



Lottery Commission Meeting Minutes
Thursday, April 18, 2019
Lottery Headquarters, Olympia, WA

Commission Member Attendees:

Peter Bogdanoff, Commissioner
Fred Finn, Commissioner
Judy Guenther, Commissioner
Valoria Loveland, Chair

Lottery Staff Attendees:

Jim Bevan, SharePoint & Office Administrator
Dan Devoe, Director of Security & Licensing
Crystal Fischer, Director of Information Services
Ilene Frisch, Internal Audit Manager
Marcus Glasper, Director
Shar Hawley, Lean Program Manager

Josh Johnston, Deputy Director
Maria Lourenco-Douka, Director of Finance
Kathi Patnode, Marketing Operations Manager
Stephanie Porter, Executive Assistant
Debbie Robinson, Director of Human Resources
Ron Smerer, Director of Sales & Marketing

Other Attendees:

Shana Barehand, Kalispel Tribe of Indians
Scott Battishill, Curator
Delaney Berreth, Curator
Becky Bogard, IGT
Glenda Breiler, WA Indian Gaming Association

Kathy Gano, Scientific Games
Rebecca Kaldor, WA Indian Gaming Association
James Mackenzie, Cole & Weber
Mary Tennyson, Assistant Attorney General

Call to Order:

8:40 a.m. – Chair Loveland called the meeting to order.

Approval of Meeting Minutes:

Chair Loveland entertained a motion to adopt the minutes of the February 28, 2019 Commission Meeting.

Commissioner Bogdanoff **so moved** and Commissioner Finn **seconded**.

A vote was called for approval of the minutes of February 28, 2019 Commission Meeting. Ayes were unanimous. **Motion carried.**

Director's Update:

Director Glasper announced that the new Commissioner, Judy Giniger, was appointed yesterday afternoon. She will fill former Commissioner Laura Cantrell's seat and her first Commission meeting will be on June 27th.

The NASPL Lottery Leadership Conference is being held this week. Director Glasper said the Lottery sent a couple of representatives, including Kristi Weeks, the Legal Services Director.

Director Glasper provided information related to the International Game Development Committee. MUSL (Powerball Consortium) has reignited the committee to look at the possibility of instituting a worldwide game. This idea has been looked at several times over the years but for various reasons has never been successful. The re-ignition is most likely related to the international trademark issues the lotteries have been dealing with.

The committee is looking at various options, or what they call "game territories," including retailing of existing game propositions, upselling through the creation of a combined add-on game, and the development of a brand new world game. While all options are still on the table, the committee is most interested in further exploring the development of a new game. Funding would be needed to continue their research of launching a new game, so they are currently discussing where that funding might come from.

Director Glasper stated that the ability for customers to enter into Second Chance drawings online has been temporarily discontinued. The Lottery's authority to allow this, and whether or not it constitutes gambling over the internet, was recently questioned. Because online gambling is prohibited in Washington State, they felt it was in their best interest to cease online entries until they could gain clarity on the issue. They have been researching the history behind the decision, however the individuals involved no longer work for the Lottery and there are gaps in the information on how the decision was made.

Chair Loveland commented that the Lottery needs to ensure they sufficiently communicate any changes to Second Chance drawings to the players. Director Glasper agreed, and said the Lottery does not currently have any active Second Chance drawing promotions, and are holding off launching any new ones until more information is obtained. They do have an agreement with the Seattle Seahawks for an upcoming Second Chance promotion, but the entries will not occur online. He said they are working with Curator to develop talking points about the Second Chance drawing changes in order to assist staff with accurately communicating the information to customers and retailers.

Commissioner Bogdanoff asked what the timeline is for gaining clarity on the Second Chance drawings online, and what deciphering information they need to move forward. Director Glasper said the statute is somewhat gray on the topic and it has been suggested they go to the Legislature to gain clarity, which would lengthen the timeline for a decision. They are working

with various stakeholders to understand it better, including the Attorney General's Office and the Gambling Commission.

AAG Mary Tennyson said she has been in conversations with Kristi about past opinions on the subject and the history of interpretations behind the intent of the prohibition on internet gambling. They are still piecing together the history of the Lottery's online Second Chance drawings and when it started.

Commissioner Guenther asked if discontinuing online Second Chance drawings is likely to hurt sales with the upcoming Seahawks promotion, and what percentage of players enter the online drawings. Deputy Director Josh Johnston said they did an analysis of the Second Chance drawings, and typically the mail in entries are around 12% of all tickets purchased, and the online entries are around 15%. However, they have had promotions that are higher up around 23% of tickets purchased. Unfortunately the percent is going to depend on the popularity of the promotion so it is a difficult number to pin down.

