

Lottery Control Board  
Regular Session Minutes  
November 13, 2013  
122 South Michigan Ave., 19<sup>th</sup> floor, Chicago, IL, 60603  
130 W. Mason St., #104, Springfield, IL, 62702

On Wednesday November 13, 2013, at 9:30 a.m., a regular meeting of the Lottery Control Board was held at 122 South Michigan Ave., 19<sup>th</sup> Floor, Chicago, IL 60603, and at the Training Room in Springfield, IL, 62702. Video and teleconferencing were available to join the meeting attendees.

The following board members were present in Chicago: Gary Fencik, *Chairman*, Robert Anthony Christian, and Sharon Thompson. Paul Schaefer attended in Springfield and Geoffrey A. Richards participated via teleconference.

### **CALL TO ORDER**

Chairman Fencik called the meeting to order with a quorum present at 10:30 a.m. Additional attendees were:

Lottery Staff (Chicago) - Michael Jones, *Superintendent*, Sara Barnett, *Chief of Staff*, Daymon Rutenberg, *General Counsel*, Jen Acker, *Deputy Chief of Staff*, Alison Walters, *Incoming Deputy Chief of Staff*, Tracy Jacobson, *Deputy General Counsel*, Harold Mays, *Chief Operation & Technology Officer*, Melinda Westwater, *Chief Internal Auditor*, Craig Scott, *Lottery Consultant*, Nora Iniguez, *Lottery Control Board Secretary*.

Lottery Staff (Springfield)- Brett Finley, *Finance Manager*, Tiffany Blair, *Budget Manager*, Mike Lang, *Media & Public Relations*.

Other attendees: (Chicago) - J. Liebman, *Novack & Macey, LLP*, Kathy Gilroy, *public citizen*, Ted Gibbs, Governor's office, (teleconference) Matt Wallberg, *Chicago Tribune*, Paul Marion, *Crain's Chicago Business*, (Springfield) Anita Bedell, *IL Church Action on Alcohol & Addiction Problems*.

### **PUBLIC COMMENT**

- Kathy Gilroy addresses the fact that not all lottery material and machines have proper wording mandated by the law of stating in writing "if you or someone you know has a gambling problem, crisis counseling and referral services can be accessed by calling 1-800-GAMBLER."
- Kathy Gilroy would like to see the Lottery Control Board review and vote on advertising. She believes that the use of professional athletes, like Patrick Sharp of the *Chicago Blackhawks* is not satisfactory due to children looking up to athletes and being associated with gambling.

Director Jones explained that we are working with our private manager making sure they fulfill legislative mandate but they have taken upon handling all aspects of advertising and marketing. The Lottery, in discussion with board members and senior staff, are committed to not encouraging excessive behavior and not using advertising messaging that would appeal to

young people. Director Jones feels Patrick Sharp is an effective spokesperson for the lottery because he appeals to a younger demographic of adults. If an athlete allows his image and his brand to be associated with the lottery, it's because he believes the lottery's brand is good for his image by educating people that the Lottery offers games such as *Veterans Cash* and the *MS Project*.

Chairman Fencik thanked Ms. Gilroy for her comments, and stated that this new board was formed in 2012 with new updated bylaws and advertising policy to follow. As respect to athletes being associated with gambling, the Lottery is not gambling, it is a game of chance. Director Jones adds that lottery is perceived as a different form of gambling. In research studies conducted, people do not say that lottery is a form of gambling partly because lotteries have always only offered high odds, infrequent drawings, and are a very different form of gambling. Lottery is perceived by over 80% of adults as a good idea.

**Public comments from last board meeting are addressed by Deputy Chief of Staff:**

1. Statute just changed regarding the board's role in advertising in where the board is now reviewing only past advertising to be sure that it is in compliance with the advertising policy. Previously the board was required to review all proposed and past advertising for major campaigns with the private manager, which is a challenge for a board that meets quarterly so it has been changed legislatively.
2. Agenda was posted 48 hours in advance, unfortunately we realized 24 hours in advance that the meeting location we had originally assigned was no longer available and had to change in short notice. It was beyond our control and reached out to everyone who we thought would be in attendance regarding the change.
3. Lottery marketing materials are produced by Northstar so we will be issuing them formal directives asking that they understand that their policies and procedures are in place to be sure that all information resource disclaimer regarding problem gambling is properly included on all marketing pieces. According to the law, the problem gambling information does not need to be on signage but on things distributed to the public.
4. There are currently twelve individuals on the self-exclusion list. The lottery and Northstar have ability to track excessive play over the internet, which is currently being done.
5. Posting recordings of Lottery Control Board meetings on the website is not a requirement of the Lottery Control Board Act.

**APPROVAL OF MINUTES**

Chairman Fencik moved for the Board to approve the open session minutes of its regular meeting on 08/07/2013. Sharon Thompson seconded the motion and the Board approved the motion unanimously by roll call vote.

