

# Maryland Lottery and Gaming Control Commission

Larry Hogan, Governor



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## MARYLAND LOTTERY AND GAMING CONTROL COMMISSION JUNE MINUTES

DATE: June 28, 2018

TIME: 10 a.m.

PLACE: Maryland Lottery and Gaming Control Agency Headquarters

PRESENT: Chair E. Randolph Marriner  
Commissioner F. Vernon Boozer  
Commissioner George L. Doestch, Jr.  
Commissioner Michelle Fager  
Commissioner Bert Hash, Jr.  
Commissioner James Stakem

Gordon Medenica, Director  
Gina Smith, Deputy Director, Chief Financial Officer  
James Nielsen, Assistant Deputy Director, Chief Operating Officer  
Robert Fontaine, OAG Principal Counsel  
Holly Citko, OAG Deputy Counsel  
John Martin, Managing Director, Chief Revenue Officer  
James Logue, Managing Director, Gaming  
John Mooney, Managing Director, Regulatory Oversight  
John Gorman, Managing Director, Chief Marketing Officer  
Carole Gentry, Managing Director, Communications  
Kathy Lingo, Executive Assistant

OTHERS: Representative from Hollywood Casino Perryville  
Representative from Ocean Downs Casino  
Representative from Live! Casino  
Representative from Rocky Gap Casino Resort  
Representative from Horseshoe Casino Baltimore  
Representative from MGM National Harbor  
Representative from International Game Technology  
Representative from Pollard Banknote  
Representative from Scientific Games  
Representative from Cummins Illinois, Inc.  
Members of the Public and Agency Staff

**E. Randolph Marriner, Chair**

F. Vernon Boozer, George L. Doetsch, Jr., Michelle R. Fager, Bert J. Hash, Jr., James J. Stakem

## **CALL TO ORDER**

There being a quorum present, Chair Marriner called the meeting of the Maryland Lottery and Gaming Control Commission to order at 10:00 a.m. Commissioners present were F. Vernon Boozer, George Doetsch, Michelle Fager, Bert Hash, and James Stakem.

## **APPROVAL OF THE AMENDED AGENDA**

Chair Marriner reported that the Commissioners were provided a copy of the amended agenda. Chair Marriner asked for a motion to approve the amended agenda. Commissioner Hash motioned to approve, Commissioner Stakem seconded, and the motion carried unanimously.

## **APPROVAL OF THE MINUTES**

Chair Marriner said the May 24, 2018, open session minutes were provided to the Commissioners for review and asked if there were any changes. There were no changes. Commissioner Doetsch moved to approve, Commissioner Fager seconded, and the motion carried unanimously.

## **CONSENT AGENDA**

Chair Marriner said the Consent Agenda contains seven new instant ticket games for the Commission's approval: #368 (\$5) *MD-7s*; #392 (\$1) *Trip 7s*; #394 (\$1) *Santa Paws*; #395 (\$2) *Polar Bear Bucks*; #396 (\$3) *Twelve Elves*; #397 (\$5) *Holiday Cash*; and #398 (\$10) *Winter Winfall*. He said the Consent Agenda also includes EGD Games and Component Testing approvals for certified lab software, hardware and game certifications, VLTs, table game components and instant bingo machines for the period covering May 10, 2018 – June 14, 2018; Consent Agreements for Regulatory Violations at MGM National Harbor – January 2018 and February 2018; Consent Decrees for Underage Violations at MGM National Harbor – Case Nos. 2018-06-050; 2018-06-053; 2018-06-058; and 2018-06-075; and Ocean Downs – Case No. 2018-02-008; Gaming License Application Denials and Revocations; Lottery Retailer License Revocations; and Staff Reports from Jim Nielsen, Assistant Deputy Director, Chief Operating Officer; John Martin, Managing Director, Chief Revenue Officer; John Gorman, Managing Director, Chief Marketing Officer; Carole Gentry, Managing Director, Communications.

Chair Marriner asked if any Commissioners wished to remove any items from the Consent Agenda. There were no requests for removal. Chair Marriner asked for a motion to approve the consent agenda as noted above. Motion to approve was made by Commissioner Stakem seconded by Commissioner Fager, and carried by a unanimous vote of the Commission.

## **OPERATOR REPORTS**

### **Hollywood Casino Perryville**

Mr. Matthew Heiskell, General Manager, reported that May revenues were good, up just under 7%. Slot machines have been strong, including a \$275,000 jackpot – the largest slots jackpot won in the history of the property. Mr. Heiskell reported that table games were down 11%. June revenues are solid heading into the month's final weekend. The casino gave away a dream vacation prize last weekend, with the winner opting for the cash option. The upcoming promotion for July is a Weekend Away Camper event. The casino is currently upgrading their surveillance camera system. There were no questions from the Commission.

