

**Regular Meeting of Board of Directors**  
**New Mexico Lottery Authority**  
**June 27, 2011**  
**MINUTES**

**Call to Order:** Board Chair Marcus Rael called the meeting to order at 11:07 a.m. M. Rael asked for roll call. Present and constituting a quorum were Nino Trujillo, Herman Tabet, Marcus Rael, Reta Jones, Ken Hoeksema and Clifford Stroud (via telephone).

**Introductions:** The following employees were present from NMLA: Tom Romero, Adriana Binns, Sylvia Jaramillo, Evelyn McKnight, Pam Poteat, Dave Ramirez, Vince Torrez, Michael Boland, Linda Hamlin, Mary Stanford, Vernon Johnson, Sammye Leflar, Karla Wilkinson, Philippe Menzies, Nadine Guillen, Jim Howard, Julie Gilmore, Gina Borrego, Wendy Creel, Jessica Quintana, Scott Ward, Jessica Jinzo, Gale Johnson and Wilma Atencio. Also present were Steve Schwickert, General Manager of Intralot, Blair Johnson, Business Analyst, Matt Worley, Market Research, Charles Brunt, Albuquerque Journal and Carol Shay with Conklin, Woodcock and Ziegler, P.C.

**Approve Proposed Agenda:** M. Rael called for a motion to remove items 5A3 and 5D1 from the proposed agenda and to approve the amended agenda. C. Stroud moved that the agenda be accepted as amended. Second by R. Jones. All in favor, 6-0. There was no further discussion.

**Approve Minutes of February 23, 2011 Board of Directors Meeting:** M. Rael entertained a motion to approve the minutes from the February 23, 2011 Board meeting. R. Jones moved to approve the minutes. Second by C. Stroud. R. Jones abstained. All in favor, 5-0.

**Approve Minutes of May 18, 2011 Budget Workshop and Board of Directors Regular Meeting:** M. Rael entertained a motion to approve the minutes from the May 18, 2011 Budget Workshop and Board meeting. C. Stroud moved to approve the minutes. Second by K. Hoeksema. All in favor, 6-0.

**Executive Session:**

At 11:11 a.m., M. Rael entertained a motion to move into Executive Session. A motion was made by K. Hoeksema to enter into closed Executive Session for the purpose of discussing litigation only. Second by R. Jones. A roll call vote was taken: N. Trujillo, yes, H. Tabet, yes; R. Jones, yes; K. Hoeksema, yes, C. Stroud, yes and M. Rael, yes. All in favor, 6-0. There was no further discussion.

At 11:50 a.m., M. Rael entertained a motion to reconvene the open meeting and to exit the closed Executive Session. A motion was made by C. Stroud to exit the Executive Session. Second by N. Trujillo. M. Rael stated that the only things discussed were pending or threatened litigation matters and no action was taken. A roll call vote was taken: N. Trujillo, yes, H. Tabet, yes; R. Jones, yes; K. Hoeksema, yes, C. Stroud, yes and M. Rael, yes. All in favor, 6-0. There was no further discussion.

## Executive Reports:

### CEO:

**Employee Recognition:** T. Romero and the board recognized employee service anniversaries and presented an award to Vernon Johnson and Jessica Quintana at five years; Sammie Leflar and Gina Maldonado at 10 years; Adriana Binns, Gina Borrego, Julie Gilmore, Jim Howard, Sylvia Jaramillo, Evelyn McKnight, Philippe Menzies, Pam Poteat, Dave Ramirez, Margie Topper, Vince Torrez, Scott Ward, Karla Wilkinson and Tom Romero at 15 years with the New Mexico Lottery Authority.

