

Maryland Lottery and Gaming Control Commission

Larry Hogan, Governor



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MARYLAND LOTTERY AND GAMING CONTROL COMMISSION JANUARY MINUTES

DATE: January 24, 2019

TIME: 10 a.m.

PLACE: Maryland Lottery and Gaming Control Agency Headquarters

PRESENT: Chair E. Randolph Marriner
Commissioner F. Vernon Boozer
Commissioner George L. Doetsch, Jr.
Commissioner Michelle Fager
Commissioner Bert J. 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
Leo Mamorsky, Managing Director, Chief Marketing Officer
Carole Gentry, Managing Director, Communications
James Butler, Managing Director, Organizational Compliance
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
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 10:01 a.m. Commissioners present were Vernon Boozer, George Doetsch, Michelle Fager, Bert Hash, and James Stakem.

APPROVAL OF THE AMENDED AGENDA

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

APPROVAL OF THE MINUTES

Chair Marriner said the December 13, 2018, open session minutes were provided to the Commissioners for review and asked if there were any changes. There were no changes. Commissioner Doetsch motioned to approve, Commissioner Stakem 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: #424 (\$1) *Gold Rush x5*; #425 (\$2) *Gold Rush x10*; #426 (\$5) *Gold Rush x20*; #427 (\$10) *Gold Rush x50*; #428 (\$20) *Gold Rush x100*; #432 (\$10) *The Price is Right*; and #434 (\$3) *Plinko*. 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 November 29, 2018 to January 10, 2019; Consent Agreements for Regulatory Violations at Hollywood Casino – October 2018; Live! Casino – July and August 2018; MGM National Harbor Casino – July, August, and September 2018; and Rocky Gap Casino – September 2018; Consent Agreements for Underage Violations at Horseshoe Casino – Case Nos. 2018-05-124, 125, 126, 128, 129 and 130; and MGM National Harbor Casino – Case Nos. 2018-06-171, 172, 179, and 180; 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; James Logue, Managing Director, Gaming; John Mooney, Managing Director, Regulatory Oversight; Leo Mamorsky, Managing Director, Chief Marketing Officer; Carole Gentry, Managing Director, Communications; and Robert Fontaine, Principal Counsel, Office of the Attorney General.

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 Doetsch, seconded by Commissioner Stakem, and carried by a unanimous vote of the Commission.

OPERATOR REPORTS

Hollywood Casino Perryville

Mr. Matthew Heiskell, General Manager, reported that December gaming revenue was up 9% driven by slot machine volume and hold. Slot machines were up 12%, while table games were down 4%. Inclement weather two weekends in a row impacted business in early January but the casino has several promotions going on this weekend. In February there will be a Drive Your Way sweepstakes. Mr. Heiskell reported the Great Wolf Lodge plans to open a location next to the casino which is an exciting development for Perryville. The addition of Great Wolf Lodge will create a massive change for the Chesapeake overlook

and will change the way people think about business from recruiting hospitality staff to making restaurants more family friendly, including the Green Turtle in Hollywood Casino.

Commission Fager asked if there was an expected opening date. Mr. Heiskell responded that it would be at least two years as construction will not start until next year.

Ocean Downs Casino

Ms. Bobbi Sample, General Manager, reported that December revenue was up 45.2%, adding that year-over-year revenue comparisons going forward will now include table games, which first opened on Ocean Downs' gaming floor during the last week of December 2017. In preparation for its expansion, Ocean Downs was installing new carpet on its slots floor during December 2017, which required a temporary reductions in slot machine counts. Thus December 2018 slots revenue showed an increase of 30.8% year over year. A snow storm in January of 2018 caused the casino to close for one day, thus Ms. Sample expects January 2019 to compare favorably as well. Ocean Downs is in the process of reconfiguring its gaming floor to make it more comfortable for players. Ms. Sample reported that New Year's Eve was one of the casino's top 10 revenue days, and is the only day in the top 10 that did not occur during the months of May through September when volumes are typically heaviest at Ocean Downs. The promotion for the Mercedes Giveaway is continuing with the drawing on February 22, 2019. In the community, the casino had a Christmas drive to raise funds for Diakonia raising \$13,000 in December. The casino conducted the quarterly "Walk in My Shoes" event where upper managers shadow team members for a day. Employees love this event as staff feel their viewpoint is valued.

Live! Casino & Hotel

Mr. Travis Lamb, Executive Vice President and General Manager, reported that December gaming revenue was solid, breaking \$50 million in gross gaming revenue. It was the third strongest month of the year. Slot machine revenues were up 13%, while table games were down 8.5% driven by hold percentage. Mr. Lamb reported that table game holds have become more volatile since the opening of the Live! Hotel, which has allowed the casino to attract higher-level customers from out of state. Growth has been strong in January, and Live! is planning a number of promotional giveaways. Current promotions include Credit Card Wipe Out and a big screen giveaway leading up to the Super Bowl.

