



Lottery Commission Meeting Minutes  
Thursday, June 27, 2019  
Lottery Headquarters, Olympia, WA

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**Commission Member Attendees:**

Judy Giniger, Commissioner  
Valoria Loveland, Chair  
Eileen Sullivan, Commissioner

**Lottery Staff Attendees:**

Jim Bevan, SharePoint & Office Administrator  
Dan Devoe, Director of Security & Licensing  
Lori Dolan, Finance Manager  
Cheryl Earsley, Promotions/Scratch Coordinator  
Crystal Fischer, Director of Information Services  
Marcus Glasper, Director  
Gaylene Gray, Instant Product Manager  
Josh Johnston, Deputy Director  
Maria Lourenco-Douka, Director of Finance  
Stephanie Porter, Executive Assistant

Audrey Price, Legal Assistant  
Maegan Reed, Procurement Specialist  
Debbie Robinson, Director of Human Resources  
David Schoonmaker, Admin Service Manager  
Ron Smerer, Director of Sales & Marketing  
Stacy Sund, Merchandising Specialist  
Patti Swihart, Events Coordinator  
Randy Warick, Assistant Director of Marketing  
Kristi Weeks, Director of Legal Services  
Jenny Whiteside, Corporate Accounts Manager

**Other Attendees:**

Scott Battishill, Curator  
Becky Bogard, IGT  
Kristie Christensen, Cole & Weber  
Brett Donaldson, IGT  
Kathy Gano, Scientific Games  
Judy Guenther, Former Commissioner  
Rebecca Kaldor, WA Indian Gaming Assoc.

Ryan Lyonnais, Cole & Weber  
James Mackenzie, Cole & Weber  
Ashley O'Connell, WA Indian Gaming Assoc.  
Shannon Struempf, IGT  
Mary Tennyson, Assistant Attorney General  
Liberty Quihuis, Office of the Attorney General

**Call to Order:**

8:50 a.m. – Chair Loveland called the meeting to order.

Chair Loveland asked everyone in the room to introduce themselves. Director Marcus Glasper welcomed the new Commissioners, Judy Giniger and Eileen Sullivan, and read a short bio for each of them.

**Approval of Meeting Minutes:**

Chair Loveland entertained a motion to adopt the minutes of the April 18, 2019 Commission Meeting.

Commissioner Giniger **so moved** and Commissioner Sullivan **seconded**.

A vote was called for approval of the minutes of April 18, 2019 Commission Meeting. Ayes were unanimous. **Motion carried.**

**Recognition:**

Director Glasper recognized former Commissioner Judy Guenther for the time she has served on the Lottery Commission. He presented her with a letter from Governor Inslee, a letter and certificate from Washington's Lottery, a Lottery Challenge coin, and finally a specially designed 16"x13" framed scratch ticket titled "The Guenther." Director Glasper thanked Judy on behalf of the entire agency for her guidance and contributions to Washington's Lottery over the past several years.

Judy thanked Director Glasper, the Commissioners, and the Lottery staff and said she has enjoyed her time on the Commission and really appreciated the experience.

**Rules Hearing:**

Chair Loveland opened the rules hearing for proposed changes to Chapter 315-38 WAC filed on March 29, 2019, and published in the Washington State Register as number 19-08-054. She stated that the hearing would be recorded and all comments would be summarized and a summary bill would be sent to those who signed in for the hearing, made comments on the rule, or requested to receive the summary. Chair Loveland provided further instruction for how the rules hearing would proceed and then asked if there was anyone present that had not signed in but wished to testify. Receiving no reply and with no one signed in to testify, Chair Loveland closed the hearing at 9:12 a.m. and provided information on the next steps in the process.

Kristi Weeks, Director of Legal Services, provided a brief summary for the benefit of the new Commissioners and explained the hearing was for changes to Washington's Lottery's procedural rules for the Mega Millions game. The Mega Millions Consortium recently changed their guidelines and rules for the game, and therefore the Lottery proceeded to rewrite their rules to reflect the same changes. Kristi referenced two submissions on the Lottery website that were received during the time it was open for public comment. They were provided to the Commissioners prior to the meeting for consideration when voting to approve the proposed rules.

