

Maryland Lottery and Gaming Control Commission

Larry Hogan, Governor



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MARYLAND LOTTERY AND GAMING CONTROL COMMISSION NOVEMBER MINUTES

DATE: November 18, 2021

TIME: 2 p.m.

PLACE: Maryland Lottery and Gaming Control Agency
(Meeting conducted via audio/video conference call)

PRESENT: Chair E. Randolph Marriner
Commissioner F. Vernon Boozer
Commissioner George L. Doetsch, Jr.
Commissioner Michelle Fager
Commissioner James Stakem
Commissioner Jerry E. Williams

John Martin, Director
James Nielsen, Deputy Director, Chief Operating Officer
James Butler, Assistant Deputy Director, Chief of Staff
James Logue, Managing Director, Gaming
John Mooney, Managing Director, Regulatory Oversight
Paula Yocum, Managing Director, Chief Financial Officer
Carole Gentry, Managing Director, Communications
Holly Citko, Principal Counsel, Attorney General's Office
Jennifer Tosky, Deputy Counsel, Attorney General's Office
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
Representatives from PointsBet USA for PointsBet Maryland LLC
MLGCA Staff

E. Randolph Marriner, Chair

F. Vernon Boozer, George L. Doetsch, Jr., Michelle R. Fager, Harry E. Hodges, James J. Stakem, Jerry E. Williams

ROLL CALL

Chair Marriner asked for a roll call to establish that a quorum was present. Present via audio/video conference were: Vice Chair George Doetsch. Commissioners Vernon Boozer, Michelle Fager, James Stakem, and Jerry Williams. Commissioner Harold Hodges was not on the call.

CALL TO ORDER

Chair Marriner called the meeting of the Maryland Lottery and Gaming Control Commission to order at 2:01 p.m.

APPROVAL OF THE AGENDA

Chair Marriner reported that the Commissioners were provided with a copy of the agenda. Chair Marriner asked for a motion to approve the agenda. Vice Chair Doetsch moved, Commissioner Williams seconded, and the motion was unanimously approved by roll call vote.

APPROVAL OF THE MINUTES

Chair Marriner stated that the October 21, 2021, open session minutes, and the November 4, 2021, special meeting minutes were provided to the Commissioners for review, and asked if there were any changes. There were no changes.

Vice Chair Doetsch moved to approve the October 21, 2021, minutes, Commissioner Stakem seconded, and the motion was unanimously approved by roll call vote.

Vice Chair Doetsch moved to approve the November 4, 2021, minutes, Commissioner Williams seconded, and the motion was unanimously approved by roll call vote.

CONSENT AGENDA

Chair Marriner said the Consent Agenda contains 5 new instant ticket games for the Commission's approval: #570 (\$2) *Betty Boop*; #571 (\$1) *Bonus Crossword 4th Edition*; #572 (\$5) *Diamond Mine X9*; #573 (\$10) *\$250,000 Gold Rush*; and #574 (\$30) *\$2,000,000 Gold Rush*; EGD Games and Component Testing Certified Lab Software, Hardware and Game Certifications for VLTs, Table Game Components, and Instant Bingo Machines (10/7/21 - 11/4/21); Consent Agreements for Regulatory Violations - Hollywood Casino - April, May, June, July 2021; Horseshoe Casino - July 2021; and Live! Casino - June 2021; Consent Agreements for Underage Violations - Hollywood Casino - Case No. 2021-01-001; Horseshoe Casino - Case Nos. 2021-05-008 to -011; and Live! Casino - Case Nos. 2021-03-005 and 2021-03-006; Gaming License Application Denials/Revocations; and Staff Reports from James Butler, Assistant Deputy Director, Chief of Staff; Alvin Ringgold, Senior Director of Sales; Paula Yocum, Managing Director, Chief Financial Officer; Carole Gentry, Managing Director, Communications; Jill Baer, Director, Creative Services; and Holly Citko, 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 Vice Chair Doetsch, seconded by Commissioner Stakem, and the motion was unanimously approved by roll call vote.

