

# Maryland Lottery and Gaming Control Commission

Larry Hogan, Governor



Montgomery Park Business Center  
1800 Washington Blvd., Suite 330  
Baltimore, Maryland 21230

Tel: 410-230-8800  
TTY users call Maryland Relay  
www.mdlottery.com

## MARYLAND LOTTERY AND GAMING CONTROL COMMISSION DECEMBER MINUTES

DATE: December 16, 2021

TIME: 10:00 a.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 Michelle Fager  
Commissioner Harold E. Hodges  
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  
Representative from Scientific Games  
Representative from Pollard Banknote  
Representative from International Game Technology (IGT)  
Representatives from Greenmount OTB, LLC  
MLGCA Staff

**E. Randolph Marriner, Chair**

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

## **ROLL CALL**

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

## **CALL TO ORDER**

Chair Marriner called the meeting of the Maryland Lottery and Gaming Control Commission to order at 10:00 a.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. Commissioner Stakem motioned to approve, Commissioner Boozer seconded, and the motion was unanimously approved by roll call vote.

## **APPROVAL OF THE MINUTES**

Chair Marriner stated that the November 18, 2021, open session minutes, and the December 2, 2021, special meeting minutes were provided to the Commissioners for review, and asked if there were any changes. There were no changes.

Commissioner Hodges motioned to approve the November 18, 2021, minutes, Commissioner Stakem seconded, and the motion was unanimously approved by roll call vote.

Commissioner Stakem motioned to approve the December 2, 2021, minutes, Commissioner Hodges 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: #575 (\$1) *2 For \$1*; #576 (\$3) *Skee-Ball*; #577 (\$5) *Fat Wallet*; #578 (\$10) *Mega 7's*; and #580 (\$5) *Family Feud*; EGD Games and Component Testing Certified Lab Software, Hardware and Game Certifications for VLTs, Table Game Components, and Instant Bingo Machines (11/4/21 – 12/2/21); Consent Agreements for Regulatory Violations – Horseshoe Casino – August 2021; MGM National Harbor – May, June, July and August 2021; and Rocky Gap Casino – August 2021; Consent Agreements for Underage Violations – MGM National Harbor – Case Nos. 2021-06-013 to -016; Gaming License Application Denials/Revocations; Lottery Retailer License Revocations; Brad Burgess System Administration Work; and Staff Reports from James Butler, Assistant Deputy Director, Chief of Staff; James Logue, Managing Director, Gaming; 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 Commissioner Stakem, seconded by Commissioner Hodges, and the motion was unanimously approved by roll call vote.

## **OPERATOR REPORTS**

### **Hollywood Casino Perryville**

Mr. Timothy Shea, Vice President, Operations, reported that November gaming revenue was up 25% compared to 2019. Slot machine revenue was up nearly 29%, and table game revenue was up 23%. The casino has had several recent promotions and tournaments, and is planning for its New Year's Eve celebration with live entertainment. On December 10, Hollywood opened the My Choice Center introducing guests to Penn National's loyalty program, which kicks off in early 2022. Hollywood was a sponsor for the Christmas parade in Perryville. Construction of the Great Wolf Lodge is progressing ahead of schedule. More than 2,600 customers made recent donations to four charities, including the Maryland Veteran's Trust Fund. The casino will be serving dinner to team members that are working on Christmas Day. Twelve departments at Hollywood are participating in a Christmas Basket Challenge, with all proceeds going to the casino's Heart Program, which helps team members in need. The casino's controlled demonstrations for sports wagering are scheduled for December 20 and 22, with a go-live date of December 23. Construction of the Barstool Sportsbook will take place in early 2022 and should take four to five weeks.

### **Ocean Downs Casino**

Ms. Bobbi Sample, General Manager, reported that today's Commission meeting was occurring on the second day of controlled demonstrations for sports wagering, and, therefore, could not be in-person for the meeting. She added that the sports wagering go-live date was targeted for December 17. November gaming revenue was up 30.4%, driven by both slot machines and table games. Slot machine revenue was up 26.8%, and table game revenue was up 55.7%. Ocean Downs held the Twelve Tournaments of Christmas in the first 12 days of December, which included both slots and Blackjack tournaments. To participate, guests were required to donate a toy or \$20 to Toys for Tots. It was a success, gathering many toys and raising \$6,000. The expanded smoking patio is close to reopening with 100 games, 30 more than it had previously. Ocean Downs partnered with WBOC for the Holiday Wishes promotion, granting wishes for people in the community. Ms. Sample said the casino is getting ready for a 1970s-themed New Year's Eve party. In January, Ocean Downs will be celebrating its 11<sup>th</sup> anniversary, as the casino was unable to celebrate the 10<sup>th</sup> anniversary last year due to COVID.