Chair Loveland reiterated her concerns about being transparent with players, and clearly communicating any changes relating to Second Chance drawings. She also said she would like the Commissioners to be notified of policy changes like this in the future prior to them being implemented as she was unaware of the decision to conduct online second chance entries, in case any bigger issues surface as a result. Director Glasper agreed, and said the Lottery recognizes the decision to cease online Second Chance entries is an inconvenience for players, but they felt their integrity was at stake and the right thing to do was take a step back until they could gain clarity on the issue. He said they will keep the Commissioners informed as more information is obtained.

In the past, at least one Lottery Commission meeting a year has typically been held at a location somewhere other than Olympia to allow those on the other side of the state to attend. Director Glasper announced that this year the August 22nd meeting will be held in Spokane, which will allow for Commissioners and Lottery staff to also attend the grand opening of the new Spokane regional office located at the NorthTown Mall. More details will be forthcoming.

Director Glasper provided an update on the Strategic Plan, which includes 22 priority initiatives that the agency will be working on over the course of the next year. Each initiative has been assigned a lead and is being tracked. They are also providing quarterly updates to staff about the progress. He said Josh would be providing more details in his report, but he wanted to highlight a couple of the initiatives. One being that they completed the application submission for the NASPL responsible gambling verification program and are expecting to receive feedback in mid-June. The other item was related to making improvements in response to the 2018 Employee Satisfaction Survey results, which were recently released by the Governor's Office. The Lottery had a 91% response rate, which was one of the highest in state government. Director Glasper said their overall satisfaction score improved about 2% from last year, but they continue to work on the two lowest scoring questions dealing with agency communication and using customer feedback. They are also still focusing on improvement strategies as a result of the 2017 survey

and continue to work on internal and external communications. They have implemented Supervisor Quarterly Development forums; Diversity, Equity, and Inclusion training; and are piloting the Innovators DNA program in support of using customer input. They are currently analyzing the 2018 survey results to determine additional strategies for improvement.

Director Glasper said the Government Finance Officers Association (GFOA) awarded the Lottery the Certificate of Achievement for Excellence in Financial Reporting for their fiscal year end 2018 CAFR. This was the 29th year the Lottery has received this recognition and he thanked Finance Director, Maria Lourenco-Douka, and her team for a job well done.

Deputy Director's Update:

Deputy Director Josh Johnston announced they have welcomed a new permanent IGT representative, Shannon Struempf. Shannon came from the Missouri Lottery, and they have had a chance to meet with him a few times. Josh said they are already seeing improvements in communication and the information they are receiving.

The Lottery's advertising agency, Cole and Weber, recently merged with another agency and formed the new brand, Wunderman Thompson. This will not change the Lottery's relationship with them, other than they will gain access to a broader array of services under this new partnership.

With the Lottery's banking contract with Bank of America ending in June, they recently went through a bidding process to establish a new contract and selected US Bank. They will provide the local checking account for prize payments, annuities, and non-appropriated vendors. They will also conduct retailer sweeps. The process is moving along smoothly and they will be ready for the transition to the new bank when their contract ends on June 30, 2019.

Chair Loveland asked if the banking contract was awarded based on price, or other criteria. Josh explained they weigh different aspects of the bids, and chose to not disclose the prices to the evaluators until after their reviews so they could initially focus on the other elements of each bid. Commissioner Bogdanoff asked what the length of the contract is. Maria said the contract is for four years, with the option for three, one-year extensions. Commissioner Finn asked who the contract bid evaluators were. Maria said the evaluators were her, Sharon Yoshida, Lori Dolan, John Iyall, and the State Treasurer's Banking Manager. Chair Loveland asked if the previous contract with Bank of America was also four years, with three, one-year extensions, and how the new contract will affect the agency. Maria said yes, that seven years is the maximum amount of time they can stay with the same banking contract. There should be no impacts to the retailers or customers when this change occurs, only minor changes to Lottery internal processes.

Another contract change is with their audit firm, Eide Bailey, who does the Lottery's CAFR. The contract has expired so they will be going out to bid and working off the state master contract of audit firms. Eide Bailey is one of the vendors on the master contract list that they will be considering again.

During the last commission meeting, Josh had reported they were working on issues that were delaying the signing of the lease for the new retail space at the NorthTown Mall in Spokane. That delay was impacting their ability to start work on the space and things were falling behind schedule. He was happy to announce the lease has been signed and they are moving forward. They have brought on Blake Jared, a company experienced in lottery retail space design, to create the look of the front retail space. A soft-opening of the new space is planned for July, which will allow them to identify issues prior to the grand opening planned for August.