OPERATOR REPORTS

Hollywood Casino Perryville

Allie Evangelista, General Manager, reported that gaming revenue month in October was up 22% year-over-year, and up 28% for the year. Hollywood is welcoming a new marketing director and new slots director, both of whom are relocating from Penn National properties in Ohio. The casino also has a new compliance manager and is considering raising the rates for some open positions in order to attract more candidates. Hollywood is planning holiday-season events for its employees, including a parade, and will be making a donation to the Salvation Army, and a holiday basket to benefit the House of Ruth in Baltimore. The casino is also preparing for the launch of sports wagering.

Chair Marriner congratulated the five casinos that advanced with the SWARC meeting this morning for licensure for sports wagering.

Ocean Downs Casino

Ms. Bobbi Sample, General Manager, reported that gaming revenue in October was up 10.3%, in both slot machines and table games. Slot machine revenue was up 8.1% driven by volume, and table games revenue was up 32%, year-over-year with fewer COVID-19 constraints in place. The increase was driven by volume, and hold was up slightly. Ocean Downs held an invitational slot tournament at the end of October that was well received by guests, with plans to do it again in the future. It is now the off season for Ocean Downs with numbers decreasing slightly, but still ahead of last year. December promotions will include slots and blackjack tournaments. The casino is also asking visitors to bring donations for Toys for Tots. Employees will cook and serve dinner at a local homeless shelter, continuing a partnership that has existed for 10 years. Ms. Sample said the casino is ramping up its hiring efforts and is preparing for sports wagering.

Live! Casino

Mr. Anthony Faranca, Executive Vice President, General Manager, reported that the property's total revenue in October was \$68 million, up 25% from October 2019. Slot machine revenue was \$43 million, up 24% from last year. Table game revenues were \$18 million, up 40% from last year aided by hold. Poker revenue was \$1.3 million, up 4%. Mr. Faranca said that as of mid-November, all of the casino's restaurants have reopened for businesses. As a result, non-gaming revenue in October was flat with the pre-pandemic figure from October 2019 at \$7.5 million. Live! drew a couple thousand visitors to The Hall events space for a pay-per-view boxing match on Oct. 9 and hosted a live boxing card on Oct. 23. The casino participated in two cancer awareness fundraising events in October, raising more than \$7,000. Live! is donating 300 turkeys to the Anne Arundel County Food Bank and will also give turkeys to all employees. To further recognize team members for their contributions during a challenging time, the casino will give away a car and \$150,000 in cash prizes to employees as the year draws to a close.

Rocky Gap Casino

Mr. Skylar Dice, Vice President, General Manager reported that October gaming revenue was up 10.5% year-over-year, as the month included five weekends, and both slots volumes and table game hold was better than last year. Rocky Gap was the lead sponsor for the Hooley Plunge during October, which benefits the Special Olympics. The casino is planning holiday season events for its employees. In November, Rocky Gap is conducting a food drive to benefit the Allegany County Food

Bank, and is planning a toy donation initiative. The 2022 budget and marketing plans are being finalized. Mr. Dice announced that he is taking a new position with Golden Entertainment and will be leaving Rocky Gap. He introduced Mr. Brian Kurtz as the property's incoming General Manager. Mr. Kurtz said he worked with Rocky Gap as it was transitioning from a resort into a casino and has been working in Las Vegas for a number of years, but is happy to be back and is looking forward to working with Rocky Gap's team and the Commission.

Chair Marriner thanked Mr. Dice for his efforts. Commissioner Stakem also wished Mr. Dice good luck.

Horseshoe Casino

Mr. Randy Conroy, Vice President, General Manager, reported that October slot machine revenue was \$11.9 million, down 12.1% from last year, while table games were flat at \$5.3 million. Horseshoe is conducting a holiday food drive and collecting toys to donate to the Salvation Army. A recent event raised funds for the American Cancer Society. Mr. Conroy recently participated in an event with the South Baltimore Gateway Partnership, which dedicated a new athletic field in Cherry Hill. Funding for the field came from local impact grant money generated by Horseshoe slot machine revenues. Cal Ripken, Jr. also participated in the event. Horseshoe will give turkeys to its employees and will also be giving all fulltime employees a \$600 bonus before Christmas. Mr. Conroy reported that construction on Horseshoe's sports wagering area continues.

