

**MARYLAND STATE LOTTERY COMMISSION
OCTOBER MINUTES**

DATE: October 27, 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 E. Randolph Marriner
Commissioner W. Ray Presley
Commissioner Bruce L. Reeder
Commissioner George M. Wagner

Stephen Martino, Director (via phone)
Gina Smith, Deputy Director/CFO
Robert Fontaine, Principal Counsel
John Gallagher, Chief Information Officer
Charles LaBoy, Assistant Director for Gaming
John Mooney, Director for Enforcement
Michael Eaton, Director, Internal Audit
Jennifer Wetherell, 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
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 10:06 a.m. Commissioners present were F. Vernon Boozer, E. Randolph Marriner, Diane L. McGraw, W. Ray Presley, Bruce L. Reeder, Kimberly D. Robertson, and George M. Wagner.

APPROVAL OF THE AGENDA

Chairman Fowler said he would entertain a motion to approve the Agenda with the notation that Ms. Baer was not present, but her report was received by the Commission. Motion was made by Vice Chair Robertson, seconded by Commissioner McGraw, and the motion carried by unanimous vote of the Commission.

APPROVAL OF MINUTES

Chairman Fowler stated the September 22, 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, with Commissioner Marriner abstaining from the vote. The minutes were approved by unanimous vote of the Commission.

Chairman Fowler introduced Mr. E. Randolph Marriner, the new Commission member. Commissioner Marriner said he previously spent five years on the Lottery Commission in a variety of capacities, and he is currently owner of a restaurant in Howard County. He was welcomed by 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 #914 *Diamond Dazzler Bingo*, Game #918 *Cash Stash*, and Game #927 *Wild 10s*. Motion made by Commissioner McGraw, seconded by Vice Chair Robertson, and motion carried by unanimous vote of the Commission.

OPERATOR REPORTS

Hollywood Casino Perryville

Mr. Bill Hayles, General Manager, said the casino continues to do well. The weekend promotions the casino has been running have been successful. There was a car giveaway

in September and another car giveaway promotion is scheduled after Thanksgiving weekend in November. They notice that with these weekend giveaway events that attendance increases.

The casino sign that would be visible from Interstate 95 was recently approved by a vote of 3 to 2 by the Perryville Town Council. Hollywood Casino is in the process of determining how long it will take for the construction and installation of the sign. The Town Council made one condition that if the casino goes out of business that the sign would have to be taken down.

Chairman Fowler asked if there are any plans for development of the land around the casino. Mr. Hayles responded there have been recent conversations to discuss the space. Chairman Fowler asked if there are plans for any restaurants. Mr. Hayles responded it will probably be more retail businesses than restaurants.

Maryland Live! Casino

Mr. Robert Norton, General Manager, gave an update on the construction of the casino facility. The foundation has been completed, and the south side of the building has been completed with seven floors. They hope to complete the framing before winter and are still on target for the June 2012 opening. By the next meeting, they will have a preview center open in the mall to give the public an idea of what the facility will be like. By mid-January, they will open a job recruitment center. They are working with the Lottery on the infrastructure and actively staffing the casino executive team.

Chairman Fowler asked that they bring renderings of the facility to next month's Commission meeting.

Commissioner Wagner asked a question regarding the number of slot machines and the number of seats. Ms. Smith said they just started internal discussions last week on the new technology that is currently available that did not exist when the slots program started. She said she will discuss this with the Director when he returns from the NASPL conference and report back to Commission.

Casino Ocean Downs

Mr. Joseph Cavilla, General Manager, said through October 25 revenue was \$3.1 million, which is 16% over last month. The casino is still performing well on the weekends, but weekdays are slow. Revenues should come in at \$3.8 or \$3.9 million for October. The casino will be conducting a cruise giveaway promotion during the next month to boost performance. They are aggressively marketing the casino in the Norfolk and Virginia Beach areas in Virginia with billboards.

STAFF REPORTS

Director's Report – Stephen Martino

Mr. Martino was at the NASPL conference in Indianapolis and phoned in to the meeting. He said Ms. Smith, Deputy Director will present sales and revenue information on his behalf.

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

Ms. Smith said an updated sales and revenue sheet as well as her report were provided to the Commission. Total sales are \$5.6 million ahead of last year. Racetrax and Racetrax Bonus games account for most of the sales.