The recent decision to suspend online Second Chance drawings will have some impacts on the mobile app project schedule, but it is too early to know the extent of the impacts. The mobile app completion date was set for September 27, 2019, but that date could change as they reassess the project timeline.

Josh provided an update on the lottery machines going into 60 Walmart stores statewide. Between June and August, 48 stores will be equipped with the machines, and they have added another 12 stores that they want to equip which will be completed in January and February. The machines have all been delivered to the Lottery, and the software is expected to arrive in the next couple of weeks. They have a machine in the building's test lab, and Josh offered to escort anyone interested over to see it after the meeting.

Commissioner Finn asked if the Lottery has any substantial business with any other financial institutions. Maria said they currently have a US Bank branch that is used for deposits from the SeaTac kiosk because there are no Bank of America branches in the area. The money is transferred from that account to a Bank of America account.

Chair Loveland expressed that she would like to be updated about the mobile app rollout prior to it going public. Josh said he plans to brief the Commissioners on the new mobile app implementation as they move forward and they will present a demo to the commission before it is launched.

Legislative & Legal Services Update:

In Kristi's absence, Director Glasper provided the legislative and legal update. He reported the Lottery is not currently involved in any lawsuits.

Director Glasper gave an update on the issues surrounding the Department of Justice's (DOJ) new interpretation of the Wire Act. As Kristi explained during the last commission meeting, the Wire Act was enacted in 1961 as a way to combat organized crime. It criminalized the use of a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest. At the time, "wire communication facility" meant telephone and telegraph. In 2010, New York and Illinois asked the DOJ to interpret whether the Wire Act prohibited them from using the internet and out-of-state transaction processors from selling lottery tickets to in-state adults. In

2011, the DOJ issued an opinion that the Wire Act applied only to sports betting. Based on that opinion, the lotteries as they currently exist were developed.

In January, the DOJ issued a revised opinion that the statutory prohibitions are not limited to sports betting, and provided a grace period before they will consider enforcement action under this new interpretation. In February, New Hampshire sued the DOJ seeking declarative and injunctive relief. The DOJ was asked to clarify their opinion and if it applies to lotteries. On April 8, 2019, the DOJ issued another memo stating the January opinion did not address whether the Wire Act applies to state lotteries and their vendors. Therefore, they are currently reviewing that question. They asked the court to dismiss the New Hampshire case for lack of standing since it is not under imminent threat of prosecution. A hearing was held last week and a decision is expected in May.

Director Glasper said the last day of the regular legislative session is April 28th, and cut-off for getting bills out of the opposite chamber was yesterday. He provided an update on the two bills related to the Lottery. House Bill (HB) 1880 and companion bills, Senate Bill (SB) 5416 and HB 1302. HB 1880 creates a Problem Gambling Taskforce and the Lottery would be a participant. SB 5416 and HB 1302 create a voluntary self-exclusion program. The bill did pass the senate late yesterday and is on its way to the Governor's desk for signature. The Lottery will be required to adopt rules in terms of building a self-exclusion program, so Kristi will be working on those proposed rules to bring to the Commission. Commissioner Finn asked Director Glasper to remind everyone what self-exclusion is. Director Glasper said it is a program that currently exists in other states that allows for players, mostly in casinos, to join a list that voluntarily self-excludes themselves from gambling.

Chair Loveland asked what percentage they expect will voluntarily self-exclude themselves from playing the Lottery. Director Glasper said a handful of states do currently offer a Lottery self-exclusion program, and when they inquired with those states they found not many people participate in the program. He believes they will see similar results for their program. He said the intent of the bill was to create programs for all gambling entities in the state and also unify the individual self-exclusion programs that currently exist with both tribal and non-tribal casinos and card rooms. They intend to create a statewide database that encompasses all gambling facilities. The Lottery's rules will be a little different and most likely not prevent participants from purchasing tickets, but only prohibit them from collecting any prize payments over \$600. This is based on how other state lotteries currently operate their self-exclusion programs. Chair Loveland expressed her concerns with the bill and its implementation. She advised the rules need to be very clear and easy for citizens to understand.

Director Glasper wrapped-up the legislation update by sharing that none of the sports betting bills moved beyond policy committee but they did create a lot of conversation and he expects this topic to be revived in future years.

Fiscal Year 2019, Quarter 3 Financial Report:

Maria Lourenco-Douka, Lottery's Finance Director, went through the third quarter financial results for fiscal year 2019.

Commissioner Finn asked if the Cole & Weber dollar figure shown was pass-through money, encompassing all their related expenditures. Maria said that is correct.

Chair Loveland asked for clarification on the \$2 million the Lottery is over on IGT vendor expenses. Maria said the vendor expenses are tied to sales, and as sales go up so does the amount they pay to their vendors.