MGM National Harbor

Mr. Jeffrey Shrader, Vice President, Legal Counsel, reported that October gaming revenue was down 7% compared to 2019. Slot machine revenues increased, but the casino took a hit on table games, which were down 51%. MGM has offered a variety of recent promotions to patrons, and recently ended the Wind Down Thursday series of outdoor music events for this season. The casino plans to hold the events again next year when warmer weather returns. MGM has had a number of recent shows in its theater, including concerts by Chicago and Bruno Mars.

STAFF REPORTS

Director's Report – John Martin, Director

Mr. Martin thanked Chairman Brandt of the Sports Wagering Application Review Commission (SWARC), which has awarded sports wagering facility licenses for five of the casinos. He added that the Agency anticipates having sports wagering available within 30-45 days, which will allow Marylanders to place wagers during the NFL playoffs.

Mr. Martin reported that October was a strong month, with Lottery sales at \$220 million, up 9.7% compared to 2020, while year-to-date sales are up 8% over last year's record total. Powerball sales have been strong, and Multi-Match also saw strong sales leading up to a \$2.2 million jackpot that was sold in Eden, Md. Fast Play progressive jackpot tickets are doing well, including a recent \$2.6 million jackpot on the \$20 Diamond Mine ticket. Profits were up 9.5% in October, and year-to-date profits are up 3.1%.

Casino revenue was up 8.6% in October and is up 16% year-over-year. Contributions to the state from the casinos were up 15% in October and 20% year-over-year.

Deputy Director's Report – James Nielsen, Deputy Director, Chief Operating Officer

There being no questions on Mr. Nielsen's monthly report, he proceeded with his Commission Action Item.

Commission Action Item - Proposed Amendments to Regulations Voluntary Exclusion and Responsible Gaming and Fantasy Competitions

Mr. Nielsen said Agency staff are presenting proposed amendments to regulations in the Voluntary Exclusion and Responsible Gaming chapter and the online Fantasy Competition subtitle to incorporate changes that were made by HB940. As codified, the law amends State Government Article ("SG") § 9-1D *et seq.*, Annotated Code of Maryland as well as other clarifying amendments. There are seven proposed amendments to Voluntary Exclusion and Responsible Gaming regulations, and five proposed chapter amendments to Fantasy Competition subtitle. Mr. Nielsen read summaries of these proposed amendments, which are published in full on the Agency's website. The proposed amendments are to the following regulations:

Voluntary Exclusion and Responsible Gaming

- COMAR 36.01.03.01: General
- COMAR 36.01.03.02: Application for Placement on the Commission's Voluntary Exclusion List
- COMAR 36.01.03.03: Direct Exclusion
- COMAR 36.01.03.04: Voluntary Surrender
- COMAR 36.01.03.05: The Commission's Voluntary Exclusion List
- COMAR 36.01.03.06: Removal from the Commission's Voluntary Exclusion List
- COMAR 36.01.03.07: Access to the Commission's Voluntary Exclusion List

Fantasy Competitions

- COMAR 36.09.01: General
- COMAR 36.09.02: Registration
- COMAR 36.09.03: General Standards and Prohibitions
- COMAR 36.09.04: Financial Standards
- COMAR 36.09.05: Responsible Gaming

With the Commission's approval, the proposed amended regulations will be submitted as both regular and emergency regulations. There were no questions from members of the Commission.

Chair Marriner asked for a motion to approve seven proposed amendments on Voluntary Exclusion and Responsible Gaming. Vice Chair Doetsch motioned to approve, Commissioner Williams seconded, and the motion was unanimously approved by roll call.

Chair Marriner asked for a motion to approve the five proposed amendments to the Fantasy Competition regulations. Vice Chair Doetsch motioned to approve, Commissioner Stakem seconded, and the motion was unanimously approved by roll call.