Total revenue is \$6 million ahead of last year. Pick 3 is \$5.9 million ahead, which accounts for most of the revenue. Payouts have been lower this year than last year, and we are expecting revenues to grow. Sales are slightly down in instant tickets and we hope to pick up sales with the holiday scratch-off products that are currently available. The Powerball jackpot is currently at \$203 million.

The 2011 GAAP financial statement was submitted on October 1 to the State and it will be incorporated into the overall statewide comprehensive financial report.

The 2011 audited June Special Purpose Financial Statement was provided to the Commission. Now that the GAAP is completed, the Commission will receive the July, August and September audited statements.

The Lottery is waiting for approval for three position exceptions from the Department of Budget and Management (DBM). We will be fully staffed shortly in the Accounting division. An offer was made to a candidate for the accounts payable supervisor position and the person will start on November 16. Lottery internal auditor interviews are scheduled for November 1 with three candidates. She and Mr. Eaton will report back to Commission. Chairman Fowler asked if an advertisement for the Internal Auditor position was re-issued. Ms. Smith responded that the position was re-advertised.

The Lottery's FY2013 budget hearing with the Department of Budget and Management (DBM) is scheduled for November 4. No response has been received as yet from the budget analyst regarding the unfunded budget requests. The analyst has by close of business tomorrow to respond. After DBM's review, the budget then goes to the Legislature and we will be scheduled for a hearing. Unfunded budget requests for lottery advertising and VLT have not been confirmed. She will keep the Commission informed.

In 2013, Hollywood Casino in Perryville will be two years old and the floor will need to be refreshed. It is important that DBM and the Legislature understand the need for this to become part of the budget operating expenses.

Vice Chair Robertson noted that Pick 3 sales are down and asked if there are plans to run promotions to increase the sales. Ms. Smith said she believes there will be Pick 3 promotions during the course of the year, but will get back to the Commission.

Commissioner McGraw asked for a status report on the Baltimore City and Allegany County VLT proposals. Mr. Fontaine will update the Commission during his report.

Gaming – Charles LaBoy, Assistant Director

Mr. LaBoy said he is the Lottery's new Assistant Director for Gaming where he oversees auditing functions, slots, and responsible gambling. He is a certified public accountant and previously worked for the Kansas Racing and Gaming Commission for 13 years as director of auditing and electronics overseeing the auditing of slots, internal controls, and table game activities. He looks forward to working with the Commission and the Lottery.

Chairman Fowler asked if there is a staff person who will handle legislation. Mr. Martino said DBM approved the legislative liaison position and we will begin recruitment before the session starts in January.

Creative Services – Jill Baer, Director

Ms. Baer was not present but her report was provided to the Commission.

Information Technology – John Gallagher, Chief Information Officer

Mr. Gallagher said his report was provided to the Commission. He said the software changes to the system for \$2 Powerball are underway. SGI is currently running tests and by November 7, the Lottery will run testing with completion by mid-December for implementation in January 2012.

He is working with SGI on the game modifications going forward for the next 12 to 16 months with a potential scenario for a new game along with the modifications.

Internal Audit – Michael Eaton, Director

Mr. Eaton said his report was provided to the Commission. The Ocean Downs drop and soft count audit was completed and the report was provided to the Commission. It received an adequate rating. The audits in process for this period are Hollywood Casino video lottery terminal and drop and soft count audits; Ocean Downs surveillance and responsible gambling audits; and the Lottery video lottery terminal revenue reporting and collection audit for quarters one, two and three.

Recruitment is underway this month for another VLT lead audit position. He will provide the Commission with information as he moves forward.

Chairman Fowler asked what is a drop and soft count audit and when will it be completed. Mr. Eaton responded it is the collection and counting of money that occurs nightly. The audit will be completed shortly and he will provide the report to the Commission next month. The Ocean Downs audits are scheduled to begin on November 7. The Lottery VLT audit has been completed and he is preparing the report. Chairman Fowler asked that Mr. Eaton forward copies of the reports to both he and Vice Chair Robertson upon completion.

Enforcement – John Mooney, Director

Mr. Mooney said his report was provided to the Commission. The trespassing issue that occurred at Perryville went to court and the finding was guilty. This finding was due to efforts of the Director and Ms. Wetherell in continuing to educate the State's Attorney on the responsible gambling policy. This is the first trespassing of an individual who signed up for the voluntary exclusion program.

