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Debbs Potts Oregon State Lottery Commission Building

500 Airport Road SE
Salem, OR 97301

OREGON STATE LOTTERY COMMISSION MEETING Jan. 30, 2020

Lottery Commission: MardiLyn Saathoff, chair
Maulin Patel
Chris Telfer
Raul Valdivia
Julie Wilcox

Director: Barry Pack

Commission Chair MardiLyn Saathoff called the Jan. 30, 2020 Oregon State Lottery Commission meeting to order. Chair Saathoff stated for the record that Commissioners Telfer and Patel are attending via telephone and a quorum of commissioners is present.

Commissioners present at the roll call: Commissioners Patel, Telfer, Valdivia, Wilcox and Chair Saathoff.

A. PUBLIC COMMENT

Chair Saathoff opened the meeting for public comment. It was noted for the record that this portion of the meeting is an opportunity for the commission to hear from the public. During public comment, the commission listens but neither discusses, nor responds to questions and concerns.

Howard Marlow, a peer wellness specialist, certified gambling recovery mentor and certified recovery mentor with Mental Health and Addiction Association of Oregon, shared a poem written by Lila Callaway titled "The Lottery Does Things to Real People" that talks about the effects of the lottery.

B. COMMISSIONER COMMUNICATIONS

Presenter: MardiLyn Saathoff, chair

Audit Committee update

Commissioner Valdivia provided a brief Audit Committee update, which included updates on the enterprise risk management assessment, a completed audit report, the calendar year 2020 Audit Plan, and noted that all goals were met for the 2019 Audit Plan. Commissioner Valdivia also reported that a peer compliance review of the internal audit department will take place this fall.

- Chair Saathoff asked if the peer review is different than the Secretary of State’s annual financial audit and Commissioner Valdivia explained that this audit is a quality assurance audit and noted that the auditors will be from out of state. Director Pack shared that the North American Association of State and Provincial Lotteries has a team of internal auditors from member lotteries that conduct these audits.

Audit Committee Annual Activity Report, Exhibit 1

Commissioner Valdivia also shared the Audit Committee Annual Activity Report. As part of the annual report, Commissioner Valdivia shared the purpose and authority of the committee, committee membership and responsibilities, and the activities completed throughout the year.

Other commissioner communications

Chair Saathoff represented the Lottery at the Skanner Foundation’s 34th Annual Martin Luther King Jr. Breakfast, where she presented four students with scholarships. Chair Saathoff noted that she is proud for the support that Lottery gives and the scholarships that are provided.

C. DIRECTOR’S REPORT

Presenter: Barry Pack, director

Lottery news

Director Pack thanked Chair Saathoff for representing the Lottery at the Skanner Foundation’s 34th annual Martin Luther King Jr. Breakfast, where she presented scholarships to Pippa Cavill, Jaime Fields, Sicily Larkin and Kalkidan Ketema.

The nomination period for the 2021 Oregon Teacher of the Year award closes on Jan. 31. Nominations are outpacing last year and there have been nominations in two of the three regions that did not have any nominations last year. Director Pack shared information about the prizes that are available as part of the program.

- Commissioner Wilcox shared that she was happy to see the story of a local Hood River teacher that has been nominated and is proud to see where Lottery funds are going.

Director Pack shared that starting this week, incoming phone calls to the front desk are now routed to hotline staff in order to improve the experience for callers and in-person visitors. This will allow Lottery to better monitor calls for quality and identify trends and will free up front desk staff to engage directly with players and the public when they visit the office.

Sales

An in-depth sales review will be provided later in the meeting, but Director Pack shared information about the Scoreboard app, noting that in December, players placed nearly 900,000 individual wagers, totaling \$22.5 million, which translates to \$1.7 million in gross gaming revenue. Director Pack pointed out that Scoreboard monthly activity reports can now be found on the Press Center page on the Lottery’s website.