### **Live! Casino**

Mr. Robert Tedesco, Assistant General Manager, reported that total revenue in November was \$64.9 million, up 5.8% compared to 2019. Gaming revenue was \$57.5 million, up 8.8% from 2019. Non-gaming revenue was down 13%, predominantly due to a smaller events calendar. Slot machine revenue was \$39.9 million, up 7.3%, table game revenue was \$17.7 million, up 12% driven by strong hold. Live! had a number of promotions and drawings in November, including a turkey giveaway to guests. Mr. Tedesco thanked MLGCA staff for its help with the sports wagering controlled demonstrations and launch date on December 10. Live! handled 5,600 sports bets and \$572,000 in handle on December 11, and 3,400 bets with another \$250,000 in handle on December 12. The casino thanked team members with a Thanksgiving dinner in the dining room and gave 1,800 turkeys to employees. Live! also donated 500 turkeys to the Anne Arundel County Food Bank. All proceeds from the two sports wagering controlled demonstrations were donated to Toys for Tots.

### **Rocky Gap Casino**

Mr. Brian Kurtz, General Manager, reported that November gaming revenue was up 29% compared to 2020, and up 11.4% compared to 2019. Slot machine revenue was up 38.7% from 2020. Table games were down 21% year-over-year due to strong hold in November 2020. Customer volumes were good, with a few promotions and entertainment options that drew in visitors, including shows at the Bonkerz Comedy Club. Plans are underway for New Year's Eve. Rocky Gap will welcome guests with a party, a band, and dinner. In the community, the casino participated in a food donation drive to benefit residents of Western Maryland and a Toys for Tots donation drive. Mr. Kurtz said the casino is giving out gift cards and planning a number of activities and prizes for team members.

### **Horseshoe Casino**

Mr. Randy Conroy, Vice President, General Manager, reported that slot machine revenue was \$10.4 million in November, up 4% from 2020, and table game revenue was \$5.3 million, which was flat compared to 2020. Horseshoe Casino is an official casino sponsor of the Baltimore Ravens and held an event at M&T Bank Stadium for 100 VIP customers that included a tour of the locker room and field. Baltimore City remains under an indoor mask mandate, and Mr. Conroy said Horseshoe is cautiously reactivating its entertainment calendar and making new investments in the casino, including new slot machines and kiosks. Horseshoe is donating its proceeds from the controlled demonstrations to a charity that serves underprivileged children in Baltimore City. Mr. Conroy thanked MLGCA for a great collaborative effort in preparing for the sports wagering launch. He added that sports wagering activity was brisk, and that the first weekend that the sportsbook was open was one of Horseshoe's best weekends of the year.

### **MGM National Harbor**

Mr. Jeffrey Shrader, Vice President, Legal Counsel, reported that November gaming revenue was up 26% from 2019. Slot machine revenue was up 21% and ranked as the fifth-best month in property history. Table game revenue was up 39%. The casino celebrated its fifth anniversary on December 8, and opened its sportsbook on December 9. In its first week, the sportsbook took approximately 8,000 bets and more than \$700,000 in handle. Mr. Shrader noted that corporate-wide, December 12 was the worst day in the BetMGM Sportsbook's existence because so many of the favorites in NFL games that day covered the point spread. Mr. Shrader thanked the Commission and MLGCA staff for going above and beyond to guide MGM's staff through the sportsbook opening. He added that the opening created excitement on the property, and that food and beverage sales had an increase of 50% as a result. MGM had a number of customer promotions in November, including a \$100,000 cash drawing and a giveaway of \$10,000 in free play. There have been numerous shows at The Theater, including Gladys Knight and Smokey Robinson who performed to a full house. In the community, MGM partnered with Washington Football Team's charitable foundation to package 90,000 pounds of food for 2,500 low-income families in the region.

Chair Marriner commended the casinos and MLGCA staff for their work on the sports wagering launch.

## **VENDOR REPORTS**

### **Scientific Games**

Mr. Jeff Hale, Assistant General Manager for Operations, reported that Scientific Games is preparing for the Pick 5 launch. He added that the sales performance of Maryland's Fast Play games ranks No. 1 in the nation. Self-service vending machine installations are continuing, and Scientific Games is working with 7-Eleven stores on the SciQ program. A group of Monopoly scratch-offs and Fast Play games will launch in January. Scientific Games has teamed up with the Lottery on a Toys for Tots donation drive and appeared on Fox 45 in Baltimore on December 10 to deliver the toys.