**General Update:** T. Romero reported that gross sales year to date are \$137.3 million, tracking 5% behind sales from the same time last year. Powerball sales are at \$28.8 million, \$11.9 million behind last year sales. The lottery did recover some of the loss from Mega Million whose sales were at \$10.5 million and Roadrunner cash at \$8.6 million, 16% ahead of last year sales. Hot Lotto is at \$7.5 million and 17% behind last year's sales, while PICK 3 is \$300 thousand ahead of last year. Instant Ticket sales are \$78 million or \$2.4 million – 3% behind last year sales. The lottery will meet the revised budget of FY 2011 and believe it will surpass that. Reasons for the sales shortfall include the economy, loss of retailers and low jackpots.

T. Romero reported that he will attend the Legislators' Education Study Committee June 29th and a Legislative Finance Committee meeting July 15 to discuss the lottery's financial health in view of a pending shortfall in the Legislative Lottery Scholarship fund.

A RFP for legal services will be issued in the next few weeks.

The Multi-State Lottery Association has voted to change the Powerball game effective January 15, 2012. Among the changes, the starting jackpot will increase from \$20 million to \$40 million; the \$200,000 prize will increase to \$1 million; matrix changed from 5 of 59/1-39 to 5 of 59/1-35; and the ticket price will increase from \$1 to \$2. According to recent industry research, revenues could go up by approximately \$7 million even though the changes could result in a player loss of 35% - 40%. T. Romero reported that some Powerball players could be expected to switch their loyalty to the \$1 Mega Millions, Hot Lotto and Roadrunner Cash games.

R. Jones asked if MUSL updated their analysis given the change in the economy, the impact of increasing the ticket price from \$1 to \$2 or is MUSL relying on the study they did two years ago? T. Romero reported that MUSL had completed three more studies in the past 18 months. In addition, other vendors such as GTECH, SGI, and Intralot have conducted studies on the upcoming changes. The lottery's vendor, Intralot has provided their analysis which is consistent with MUSL's analysis.

M. Rael asked if the lottery was going to issue anything to the players about the upcoming changes to Powerball in January 2012. A. Binns reported that the lottery will be launching a full scale advertising campaign including the odds, benefits and higher jackpots.

**4501 Osuna Building Lease:** Regarding the leased property at 4501 Osuna Road NE, T. Romero reported that 21 months remain on the contract and that the staff has attempted to sublease the building. It is the executive staff's recommendation with Board approval, that executive staff and legal enter into a discussion with the landlord to renegotiate the existing lease. M. Rael entertained a motion to approve for executive staff and legal to enter into discussion with the landlord and renegotiate the existing lease. H. Tabet moved to accept the motion. Second by C. Stroud. All in favor, 6-0.

**Policy for Contract Language:** T. Romero presented the Termination Policy for Contract and Leases. Pursuant to direction from the Board to ensure that our agreements and contracts are consistent with and in compliance with the New Mexico State Statutes and in the best interest for the operation of the New Mexico Lottery Authority. The executive staff is presenting to the board for their consideration a policy that requires specific language for termination of major procurement contracts and agreements that pertain to products, services, or interest in real property whether by lease or by purchase agreements. If adopted by the board, the policy would allow that in accordance with the Chief Executive Officer Policy authority. The board would authorize the CEO to prepare, adopt, and implement a policy which may include modifications or additions to other policies. A policy that contains specific language to be included in major procurements, contracts and agreements. The Policy requires language that specifically states that the New Mexico Lottery may terminate the contract of lease in whole or in part at the will or the convenience of the New Mexico Lottery Authority at any time or at least at the end of each fiscal year without penalty, without any contractual, equitable or moral obligation to continue to make payments under the contract or lease. Further contracts and agreements would include language containing a “non-appropriation” clause allowing for termination of the contract or lease in the event that the board decides not to appropriate funds for each fiscal year. This policy is being presented by executive staff as directed and requested by the Board and asking for consideration to adopting this policy.

M. Rael entertained a motion to approve the new Termination Policy. C. Stroud made a motion to adopt the Policy for Contract Language. Second by K. Hoeksema. All in favor, 6-0. There was no further discussion.