Commissioner Sullivan asked for clarification around the decision to remove the previously proposed language concerning the mobile application and digital barcode. Kristi explained that it was an option the Lottery was considering, but have since decided it will not be a feature for their new application.

Commissioner Giniger asked if the reason for the changes by the Mega Millions Consortium were known, and if they have been discussed at previous Commission meetings. Chair Loveland said the Commission was given information by Lottery staff after attending annual meetings

where the decisions were made by the members of the Consortium. Director Glasper further explained that the Consortium, which was made up of 11 states but is now down to 10 states, evaluates the performance of the Mega Millions game annually. Analysts from different partnering vendors also provided recommendations on ways to enhance the game. Due to a decline in annual revenue over the last couple of years, Mega Millions followed what Powerball had previously done and decided to raise their price payment.

Chair Loveland asked if the Lottery has responded to the public comments received on the website. Kristi said they will respond after the Commission votes on the rules and will also communicate why their comments were accepted or declined.

Chair Loveland entertained a motion to adopt the proposed changes to Chapter 315-38 WAC.

Commissioner Sullivan **so moved**, and Commissioner Giniger **seconded**.

A vote was called to approve the adoption of the proposed changes to Chapter 315-38 WAC. Ayes were unanimous. **Motion carried.**

#### **Director's Update:**

Director Glasper began by sharing that the State of New York has pulled out of the Mega Millions Consortium and is joining the Multi-State Lottery Association (MUSL), the Powerball group, effective June 30, 2019. This brings the Consortium down to 10 participating states. The motive behind New York exiting was somewhat vague, but the reason they provided was a need for more formality and structure based on input from their inspector general.

Director Glasper attended the North American Association of State and Provincial Lotteries (NASPL) Director's meeting last week in Williamsburg, Virginia and provided some highlights from the event. The Mega Millions Consortium spent a considerable amount of time evaluating potential enhancements to the game. Price was not part of the discussion, which mostly focused on possible add-ons to the game. Both Powerball and Mega Millions currently have add-on features, such as the "Megaplier" and "Just the Jackpot," which give players an option to spend an additional amount for another opportunity to win. No decisions were made during the meeting, but the Consortium did explore four options. If one of those options is chosen then states will have the ability to opt-in or opt-out of using the add-on feature.

Mega Millions has been performing well across the nation since the price increase to \$2. However there are some signs of what is called "jackpot fatigue," which means it is taking longer and longer for excitement to build around large jackpots. Mega Millions and Powerball are estimated to reach \$10.4 billion in combined sales this Fiscal Year, which is a 23.5% increase over last year. Washington experienced a 137.7% growth in sales for the 104 draws that occurred post the Mega Millions price change to \$2, when compared to 104 draws prior to the increase; which was \$92.7 million vs. \$39 million, clearly showing the increase has had an impact on sales.

As previously reported, Mega Millions was dealing with the issue of Lottoland trying to trademark their name in other countries and they have recently succeeded in protecting the Mega Millions trademark in the UK. They continue to have some challenges with the European Union, but they have an attorney representing the trademark around the world and are currently working with Germany and Australia.

The Wire Act was also discussed at the NASPL Director's meeting, and what is next as a result of the recent court ruling on the Department of Justice (DOJ) opinion. The meeting also included conversation about anonymity. A few states already allow anonymity for players, and several states introduced bills to provide the ability for players to remain anonymous. NASPL has not taken a position, but will be developing a white paper to discuss the issue.

The week of July 15-19, there will be a campaign called Lottery Week, with Lottery Day being July 17th. NASPL has been working to make it a national campaign to promote lotteries across the United States and Canada. It is intended to improve public awareness about the positive impacts lotteries have on their states and beneficiaries. NASPL provided each state a campaign kit to customize should they choose to participate. This will be the first time Washington's Lottery has participated and they have some media relations activities planned, as well as hosting a promotion at Lakefair in Olympia on Lottery Day.

Director Glasper said the agency just completed an internal audit of their retailer licensing process, and will be spending the next several months looking at process improvements. Part of the improvements will likely include recommendations to the Commission to update some of the related rules that have not kept pace with current practices.

The August Commission meeting is taking place in Spokane, and the hope was to have a grand opening of the new regional office space. Unfortunately there have been some project delays that have affected the opening date. They are still planning to try and incorporate a tour of the location.