### **Pollard Banknote**

Mr. Matt Isaac, Director, Retail Development, reported that Maryland's scratch-off sales are up 4.1% year-over-year, including an 11% increase in the most recent week. In comparison to other states, Arizona's scratch-off sales are down 9.3% after being up by 50% to 60% at this time a year ago. Connecticut is up 1.6%, Michigan is down 5%, New Jersey is down 3.6%, New York is up 14.9%, and Virginia is up 20%. The national average is a 3.8% increase year-over-year. Pollard currently has 20 games in production this quarter.

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

Ms. Carmen Vegas, Data Center Manager, reported that IGT is wrapping up its planned disaster recovery failover testing, and that all operations are going well.

## **STAFF REPORTS**

### ***Director's Report — John Martin, Director***

Director Martin said he was appreciative of the kind words from the casino and vendor partners, who contribute to MLGCA's success. November was a very good month, with Lottery sales up 8.5% year-over-year. Approaching the midway point of the fiscal year, the Lottery has crossed the \$1 billion sales threshold. MLGCA contributions to the Maryland Charity Campaign exceeded the goal amount, and staff also participated in a food donation drive and partnered with Scientific Games on the Toys for Tots donation drive.

### ***Commission Action Item — Proposed Amendments to the MOU with OAH***

Director Martin reported that the Commission currently has a Memorandum of Understanding in place with the Office of the Administrative Hearings (OAH) which allows the Commission to delegate to OAH the authority and function of conducting certain hearings that otherwise must be conducted by the Commission. The Commission approved the last amendments to the MOU in 2018. The MOU needs to be updated, and is being presented to the Commission for approval of the following proposed amendments:

- 1) Allow the Commission to delegate to OAH hearings on matters related to sports wagering licensing;
- 2) Memorialize the Commission's 2018 delegation for contested cases pertaining to a mandatory exclusion list; and
- 3) Expand the type of decision that the Commission may request from OAH. Instead of the

OAH doing a hearing and the final decision, MLGCA could specify what form of decision is being sought from the OAH. This may be:

- a. Proposed or final findings of fact;
- b. Proposed or final conclusions of law;
- c. Proposed or final findings of fact and conclusions of law; or
- d. A proposed or final order

Director Martin stated that OAH is aware of these proposed revisions and, if approved by the Commission, is prepared to execute the MOU.

Previously, the Commission delegated to the Director in consultation with the Office of the Attorney General, the authority to decide which matters are delegated to OAH. MLGCA is seeking a similar delegation here. The delegation request adds the requirement that the Director also consult with the OAG about the *form* of decision sought, and identify that in the referral to OAH. MLGCA is requesting approval.

Chair Marriner asked for a motion to approve the amendments to the proposed Amended and Restated Contested Case Hearing Agreement between the Office of Administrative Hearings and the Maryland Lottery and Gaming Control Commission. Commissioner Stakem motioned to approve, and Commissioner Williams seconded, and the motion was unanimously approved by roll call.

Chair Marriner asked for a motion to delegate to the Director, in consultation with the Office of the Attorney General, the authority to determine which matters are delegated to OAH and what types of decisions are sought. Commissioner Stakem motioned to approve, and Commissioner Williams seconded, and the motion was unanimously approved by roll call.

Chair Marriner asked for a motion to direct the Secretary of the Commission to transmit the Amended and Restated MOU to the OAH for acceptance and approval. Commissioner Williams motioned to approve, and Commissioner Stakem seconded, and the motion was unanimously approved by roll call.

#### *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 first Commission Action Item.

#### *Commission Action Item — Proposed Amendments to Sports Wagering Regulations*

Mr. Nielsen reported that MLGCA is presenting proposed amendments to sports wagering regulations that are currently in effect on an emergency basis. These amendments are based on public comments and MLGCA staff review. These proposed amendments are substantive in nature and could not be included in the non-substantive changes approved by the Commission on December 2, 2021.

The proposed amendments intend to:

- 1) Remove requirements to use official league data;
- 2) Include the unique aspects of the application process when the owner of a professional sports franchise or stadium under State Government Article, § 9-1E-06(a)(1)(i)2 selects a designee to be the applicant for a Sports Wagering Facility License;
- 3) Remove provisions that would authorize a "runner" to purchase an in-person wager;
- 4) Specify when tax returns and tax payments are due to the Commission, and specify the enforcement action to be taken if not timely remitted;

- 5) Align timeframes specified in the internal controls chapter;
- 6) Allow bettors to access their account while out of state, as long as wagering does not occur;
- 7) Include a change management plan issued by the Commission that licensees must follow;
- 8) Allow bettors to opt out of receiving by email, text message or other means confirmation of each transaction on a bettor account; and
- 9) Clarify information security measures.