**Intralot Presentation:** T. Romero introduced S. Schwickert, General Manager of Intralot – Albuquerque who will be presenting a brief presentation of Intralot’s new Instant On-Line Game an “instant-win” game printed from in-store sales terminals, at the request of the Board from the last board meeting of May 18, 2011. Intralot indicated that it could be ready to introduce this new game in New Mexico before the end of 2011 T. Romero indicated that an end-of-2011 launch date may be optimistic in view of the work that needs to be done to prepare, like programming, implementation and the reformatted Powerball game in January 2012.

**Network RFP:** D. Ramirez presented a summary on the Network RFP. D. Ramirez reported that on May 23<sup>rd</sup>, the lottery issued an RFP for the redesign of the lottery’s network. The purpose of the RFP is for the redesign, configuration, and installation and associated services pertaining to the network. Three proposals were received. As the result of scoring, Information Systems Consulting (ISC) was the winning bidder. D. Ramirez report that it is the committee’s recommendation with Board approval, that ISC is awarded a contract not to exceed \$115,000.

M. Rael entertained a motion to accept the recommendation of awarding the Network RFP. H. Tabet moved to accept the recommendation. Second by C. Stroud. All in Favor, 6-0. There was no further discussion.

**Financial Statements:** S. Jaramillo presented a detailed review of the May 31, 2011 financial statements. Net instant sales (after deducting prize, promotional, and stolen tickets) were approximately \$69.7 million dollars, which were about \$1.1 million dollars more than the YTD net instant sales revised budget but \$2.8 million dollars less than the net instant sales for the same period in fiscal year 2010. Net On-line sales were over \$55.3 million dollars and were about \$1.9 million dollars more than the YTD Revised budget, but about \$4.8 million dollars less than for the same period in FY 2010.

Total Operating Revenues through May 2011 were about \$3 million dollars more than the YTD Revised Budget and were over \$7.6 million dollars less than the total operating revenues from last year. This is 2.5% more than the YTD Revised Budget, but 5.7% less than actual for the same period.

Total Game Expenses are tracking ahead of the YTD Revised Budget percentage at 102.38% of the budget but tracking right in line with the Total Operating Revenues percentage, which was at 102.5% of its budget. YTD last year the Total Game expenses were at 66.21% of Gross Revenues. This fiscal year Total Game Expenses are lower at 65.90% of Gross Revenues.

Operating expenses were at 3.64% of total Gross Revenues at the end of May. With the total operating expenses at 93.91% of its YTD Revised budget. Operating expenses this year are more than 67,000 dollars less than last year for the same time period—1.5% less at this time. Operating expenses are about 295,000 dollars less than the YTD budget—about 6.1% less than the revised budget.

Net Income is approximately 1.4 million dollars more than the YTD revised budget, but \$2.1 dollars less this year than last year or 5.26% less this year. Thus, far this year we have been able to meet the 30% return to the State each month. But as mentioned earlier, compared to last year, we have a slightly higher percentage return, but over 2.1 dollars less in return.

**FY '12 Budget (Possible Revisions):** T. Romero reported that he had included an item "FY '12 Budget - Possible Revisions" in anticipation of what the lottery was going to do with the Powerball game and whether we needed to make changes to the budget. T. Romero recommended that any revisions to the budget regarding Powerball be postponed for future meetings. No action taken.

**AUDIT:**

**Internal Audit Reports:** M. Boland presented several Audit Reports for acceptance by the board. A full detailed report was made during the Finance/Audit committee meeting.

M. Boland presented the Great Outdoors 2<sup>nd</sup> Chance Prize Drawing promotion – February Drawing. M. Boland reported that there was one observation noted that the master list of entries was found to be invalid and the first drawing was voided. A second drawing was conducted with a valid master list. M. Boland reported that the drawing rules and procedures have been revised to further support how the list is validated with dual controls. M. Boland would like to submit this report for acceptance by the board.