### **Ocean Downs Casino**

Ms. Bobbi Sample, General Manager, reported that slot machines were up 6.1% year over year, with total revenue up 21% with the inclusion of table games first offered in December 2017. Ms. Sample added that Ocean Downs is planning to install eight more table games, which it plans to have up and running by July 4. June has been a successful month with the ostrich and camel races drawing a substantial audience, which benefited the casino and food and beverage sales. The OC Air Show last weekend also went very well. The casino is looking at the potential to add an exhibition ring with baby pigs and wiener dogs. The casino is running a beach house giveaway promotion, and on July 22 will hold Pacing for the Cure, an event to raise donations for the Multiple Sclerosis Research Institute. There were no further questions from the Commission.

### **Live! Casino**

Mr. Travis Lamb, Vice President and General Manager, reported that May was a strong revenue month with 13.5% growth, making it the fourth month of growth in a row, and the first month in which the casino surpassed \$50 million in gaming revenue since MGM National Harbor opened. Slot machine revenues were up 20%, making May the casino's fourth-best month for slots revenue since September 2014. Table game revenues were up slightly year over year. Mr. Lamb reported that all but four floors of the new hotel are now available to customers. The private gaming area on the top floor of the hotel has been reviewed by Agency staff, and Live! is hoping it will soon be available.

Upcoming entertainment in the new event center will include Ken Jeong on July 20, and I Love the 90's, which includes Salt-n-Pepa, Young MC and Vanilla Ice on July 27. In the community the casino is a lead sponsor of the Annapolis Opera Concert, as well as being a sponsor for the Capital Pride Festival and Latino Fest in Baltimore. Leadership Anne Arundel recently held its graduation at the events center. There were no questions from the Commission.

### **Rocky Gap Casino Resort**

Ms. Katie Nash, Partner/Lobbyist, Greenwill Consulting Group, reported that gaming revenue was up 3.9% year over year driven by slot machines, with table games being up slightly. The casino is preparing for the July 4<sup>th</sup> Celebration with a Honda Goldwing Motorcycle Giveaway and fireworks over Lake Habeeb. The casino recently held a team appreciation picnic, and will hold the Black Card Barbeque for top tiered guests in July. Rocky Gap is also planning for an end-of-summer event with the United Way. There were no questions from the Commission.

### **Horseshoe Casino**

Ms. Erin Chamberlin, Senior Vice President and General Manager, reported that May was a great month, with year-over-year revenue up, reaching more than \$24 million. The Giada de Laurentiis restaurant opened in May and has given Horseshoe a new amenity. Ms. Chamberlain added that the Gordon Ramsey restaurant continues to do well.

The casino has leveraged the Caesars Total Rewards network to bring in out-of-town guests to see the Baltimore Orioles play the Philadelphia Phillies, Boston Red Sox and New York Yankees. The casino also hosted a performance by the Chippendale dancers. In the community Horseshoe Casino was a sponsor of the Baltimore Pride Parade with a performance by Common. On June 24 the casino held a Taste for Life cancer event. The casino is preparing for the July 4<sup>th</sup> holiday and anticipating many visitors to the downtown Baltimore area. There were no questions from the Commission.

## **MGM National Harbor**

Mike Pappas, Vice President and Legal Counsel, reported that the casino is working with State and county officials to determine the cause of the accident resulting in injuries that occurred on the Plaza on June 26. Mr. Pappas said the entire company is standing behind the family that was affected and doing what it can to assist.

Mr. Pappas reported that May revenues were exceptional, breaking the casino's previous single-month record. Mr. Pappas added that it was good to hear that the other five casinos also saw strong revenues in May. He said the results demonstrate that the state's casino market is stabilizing and that the addition of MGM National Harbor and the work other casinos are doing to broaden their amenities is growing the market in Maryland, and that the market is responding positively. MGM's slot machine revenues were up 18% in May, while table games were up 30%. He added that June numbers also look positive. Customer Giveaway Wednesdays continue to be popular with prizes including coolers, umbrellas and watches. In June the promotions included Choose Your Ride, \$100,000 Blackjack Tournament, \$20,000 Baccarat Tournament, and Free Pull for Slots. The casino will continue the giveaways throughout the summer. There will be a viewing of fireworks on July 4<sup>th</sup> from the West Plaza. The casino is working closely with USO on the event in July.