Chair Marriner asked for a motion to delegate to Agency staff the authority to make any non-substantive changes to the approved amended regulations that may be necessary to prepare them for publication in the Maryland Register. Vice Chair Doetsch motioned to approve, Commissioner Stakem seconded, and the motion was unanimously approved by roll call.

Mr. Nielsen said for clarification the first two motions were for regular submission, as well as emergency submission.

Gaming – James Logue, Managing Director

There being no questions on Mr. Logue’s monthly report, he proceeded to his Commission Action Item.

Commission Action Item – MGM Temporary VLT Allocation Reduction and Waiver of COMAR 36.04.02.02E(2)

Mr. Logue reported that MGM National Harbor made a request to continue its temporary reduction of the authorized number of VLTs on its gaming floor and to continue to waive COMAR 36.04.02.02E.(2) for an additional one-year period, until December 8, 2022. The regulation says that if VLTs are temporarily removed and are not restored to operation within 365 days, the temporary removal becomes permanent. On November 19, 2020, the Commission granted MGM’s request for an extension of a temporary reduction of the minimum authorized number of VLTs on its gaming floor and to preserve MGM’s full 3,600-machine allocation. That waiver is due to expire on December 8, 2021.

MGM will maintain a minimum of 2,180 VLTs and not more than 3,600 VLTs until December 8, 2022. The reason for this request is to preserve the status quo while MGM continues to work to reimagine its gaming floor in light of the ongoing pandemic and other business priorities. No further temporary reduction of VLTs is necessary at this time, but may ultimately be necessary as health, safety and business needs dictate. MGM believes continuing the reduction for an additional one-year period should be revenue neutral to positive for the state.

There being no questions or discussion, Chair Marriner asked for a motion to approve MGM’s request for a temporary VLT Allocation Reduction. Doetsch moved, and Stakem seconded. The motion was unanimously approved by roll call vote.

There being no questions or discussion, Chair Marriner asked for a motion to approve MGM’s request for a waiver of COMAR 36.04.02.02E(2). Doetsch moved, and Stakem seconded. The motion was unanimously approved by roll call vote.

Commission Action Item – Delegation of Authority to Staff

Mr. Logue reported that The Sports Wagering Law and the Commission’s regulations require the Commission to make determinations about whether applicants meet the requirements for being qualified for, or issued, sports wagering-related licenses. The Commission’s regulations provide that, unless context dictates otherwise, “Commission” may mean the Agency or its staff. COMAR 36.01.01.01.B.; State Gov’t Article (“SG”) § 9- 1A-02(b)(2), Annotated Code of Md. and as applied to sports wagering pursuant to SG § 9-1E-04(a).

Staff can make determinations about whether applicants satisfy most license requirements expeditiously and efficiently because they are subject matter experts on the various licensing, technical, and operational requirements for licensure. Given staff’s expertise, given the numerous determinations necessary to ensure that each applicant satisfies the many licensure requirements, and given that — without delegating certain determinations to staff — the full Commission may need to make all licensing determinations. Staff is asking the Commission to delegate to the Agency the authority to make these kinds of licensing-related determinations under the regulations set forth below. These delegations, if granted, will likely help potential and actual applicants by clarifying how the licensing process works, what they may expect during the process, and may reduce delays in starting sports wagering.

Staff is requesting that the Commission delegate to it the authority to determine whether applicants have met licensing requirements under the following regulations:

- COMAR 36.10.03: All Applicants and Licensees — Qualification Requirements
- COMAR 36.10.04: Specific Requirements for Sports Wagering Facility Licensees
- COMAR 36.10.13: Sports Wagering Licensee Minimum Internal Control Standards
- COMAR 36.10.14: Sports Wagering Requirements and Limitations
- COMAR 36.10.15: Sports Wagering License Facility Standards
- COMAR 36.10.16: Wagering Using Online, Web-based, or Mobile Applications
- COMAR 36.10.17: Sports Wagering Equipment
- COMAR 36.10.18: Sports Wagering Technical Standards

Staff recommended that the Commission delegate to staff its approval and determination functions under these chapters of the sports wagering regulations, so that if staff determines an applicant meets applicable standards, staff may determine qualifications for, and issue, a sports wagering license, without necessity of a Commission hearing. With approval of this delegation, staff shall report to the Commission any exercise of a Commission function made under this authority. The Commission may revoke this delegation at any time.