A major responsibility of Washington's Lottery is retailer compliance, and their security team conducts retailer compliance checks frequently to help ensure fraud is not occurring. Director Glasper said that during one of these recent compliance checks, a retailer failed and two of its employees were arrested for fraud in Snohomish County. This instance, like others that have been reported in the past, resulted in the perpetrators being caught due to the checks and balances that are in place. However, these measures are mostly reactive, and the security team began looking at customer-focused, proactive steps the Lottery could also take. They partnered with the Sales & Marketing team to develop a short security video for their retailers. The video demonstrates strategies and best practices for strengthening internal controls to better protect retailers from theft and loss. District sales representatives were tasked this month with asking their retailers to review the short video. The initial feedback has been very positive, with some retailers implementing on-the-spot changes to how they manage ticket inventory.

Director Glasper was pleased to share that Washington's Lottery has received "Verified Status" within the NASPL/NCPG Responsible Gambling Verification Program. This means we have been accepted into the program which will allow us to learn and incorporate further responsible gambling best practices into their products and services. We become the 18<sup>th</sup> state to join the program and are currently waiting to receive our assessment report to begin implementing improvements.

For Public Service Recognition Week the Lottery hosted a booth at an event on the capitol campus to honor the great work done by state employees. The booth provided great publicity and was very popular among the attendees, offering the opportunity to spin a prize wheel and win prizes of nominal value.

Director Glasper provided an update on the progress being made on the Lottery's strategic plan initiatives. He said we are focusing on how to determine success using the key measures, as well as quantifying and defining how progress towards overall goals and objectives are measured. We are creating an agency dashboard that will be rolled-out in early July.

Chair Loveland asked about the financial impacts of New York pulling out of Mega Millions. Director Glasper said expenses for the game will now be divided among 10 states rather than 11 states. Rules stipulate that any State exiting the Consortium is still responsible for paying expenses that incur, or will be incurred for up to six months. Chair Loveland also asked if they will lose Mega Millions players because of New York. Director Glasper said it is not likely because there is still a cross-sale agreement in place that allows them to sell Mega Millions tickets, they will just no longer be a part of the Consortium and unable to make decisions about the game.

Chair Loveland suggested that the Lottery reach out to TVW as another avenue for promoting Lottery Week. She also asked for staff to communicate with Commissioners about major retail fraud cases prior to the stories coming out in the media.

#### **Deputy Director's Update:**

Deputy Director Josh Johnston began by providing an update on the Spokane regional office project. Unfortunately it is running behind schedule and it will no longer be possible to have the grand opening in August. The site should be under construction during the time Commissioners are in town, so they are still planning a site visit along with a 360 degree rendering of what the new space will look like. Currently the blue prints are with Northtown Mall, who will certify and submit for permits and bid out the contractors.

The Lottery's banking conversion from Bank of America to US Bank will occur on June 30th, as reported at the last Commission meeting. US Bank will take over the agency's local checking account that pays prizes, annuities, and non-appropriated vendors. They will also conduct the retailer sweeps. Josh reported that so far the transition is going well.

Following the decision to not use electronic play slips and to suspend online second chance drawing registrations, the Lottery took a step back on the Mobile App project to reassess the loyalty program and ensure it was in compliance with Washington laws. We are now moving forward with the program, which will offer points for prizes from an online store. The goal is to have the new app launch in time for this year's holiday season.

Josh provided an update on the contract bid for the agency's audit firm, who completes our Comprehensive Annual Financial Report. We received two bids, and after evaluation Eide Bailly was selected. They are the same firm the Lottery previously contracted with.

Last week, Josh and three other Lottery employees attended the Washington Indian Gaming Association's Annual conference. They attended breakout sessions on everything from sports betting, to marketing return on investment, to future gaming technology. He said it was a great opportunity to network with tribal partners and continue to build positive relationships.

In mid-June, Washington's Lottery detected fraudulent attempts on a checking account. Fake Lottery checks were being presented for payment, the last attempt being for \$97,000. It appears the individuals responsible are using a mobile app to deposit the fraudulent checks, and if the banks do not place a hold on the funds the checks have been cashed. Because of the strong controls in place no loss to the Lottery has been incurred. Other state agencies have also been targeted and the Olympia Police Department is investigating.

