



Lottery Commission Meeting Minutes
Thursday, October 21, 2021
Virtual Meeting – Microsoft Teams

Commission Member Attendees:

Fred Finn, Commissioner
Judy Giniger, Chair
Valoria Loveland, Commissioner
Eileen Sullivan, Commissioner
Daria Willis, Commissioner

Lottery Staff Attendees:

Lance Anderson, Assistant Director of Sales	Maria Lourenco-Douka, Director of Finance
Nikki Bardwell, Policy Coordinator	Denise Mitchell, Project Manager
Jim Bevan, SharePoint and Office Administrator	Kathi Patnode, Marketing Operations Manager
Crystal Fischer, Chief Information Officer	Stephanie Porter, Executive Assistant
Marcus Glasper, Director	Maegan Reed, Procurement Specialist
Gaylene Gray, Instant Product Manager	Debbie Robinson, Director of Human Resources
Shar Hawley, Org. Perf. & Planning Administrator	Randy Warick, Assistant Director of Marketing
Jenna Johnson, Procurement Manager	Kristi Weeks, Director of Legal Services
Josh Johnston, Deputy Director	Jenny Whiteside, Corporate Accounts Manager

Other Attendees:

Scott Battishill, Curator	Thomas Kitts, Consultant
Becky Bogard, IGT	Ellis Madison, Wunderman Thompson
Kristie Christensen, Wunderman Thompson	Dan Miller, Curator
Xiamara Garza, Curator	Andrew Scolaro, Scientific Games
Rebecca George-Kaldor, WA Indian Gaming Assoc.	Shannon Struemph, IGT

Call to Order:

8:30 a.m. – Chair Judy Giniger called the meeting to order.

Chair Giniger asked for a commissioner roll call. Commissioners Daria Willis, Fred Finn, Eileen Sullivan, and Valoria Loveland confirmed their virtual attendance.

Approval of Meeting Minutes:

Chair Giniger entertained a motion to adopt the minutes of the August 19, 2021, Commission Meeting as presented.

Commissioner Finn **so moved**, and Commissioner Loveland **seconded**.

Chair Giniger called for a vote for approval of the minutes of the August 19, 2021, Commission Meeting. Ayes were unanimous. **Motion carried.**

Proposed 2022 Commission Meeting Dates:

Chair Giniger asked if any of the Commissioners had conflicts or concerns with the proposed 2022 Lottery Commission Meeting dates. There were none.

Chair Giniger entertained a motion to adopt the proposed 2022 Lottery Commission Meeting dates as presented.

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

Chair Giniger called for a vote for approval of the proposed 2022 Lottery Commission Meeting dates. Ayes were unanimous. **Motion carried.**

CR 101 – Brief Adjudicative Procedures Rules:

Kristi Weeks, Director of Legal Services, began by explaining that Washington's Lottery falls under the Administrative Procedure Act, which is a state law that all agencies must follow when it comes to adjudicative procedures. When the Lottery receives a request for a hearing, it is sent to the Office of Administrative Hearings, where it is assigned to an Administrative Law Judge who directs the process. Kristi said she or an assigned Assistant Attorney General, depending on the nature of the case, then represents the Lottery in the hearing. The Administrative Law Judge issues an initial order, which can then be appealed to the Director of the Lottery for a final order. Kristi explained that although this is a good system for impartial judgement, it is often time consuming, expensive, and results in delayed resolution for both parties.

The Administrative Procedure Act allows for a more streamlined process called, a brief adjudicative procedure (BAP). In a BAP, the agency head or designee decides the case based on paper submissions. The BAP Officer issues an initial order that can be appealed to the agency head or designee, just like the full hearing process. If the initial order is not appealed, then it becomes final after 20 days. The Administrative Procedure Act allows for a BAP in certain cases if the defined elements are met. Kristi read through the elements for a BAP, one of which states "the matter falls within the category which the agency has adopted rules." Currently, Washington's Lottery does not have rules that would allow for a BAP process. Kristi said the Lottery does not receive very many requests for hearings, and the ones received are often very straight forward and could be effectively handled using the BAP process.

Kristi said she would like to open the rule making process so the Lottery can explore whether the BAP process would be appropriate for certain cases, and what, if any categories those cases would be. By filing the CR101 with the Code Revisor's office, Kristi said they are not committing to any particular outcome or adopting rules, it simply informs the public that they will be exploring options for BAP rules. If the filing of the CR101 is approved they will move

forward with the exploration process, and then present proposed rule language at a future Commission meeting.