MGM's theater hosted its first mixed martial arts fight in June, and former heavyweight boxing champion Mike Tyson visited to perform his one-man show. Upcoming shows include magician David Blaine and performances by The Steve Miller Band & Peter Frampton, Britney Spears, Jill Scott, Pat Benatar & Neil Giraldo, Stevie Wonder, and Penn & Teller.

MGM is continuing community commitment with 57 employees assisting with packaging food for local shelters and the Capital Area Food Bank. In May, employees performed 500 hours of volunteer work. There were no questions from the Commission.

## **VENDOR REPORTS**

### **Scientific Games**

Mr. Stephen Smith, General Manager, reported that the conversion to the Lottery's new central monitoring and control system is wrapping up. Two types of self-service terminals are being installed, one of which is designed for smaller spaces. The rollout of those two terminals will give the Lottery its sixth different type of terminal. Having terminals of various sizes allows retailers to pick the one that works best for their location. Mr. Smith also reported that the new sorter has been installed in the instant ticket warehouse, allowing staff to sort instant ticket shipments much more efficiently than in the past. He added that Scientific Games staff are working with Lottery staff to address any remaining issues related to the conversion, including minor software upgrades. Mr. Smith congratulated the Lottery on such a good year. There were no questions from the Commission.

### **Pollard Banknote**

Mr. Matt Isaac, Director of Sales and Retail Development, reported that the Lottery is wrapping up a successful fiscal year for instant ticket sales. Pollard has launched 43 instant ticket games in Maryland this year, and sales have performed well above the national average and those in surrounding states. Mr. Isaac provided an industry comparison noting that the US average is up 6.3%, but Maryland's instant sales are up 11.3%, tied for fourth place in the nation. South Dakota leads the nation with year-over-year increase of 17.4%. Maryland is just 0.1% below 3<sup>rd</sup> place California. The surrounding states have seen year-over-year increases much closer to the national average, including Virginia (6.1%), West Virginia (5.5%), and New Jersey (0.2%). The D.C. Lottery's instant ticket sales are down 4.8%. There were no questions from the Commission.

## **International Game Technology (IGT)**

Carmen Vegas, Technology Manager, reported that IGT recently completed the first of two disaster recovery tests scheduled for this year. Staff successfully moved operation of the VLT central monitoring system to backup facilities in Texas and then transferred control of the system back to Maryland with no issues. The second disaster recovery test is scheduled for November 2018. Ms. Vegas reported that IGT staff are also working with MGM National Harbor to complete its second-floor expansion project, with IGT staff on site at the casino and in the IGT data center. Ms. Vegas said that there are no operational issues to report. There were no questions from the Commission.

## **STAFF REPORTS**

### ***Director's Report – Gordon Medenica***

Director Medenica reported that with the end of the fiscal year approaching on June 30, the numbers indicate that it's been a great year. Lottery sales are up 5.8% year over year, while profits are up 8.7%. The Mega Millions jackpot has rolled to \$242 million, and if the roll continues it will help get the new fiscal year off to a strong start. Casino gaming revenues are up 18.1%, while casino contributions to the state are up 13.3%. May of 2018 produced an all-time record month for casino revenue. Director Medenica added that what was most impressive was that all six casinos saw their May gaming revenues increase year over year, which was the first time that has occurred since MGM National Harbor opened. Director Medenica said the State's casinos are beginning to see stability in their market shares, and that they are reinvesting in their facilities to encourage customers to visit.

Director Medenica reported that during renovations to the office, a framed newspaper article from 1994 was discovered that reported that the Lottery was about to surpass the \$1 billion mark in sales for the year. He then added that as of this morning's Commission meeting, the Lottery sales topped \$2.018 billion. Growth in the sale of instant tickets has boosted overall sales, but Director Medenica pointed out that there remains room for additional growth. Across the industry, many lotteries see 50% to 60% of their sales in instant tickets. Over the last three years, instant ticket sales have grown from 30% of total sales to 37%. Margins on instant ticket sales are less than they are for draw games, but in terms of profit growth, both are at 8.7%.

Director Medenica took a moment to thank the Agency's staff for its work. He reported that at the Annual Employee Meeting, employees were recognized for their years of service, including one employee who has been with the Lottery since it began operations 45 years ago.

Chair Marriner said that during his prior stint on the Commission, there wasn't as much focus on the traditional lottery. He added that leadership had a lot to do with that, and he commended Director Medenica for providing leadership and assembling a team to make the traditional lottery successful. There were no further questions from the Commission.

