. Chairman Fowler said he would entertain a motion to uphold the Director’s recommendation to revoke the lottery sales agent license of G & M Spirits, Inc., T/A Ross Liquors. Motion made by Commissioner Wagner, seconded by Vice Chair Robertson and motion passed by unanimous vote.

Mr. Fontaine presented proposed amendment to COMAR 14.01.18.03D Violations, Civil Penalties and Sanctions – Noninterference. This amendment to the existing VLT regulations would satisfy the legislative mandate (HB868) signed into law by the Governor, which requires the Commission to promulgate regulations prohibiting a video lottery licensee from hindering efforts of an applicant or licensee to establish a video lottery facility.

After discussion by the Commission, Chairman Fowler said he would entertain a motion to approve proposed amendment 14.01.18.03D. Motion made by Commissioner Wagner, seconded by Vice Chair Robertson, and motion passed by unanimous vote of the Commission.

Chairman Fowler said he would entertain a motion to permit Lottery staff to submit amended regulation 14.01.18.03D approved today on both an emergency and regular basis. Motion was made by Vice Chair Robertson, seconded by Commissioner Presley, and the motion carried by unanimous vote of the Commission.

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. Motion was made by Commissioner Wagner, seconded by Commissioner McGraw, and motion carried by unanimous vote of the Commission. See attached

Statement for Closed Meeting, pursuant to State Government Article §10-508(a). The meeting moved to a closed session at 11:26 a.m.

In addition to the six Commission members present, the following were also present during the closed session: Stephen Martino, Gina Smith, John Gallagher, John Mooney, Jennifer Kelley, Robert Howells, Michael Eaton, Robert Fontaine, Holly Knepper, and Marie Torosino. The meeting returned to open session at 11:45 a.m.

Chairman Fowler announced that during the closed session, the Commission discussed the ambiguity in COMAR 14.01.11.04 pertaining to disqualification of operator license applicants.

Mr. Fontaine presented two amendments to COMAR 14.01.11.04 Violations, Civil Penalties and Sanctions - Qualification by the Commission. The first proposed amendment would delete .04C(11) because the General Assembly deleted the corresponding section of the VLT Law that authorized the Commission to establish in regulations additional reasons for denying a VLT operation license beyond the reasons already established in the VLT Law.

The second proposed amendment would be a new section .04F. New section .04F would put into regulation the Commission's interpretation of § 9-1A-08(d)(9) of the VLT Law. In the Commission's view, such an interpretation of § 9-1A-08(d)(9) is necessary because that section is ambiguous and would be difficult to consistently apply in licensing situations where an applicant for an operation license committed a gambling offense or act of moral turpitude but was not prosecuted for, or convicted of, that act. Section 9-1A-08(d)(9) establishes as a mandatory disqualifier, without a look-back time limit, the committing of an act by an operator license applicant or a person who is required to be qualified that would constitute a criminal offense involving moral turpitude or a gambling offense. The Commission discussed three options for new Section .04F that varied in terms of clarifying how long ago the act occurred, whether the act was ever prosecuted, and whether the act could have occurred in any jurisdiction or only in Maryland. To inform its decision, the Commission reviewed a chart describing how several VLT states handle these kinds of issues: Several states have a 10- or 15-year look-back limitation, although some do not; many states do not establish a rule as to where the action must have occurred in order to be considered, although a few do so. Several Commission members expressed concern about the fairness of possibly disqualifying an applicant who was prosecuted but the prosecution did not end in a conviction.

After much discussion, the Commission decided to plot a middle course by crafting a regulation that separates the acts referred to in § 9-1A-08(d)(9) into two categories: (1) The commission of an act in Maryland that would constitute a crime of moral turpitude or gambling is a mandatory disqualifier if it was not prosecuted or cannot be prosecuted in Maryland. If the act was prosecuted but did not result in a conviction, it is not a mandatory disqualifier but it may be considered by the Commission in determining whether the applicant has established the required qualification criteria for an operation license. There is no look-back limit. (2) The commission of an act in another jurisdiction that would constitute a crime of moral turpitude or gambling committed - within ten years before the

date of the application – is a mandatory disqualifier if it was not prosecuted or cannot be prosecuted under the criminal laws of any jurisdiction. If the act was prosecuted but did not result in a conviction, it is not a mandatory disqualifier but it may be considered by the Commission in determining whether the applicant has established the required qualification criteria for an operation license. The Commission must determine the existence of an act described in (1) and (2) by a preponderance of the evidence.

At the conclusion of the discussion, a motion made by Commissioner McGraw, to approve the two amendments discussed above, and seconded by Commissioner Boozer. The motion passed by unanimous vote of Commission.

Chairman Fowler said he would entertain a motion to permit Lottery staff to submit amended regulation 14.01.11.04 approved today on both an emergency and regular basis. Motion was made by Commissioner McGraw, seconded by Commissioner Presley, and the motion carried by unanimous vote of the Commission.

PUBLIC COMMENTS

There were no public comments made.

DATE AND TIME OF NEXT MEETING

The next Commission meeting will be at 10 a.m., Thursday, October 27.

ADJOURNMENT

There being no further business for discussion, Chairman Fowler said he would entertain a motion to adjourn. Motion was made by Commissioner McGraw, seconded by Commissioner Wagner and motion carried by unanimous vote of the Commission. The meeting adjourned at 12:20 p.m.

Respectfully submitted,

Stephen L. Martino