Lottery Commission Meeting Minutes
Thursday, February 28, 2019
Lottery Headquarters, Olympia, WA

Commission Member Attendees:

Peter Bogdanoff, Acting Chair
Fred Finn, Commissioner
Judy Guenther, Commissioner
Valoria Loveland, Commissioner (telephone)

Lottery Staff Attendees:

Dan Devoe, Director of Security & Licensing
Cheryl Earsley, Promotions/Scratch Coordinator
Crystal Fischer, Director of Information Services
Marcus Glasper, Director
Gaylene Gray, Instant Product Manager
Shar Hawley, Lean Program Manager
Josh Johnston, Deputy Director
Maria Lourenco-Douka, Director of Finance
Kathi Patnode, Marketing Operations Manager
Stephanie Porter, Executive Assistant
Maegan Reed, Procurement & Supply Specialist
Debbie Robinson, Director of Human Resources
Stacey Sund, Merchandising Specialist
Randy Warick, Assistant Director of Marketing
Kristi Weeks, Director of Legal Services
Jenny Whiteside, Corporate Accounts Manager

Other Attendees:

Scott Battishill, Curator
Delaney Berreth, Curator
Becky Bogard, IGT
Glenda Breiler, WA Indian Gaming Association
Laura Cantrell, Former Commissioner
Kristie Christensen, Cole & Weber
Steve Gano, Scientific Games
Rebecca Kaldor, WA Indian Gaming Association
Lisa Levine, IGT
Brent Ludeman, Scientific Games
Ryan Lyonnais, Cole & Weber
Shannon Struemph, IGT
Mary Tennyson, Assistant Attorney General

Call to Order:

8:45 a.m. – Acting Chair Bogdanoff called the meeting to order.

Approval of Meeting Minutes:

Acting Chair Bogdanoff entertained a motion to adopt the minutes of the October 25, 2018 Commission Meeting.

Commissioner Finn pointed out two minor grammatical changes to the Director's Update prior to the start of the meeting. He asked if the 10:50 a.m. start time was correct. Director Glasper indicated that it was correct and reminded him the work session that had run long.

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

A vote was called for approval of the amended minutes of October 25, 2018 Commission Meeting. Ayes were unanimous. **Motion carried.**

Recognition:

Acting Chair Bogdanoff wished former Commissioner Laura Cantrell the best of luck as she moves on from the Lottery Commission. Director Glasper thanked her on behalf of Washington's Lottery for her time served and contributions to the Lottery and citizens of Washington. He presented her with a letter and certificate, a Washington's Lottery Challenge Coin, and a specially designed 16"x 13"framed scratch ticket named "The Cantrell." Each of the Commissioners personally thanked Laura and wished her luck.

CR 102:

Acting Chair Bogdanoff asked Kristi Weeks, Director of Legal Services, to give an overview of the CR 102 to remind everyone why the proposed changes are needed.

Kristi explained that about a year and a half ago the Mega Millions Consortium changed their financial guidelines and made some significant changes to the game, which need to be reflected in the state Mega Millions rules. As an example the current rules still state that a Mega Millions ticket costs a dollar, however they now cost two dollars. The current rules also say that winnings will be paid in 26 installments, but they are now paid in 30 installments. At the last meeting Kristi asked for the Commission's approval to file a CR 101 that gives notice to the public that the Lottery will be reviewing these rules for changes. The Commission approved and the CR 101 was filed with the Code Revisers office.

Since filing, Kristi has worked with Lottery's Finance Director to draft language that aligns the state rules with the current Mega Millions guidelines. The Commissioners were each provided with the draft of the proposed rule changes for review prior to the meeting. Kristi asked the Commission for their approval to file the proposed language, which would then open it up for public comment. The public would then be allowed to review and comment between now and the next Commission meeting. After receiving comments, at the next meeting a Rules Hearing will be conducted, where people will be allowed to come and testify and the Commissioners will have a chance to vote to formalize the rules.