Chair Loveland asked about the appropriated expenditures related to FTE's and how they make up overages, as shown in the Administrative, Security, Marketing and Finance categories. Maria said they would adjust the allotted amounts in the FTE's from other departments as needed to balance out any overages, but they do not anticipate being over budget.

Sales & Marketing Update:

Ron Smerer, Director of Sales and Marketing, reported the fiscal year sales goal was \$742.6 million, but because sales have been going well the goal was raised to \$784 million.

- Actual sales as of March 30, 2019 were at \$603.1 million year-to-date (YTD), which is \$48.6 million over last year.
- Mega Millions sales YTD are up from last year, while Powerball is slightly down.
- Hit 5 sales are down slightly YTD, however they are still ahead of the quarter percent goal due to the unusually high jackpot of \$560,000 they experienced recently.

Ron said sales overall are looking great, and he believes they could hit \$800 million this year for the first time ever.

Kathi Patnode, Marketing Operations Manager, provided an overview of the "Let's Imagine Together" campaign. The primary goal for this campaign was to make the Lottery more relevant to a larger audience and get people talking and sharing what they would do if they won. Through the Lottery's social channels they are seeing some very creative ideas and the campaign is designed to celebrate those ideas and bring real Washingtonians' imaginations to life.

In January, the campaign launched with the "Pizza" and "Ranch" commercials and they have seen a lot of engagement around those. They brought the campaign to the Tacoma Mall Lottery kiosk which is designed to look like a movie theater entrance, and they showcase big movie sized posters of both the commercials. "Ranch" is also being featured on the Gemini Touch machines. In February, they posted a movie trailer based on a player's post that they would produce a movie if they won. In March they created a vignette based off a player saying they would buy a state and name it "Joshua". For April, a player's idea involving a trampoline and

Velcro walls in her home was used for billboard advertisements. Kathi played a commercial that was launched in April, called "Walking." It brought to life a player's dream of buying a piece of land so large it would take more than a year to walk through. Kathi said they also have some exciting upcoming promotions lined up for the campaign. One comes from a player's desire to create a movie about Sasquatch, and they have created a movie trailer based on his concept. Another post they will be bringing to life involves a player wanting to open an animal hotel.

The Lottery has seen an increase in social media engagement in the last couple of months due to the campaign. It has delivered around 16 million impressions across key channels of television, digital, and social media. On Facebook alone they saw a 255% increase in traffic during the first week of the campaign launch.

Commission Report – Instant Ticket Artwork Review:

Kathi presented the new Scratch ticket artwork for approval; a \$1 ticket called "Happy Fall," a \$1 ticket called "Hipster Holiday," and a \$5 ticket featuring the artwork from the movie "A Christmas Story."

Commissioner Bogdanoff said there was discussion during the February Commission meeting about setting up some criteria for evaluating the artwork. He expressed some concern about the scarecrow featured on one of the "Happy Fall" tickets, and possibly the animal depictions on the "Hipster Holiday." Commissioner Guenther suggested consulting with the Governor's office on their expectations for the artwork because it has been awhile since they received any direction. Commissioner Bogdanoff agreed and asked Marcus about reaching out to someone. Marcus said he can contact the Governor's office about their expectations, and said Lottery staff is currently working to draft some criteria based on the Commission's suggestion at the last meeting. Josh explained some of the struggles they have encountered trying to define the parameters around the artwork and he plans to engage the commissioners as they move forward with the draft. Marcus suggested that if the commissioners come up with any ideas that might help with developing the criteria, to please send them an email.

AAG Tennyson said she will also consult with some people, and shared that the Liquor and Cannabis Board is going through similar struggles with trying to create rules and criteria around labeling cannabis products and ensuring it is not especially appealing to children.

Chair Loveland discussed the artwork and making sure it does not appeal to children but said she does not feel the "Hipster Holiday" artwork is especially appealing to children. It was suggested the smile be removed from the scarecrow, but no other changes were requested of the artwork.

Commission Business:

Chair Loveland asked if there was any additional Commission business. There was none.

Public Comment:

Chair Loveland asked if there was any public comments and there were none.

Agenda Items for Next Commission Meeting:

Chair Loveland asked if there were any agenda items to note for the next Commission meeting. She said she would like a full report on what occurred during the Legislative session and the impacts on the Lottery.

Adjournment:

10:50 a.m. – Chair Loveland adjourned the meeting.

The April 18, 2019 Lottery Commission Meeting Minutes were approved this 27 day of

July, 2019.

Respectfully submitted,


Valoria Loveland, Commission Chair


Stephanie Porter, Executive Secretary