Entertainment in February includes The Xperience Tour with Jagged Edge and 112 featuring Mike & Slim. In March the casino will present Chris D'Elia and Foreigner, and in April Kenny Loggins. In the community the casino participated in the U.S. Marine Corps Toys for Tots program. Team members helped make toy baskets. The casino donated a 70" TV to the Harmans Dorsey Fire Department in Hanover.

The event center continues to host community groups including the Anne Arundel Economic Development Corporation and the Northern Anne Arundel County Chamber of Commerce. Casino staff joined Commissioner Hash at the Howard County Grassroots Crisis Intervention center in Columbia, cooking meals.

Rocky Gap Casino Resort

Mr. Skylar Dice, Vice President and General Manager, reported that December gaming revenue was up 17%, driven by volumes on table games and slot machines. Mr. Dice said the casino participated in a Toys for Tots drive during the holiday season and will be pursuing ways to grow its community outreach during 2019, while also continuing to modernize the aesthetics of the gaming floor and the resort as a whole. Rocky Gap is also planning a summer concert series, with details to come shortly. Mr. Dice said the casino has been working to address its level of minority business participation, but now has reached

20%, exceeding its goal of 17% for ongoing operations. He thanked Mr. James Butler, the MLGCA's Managing Director of Organizational Compliance, for assisting the casino in that effort. Commissioner Stakem said he recently visited Rocky Gap and has also looked at a map of casinos in surrounding states, which underscored the geographic challenges that Rocky Gap faces. Mr. Dice acknowledged that competition in Pennsylvania remains a concern. Commissioner Stakem mentioned gaming machines at locations nearby in West Virginia as another indication that the competitive landscape is changing.

Horseshoe Casino

Ms. Jackie Grace, Vice President and Assistant General Manager, reported that December gaming revenue was over \$22 million, \$12 million in slot machines and \$10 million in table games, which was a slight increase over 2017. Market dynamics have shifted and the casino is working to shift with it. January started off well, however, weather issues for two weekends impacted volume. The New Year's Eve event was a success with VIP customers attending and enjoying fireworks. "Suitcase Man" promotion is continuing.

In the community, the casino participated in Toys for Tots, adopting families for the holiday, and partnering with James McHenry Elementary School's Project 100 Initiative where volunteers spent time with kids building gingerbread houses. This was a media covered event. The Casino completed the MLK Day of Services, and in February will be taking part in the Special Olympic Polar Bear Plunge, and Mugs of Love Event, to assemble care packages for the homeless. Caesars Entertainment has an exclusive arrangement as the National Football League's official casino partner, which Ms. Grace said would result in substantial promotion around the Super Bowl.

MGM National Harbor

Mr. Jeff Shrader, Vice President and General Counsel, reported that December overall gaming revenue was up 5.9%, with slot machines up 14.6% and table games up 3.6%, for a strong finish for the year.

Current promotions for the casino include Cold Hard Cash through the end of February where participants once a week try for \$10,000 cash and \$5,000 in free play. The Theater closed out 2018 strong with three sold out shows. In January the theater had a Motown tribute, and sold out Anthony Hamilton. In February there will be performances by Toni Braxton, Sebastian Maniscalco, Cheap Trick and Boyz II Men.

Mr. Shrader reported that MGM staff have continued volunteer efforts in the community, contributing 7,500 hours of volunteer time during 2018. MGM also hosted Governor Hogan's Inaugural Ball.

STAFF REPORTS

Director's Report – Gordon Medenica

Director Medenica reported that December lottery sales were up 3.9% year over year, but profits were down 0.3%. Year-to-date sales are up 7.7%, with profits up 3.4%. Recent good luck for Pick 3 and Pick 4 players resulted in decreased profits on those two games in the past month, though Director Medenica added that this type of volatility smooths itself out over the course of a year. Casino revenues are up 9.2%, with contributions to the state up 8.9% for the fiscal year to date.

Director Medenica reported that he delivered his annual briefings to the Senate Budget and Taxation Committee and House Ways and Means Committee on January 23. He said committee members inquired

about the casino tax rate adjustments that the Commission approved at its December 2018 meeting. He added that the legislature has not indicated whether it would take action to alter the rate adjustments or allow them go into effect beginning in FY2020. He said that legislators also asked about sports betting, and that there have been discussions in Annapolis about ways to implement some form of sports betting without waiting until a statewide referendum is held, which is not possible until 2020. The debate centers around whether lawmakers will define certain forms of sports betting as lottery games that the MLGCA could implement.

Director Medenica also discussed the recent reversal of the Department of Justice opinion on the Wire Act, a 1961 federal statute that was designed to keep organized crime out of horse betting. Prior to 2011, the Wire Act had also been interpreted as applying to internet gaming of all kinds. In 2011, while serving as New York Lottery Director, Director Medenica participated in successfully petitioning to have that interpretation reversed. The DOJ has now overturned that reversal, making the Wire Act applicable to any form of gambling that crosses state lines, including online gambling and online lottery. Director Medenica said the DOJ's action could have a substantial impact on sports betting and lottery operations. Lotteries currently transmit data across state lines to backup sites and centralized facilities operated by vendors. The new interpretation of the Wire Act technically makes these transmissions illegal.