Commissioner Loveland asked if it would be easier to simply change the state rules to say Washington's Lottery follows the rules of the Mega Millions Consortium, rather than having to repeat this process each time the rules change. Kristi said it is definitely an option, however the benefit of having state rules is for the ease and benefit of the public. Washington's rules are much easier to locate than the Consortium's guidelines.

Commissioner Loveland entertained the motion to approve the filing of the CR 102.

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

A vote was called for approval of the filing of CR 102. Ayes were unanimous. **Motion carried.**

Commissioner Guenther asked Kristi in the time she has been with Washington's Lottery if she has received any acknowledgement that any members of the public have read the rules. Kristi said she has not. AAG Tennyson mentioned an individual in the past, but there has not been anyone in a long time. Kristi said often she will have someone contact her with questions and she can then point to the rules and provide the information to them.

Director's Update:

Director Glasper began by introducing the new Executive Assistant, Stephanie Porter. She hails from the Washington State Patrol and joined Washington's Lottery in late December.

He also shared that Kurt Geisreiter, Business Development Manager, retired on January 31st. Kurt worked tirelessly with tribal nations across the state to grow and develop the lottery business on tribal lands. He was a great asset to the Department. Kurt's duties have been temporarily assigned to Lance Anderson, Assistant Director of Sales, who will follow through on the current initiatives that Kurt was overseeing while the position is evaluated going forward. Kurt could not attend today, but Director Glasper wanted to thank him for his service to Washington's Lottery.

Laura Cantrell's departure from the Commission has left a vacancy. The Governor's Boards and Commission's Office is still in the process of interviewing candidates and Director Glasper is very hopeful that a new Commissioner will be appointed by the April Commission meeting.

With the Department of Justice's (DOJ) new interpretation of the Wire Act, Director Glasper mentioned that the new opinion is deemed to apply to any form of gambling conducted via wire or the internet. If there is a strict interpretation of this it could create a substantially detrimental impact on the lottery industry, including traditional retail and instant lottery games. While it is really more of a high risk for other states, the way the opinion language is worded could still have an effect on the lottery business long term. The North American Association of State and Provincial Lotteries (NASPL) and several states have issued statements in response to the DOJ reversal of its opinion mainly indicating the benefits to state budgets and beneficiaries could be really impacted if strictly interpreted as written. There has been some rumblings that a "fix" to the opinion may be forthcoming.

Director Glasper provided an update on the Mega Millions rule change on courier services and the issue of Lotter.com operating in the state of Oregon. He said the Mega Millions Consortium issued a warning letter to Oregon and they agreed to comply. Oregon has issued cease and desist communications to their retailers with relationships with Lotter.com.

As mentioned at the last meeting, NASPL has partnered with the National Council on Problem Gambling (NCPG) to develop the Responsible Gambling Verification Program. State lotteries can go through an independent verification process to be assessed on responsible gambling best practices. Approximately 12-15 states have gone through or are going through the verification program. It assesses an organization's activities against best practices as it relates to responsible gambling, such as, employee training, retailer training, public education and awareness, research, and advertising. Washington's Lottery submitted an application to be considered for the program and the notification of acceptance was received about three weeks ago. They have requested a very thorough list of questions and documentation that must be submitted by March 13th. NASPL and NCPG then compile all the participants' information and provide feedback on how your agency is doing and provide suggestions on how you can improve.

The Public Gaming Research Institute (PGRI) Smart Tech Conference is occurring this week in Florida, and we have a couple of Washington's Lottery representatives attending.

Director Glasper announced that the agency Strategic Framework has been completed, and copies of the Strategic Business Plan were provided to the Commissioners and made available for guests. A disciplined process was used to review and revise the agency's vision, mission, and values, and to define key priority initiatives that will be continually worked on over the course of the next couple of years. This will help to provide transparency to employees and the public about what the agency is doing. He thanked all staff involved in the process and gave special thanks to Cole & Weber and Curator who assisted by providing facilitation and communication support.