Chair Loveland asked for some clarification around the laws the lottery had concerns with while developing the loyalty program. Josh explained they had to be mindful of the laws limiting interaction with an electronic device in the process of playing a game. After much examination they found that a loyalty program is not considered gambling, it simply allows the opportunity for someone who has already purchased a lottery ticket to accrue points to earn a reward.

Chair Loveland cautioned against getting too intertwined in tribal dealings because of how differently they operate in comparison to the Lottery. Josh thanked her for her comments and assured her that the Lottery understands its unique role in state government and what is being asked of them. Director Glasper also mentioned that many of the tribal casinos and convenience stores sell Lottery products and how much they appreciate the continued partnership.

#### **Legislative & Legal Services Update:**

Kristi reported that there were no lawsuits filed since the last Commission meeting. On June 6<sup>th</sup> we had an administrative hearing on the Game of Life prize denial. We have not received the decision yet, but she will update the Commissioners on the outcome at the next meeting.

Chair Loveland asked for details pertaining to the hearing. Kristi said there was a gentleman who played the Game of Life scratch ticket incorrectly and believed he had won. He is demanding the Lottery pay him the \$200,000. Kristi said we made the clear case to the judge that because scratch tickets are manufactured as winners or non-winners from the day they are

printed, scratching it incorrectly does not change the results. Chair Loveland asked if the game will be used again. Kristi said players seem to enjoy it, but because of the complexity of the game compared to other scratch games we would have to really assess whether it was worth using again in the future.

Kristi also provided information on an individual who has filed documents in the United States Court of Federal Claims, after unsuccessfully suing the Lottery in administrative, state, and federal court over the last several years. He believes he won the Mega Millions prize in 2005 and is trying to recover \$102 million. His claims have been denied all the way to the US Supreme Court. This new filing is not likely to affect the Lottery, as it is a court solely for claims against the federal government.

To give some background to the new Commissioners, Kristi provided previously reported information concerning the Wire Act and the related law suit against the DOJ. The federal Wire Act was enacted in 1961, as a way to combat organized crime by banning the use of wire communication facility to transmit interstate or foreign commerce of bets or wagers. At the time it was enacted it referred to telegraphs and telephones. 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 for selling lottery tickets. In 2011, the DOJ issued an opinion stating the Wire Act applied only to sports betting. Because of this opinion, many state Lotteries began participating in interstate activities. In January of 2019, the DOJ issued a revised opinion that the statutory prohibitions are not limited to sports betting. This caused New Hampshire to sue the DOJ in February seeking declarative and injunctive relief. On April 8<sup>th</sup> the DOJ issued a memo saying their new opinion did not address whether the Wire Act applies to state lotteries and their vendors, and therefore would review the question. They moved to dismiss the lawsuit. On June 3<sup>rd</sup>, the court rejected the DOJ's new interpretation and confirmed that the Wire Act applies only to sports betting. It is unclear if the decision applies across the nation or only to the Plaintiffs in that case. The DOJ has until July 3, 2019 to appeal.

Chair Loveland shared her thoughts on the Wire Act and sports betting and asked Kristi to please provide information on the final results of the court's decision at the next Commission meeting.

The last day of the regular legislative session was April 28<sup>th</sup>, with no special sessions. There were two bills related to the Lottery that Kristi reported on during session. The first was House Bill 1880 that would create a Problem Gambling Taskforce. Although this bill did not pass, it morphed into a proviso in the operating budget. The Gambling Commission was given \$100,000 of general state funds to contract for a facilitator to staff and assist with a joint legislative taskforce. There is a long list of entities that will be involved in this taskforce and the Lottery will have a seat. The taskforce will review the Gambling Commission's report on problem gambling from last year; review existing prevention, treatment and recovery services; identify other issues; and make recommendation to the legislature. A preliminary report is due by November 1, 2020, and a final report by November 30, 2021.

Chair Loveland asked who will be representing Washington's Lottery on the taskforce. Kristi said they have not yet made that decision. Chair Loveland questioned the need and effectiveness of involving the Lottery in this taskforce. She said she will be interested to hear more about the discussions that occur and the direction they take. Commissioner Sullivan asked if the budget proviso assigned the Lottery to the taskforce, or if it was something they sought to expend their purview. Kristi said the Lottery was assigned to the taskforce by the legislature, along with many other agencies.