Chair Giniger asked what Kristi's timeline was for bringing back proposed rule language. Kristi said she is hoping to have something for the December Commission meeting, but it will be no later than the February meeting.

Chair Giniger asked if the Commissioners had additional questions or concerns with the filing of the CR101. There were none.

Chair Giniger entertained a motion for the filing of the CR101, to open the rule making process and explore brief adjudicative procedures.

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

Chair Giniger called for a vote to approve the filing of the CR101 – Brief Adjudicative Procedure rules. Ayes were unanimous. **Motion carried.**

Director's Update:

Director Marcus Glasper began by sharing that Ron Kessler, Director of Security and Licensing, has left the Lottery. They are currently recruiting for a new Director. In the meantime, Derek Poppe, Administrative Services Manager, will serve as the acting Director. He formerly served as the agency's Drawing Program Manager and investigator in the Security and Licensing division.

Director Glasper shared that the Mega Millions group continues to evaluate the feasibility of enhancing the game. They have decided to establish a Product Review Group, which will allow for direct focus to be placed on analyzing various options and working directly with vendors on game matrices and player research. Lance Anderson has been appointed from the Lottery to serve on the Product Review Group. Director Glasper said they are hoping by establishing this focus group it will help speed up the decision-making process on a possible Mega Millions game change.

As a follow-up to a question from Chair Giniger at the August meeting, Director Glasper provided an update on the divestiture of Scientific Games. In June, they announced they would be divesting both the Lottery division and the Sports Wagering division of Scientific Games, Inc. To accomplish this, the company is concurrently pursuing two paths: The Lottery group could go public through an initial public offering, or they could be sold. According to Scientific Games, the Lottery group will become an independent entity, allowing them to focus only on lottery and investing in the future of the lottery industry. They believe a stand-alone lottery entity will be better positioned to serve its customers, invest in lottery and innovation, and position the industry for future growth. Director Glasper said according to Scientific Games nothing else will change. They will continue to have the same management, same services, and same products. They did

announce that they have reached a deal with the company, Endeavor, to purchase the Sports Wagering division, but this will not affect Washington's Lottery.

Director Glasper said he was happy to announce that the Lottery has achieved verification at the Implementation Level for the National Council on Problem Gambling (NCPG) and North American Association of State and Provincial Lotteries (NASPL) Responsible Gambling Verification Program. The Lottery submitted their evaluation package back in July and underwent rigorous assessment over the last several months by four independent expert assessors. The assessors determined the Lottery's program adequately implements best practices regarding responsible gambling and awarded them the Implementation level certification on October 15th. The certification is valid for three years, and then they must apply for verification at the final stage, the Sustaining Level.

At the August Commission meeting, Director Glasper talked about five external audits that the Lottery was undergoing. All have since been completed, and he said although taxing on staff they welcome audits because they help ensure the integrity of operations. The audits included the Multi-State Lottery Association (MUSL) audit, which looked at controls in the gaming system, internal control systems, and drawing processes. Recommendations from that audit are currently being reviewed. Another audit was the State Auditor's compliance audit, where they mostly reviewed back-office financials such as payroll and cash receipts, and compliance with the Open Public Meetings Act. That audit concluded with no findings. The Health Care Authority conducted a Public Employment Benefits Board program audit and looked at how the Lottery administers insurance benefits for employees. This also had no findings. The annual Prize Payment audit, which looks at prize payments to ensure compliance with policies and procedures related to prizes, also had no findings. They did find one procedure was out-of-date and it has been updated to reflect the current process. And finally, the annual financial report audit looked at all the Lottery's financial reporting and there were no findings. The financial report should be available for distribution in mid-November.

Next, Director Glasper provided an update on the vaccine mandate. In August, the Governor issued Proclamation 21-14.1 requiring full vaccinations for state employees, educational workers, and health care workers by October 18, 2021, with noted medical and religious exemptions. The proclamation also applies to commissioners of state agencies, as well as contractors and vendors who provide on-site services to state agencies. Since mid-September, states have been required to provide biweekly verification status reports to the Office of Financial Management (OFM). Director Glasper said as of this week, statewide enterprise data revealed a 92% verification rate, inclusive of individuals who have received an accommodation, and OFM reports that about 3% of employees left their jobs due to the mandate. The Lottery currently has a 98.36% verification rate which has been adjusted to account for approved accommodations and includes a headcount of all current staffing plus the five Commissioners.