### ***Administration, Finance & Information Technology – Gina Smith, Deputy Director, Chief Financial Officer***

Ms. Smith reported that she is preparing to close the books on Fiscal Year 2018, and is working on budget allocations for 2020, and preparing the budget for 2021. She added that all of the systems connected with the new lottery central monitoring and control system are working well and allowing staff to work more efficiently. Ms. Smith said the Agency cancelled a request for proposals for advertising services. The Agency worked with the Department of Budget and Management and the Board of Public Works staff, and it was determined that due to a lack of bids that were received, the RFP

would be cancelled. Adjustments will be made and a new RFP for advertising services will be issued in the near future. With the current advertising contract due to expire, the Agency has exercised the last of its six-month options, and presented it to the BPW in June. Ms. Smith said the Agency would continue to have advertising services while the new RFP is in progress. She also reported that the Agency has exercised its one-year renewal options for all three of its instant ticket vendors: Pollard Banknote, which prints the majority of the Lottery's instant tickets, Scientific Games, and International Game Technology. There were no questions from the Commission.

### **Gaming – James Logue, Managing Director**

Mr. Logue asked the Commissioners if there were any questions on his Gaming report. There being no questions, Mr. Logue then proceeded with his Commission Action Item.

#### **Commission Action Item - Casino Regulations**

Mr. Logue reported that the packet provided to the Commissioners has 25 recommended regulation changes. Mr. Logue said he would provide a description of the process that resulted in these recommended changes.

Mr. Logue reported that some revisions to the regulations were proposed by Agency staff, but the bulk of the revisions were requested by the casinos through an annual process that has helped to streamline the review of Maryland's casino gaming regulations. Mr. Logue explained that regulations are changed for a variety of reasons. Regulations may be amended due to changes in statute, changes in operational procedures or technologies, or to clarify the intent of an existing regulation. Each year, in early March, the six casinos submit their requested changes. The American Gaming Association helps to facilitate this effort by coordinating with the casinos in order to submit a single list of requests, which prevents duplication. Agency staff members review the requests and ask a number of questions, including the reason for the request, and whether there is any other jurisdiction where similar regulatory language is used.

After receiving answers to those questions, Agency staff members complete their evaluations and meet with casino and AGA representatives to explain whether the requests have been approved, denied, or will need to be modified. After working through any changes the Agency deems necessary, the Office of the Attorney General prepares the final drafts of the regulations for the Commission to review and approve.

Chair Marriner asked if this review process is conducted annually. Mr. Logue confirmed that it is an annual process. Chair Marriner added that the process supports casino operators who understand their businesses. Mr. Logue said the casinos request regulatory changes when they find ways to do things better, or as advances in technology render existing regulations antiquated. He added that the collaborative process is not widely used, but probably should be used in other jurisdictions.

Commissioner Hash noted that the monetary limits are increasing and asked if that is standardized with what is being done in other jurisdictions. Mr. Logue responded that it is, as several things come into play here, such as, customer service, jackpot amounts and the process casinos must go through with customers who have to wait to cash in when they would rather be playing.

Chair Marriner asked for a motion for approval of the 25 proposed amended regulations reviewed by the Commissioners. There was no discussion. Motion to approve the changes was made by Commissioner Doestch, and a second was made by Commissioner Hash. The motion passed unanimously.

Chair Marriner then asked for a motion to delegate Agency staff the authority to make non-substantive changes necessary in order to prepare the regulations for publication in the Maryland Register. Motion

to delegate authority was made by Commissioner Hash, and a second was made by Commissioner Fager. The motion passed unanimously.

Robert Fontaine, Principal Counsel, then explained the process for publishing the regulations. Mr. Fontaine explained that the regulations will be entered into the state's computer system that is used to publish new regulations. They will then be presented to the General Assembly's Joint Committee on Administrative, Executive and Legislative Review (AELR), which has 15 days to review the regulations prior to their publication in the *Maryland Register*, which represents the official notification to the public that the regulations are being proposed as written. The *Register* is published every two weeks. Once the regulations are published in the *Register*, they may not be adopted until 45 days has passed, and public comments are accepted for at least 30 days. Mr. Fontaine said that there has typically not been a need to have public hearings regarding regulatory changes because the industry has been involved in the process from the beginning. The AELR Committee is able to add time to the public comment period, but that is not anticipated. The process usually takes six to eight weeks. If there are no substantive changes made to the regulations based on public comments, then they are published as final and included again in the *Register*. Usually if there are no substantive changes, this second publication in the *Register* refers back to the language used in the original publication. The earliest effective date is an additional 10 days after final publication in the *Register*.