The other bill Kristi was following was Senate Bill 5416 and companion House Bill 1302, which began as a Gambling Commission request bill and the Lottery was amended into it later based on stakeholder response. It passed both chambers unanimously, except for one Senator who was excused. The bill requires the Lottery to adopt rules implementing a program where a person can choose to voluntarily exclude themselves from participating in the Lottery. An individual self-excluding themselves from Lottery games would still be able to purchase tickets and redeem them up to \$600. Any prize amount over \$600 requires a person to visit a Lottery office, and if this happened that person would be unable to claim that money and it would instead go into the Problem Gambling account. The bill contains strong legal protections for the Lottery and retailers, as well as an exemption from the Public Records Act. The rules must be adopted by June 30, 2021, which is in line with the Gambling Commission's self-exclusion program for their licensees. Kristi said it will be challenging developing the Lottery's program and she expects in the fall or winter to present a CR 101 to start the rule making process.

None of the three sports betting bills moved beyond the policy committee, however they created a lot of conversation and it is expect this topic will be revived in future years. Kristi also shared that the House Commerce and Gaming Committee had a new Chair and four new members appointed this year. Due to the resignation of a state senator, it is likely the new Chair will be appointed to the Senate, and another new Chair will be appointed to the Committee for next year.

### **Biennium Budget Approval:**

Maria Lourenco-Douka, Lottery's Finance Director, stated per WAC 315-08-010, the Lottery is required to obtain budget approval prior to the beginning of each biennium for expenses and contributions they expect to make in the next biennium. The 2019-21 biennium Pro-Forma is what the Lottery has estimated for approval. These numbers are based on the Lottery's best estimate for the ensuing biennium. At the next Commission meeting in August, Maria will present the final numbers that the Economic & Revenue Forecast Council provides along with the legislative approved appropriation amount. Maria went through the Pro-Forma and requested approval for the proposed budget.

Commissioner Giniger asked if the contributions that go towards CenturyLink Field are going to expire, and if any other contributions expire. Maria said the CenturyLink contributions expire in 2021, but the remaining contributions are fixed. Director Glasper added that the CenturyLink contribution will be redirected to WOPA after it expires unless the legislature directs them elsewhere.

Chair Loveland asked if the proposed amount for Problem Gambling is the same amount that has always been contributed. Maria answered that it is. Chair Loveland also inquired when the Lottery receives the forecast from the Economic & Revenue Forecast Council. Maria said they received it this week and will be prepared to present it at the next Commission meeting.

Commissioner Giniger asked Maria to talk a little about the decrease in prizes. Maria said they are calculated based on the price point of the scratch games and it depends on what the expected projection is at the price point level, so it varies.

Chair Loveland entertained a motion to approve the budget as proposed.

Commissioner Sullivan **so moved**, and Commissioner Giniger **seconded**.

A vote was called to approve the proposed biennium budget. Ayes were unanimous. **Motion carried.**

#### **Lottery Leadership Highlights:**

Kristi Weeks and Lori Dolan, Finance Manager, provided an overview of their attendance at the NASPL Lottery Leadership conference in April. It took place in Cleveland, Ohio and was well attended by Lottery employees from around the country. The conference covered several topics, including responsible gambling, cultivating a culture of inclusion and diversity, developing personal leadership, expanding forms of gambling, and many other leadership building sessions. Kristi and Lori provided an overview of each day of the four-day conference and said it was an excellent opportunity to meet and work with peers in a small manageable environment.

Chair Loveland expressed her support of Lottery conferences and recommended the new commissioners attend one of the NASPL conferences in the future.

#### **Sales & Marketing Update:**

Ron Smerer, Director of Sales and Marketing, reported that as of June 8<sup>th</sup> sales were at 108.7 percent to goal for the year, and he highlighted that scratch ticket sales alone are up \$17 million over last year. As of June 26<sup>th</sup>, total sales were over \$795 million and the belief is they will hit over \$800 million before the fiscal year ends, which will be a record for the Lottery.

Currently there are 23 Walmart locations that have their Lottery machines installed, and so far the Poulsbo, Moses Lake, and Renton stores are pulling in the most sales. Ron mentioned they recently met with Costco and are looking at possible options for working with them. They have also had meetings to discuss options with Alderwood Mall in Lynnwood, and the Auburn Mall. He said they have also approached Rite Aid and Circle K about adding Lottery machines at their stores. Ron also mentioned that the week's winning Hit 5 ticket was sold at a Shell station in Wenatchee, located on Easy Street.