Chair Marriner asked for a motion to approve the proposed amendments to sports wagering regulations on both an emergency and non-emergency basis. Commissioner Stakem motioned to approve, Commissioner Hodges seconded, and the motion was unanimously approved by roll call.

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

#### ***Commission Action Item — Request for Waiver of Certain Sports Wagering Regulations***

Mr. Nielsen reported that MLGCA is requesting a waiver of certain sports wagering regulations from now until such time that the non-substantive and substantive changes to the sports wagering regulations take effect on both a permanent and emergency basis. The existing sports wagering regulations include requirements that the Commission has now approved amending through its last agenda item. Because these new requirements may remove or contradict some existing regulations (“old requirements”), certain regulatory provisions will be obsolete and should be waived until the newly approved amendments take effect.

This waiver is expected to be in effect until sometime in February. At that time, the amendments to the sports wagering regulations that the Commission approved today will take effect on an emergency basis, if approved by the General Assembly’s Joint Committee on Administrative, Executive, and Legislative Review (AELR).

Chair Marriner asked for a motion to approve the proposed limited waiver of sports wagering regulations for the period of time between now and when the just-approved amendments to the sports wagering regulations take effect on an emergency basis. Commissioner Stakem motioned to approve, Commissioner Hodges 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 Item.

#### ***Commission Action Item — Qualification Hearing: Greenmount OTB, LLC***

Chair Marriner stated that the Commission would conduct a qualification hearing for Greenmount OTB, 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 staff’s investigation of the applicant. Chair Marriner stated that anyone present or on the call for the hearing on behalf of the applicants may speak. He said the Commission may also ask questions of staff or an applicant representative. At the end of each hearing, Chair Marriner will ask for a motion to find that the applicant has established by clear and convincing evidence that it is qualified for a Sports Wagering Facility License. If found qualified, he will ask for a motion to direct staff to draft

a decision statement of the Commission on the qualification of the applicant for a Sports Wagering Facility License, and lastly he will ask for a motion for the Secretary of the Commission to transmit the decision statement to the Sports Wagering Application Review Commission (SWARC). Chair Marriner then administered the oath to: Mr. Mooney and MLGCA staff members Phil Metz, Ray Jones, Barry Laurent and Mark Ermer; and Christopher Richards and David Richardson from Greenmount OTB, LLC.

Mr. Mooney reported that there would be a hearing on the Sports Wagering Facility License application submitted by Greenmount OTB, LLC. MLGCA was required by the sports wagering law to conduct an investigation on the applicant to determine if the applicant is qualified for a Sports Wagering Facility License.

The Commissioners were provided with the complete investigative report on the applicant. Mr. Mooney proceeded to present the applicant for approval.

Mr. Mooney reported that the hearing was being conducted on the Sports Wagering Facility License Application submitted by Greenmount OTB, LLC. to determine their qualification for a Sports Wagering Facility License.

Mr. Mooney reviewed the regulatory history, ownership and the principal qualifiers of Greenmount OTB. He noted that MLGCA's investigation has confirmed that the applicant has sufficient financial resources, and found no derogatory information regarding the applicant's qualifications. Based on the criteria in SG §§ 9-1A-07(c)(7) and 9-1A-08(d), as applied to a sports wagering license applicant under SG § 9-1E-03(a)(1) and that Greenmount OTB, LLC is qualified under SG § 9-1E-07(e) and not disqualified under SG § 9-1E-07(g)(1), MLGCA concluded that the applicant has established by clear and convincing evidence the qualifications required for a Sports Wagering Facility License.

Mr. David Richardson thanked everyone involved in the process. There were no questions from the Commission.

Chair Marriner asked for a motion to find that Greenmount OTB, LLC has established by clear and convincing evidence that it is qualified for a Sports Wagering Facility License. Commissioner Stakem motioned to approve, Commissioner Boozer seconded, and the motion was unanimously approved by roll call vote.

Chair Marriner asked for a motion to direct staff to draft a Decision Statement of the Commission on the qualification of Greenmount OTB, LLC. Commissioner Stakem motioned to approve, Commissioner Williams seconded, and the motion was unanimously approved by roll call vote.

Chair Marriner asked for a motion to direct the Secretary of the Commission to transmit the Decision Statement to the Sports Wagering Application Review Commission (SWARC). Commissioner Stakem motioned to approve, Commissioner Williams seconded, and the motion was unanimously approved by roll call vote.

### **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 at 10:00 a.m. on Thursday, January 20, 2022, 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 10:49 a.m.

Respectfully submitted,



John Martin  
Director