One of the items included in the agency's Strategic Plan is the Innovators DNA program. It is a pilot program the Lottery is participating in that tries to bring an innovative culture to state government. It is a research-backed training program providing resources and a methodology to help individuals and organization generate new, high-impact ideas for innovating an organization. Sixteen staff members were selected to participate and will be working on a customer-focused innovation challenge. The Lottery is the first state agency in Washington to take part in the program.

Commissioner Loveland asked what the DNA stands for in the program's name. Director Glasper explained that it is like our own DNA and is intended to represent bringing new skills and capabilities into an organization and making them a part of the culture or DNA of an agency.

The Governor's office, through Results Washington, hosted a Diversity, Equity, and Inclusion Summit in SeaTac on January 31st. Josh Johnston, Shelby Sheldon, and Debbie Robinson attended on behalf of the Lottery. The Summit was well attended and featured the Governor's statement about diversity, which speaks to institutionalizing a culture of diversity and equity that becomes imbedded in our organizational DNA. The Lt. Governor Cyrus Habib and the Honorable G. Helen Whitener were among several speakers featured during the summit, which provided very useful information for the Lottery moving forward with developing a diversity recruiting plan, and increasing efforts to support a diverse workforce.

The Lottery had a couple of audits completed recently. Last month the Multi-State Lottery Association (MUSL) conducted a three-day extensive compliance audit of the drawing procedures and protocols. The overall compliance was very good with only a few suggestions for improvement noted. Lottery staff is currently working with MUSL to implement those improvements. The Washington State Patrol conducted an audit in early February that was comprised of a compliance review and a technical review on the requirements for use of the ACCESS system. The Lottery uses this computerized criminal records system for our background checks on employees and retailers, and passed the review with high praise. There were three minor suggestions for improvement, two of which have already been completed.

Acting Chair Bogdanoff congratulated Director Glasper on his completion of the Strategic Plan. He said he is impressed with what has been done to make the objectives of the Lottery clear and to identify and address some weaknesses in the organization.

Commissioner Loveland expressed concern with the Lottery getting too far ahead with problem gambling prevention and does not want the agency to find itself liable for individuals with gambling problems.

Deputy Director's Update:

Deputy Director Josh Johnston provided an update on the Walmart plans and said things are progressing well. One hundred of the agreed upon machines, GameTouch 20, have been purchased and will be placed in Walmarts across Washington. The first order of 50 will be delivered April 1st, and the remaining 50 will be delivered on April 15th. The machines will go through testing prior to deployment, which will begin in June and wrap-up in August. Currently 70 machines are planned for 47 stores with an expected $7.12 million in new revenue.

The Lottery is diligently working on the new Mobile App project. The current app only permits players to check their draw tickets. With the new app, players will also be able to check scratch tickets, which is 65-70% of total game sales. Players will also be able to enter into loyalty programs and second chance drawings. The new app also creates a base for many future features the Lottery may want to include, such as self-exclusion, Geo Fencing, and direct messaging. The project is currently scheduled to be complete in September, however the public rollout is yet to be determined.

On August 31st the Spokane Lottery office lease is set to expire and they will be moving into the NorthTown Mall. This move signifies a new business strategy that reduces office space and warehouse space, and instead features a front retail area where games will be sold. This is very unlike the traditional regional offices, which do not sell games and consist of large office and warehouse space. There has been some challenges with finalizing the new lease which has impacted the move schedule. The grand opening will most likely be in the late summer, rather than the originally projected June date.

The Lottery's banking contract with Bank of America ends this June. This contract provides the local checking account that pays prizes, annuities, non-appropriated vendors, and conducts retailer sweeps. The request for proposals was submitted and they are now conducting evaluations. They hope to have a decision soon and begin work in April, with a June 30th effective date.