Winners – Director Pack shared stories about the following winners:

- Scott M. of Portland won \$8.4 million playing Oregon’s Game Megabucks
- Joseph G. of Portland won \$100,000 playing Powerball
- Nancy G. of Hillsboro won \$150,000 playing a Holiday Scratch-it

D. MINUTES OF THE PREVIOUS MEETING, Exhibit 2

Presenter: MardiLyn Saathoff, chair

The commission reviewed the Dec. 20, 2019 Oregon Lottery Commission meeting draft minutes, which were circulated in advance of the meeting, and recommended no changes to the record.

Chair Saathoff called for a motion.

Commissioner Wilcox moved that the minutes of the Oregon State Lottery Commission meeting held Dec. 20, 2019 be approved as final, as presented today. Commissioner Valdivia seconded the motion. *The motion passed by a 5-0 quorum vote, with Commissioners Patel, Telfer, Valdivia, Wilcox and Chair Saathoff voting aye.*

E. FINANCIAL REPORT

Presenter: Kathy Ortega, chief financial officer

Monthly financial statements, December 2019, Exhibit 3

Ortega provided a brief overview of the financial statements and described expenses and variances in the operating statement, services and supplies, balance sheet, and capital outlay.

- Chair Saathoff asked clarifying questions about the balance sheet and the capital outlay report.

Chair Saathoff called for a motion.

Commissioner Valdivia moved that the Oregon State Lottery financial statements for the month ending December 31, 2019 be approved for the record as presented today. Commissioner Wilcox seconded the motion. *The motion passed by a 5-0 quorum vote, with Commissioners Patel, Telfer, Valdivia, Wilcox and Chair Saathoff voting aye.*

FY20 Mid-year budget rebalance, Exhibit 4

Each January, the Lottery presents mid-year budget adjustments for approval by the commission. Ortega described the review process and provided information on the overall categories of spending. As a part of this year’s process, staff are developing a budget for the sports program for FY20 that will be brought to the commission in February 2020 for consideration.

Ortega noted that the overall results of the budget rebalance for ongoing operations is a total net reduction to all categories of spending of \$12.7 million, including deferral of \$14.7 million of mostly strategic program costs that will be carried forward into FY21.

- Chair Saathoff asked if the current net reduction will remain once the sports program budget is added and Ortega said that the amount of the reduction will be less.
- Chair Saathoff asked a clarifying question about the deferred items and permanent savings.

- Director Pack noted that the savings is partially due to an ongoing effort to find efficiencies and optimize performance.

Chair Saathoff called for a motion.

Commissioner Wilcox moved that the Oregon State Lottery Commission approve the changes to the fiscal year 2020 budget as presented today. Commissioner Telfer seconded the motion. *The motion passed by a 5-0 quorum vote, with Commissioners Patel, Telfer, Valdivia, Wilcox and Chair Saathoff voting aye.*

F. MAJOR PROCUREMENT, VIDEO LOTTERY TERMINALS

Presenter: Barry Pack, director

Director Pack stated that information was provided at the last commission meeting about the recommendation to purchase Video Lottery terminals based on field trials that were conducted. Director Pack emphasized that the two terminals that are being purchased from IGT and Aristocrat performed very well in the market tests, even outpacing the highest performing terminals that are in the field now. The new terminals will replace outdated terminals, with deployment beginning in March and concluding in the summer.

- Chair Saathoff noted that materials were previously provided to the commission and there has been robust conversation about the request to purchase the new Video Lottery terminals.

Chair Saathoff called for a motion.

Commissioner Valdivia moved that the Oregon State Lottery Commission authorize the director to enter into a major procurement with IGT and Aristocrat to purchase new Video Lottery terminals and to extend the lease of field trial terminals that are in the field while the new terminals are being deployed. Funds for these procurements will be set aside in preparation for executing the contracts. Commissioner Wilcox seconded the motion. *The motion passed by a 5-0 quorum vote, with Commissioners Patel, Telfer, Valdivia, Wilcox and Chair Saathoff voting aye.*

G. RETAILER CONTRACT

Presenters: Barry Pack, Director and Kris Skaro, rules and policy analyst

2020 Retailer Contract, Exhibit 5

Director Pack stated that he is asking for the approval of two items today, including the Retailer Contract, which outlines the terms and conditions by which a retailer and Lottery engage, and the administrative rules that includes the commission rate changes. Director Pack noted that the commission has reviewed this information but shared the proposed substantive changes to the contracts for the record. Changes include offering multiple contract options (traditional only, video only, other Lottery games only and a combination); specification that a retailer cannot grant a security interest in Lottery proceeds to a third party; the requirement to provide and monitor a working email address; modifying the compliance with laws so Lottery can contract with businesses that sell CBD products; and expanding the responsible gaming training requirements to any employee that sells or facilitates play of Lottery games.