Chair Marriner asked who adjudicates the public comments. Mr. Fontaine responded that public comments are reviewed by James Butler, Managing Director of Organizational Compliance. If the comments require input from the Commission, Agency staff will bring the regulation before the Commission again and the process starts from the beginning. If there are comments pertaining to one specific regulation, it will not impact the remaining 24.

Commissioner Stakem said that it is easy to take for granted the time-consuming work of creating or amending regulations, and he thanked Agency staff for explaining the work involved. Mr. Fontaine responded by pointing out that none of these processes were part of the Agency's work eight years ago, before the first casino opened. There were no further questions from the Commission.

#### ***Regulatory Oversight – John Mooney, Managing Director***

Mr. Mooney asked the Commissioners if there were any questions on his Director's Report. There being no questions, Mr. Mooney proceeded with his Commission Action Item.

#### ***Commission Action Item – Manufacturer License Hearing – Cummins Illinois, Inc.***

Chair Marriner explained how the hearing will proceed. Mr. Mooney said Agency staff conducted a financial and background investigation of Cummins Illinois, Inc. in connection with its application for a manufacturer license, and provided an Executive Summary of the investigation to the Commission. Members of the Agency Licensing Division and a representative from Cummins Illinois were present to answer any questions. Chair Marriner collectively administered the oath to Mr. Mooney, members of the Licensing Division, and representatives from Cummins Illinois, Inc. who were in attendance at the meeting.

Mr. Mooney read the Executive Summary into the record, which included an introduction, background, financial analysis, findings, applicant and principal entities, principal qualifiers and conclusions and opinion. He stated that it is the opinion of Agency staff that the applicant and its principals have established by clear and convincing evidence their qualification for a manufacturer license.

There were no questions for Mr. Mooney or the representatives of Cummins Illinois. Mr. Harry Jackson, Cummins Illinois representative, thanked the staff of the Lottery for helping throughout the application process. Chair Marriner asked for a motion to find Cummins Illinois, Inc. and its principals qualified

for licensure for a period of five years. Commissioner Doetsch motioned, Commissioner Hash seconded, and the motion was unanimously approved.

Chair Marriner then asked for a motion to delegate staff to prepare statements. The motion was made by Commissioner Hash, and a second was made by Commissioner Fager, and the motion was unanimously approved.

Mr. Mooney thanked the Agency's financial investigative unit for its work on this and other background investigations. He added that while the report he delivered during the Commission meeting is only a few pages, the team takes between 2 and 12 months to perform investigations deep into the financial backgrounds of companies that wish to do business in Maryland's gaming market, and he thanked those staff members for their hard work.

*Office of the Attorney General – Robert Fontaine, Principal Counsel*

Mr. Fontaine asked the Commissioners if there were any questions on his Director's Report. There were no questions. Mr. Fontaine then proceeded with his Commission Action Item.

*Commission Action Item*

**Contested Case Hearing Agreement with Office of Administrative Hearings (OAH)**

Mr. Fontaine reported that in 2016 the Commission had approved Memorandum of Understanding between the Commission and the OAH that permits the Commission to delegate certain types of contested cases to OAH. Mr. Fontaine added that the Commission must conduct hearings itself, or delegate them to OAH. The matters subject to this delegation included hearings pertaining to the denial or revocation of licenses for instant ticket lottery machines for qualified veterans' organizations, casino operators, manufacturers, contractors, and video lotter employees, family entertainment centers in Worcester County, electronic instant bingo, and electronic gaming devices. The Commission also delegated to the Director, in consultation with the OAG, the authority to determine which matters should be delegated to the OAH.

Hearings pertaining to mandatory exclusions were not specifically included in the MOU or delegation approved in 2016. The Agency is now requesting approval of the delegation to the Director, in consultation with the Office of the Attorney General, the authority to delegate to the OAH contested case hearings pertaining to the mandatory exclusion list. There was no further discussion by Commission.

Chair Marriner asked for a motion to include in the Director's delegation to the OAH of contested case evidentiary hearings pertaining to the mandatory exclusion list. A motion was made by Commissioner Hash, with a second by Commissioner Fager, and the motion passed unanimously.

**PUBLIC COMMENTS**

There were no comments from the public.

**CLOSED SESSION**

Chair Marriner said no closed session was necessary.



**DATE AND TIME OF NEXT MEETING**

The next monthly Commission meeting is scheduled for 10 a.m. on Thursday, August 23, 2018. There will be no meeting in July.

**ADJOURNMENT**

There being no further business for discussion, Chair Marriner adjourned the meeting at 10:58 a.m.

Respectfully submitted,

  
Gordon Medenica