The Commissioners were provided with a stack of business card sized, quick reference brochures that offered information about how money is distributed from Lottery sales. They are intended to be readily available if the Commissioners or Lottery staff are in public and are asked questions about funding distribution.

Acting Chair Bogdanoff asked if the Spokane office move is successful whether all the regional offices will be transitioned to the same business model. Josh said it will depend, and they would look at each location independently to determine whether it would work. The benefit of the Spokane office move is being able to sell from the location which will cover the space rent and hopefully drive revenue. So if it is successful they would probably begin to look at the other regional offices, but it is too early to know.

Legislative & Legal Services Update:

Kristi Weeks said no law suits have been filed against the Lottery. There was a request for hearing concerning the Game of Life scratch ticket. The individual played the ticket incorrectly and admitted he played it incorrectly, however he believes the instructions were unclear and he should be paid the $200,000.

The Wire Act which was enacted in 1961 and criminalized the use of 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. Kristi explained that at that time "wire communication facility" meant telephone and telegraph. The DOJ was asked in 2010 to interpret whether the Wire Act prohibited states from using the internet and out-of-state transaction processors for selling lottery tickets in-state. The following year the DOJ issued and opinion that the Wire Act applied only to sports betting. Last month the DOJ issued a new interpretation stating that the statutory prohibitions are not limited to only sports betting and apply to any wagers or bets.

Acting Chair Bogdanoff asked what led to the new opinion from the DOJ. Kristi said, while the exact reason is unknown, it is believed that Sheldon Adelson, owner of the Las Vegas Sands Corporation, asked for it. He owns many casinos and is very opposed to internet gambling.

The DOJ provided a grace period for states to adapt to the change, however it appears they are instead gearing up to fight. As Marcus mentioned, if there is a strict interpretation of this new opinion it could create substantially detrimental impact on the lottery industry. Although Washington's Lottery does not sell online, there could still be impacts to our in-state draw games because we send information over the internet related to the draws. New Hampshire has since

sued the DOJ seeking declarative injunctive relief, and the Attorneys General of several states have sent formal letters requesting they again re-analyze the opinion.

Although this new interpretation is concerning, Kristi said the Lottery is not panicking. This appears to be the work of a single person who believes internet gambling cuts into his casino profits. If this is true, lotteries are not a threat to his interests. She also pointed out that it is only an opinion of how the DOJ interprets the law, and if they were to take any enforcement action the final decision would be made by a judge. There are two fairly recent Federal Court of Appeals cases stating that the Wire Act only applies to sports betting.

There are currently three legislative bills related to the Lottery. House Bill (HB) 1387 would redirect revenue from the general fund to the Washington Opportunity Pathways Account (WOPA). The bill began in a fiscal committee and had a hearing but has not been voted out yet. Kristi said it has not been scheduled for a vote so she does not believe it will go anywhere.

HB 1818 would create a Problem Gambling Taskforce, which would require the Lottery to be a participant but not the lead. The bill has been referred to the Rules committee.

Companion Bills, Senate Bill (SB) 5416 and HB 1302, are the Gambling Commission's request to create a voluntary self-exclusion program for their licensees. The bill includes language about working with the tribes to implement a statewide self-exclusion program for all casino style gambling. Although the Lottery was not initially named, the bills were amended after stakeholders inquired why they were not included. Both bills are headed for the floor.

Acting Chair Bogdanoff asked Kristi if she could explain what the term "self-exclusion" means.

Kristi explained that research has shown that problem gamblers often have moments of clarity where they realize they may need help. Self-exclusion programs allow those individuals to contact whatever entity they are gaming with and ask to be restricted from playing there anymore. Currently in Washington, many of the card rooms and tribal casinos have self-exclusion programs but they are not connected to one another. The original intent of the bill was to create as single process that would self-exclude an individual from all casinos and card rooms.