Chair Saathoff explained that Lottery and the Lottery Commission have been working on this for at least a year. Chair Saathoff commended the staff for allowing the commission numerous work sessions, public hearings and allowing the commissioners the time to have their questions answered and to feel prepared for today's vote. Chair Saathoff thanked the staff for all of the hard work and also thanked the commissioners for their extreme diligence, noting that the commission has done a great job of meeting its obligation to the Lottery and the State to take the time needed and come to the decisions it has come to.

- Commissioner Valdivia commended everyone that participated in this process and noted that there is a fine balance with making these decisions and the relationship between the Lottery and the retailers. Commissioner Valdivia noted that he appreciates Director Pack for making the best effort to maintain that relationship and keep everyone's best interests in mind.
- Commissioner Wilcox noted that it was very important to look across all tiers of retailers and appreciates that all aspects were reviewed to come up with the best possible plan that is equitable across the board. Commissioner Wilcox shared that it was important to her to ensure that the process was fair and not taken lightly and appreciates all of the work that was done by everyone involved.

Chair Saathoff called for a motion.

Commissioner Wilcox moved that the Oregon State Lottery approve Director Pack's recommended 2020 Retailer Contract, as presented today, to be effective on June 28, 2020, per the terms of the contract. Commissioner Valdivia seconded the motion. *The motion passed by a 5-0 quorum vote, with Commissioners Patel, Telfer, Valdivia, Wilcox and Chair Saathoff voting aye.*

Rulemaking, OAR 177-040, Retailer Contract, Exhibit 6

Director Pack shared the objectives in proposing new rate structures and the proposed rates, including recognizing pressures felt by retailers and Lottery; supporting Lottery operations and future investment in games and technology; eliminating retailer financial barriers to offering Platinum Series games and shared jackpots across the retailer network; creating a simpler structure that is easier to understand and predict; reducing disincentive to increase sales; and minimizing impact to retailers.

Director Pack shared the proposed Video Lottery dollars-played commission structure, the impact across the tiers of retailers, a breakdown of the current Video Lottery retailer base, and the impact of potential changes resulting from the proposed commission structure.

Director Pack shared the proposed commission structure for traditional products, which is a simple, flat structure, and also shared some scenarios.

Director Pack provided information about the rulemaking process and Skaro provided information about the public comments that were received.

- Chair Saathoff noted that she reviewed the public comments and feels that Lottery generally tried to address the public's comments.

Chair Saathoff called for a motion.

Commissioner Wilcox moved that the Oregon Administrative Rules, chapter 177, division 40, Retailer Contract rules, to include the retailer compensation rates, be adopted as presented today, to be effective at 5 am on June 28, 2020. Commissioner Valdivia seconded the motion. *The motion passed by a 5-0 quorum vote, with Commissioners Patel, Telfer, Valdivia, Wilcox and Chair Saathoff voting aye.*

Director Pack thanked the commission for their due diligence and believes that this is a great example of the important role that commissioners play and the importance that is placed on fulfilling their obligations and responsibilities as commissioners. Director Pack also thanked staff for all of the work that was done to get to the best solution, given the circumstances. Chair Saathoff agreed with Director Pack's comments.

H. RULEMAKING

Presenter: Kris Skaro, rules and policy analyst

OAR 177-010, 177-046, 177-091 and 177-092, Scoreboard, Exhibit 7

Skaro noted that there were temporary rules adopted in October 2019 that amended current rules and adopted new rules to reflect digital play generally, adopted a new division of rules to govern Scoreboard specifically, and suspended the division for an obsolete game of the same name. The proposed permanent rules are very similar to the temporary rules and include no major policy changes, only edits to improve readability and clarity on policies. Skaro provided information about the permanent rulemaking process and noted that the rule will be brought to the commission for consideration in March.