Rocky Gap investigations will be conducted by in-house personnel on the two proposals that were received. The Baltimore City investigation will be handled by Spectrum Gaming. Maryland Lottery is entering into an agreement with Ohio authorizing Spectrum, who is currently doing investigations in Ohio, to do a joint investigation. This will help to expedite the investigation. Maryland will enter into a Memorandum of Understanding (MOU) with Ohio to share the cost of the investigation of Caesars for the Commission's part of the investigation. He requested that the Commission delegate authority to the Director to enter into this MOU.

Chairman Fowler asked if this is the usual practice nationwide. Mr. Mooney said he is not aware of any other states doing this. Spectrum will investigate according to both states' standards, will only have to interview the principals one time, and will prepare two separate reports. The Director spoke to Location Commission Chairman Fry and he was satisfied with this arrangement. Caesars was also satisfied. Commissioner Marriner asked if the MOU has to be presented to the Board of Public Works (BPW). Mr. Martino responded no, since Spectrum's contract was already approved by the BPW.

Vice Chair Robertson asked why the Rocky Gap investigations are being done internally and not by an outside company. Mr. Mooney responded the size of the internal investigation unit has increased from six to 14 people, and we are starting to do some of our own investigative work. The hours will be tracked and billed back to the applicant. This is normally not the standard operating procedures for game regulators to have an outside investigation firm. It was put into the law since timing was of the essence. Two new manufacturer vendor background investigations are coming up, and because of timing,

we will use the outside firm. It is important to develop in-house expertise to do investigations, and Rocky Gap was a size that could be done internally.

Chairman Fowler said he would entertain a motion to delegate authorization to the Lottery Director to draft and execute the Memorandum of Understanding (MOU) in which Maryland will share the cost of background investigations with Ohio. Motion made by Vice Chair Robertson, seconded by Commissioner Wagner, and motion passed by unanimous vote of the Commission.

Responsible Gambling Program – Jennifer Wetherell, Coordinator

Ms. Wetherell said her report was provided to the Commission. She had no additional information to add to her report.

Legal Unit – Robert Fontaine, Principal Counsel

Mr. Fontaine said his report was provided to the Commission. He said the Location Commission received two proposals for the video lottery license for Baltimore City. However, one of the proposals was rejected for failure to include the licensing fee. There were three proposals received for the video lottery license for Rocky Gap in Allegany County. However, one of the proposals was rejected for significant deficits in the proposal.

Chairman Fowler asked how long for the background investigations to be completed. Mr. Mooney said the two for Rocky Gap should be completed by end of year or shortly thereafter. The one for Baltimore should be completed by March.

Mr. Fontaine said the Lottery was seeking revocation of lottery agent Krauzers Food Shop based on alleged criminal activity. Krauzers was sent a letter of revocation and had requested a hearing before the Commission. However, the case has been settled and there will be no need for the hearing. The agent has agreed to ban all gaming machines from his business and has entered into an agreement with the Lottery that they will immediately lose their lottery license if this occurs again. A recommendation for reinstatement was executed by the Lottery.

Regarding the federal discrimination lawsuit filed against the Location Commission by the Baltimore City Entertainment Group (BCEG) challenging the MBE requirement, the State moved to dismiss the lawsuit. BCEG then filed an amended complaint which the State moved to dismiss, and BCEG's response was due on October 24. However, they did not file a response. Subsequently, on October 26, the State filed a notice to the court that the response was not received and that the motion to dismiss should be rightfully considered. He can provide a copy of the notice to the Commission if they so desire.

Chairman Fowler asked if any legislation has been introduced with regards to table games. He responded that he has not seen anything as yet. Commissioner Presley asked if table games are approved, would it go to referendum. Mr. Fontaine responded yes.

Commissioner Reeder asked if anyone at the Lottery spoke to Frederick County regarding slots. Mr. Martino responded he has not talked to anyone in Frederick County.

Chairman Fowler asked about the status of internet gambling. Mr. Martino said he will be forwarding information to the Commission shortly. Governor O'Malley sent a letter to the Chairs of the Federal Subcommittee that is meeting to address the central debt spending issue. He is calling on the subcommittee to not consider any federal legislation that would legalize internet poker or internet gambling.

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, November 17.

Mr. Fontaine said he anticipates after the regular meeting that there will be a hearing for a VLT license applicant whose application was denied. He will keep them informed.

ADJOURNMENT

There being no further business for discussion, Chairman Fowler said he would entertain a motion to adjourn. Motion was made by Commissioner Reeder, seconded by Vice Chair Robertson and motion carried by unanimous vote of the Commission. The meeting adjourned at 11:06 p.m.

Respectfully submitted,

Stephen L. Martino