The amendment that adds the Lottery, would allow an individual to self-exclude from lottery games. However, because of the nature of the business, Lottery retailers would not be able to stop people from purchasing Lottery products. Instead, any individual who has placed themselves on a self-exclusion list for the Lottery would be prohibited from redeeming prizes over $600. Prizes over $600 require individuals to visit a Lottery office, so if they came to collect their winnings and they had self-excluded, they would be denied that payout. Those winnings would instead go to the Problem Gambling Fund. If the bill passes, the Lottery will then create rules to enact a program.

There are a few bills of interest related to sports betting that do not involve the Lottery. HB 1975 would allow sports betting in tribal casinos and Emerald Downs. HB 1992 would allow sports

betting at tribal casinos and any horse racing facility. SB 5965 was introduced as "title only" having to do with sports betting. It has not gone anywhere, and looks to simply be a conversation starter for sports betting in the Senate.

Commissioner Loveland asked if there was a House Bill that matches the Senate Bill that is title only. Kristi said no, there was only a Senate Bill.

March is responsible gambling awareness month and like past years the Lottery is partnering with the Evergreen Council on Problem Gambling to disseminate educational materials on problem gambling awareness. The materials include posters for retail stores, social media messaging, Enterprise Services Multimedia (ESMM) slides, and internal messaging to Lottery staff.

Commissioner Loveland commented on the self-exclusion bill and her concerns for the Lottery being incorporated. She feels that implementing a self-exclusion program for the Lottery would expose the agency and the state to liability issues.

Acting Chair Bogdanoff asked if the bill was structured in a way that the Lottery's participation was separate from the main language.

Kristi said yes, it was in a separate section. There is also language included in the current bill that relieves the Lottery and retailers from any liability, however that would not prevent individuals from suing the Lottery. There is also an exemption in the bill that would prevent the information related to self-exclusion from the Public Records Act.

Sales & Marketing Update:

Randy Warick, Assistant Director of Marketing, said the Lottery's sales are up 8.7% over last year at almost $40 million. He presented the YTD sales numbers for all games and said the prize jackpots are currently $5 million for Lotto, a $267 million for Mega Millions, and $348 million for Powerball. The Hit 5 game is struggling slightly in sales, however the jackpot is currently sitting at the fourth highest at $80,000.

Commissioner Guenther asked if the $1.6 billion jackpot winner for Mega Millions does not collect their prize money does it get dispersed to the participating states. Randy said yes.

Commissioner Guenther asked if there was an estimate of how much of that unclaimed prize would come back to Washington State. Maria Lourenco-Douka, Finance Director, said approximately $40 million would come to Washington. A third of the money would go to the Economic Development Account and the rest would be placed in the unclaimed fund. At the end of the year, anything in excess of $10 million in the unclaimed fund is dispersed to WOPA.

Each month players share with the Lottery how they plan to use their winnings. Randy highlighted a few player responses, including a Navy veteran who said he would not travel

because he did enough in his military career; he instead planned to buy a boat and relax with his wife. The Lottery shared a story with the local media about a player following a fortune cookie suggestion, purchased a Hit 5 ticket and won $125,000. The story caught the attention of national media and resulted in 46 million online impressions.

Over the holiday season, the "Make-it-Raindeer" campaign was brought back for the second year. It was shared through social media channels and digital channels. For the first time the Lottery used a custom Holiday-themed Pandora station for promoting the campaign which was very successful.

Acting Chair Bogdanoff asked about the cost of advertising through Pandora. Randy said it costs about $50,000 to $100,000 a month. He said the Lottery has been using Pandora for advertising for four to five years because it has proven to be very successful. He attempted to show two "Holiday Hack" advertisements that were running during the holiday season, however the technology was not working.

The Seahawks Scratch campaign ended on January 7th with the final drawing for the grand prize that sent one lucky winner to the Pro-Bowl in Florida. There were 142,513 Second Chance Entries for the game, with the highest number coming from King County.