OAR 177-040-0017, Additional Video Lottery Retailer Application Requirements and Lottery Authority to Prevent and Resolve Concentration, Exhibit 7

Skaro provided a summary of the rule change and the rulemaking process. The current rule is invalid on a technicality and needs to be readopted to ensure Lottery has the authority to enforce the casino and concentration prohibitions. Skaro noted that more information will be provided as the rulemaking process progresses.

- Chair Saathoff clarified why the rule is invalid and confirmed that there was not a substantive issue with the rule.
- Commissioner Telfer asked if there are criteria in place to determine that an applicant has a viable business. Director Pack noted that part of the application process is to ensure that prospective retailers have the structure in place to be able to meet the requirements of the contract and the casino prohibition rule.
- Chair Saathoff asked if the Director has the final decision-making authority when it comes to viability and Skaro replied that it is the Director or the Director's designee.
- Director Pack will follow up with commissioners on the specific rule changes related to viability when businesses change ownership.
- Commissioner Wilcox inquired if there was a problem with a concentration in the past and Director Pack replied that there was an issue in the past.

I. STAFF UPDATES

Presenters: Roger Carpenter, senior internal auditor; Jesse Enright, retail compliance analyst; and Kathy Stromberg, chief corporate affairs officer

Retailer compliance review update

Enright described key provisions of the Casino Prohibition Rule and noted that the focus of the Retail Contracts compliance review is on limited menu and café/small eatery retailers. Enright shared the importance of this segment of retailers to Lottery's business. Each limited menu retailer and café/small eatery is assessed every year and includes the retailer completing an annual sales analysis, site inspections and review of business records, if data appears inaccurate. Enright presented a summary of the results of the reviews and follow-up reviews.

- Chair Saathoff asked about the 52 percent of retailers reporting non-Lottery sales of less than 50 percent of total income and Enright replied that other factors, including appearance, food service accoutrements, advertising, etc., are looked at if that happens. Director Pack reminded the commission that if a retailer's non-Lottery sales are less than the 50 percent threshold, it does not mean that the retailer is not in compliance, it is a trigger for further exploration.

Carpenter shared that the Internal Audit department is conducting reviews of all 281 limited menu and café/small eatery retailers over a five-year period. The reviews supplement the annual site inspections and analyses by Retail Contracts. Information about the objectives and scope, retailer ownership profiles, gross sales report accuracy, non-Lottery sales in gross sales reports, point of sale documentation, and the cost of sales documentation was also shared, along with recommendations for follow-up reviews.

- Chair Saathoff asked about the cost of sales documentation and inquired if Lottery staff are available to assist retailers throughout the year and Enright replied that he is available to assist as needed.

Product updates

Stromberg provided a gaming product performance update that included key drivers, strategies and sales reports for Video Lottery, Scratch-its, Keno, jackpot games that include Powerball, Mega Millions and Megabucks, and Scoreboard.

- Chair Saathoff asked clarifying questions about sales and transfers to the state.
- Chair Saathoff inquired about the Keno game and Stromberg noted that the Traditional Product team is reviewing to identify what can be done differently to increase profitability.
- Chair Saathoff appreciates the additional information about the forecasting, trends and strategies and what is actually happening.
- Commissioner Wilcox inquired if more people have been downloading the Scoreboard app since the Super Bowl is coming up and Stromberg noted that the rush will probably occur closer to game day.

J. OTHER BUSINESS

Director Pack mentioned that the short legislative session begins next week and noted that there are two bills related to Lottery; one being a prohibition on college sports wagering as part of Scoreboard and the other related to the types of games that can be offered on mobile devices. A detailed report will be provided at the next commission meeting.

The Oregon Lottery Commission approved the minutes of the Jan. 30, 2020 Oregon State Lottery Commission meeting on Feb. 28, 2020.

Alisa Zavala
Senior Executive Assistant to the Commission
Lottery Director's Office

Approved by:

Commissioner Mardilyn Saathoff, Chair
Oregon State Lottery Commission

OSL Commission meeting exhibits are available at <https://oregonlottery.org/about/commission-meetings>.