**OLD BUSINESS**

- An advertising policy that was distributed to the board during a previous meeting is in question by the private manager. Northstar believes that the policy as written is making a change to their operating standards, which they believe overrides any of the lottery's legislation. Changes to their operating standards could potentially be a downward adjustment because the lottery would be affecting their ability to advertise, market, and sell more tickets. Northstar submitted a document with track changes on original

advertising policy that was written. IRMA, Illinois Retail Merchants Association, also has concerns about the word “winnability” being used.

- Board member Christian stated that there is no clarity as to what specifics Northstar is actually looking for and would like for them to provide additional data. Board members decide that Marco Tasso, Northstar's CEO, should be formally invited in writing to the next board meeting. A vote on advertising policy is put on hold due to not having enough information on Northstar's objection.
- Bylaws: Board members once again thank Geoffrey Richards for his assistance in creating the bylaws which gives the board clear direction on what their duties and obligations are to the lottery. Member Christian makes motion to approve. Chairman Fencik seconded the motion and the Board approves bylaws by unanimous roll call vote.

## **NEW BUSINESS**

- 2014 dates for upcoming board meetings are proposed for the Board Members to review and accept: Wednesdays/ Feb. 05, May, 14, Aug. 13 & Nov. 12
- Other New Business- Board Member Richards requested that the lottery do an analysis of retail expansion in affluent and poor neighborhoods. He would like a better understanding of the penetration of the lottery in areas that have greater disposable income available to its residents, as well as areas that may be less affluent, and also where the dollars are coming from that are being used to purchase lottery tickets.

Director Jones stated that Northstar can do a zip code analysis on their aggressive retailer expansion goals and get back to the board.

**Director's Report/Michael Jones**Marketing: New Veteran's Cash ticket designed by *Commonground*, our multicultural agency, is same ticket design as last year only they reversed the colors so there is a brand association with people recognizing it. We hope to sell two million tickets and raise \$1 million for Veterans.

Lottery appeared before Legislative Audit Committee, which is a combination of the House and Senate, to discuss with them our FY12 audit. Director recognized Melinda Westwater and Brett Finley for an excellent job in conducting this audit and answering every question completely in a very understandable manner. Highlights of lottery commercials and some POS from the past quarter is shown to the board so they can review and make sure it is in compliance with the advertising policy.

Governor's office asked lottery to pull a *Fireball* television commercial because it was racially insensitive to Asians. Commercial is shown twice to board members.

Lottery won a Batchy award at the National Lottery Conference for one of our commercials.

Governor did a fly around promoting the Veteran's Cash ticket, visiting a couple of the grantees. Department of Veteran's affairs has separate website where people can contribute on their own without buying a ticket to the fund year round.

VSA, a new design firm, did better job this year with holiday tickets that can be seen around Chicago.

Chairman Fencik asks what we are trying to accomplish by viewing all these commercials since board member Geoffrey Richards cannot see since he is on teleconference. Chief of Staff states

that the board must review. Director suggests for board to review commercials on their own next time and if they have any questions or concern it can be discussed at next board meeting.

### **Sales/Jen Acker** (filling in for Victor Golden)

- Fiscal year '14 sales goal for Northstar is 3.5 billion dollars. First quarter sales are 691.7 million.

Chairman Fencik asks if there is any pattern to quarterly sales, over the year. Director Jones says it is about a quarter, a quarter, a quarter depending on the grand prize.

Board member Christian asks if Northstar has any comments on the numbers.

Marco Tasso in the last governance meeting stated that the initiatives they had introduced in the first quarter had not reached the goals they anticipated.

- Fireball Pick 4 is doing about \$360,000 a week; Fire Ball Pick 3 is doing about 300,000 a week. Both fireballs total about 600,000 per week but pick 3 and pick 4 sales have declined.
- Hit or Miss is estimated to do 1 million dollars a week, it's doing about \$400,000 a week/on sale every day, drawn four times a day.
- FY13 was 2.8 billion dollars in sales and net income shortfall was \$167 million.
- Northstar should be doing about 67 million dollars a week in sales and we're averaging 51 to 52 million dollars a week.

Chairman Fencik requests comparative information from other states. LaFleur's magazine tracks sales by game, by state and rank states year to year. Copies will be distributed to board.

- J. Liebman, *Novack & Macey* asks if FY13 was the best year the Lottery has ever done in Illinois in terms of transferring money to the state. Even though Northstar didn't get target according to the numbers, was it the best year? Director Jones says yes. Compared to FY 12, lottery was up 26 million in FY13.
- Just finished Halloween Raffle, but Northstar made some changes to the raffle format, it was \$20 ticket and changed prize structure over 32% of tickets was unsold. Previously the 4<sup>th</sup> of July raffle also did not sell out.

### **Legislative/Jen Acker**

- Just finished two weeks of veto session in Springfield and the legislature came back in Springfield to work on a few initiatives.
- Jen Acker introduces Alison Howlett Walters, who will now be doing legislative work for the Lottery. Jen Acker will be leaving the lottery and has taken a position as Director of Legislative Affairs at the Department of Financial and Professional Regulation.
- Alison is on week two learning along. She is an attorney, went to school at Loyola, and was on Speaker Madigan's legal staff. She also clerked for Judge Bauer of the Seventh Circuit Court of Appeals.
- Last session we tried to add the remainder of the draw base games to the internet pilot program, which was met with some resistance. The bill might have to be reintroduced.
- We are making an accounting change to the capital projects fund transfer, something that the auditors pointed out. It does not change the way the transfer is done, but is an important legislative change that we're going to work on. Also seeking legislation to

authorize the Lottery to enter into settlements with certain parties that have serious diligent accounts or debts due to the lottery that we would rather settle with.