Director Glasper said now that the mandate deadline has passed, they are looking at when to return staff to the physical environment. Given the current state of things, the Lottery is on track for a soft return to the workplace on November 1st, which will include the regional offices

returning to five days a week. The soft return will allow the team over the next three months to adjust to the new normal as staff work with supervisors to address personal needs, teleworking schedules, and satisfying business needs. Director Glasper said he appreciates everyone's flexibility, understanding, and continued commitment to deliver exceptional service despite the challenges over the last 18 months.

Commissioner Loveland asked if the Lottery has lost any employees due to the vaccine mandate. Director Glasper said yes, they did lose a few employees.

Deputy Director's Update:

Josh Johnston, Deputy Director, began by updating the Commissioners on the debit card project. The project team is working on reviewing the functional requirements, which are the technical specification the developers use to build the debit card feature into the vending machines. They are also reviewing the wireframes, which is what the new screens will look like to players on the machines. The technical specifications and the screens will be completed by November 11th, and then the team will move into development. Josh also shared a little about the shopping cart feature, and the phased rollout plan which will begin early next summer. The project is going very well, and they remain within scope, on schedule, and within budget.

Next, Josh talked about the Department of Imagination store in Spokane. The grand opening was held in August, and he thanked Kathi Patnode and Patti Swihart for their great work pulling it together. Josh said currently the Spokane store hours are from 8 a.m. to 4:30 p.m., Monday through Friday, however the NorthTown mall where the store is located, is open until 7 p.m. most nights, and during the weekends. The Lottery has decided to conduct a 6-12 month pilot expanding the hours to match the mall hours. Josh said they believe this could be a major benefit for players, while resulting in possible additional sales for the Lottery. He said it is hard to predict the impacts of expanding the hours without adequate data, and they hope by launching this pilot they can determine whether it makes sense to make the hours permanent. The Lottery staff working in Spokane recommended looking at expanding hours due to the customer demand they have seen and are excited about the pilot. Josh said they are currently recruiting to hire three part-time customer service representatives to cover the expanded hours.

Josh provided a brief update on the changes to the Powerball game. The third weekly drawing, and the add-on feature, Double Play, just launched, and Josh said it is difficult at this time to determine the impacts of the high jackpots compared to the third draw. He said Powerball sales are up 99% year-over-year, when compared to the performance since the launch and the same time last year. Double Play now accounts for 7% of total wagers, and combined with the other add-on game, Power Play, they account for 17% of total wagers.

Lastly, Josh gave an update on the One Washington project, which is a long-term replacement of the backend financial systems for state agencies. The first phase and initial scope is the implementation of core financials and purchase-to-pay components, which is scheduled to go live by October of 2022. The remaining administrative functions of financial and procurement

features, human resources, payroll, and budget are scheduled to be completed by June 30, 2025. Josh said the team is currently working on foundational data model mapping, crosswalks for transitioning from AFRS to Workday, and organizational change management preparation.

Commissioner Loveland asked if resources are being supplied to the agencies to implement these changes. Josh said One Washington does offer resources to agencies, however the Lottery opted out of any additional resources because they felt they had the capacity to take on the project.

Chair Giniger asked when the expanded hours pilot for the Spokane store would begin. Josh said they are hoping to start as soon as the additional customer service positions have been hired. The goal is to have the expanded hours in place for the holidays.

Legislative & Legal Services Update:

Kristi began by sharing that since the August Commission meeting, she has received 10 formal requests for public records. There have been no annuity assignment cases, but there was a new administrative hearing involving a prize denial.

Kristi provided an update on two cases that she talked about at the last meeting. The first was a license denial based on significant undisclosed criminal history. Kristi filed a motion for Summary Judgement, which was granted, and the case was dismissed. However, there is still time for the applicant to request an administrative review of the judge's initial order. If that does not happen, then the decision becomes final on October 29th. The other case is the ongoing lawsuit related to the vaccine promotion where a gentleman asked to enter the promotion, but he was not vaccinated. His request was denied, and he appealed the Superior Court for an injunction, which was also denied. He asked for reconsideration, which was also denied, so he has now appealed directly to the State Supreme Court. He has also filed a tort claim with the state that is ongoing.