Director Medenica said it remains to be seen whether or not the DOJ pushes enforcement and prosecution of such violations. It may lead lotteries to require that vendors locate all data servers within the state, and could impact how lotteries process financial transactions.

Director Medenica also reported that the Maryland Lottery has received World Lottery Association Level 3 responsible gambling certification. The WLA is the international standard-bearer in responsible gambling. The organization's top tier of certification, Level 4, includes a stringent set of standards. Eight U.S. lotteries have achieved Level 4 status, and Maryland hopes to join them.

Chair Marriner asked whether the Commission or MLGCA should take a position on the DOJ opinion and asked whether it adversely affects MLGCA. Director Medenica said there doesn't seem to be an immediate impact, but added that there could be an impact on new forms of gaming.

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

Ms. Smith reported that she has been working on audit reports required of all states that participate in multi-state jackpot games. She has completed August and September financial statements and a draft of the October statement. She said the Agency's Comprehensive Annual Financial Report for FY2018 has been published, and that it includes a statistical section that provides 10 years worth of data. Ms. Smith is continuing work on year-end requirements, including W2-G and 1099 forms. She is also preparing to meet with legislative analysts regarding the Agency's budget. There being no questions on her monthly report, Ms. Smith moved on to her Commission Action Item.

Commission Action Item - Advertising, Marketing, Media and Related Services Contract (#2018-07)

Ms. Smith reported that when this contact initially went to bid it was not awarded due to insufficient competition. The request for proposals was later reissued. Commissioners were provided with the evaluation committee's recommendations.

The contract includes two functional areas – creative development and production services; and media planning and buying services. Seven offerors submitted proposals and had the option to bid on one functional area or both.

Ms. Smith said the evaluation committee determined that one offeror did not comply with the RFP, and was removed from further consideration.

In the first functional area, creative development and production services, the committee ranked GKV No. 1 for technical merit, No. 3 for price, and No. 1 overall. Ms. Smith said GKV's technical abilities were far superior to others, and that the company has the proven staffing, creative resources and skill set to help the Lottery's business grow. While GKV ranked No. 3 on price, Ms. Smith said the company's skill set and experience would enable the Lottery to achieve revenue gains well above the differential in price.

In the second functional area, media planning and buying services, the committee ranked MARC USA No. 2 on technical merit and No. 1 overall. Media Works ranked No. 1 on technical merit, No. 4 on price and No. 3 overall. Ms. Smith said the differential in technical ranking was minimal and did not justify the increase in Media Works' pricing. She added that MARC USA's experience in sports sponsorships will be beneficial, as such sponsorships account for 20% of the Lottery's advertising budget.

Chair Marriner said that he was to have been part of the evaluation committee, but schedule conflicts did not allow him to participate. He added that he was part of the evaluation committee when a similar contract was awarded five years ago. The Chair said that he has read the evaluation committee's detailed report, and based on his background in advertising he agrees with the contract recommendations. He then asked if any Commissioners wished to discuss the recommendations. Ms. Smith said that any detailed questions would need to be addressed in closed session because it is still considered to be an active procurement until the contract has been approved by the Board of Public Works. Chair Marriner added that any financial issues would have to be discussed in closed session.

Commissioner Hash asked the length of the contracts. Chair Marriner said that the contracts were for three years with a two-year renewal option. Commissioner Stakem asked whether the contracts for the two functional areas would be voted on together or separately. Ms. Smith said that it is considered a single RFP and the two areas would be voted on together.

There being no further discussion or questions, Chair Marriner asked for a motion to approve the staff recommendations. Commissioner Fager motioned to approve, Commissioner Doetsch seconded, and the recommendations were unanimously approved.

Ms. Smith said the contracts would be submitted to the Department of Budget and Management and would be scheduled for the agenda of the March meeting of the Board of Public Works.

ANNUAL ELECTION OF CHAIR AND VICE CHAIR

Chair Marriner announced that January is election month for the Chair and Vice Chair of the Commission. Chair Marriner stated that there has not been a Vice Chair in a while and there is a need for one. Chair Marriner nominated Commissioner Hash for Vice Chair. There were no other nominations. A motion was made by Commissioner Fager to elect Commissioner Hash as Vice Chair, with a second made by Commissioner Doetsch. The vote carried unanimously.

Commissioner Hash then nominated Chair Marriner to continue as the Chair of the Commission. A motion was made by Commissioner Fager to elect Chair Marriner to continue as Chair, with a second by Commissioner Stakem. There were no other nominations. The vote carried unanimously.

PUBLIC COMMENTS

There were no comments from the public.

CLOSED SESSION

There was no need for the Commission to go into a closed session.

DATE AND TIME OF NEXT MEETING

The next monthly Commission meeting is scheduled for 10 a.m. on Thursday, February 28, 2019.

ADJOURNMENT

There being no further business for discussion, Chair Marriner adjourned the meeting at 10:42 a.m.

Respectfully submitted,



Gordon Medenica