Chair Marriner stated that the Commission would not be waiving any regulations by delegating the authority related to these regulations, and that it would improve the timeliness of action related to the launch of sports wagering operations. Commissioner Stakem said he supported the delegation of authority.

There being no additional discussion, Chair Marriner asked for a motion to delegate the authority to issue licenses under the aforementioned regulations. Vice Chair Doetsch so moved, Commissioner Stakem seconded, and the motion was unanimously approved by roll call.

Regulatory Oversight – John Mooney, Managing Director

There being no questions on Mr. Mooney's monthly report, he proceeded with his Commission Action Items.

Commission Action Items — Qualification Hearing: PointsBet Maryland, LLC

Chair Marriner stated that the Commission would conduct qualification hearing for PointsBet Maryland, LLC. Chair Marriner collectively administered the oath to those who may testify or answer a question during the hearing. He stated that Mr. Mooney would describe the results of MLGCA staff's investigation of PointsBet. Chair Marriner stated that anyone on the call for the hearing on behalf of the applicants may speak. The Commission may also ask questions of staff or an applicant representative. At the end of the hearing, Chair Marriner will ask for a motion to find the applicant qualified by the application of alternative licensing standards for a sports wagering facility license. If found qualified, the Chair will ask for a motion to direct the staff to draft a decision statement. Chair Marriner then administered the oath to: Mr. Phil Metz and Mr. John Mooney from MLGCA. Neither David Trueman nor Anthony Marino from PointsBet USA on behalf of PointsBet Maryland, LLC were sworn in, but introduced themselves and were on the call.

Mr. Mooney reported that before the Commission is a hearing in which the MLGCA is requesting the Commission to determine whether PointsBet Maryland, LLC is qualified for a sports wagering operator license.

The Commission has delegated to Agency staff its authority to decide whether to apply an alternative licensing standard to an applicant. The Sports Wagering Law requires the Commission

to regulate sports wagering to the same extent that it regulates casino licensing and operations under the Gaming Law (SG, Title 9, Subtitle 1A). PointsBet holds current, valid sports wagering operator licenses in at least three of the 16 Commission-approved states that have licensing standards which are comprehensive and thorough, and provide similar and adequate safeguards to those in Maryland's Sports Wagering Law. The applicant has submitted a request for the application of alternative licensing standards as the basis for determining its qualification for a Sports Wagering Facility Operator license, based on the sports wagering- related licenses issued by other Commission-approved states. Staff has decided to apply alternative licensing standards to the applicant to satisfy the qualification requirements before the Agency conducts a full background investigation. Staff will complete an extensive background investigation in due course.

Mr. Mooney read the publicly available investigative summary on PointsBet, which stated that staff have found PointsBet qualified for a Sports Wagering Facility Operator license based on the alternative licensing standards provisions in the Sports Wagering Law by clear and convincing evidence.

Chair Marriner asked for a motion to find that PointsBet has established by application of alternative licensing standards that it is qualified for a Sports Wagering Facility Operator license by clear and convincing evidence. Commissioner Williams so moved, Commissioner Fager seconded, and the motion was unanimously approved by roll call.

Chair Marriner asked for a motion to delegate to staff the authority to draft a decision statement of the Commission's decision on the qualification of PointsBet. Vice Chair Doetsch so moved, Commissioner Williams seconded, and the motion was unanimously approved by roll call.

CLOSED SESSION

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

DATE AND TIME OF NEXT MEETING

The next Commission meeting will be held on Thursday, December 16, 2021, one week earlier due to the holiday, in-person at Maryland Lottery headquarters and via audio/video conference. There may be additional meetings scheduled to review applicants in between regularly scheduled meetings.

ADJOURNMENT

There being no further business, Chair Marriner adjourned the meeting at 3:03 p.m.

Respectfully submitted,


John Martin
Director