- There's interest in the specialty games and trying to support them in a way other than scratch-off tickets. Not sure if that's going anywhere right now but we have been meeting with legislators as part of our duty to build relationships to pass these important initiatives.
- The board had shared interest in meeting with legislators in Springfield and Alison will be reaching out to them to schedule a time to be part of the process.

### **Legal/Tracy Jacobson**

- Deputy General Counsel refreshes the board on a pending case from the last meeting that they must vote on. She presented additional information for review and asked if there were any questions. The board is able to vote on paper where they agree or disagree with Administrative Law Judge on the retailer owing the lottery debt and will be given to the lottery board secretary.

### **Finance/ Brett Finley**

- Weekly sweep of retailers through PNC Bank are done Wednesday mornings after Tuesday activities, so our week is Tuesday through Monday. During October, we had weekly sweeps that totaled 123.1 million dollars that we received from the retailers for sales throughout the state.
- Synopsis of what the comptroller has for our records of the debts balance that we carried over from previous month is 43 million dollars. Our receipts, show 123.6 million dollars and a \$500,000 variance from the sweep, which is money that came from other sources like direct deposits to the bank, or checks that came into us that we deposited from the retailer that did not get caught in sweep.
- Expenditures for the month we paid vouchers are operating expenses at 4.4 million dollars, we paid prizes in over 27 million dollars, and the transfers ended up at 58.5 million dollars. In October, because the transfers to the common school fund occurred on a weekly basis and done on Wednesday mornings, we transferred the money and then instructed the Treasurer's office to transfer the predetermined scheduled amount each week to the common school fund.
- In October, there were five weekly transfers, which totaled almost 58.5 million dollars that went to the common school fund. Our schedule for November is a little over 12 million dollars for the week for a total of 48.4 million dollars.
- The board will now be getting a weekly sales report.

### **Audit/Melinda Westwater**

- Overview is given about an internal audit that was started by predecessor, Shelly Banks, is generally not public and cannot be presented in detail. Northstar was presented with final report and there were several recommendations made to it. Northstar will be coming back with their corrective action plan; they have 30 days from the date of final report.
- Melinda is working on the net income shortfall calculation with Daymon Ruttenberg and rest of the team. Also conducting external audits this year which consists of two components. Last year FY12 was only a financial audit, FY13 is both the financial and

compliance audit. The compliance audit is done every two years. The financial audit we will have every year.

- Financial audit and the final exit conference will be December 3<sup>rd</sup> and we are right on schedule. The compliance audit is a bit more challenging since it is lottery's first time through compliance component of it as an independent agency. Exit conference will be February 7. Harold Mays has been heavily involved in the compliance and they are concentrating on the IT world and our compliance requirements there are quite challenging.
- Going to be starting the GAAP process audit which is required by the financial standard reporting board, a new board that was created in conjunction with many issues that the state of Illinois has had in obtaining correct and accurate audit data from the agencies.
- Will be taking a look at the investment securities process within lottery and how we go about doing that and following processes and ensuring that the funds are all safe guarded and so on.
- Going to be taking a look at the instant tickets process, the controls over the inventory in the retailers and the controls over prizes that are distributed.

Director Jones explained FY13's final numbers basically triggered the shortfall using the same methodology that we used in FY12. The same methodology that we used in terms of determining net income shortfalls equates to an income shortfall payment from Northstar to the lottery and the state. Payment will be an estimated \$38 million. Last year it was around \$20 million. Final numbers should be available soon.

Board member Thompson wants to hear a verbal vote on ballot filled out by board members regarding rulings on lottery retailer. Voting is conducted and it's unanimous to vote with the ruling the ALJ has made.

Josh Liebman of Novack & Macey asks the board why public comments were moved to the beginning of the meeting, as opposed to the end like last time. This gives opportunity to comment on what happened during the meeting. Board member Thompson states that it was her suggestion, being that if a public comment was made that needed to be voted on or take action on, this would allow time do so.

J. Liebman suggests that they be at the end of the meeting. He also wanted confirmation on how to obtain audio transcripts of the meeting. Deputy General Counsel suggested emailing her for that request.

His last question is to Director Jones on a press release in 2013 where the Director stated that the lottery is going to adjust its net income population numbers in terms of Northstar shortfalls based on the audited numbers. Press release was released before audited numbers came out. Is lottery planning on making an adjustment on that?

Director Jones states that this is all under mediation and litigation and it is inappropriate to comment.

Board member Christian moves that we go into a closed session to discuss possible litigation issues around our contract with Northstar. Board member Thompson seconded the motion and the board approves unanimously by roll call vote.

Chairman Fencik adjourns meeting at 11:35 a.m., and the board moves into closed session.

Respectfully submitted,

Nora Iniguez  
Lottery Control Board Secretary