Randy Warick, Assistant Director of Marketing, shared some additional information about the meeting with Costco and said they have tried in the past to work with them, but due to the Lottery's limitations and the company's demands they have been unsuccessful. During this most recent meeting the company seemed more willing to work with them, and they are optimistic about the possible partnership. Commissioner Giniger asked if any other state lotteries currently work with Costco. Randy said there are a few Costco's in other states being tested, such as Arizona, along with stores in Canada.

Randy highlighted some of the Lottery's recent media coverage. In March there was a \$200,000 "Game of Life" scratch ticket winner, whose dream was to buy a beautiful home and get on the HGTV show "My Lottery Dream Home." Randy said they just got notified that he has been successful and will be featured on the show. Also in March, KIRO 7 News ran a segment on the luckiest retailers in Washington to celebrate St. Patrick's Day.

Randy provided an update on the "Let's Imagine Together" campaign, reviewing all the ideas the Lottery has brought to life for players since it launched in January. Randy played the newest commercial, which was a fictitious movie trailer that was created based on a player's dream to make a Sasquatch movie. The trailer was posted to several social media sites, and a website was created that revealed it was part of a Lottery promotion. Randy believes it has been the biggest success so far during the campaign. The next idea that was brought to life was an animal hotel called "Barq." They created a website, barqhotel.com, and posted advertisements on social media to draw interest. They also created media clips based on a player's wish to buy the invisible super yacht, and another from a player's idea to have a separate house for an aquarium.

Chair Loveland commented that she hoped the Sasquatch trailer wasn't too frightening if children were to see it. Randy said they were very careful about what was shown, making sure the trailer did not include anyone getting harmed, or anything bad actually happening. The promotion has been out on social media for about twelve weeks and they have not received any negative feedback.

#### **Commission Report – Instant Ticket Artwork Review:**

Gaylene Gray, Instant Product Manager, shared that they have created a guide for reviewing product art and turned it over to Director Glasper for a quick overview.

Director Glasper said at the last meeting they discussed building criteria around how to evaluate the scratch ticket artwork, and following the recommendation from the Commission they engaged the Governor's office on expectations. We received feedback from the Governor's office and have found that the previous direction and sentiment still exists, and the Commission has been on the right track with their cautious assessments. The Lottery has developed some guidelines, and although they are somewhat subjective, they are designed to be used while evaluating ticket artwork. The Lottery will use them when selecting what they will present for approval to the Commission, and the Commission can also use them as a reference.

Chair Loveland approved of the guidelines and suggested using the term “internal guidelines,” for the reference materials so that they are not misconstrued by the public. She also talked about the artwork review subcommittee within the Commission and asked Commissioners Giniger and Sullivan if they would be willing to take on the role; they agreed.

Gaylene presented an updated “Happy Fall” scratch ticket featuring a scarecrow, which the Commission expressed concern about at the last meeting. They were satisfied with the changes made. She then went through each of the other tickets and there were no concerns or questions.

**Commission Business:**

Chair Loveland asked if there was any additional Commission business. She brought up that she has been the Chair for a long time and the next meeting that they have the full Commission she would like to discuss a process for electing the next Chair. Director Glasper added once they create a process they would then make a recommendation to the Governor, as the Chair of the Commission must be officially appointed by the Governor.

**Public Comment:**

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

**Agenda Items for Next Commission Meeting:**

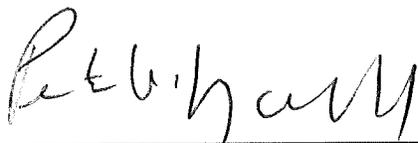
Chair Loveland asked if there were any agenda items to note for the next Commission meeting. She would like to have a discussion about the process for Chair recommendations.

**Adjournment:**

12:12 p.m. – Chair Loveland adjourned the meeting.

The June 27, 2019 Lottery Commission Meeting Minutes were approved this 27<sup>th</sup> day of August, 2019.

Respectfully submitted,

  
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Valoria Loveland, Commission Chair

  
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Stephanie Porter, Executive Secretary