Kristi next talked about the Problem Gambling Task Force, which she has been participating in since it was established a few years ago. In 2020 the task force submitted a preliminary report to the Legislature about their progress, and the final report is due in November 2022. The final report was delayed a year to allow the task force to complete an updated prevalence study. The last comprehensive study was done in 1998, and at that time gambling was an \$880 million industry in Washington. In 2020, that number has exceeded \$3 billion. She said the current survey launched in July of 2021 and closed on September 21st. It was sent to 52,000 people, and 9,413 of them completed it. The data is now being sent to the Washington State Institute for Public Policy for analysis. Kristi said they expect to have preliminary data in February and the final results by June 30, 2022. The data will be used for the task force's final report and recommendations to the Legislature. It will also give the Lottery a better understanding of how their products impact problem gambling.

Kristi finished her report by talking about the next legislative session. She said the Lottery does not have any agency request legislation for the 2022 session, and she is not aware of any other

proposed bills that would affect the agency's work. She said she has heard that the House plans to conduct the session virtually and the Senate is likely to follow, but there have not been any announcements yet.

Commissioner Finn said he recalls there was something included in the bill for the Problem Gambling task force that made the Lottery responsible for contributing between around \$350,000. He asked if Kristi thought that would be adjusted, considering the amount of money spent on gambling in Washington. Kristi said the Lottery's contribution percentage in statute is very small, but there are other sources that contribute to the funding. She said the task force is looking at whether the contribution should be increased but will wait for the completion of the prevalence study before recommending any changes.

Chair Giniger asked if anyone has signed up for the voluntary self-exclusion program. Kristi said they have not had anyone sign up yet. She said they did look at the site traffic and discovered it has been visited by over 1,200 different IP addresses.

Financial Report:

Maria Lourenco-Douka, Finance Director, presented the first quarter financial results, that ended on September 30, 2021. She began by sharing a fiscal year 2021-2022 actuals comparison, and then moved into the actual results compared to budgeted amounts. Maria talked about the vendor expense comparison for fiscal years 2021-2022, and then went through the sales and estimated net profit by product for the first quarter. She also shared the biennial appropriated expenditure and Full Time Equivalent (FTE) usage report.

Commissioner Loveland commented that she was impressed by the profit by product percentage. Chair Giniger agreed and asked if they are looking into how sports wagering may impact lottery sales. Randy Warick said the Lottery has asked Research America to incorporate that information into their quarterly tracker and they hope to gain a better understanding as they move further into the fiscal year.

Sales & Marketing Update:

Lance Anderson, Assistant Director of Sales, started by sharing the sales numbers for fiscal year 2022 as of October 2nd. He also presented the sales results by game, which showed Scratch continuing to lead for the year. He said the draw games are also performing very well this year. Mega Millions is currently the lowest performing draw game, but Lance said being assigned as part of the product team he is looking forward to looking at and bringing forward recommendations for improvement.

Randy Warick, Assistant Director of Marketing, began with a public relations update and shared that in the last two months, Curator's hard work has resulted in over 4 million positive media impressions for the Lottery. He shared some clips with media coverage of the recent Powerball changes, and the new Seahawks Scratch ticket promotion.

Next, Randy gave a marketing update and talked about the Seahawks Scratch "Bring it in" campaign, the Kraken Scratch "Time to Rise" campaign, and the Lotto Autumn Cashfall promotion. He also said five holiday scratch tickets have just been released and will be promoted through social media and Gas Station TV. The Lottery will also be using those same platforms to remind everyone to play responsibly by partnering with the Evergreen Council on Problem Gambling. Randy played this year's advertising spot for the Seahawks scratch ticket and showed the different social media promotions. He also played the vending machine attract screen clip for the Seattle Kraken scratch ticket and talked about the second chance promotion. Lastly, Randy played the Gas Station TV clip for the Autumn Cashfall promotion, which will be the last Lotto promotion for the season.

Commission Report – Instant Ticket Artwork Review:

Gaylene Gray, Instant Product Manager, presented new scratch ticket artwork for the Commissioners review and briefly talked about each one. The Commissioners did not have any concerns with the ticket artwork presented.

Commission Business/Agenda Items:

Chair Giniger asked if there was any other business that Commissioners wished to put forward or any suggestions for the next meeting agenda, which will be held on December 16, 2021.

Public Comment:

Chair Giniger asked if any members of the public wished to make public comment or voice any concerns. There were no comments made.

Adjournment:

10:00 a.m. – Chair Giniger adjourned the meeting.

The October 21, 2021, Lottery Commission Meeting Minutes were approved this 16 day
of December, 2021.

Respectfully submitted,



Judy Giniger, Commission Chair



Stephanie Porter, Executive Secretary