The new beneficiary campaign this year is "The Curious Vending Machine," which launched this month. The advertisement is set from the point-of-view of a Lottery vending machine who becomes curious about where the money goes when people play Washington's Lottery. The 30 second broadcast was shown during the meeting, and there is also a 60 second video available on YouTube.

Randy presented a photo of the Lottery kiosk at the Tacoma Mall with its new "Movie Premiere" themed look. This has provided a fun and unique opportunity for advertising the latest Lottery scratch and draw game promotions. Some of the new items being advertised there are the Game of Life scratch ticket and the Minnie Winnie draw game promotion.

The new brand campaign for fiscal year 2019 is "Let's Imagine Together." It is all about celebrating the most imaginative and outrageous ideas from our players about what they would do if they won. Players are encouraged to use the hashtag #LETSIMAGINETOGETHER and share their ideas on social media. To kick off the new campaign, two submissions from Facebook were recently turned into commercials. One called "Pizza" and the other called "Ranch" are currently running and were both shown during the meeting. The Lottery has received several responses to the commercials, so they feel the campaign is definitely working and getting people talking.

Randy talked about their marketing tactics on social media and ways they look to connect with the consumers, message product promotions and events, and providing jackpot updates.

Commissioner Guenther asked about advertising at events like the Woman's Show and an issue that occurred in the past. Kathi Patnode, Marketing Operations Manager, clarified that there was an issue in the past with the false belief that the Lottery was sponsoring an event. For the Woman's Show the Lottery is a presenting partner and pays a fee to participate, but in return receives in-kind advertising dollars. Kristi provided some legal perspective saying that sponsoring and advertising are very different. Sponsorship implicates that the Lottery is giving something away, or backing and believing in the message of an event.

Commission Report – Instant Ticket Artwork Review:

Gaylene Gray, Instant Product Manager, asked if the Commissioners had any specific questions about the scratch ticket game artwork that they were provided.

Acting Chair Bogdanoff said he was a little concerned about the sloth and llama characters being used for two of the scratch ticket designs.. Gaylene explained that sloths and llamas were used because they are currently very popular and can be seen in consumer goods, packaging, and commercials. She asked if there was something they could change about the design to make them less concerning. Commissioner Guenther felt the artwork was too cute and resembled children's stuffed animals.

Gaylene asked the Commissioners if it was their recommendation that the Lottery not move forward with the two scratch ticket designs featuring sloths and llamas. Acting Chair Bogdanoff said he felt the sloth and llamas were too appealing to children so he would be concerned with using them. No other concerns were noted from the Commissioners on the additional artwork provided.

Acting Chair Bogdanoff mentioned that it might be a good idea to revisit what standards are used to evaluate the artwork and maybe create guidelines for future use by the Commission.

Commission Business:

Acting Chair Bogdanoff asked if there was any additional Commission business.

Commissioner Guenther described an incident she witnessed in the Lottery lobby that morning and asked if they had regular problems with people loitering or bothering customers and staff.

Director Glasper explained the location of their facility, which is positioned across the street from the Salvation Army and near downtown, is an area that attracts unsheltered individuals. They do have consistent foot traffic through the parking lot, and the occasional person hanging around the lobby. He said the Lottery security staff does a great job of talking with people and escorting them out if necessary, but he does not feel it has been a huge issue. They have had very few instances of confrontations.

Public Comment:

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

Agenda Items for Next Commission Meeting:

Acting Chair Bogdanoff asked if there were any agenda items to note for the next Commission meeting. There were none.

Adjournment:

10:40 a.m. – Acting Chair Bogdanoff adjourned the meeting.

The February 28, 2019 Lottery Commission Meeting Minutes were approved this 18 day of April, 2019.

Respectfully submitted,

Valoria Loveland, Commission Chair

Stephanie Porter, Executive Secretary