M. Boland presented the Hot Ticket 2<sup>nd</sup> Chance Prize Drawing promotion – January, February and March 2011 Drawings. There were eleven weekly drawings in a three month period. M. Boland reported that there were no observations noted in the implementation of the Hot Ticket 2<sup>nd</sup> Chance Prize Drawing promotion. M. Boland would like to submit all three reports for acceptance by the board.

M. Boland presented the Darius Rucker 2<sup>nd</sup> Chance Prize Drawing promotion – May Drawing. M. Boland reported that there were no observations noted in the implementation of the Darius Rucker 2<sup>nd</sup> Chance Prize Drawing promotion. M. Boland would like to submit this report for acceptance by the board.

M. Rael entertained a motion to accept the 2<sup>nd</sup> Chance Prize Drawing Reports. C. Stroud moved to accept the audit reports. N. Trujillo second. All in favor, 6-0.

M. Boland presented the retailer prize winner's review that was requested by the audit committee. M. Boland reported that he gathered information and researched the number of retailers and store employees who have won lottery prizes. The lottery act does not prohibit retailers and their employees from playing New Mexico Lottery games. The lottery does track information to make sure there are no patterns of wins or significant wins among stores. Over a three-year period (2009, 2010, and YTD 2011), 35 retailers or employees of retailers won prizes and those wins amounted to a small percentage of the total prize payout. There was one significant winner in 2011; the lottery prize was \$303 thousand. M. Boland would like to submit the retailer prize winner's review report for approval by the board.

M. Rael entertained a motion to approve the retailer prize winner's review report. R. Jones moved to accept the audit report. C. Stroud seconded. All in favor, 6-0.

## **BOARD CHAIR:**

### **Board Officer Elections:**

M. Rael opened nominations for the position of Board Chair. H. Tabet nominated M. Rael for the position of Board Chair. There were no other nominations for this position. N. Trujillo makes the motion that nominations cease and by acclamation, M. Rael is elected to Board Chair position.

M. Rael opened nominations for the position of Vice Chair. C. Stroud nominated himself. N. Trujillo nominated K. Hoeksema for the position of Vice Chair. Two nominations were made for the position of Vice Chair. M. Rael called for votes. Two votes were cast for C. Stroud. Four votes were cast for K. Hoeksema. K. Hoeksema was elected Vice Chair.

M. Rael opened nominations for the position of Treasurer. K. Hoeksema nominated H. Tabet for the position of Treasurer. C. Stroud nominated N. Trujillo for the position of Treasurer. Two nominations were made for the position of Treasurer. M. Rael called for votes. Three votes were cast for H. Tabet. One vote was cast for N. Trujillo. H. Tabet was elected Treasurer.

M. Rael opened nominations for the position of Secretary. H. Tabet nominated N. Trujillo for the position of Secretary. C. Stroud makes the motion that nominations cease and by acclamation, N. Trujillo is elected to the Secretary position.

M. Rael opened nominations for the position of Assistant Secretary/Treasurer. R. Jones nominated C. Stroud for the position of Assistant Secretary/Treasurer. C. Stroud nominated R. Jones for the position of Assistant Secretary/Treasurer. R. Jones makes the motion that nominations cease and by acclamation, C. Stroud is elected to Assistant Secretary/Treasurer position.

### **Committee Appointments and Committee Chair Appointments**

M. Rael appointed R. Jones as chairman of the Finance and Audit Committee. R. Jones accepted the appointment. M. Rael appointed H. Tabet and C. Stroud as committee members.

M. Rael appointed K. Hoeksema as the Chair of the Operations and Security Committee. K. Hoeksema accepted the appointment. M. Rael appointed N. Trujillo. M. Rael stated there was one vacancy on the board and asked for one of the board members to serve double duty on the Finance and Audit Committee and the Operations and Security Committee. C. Stroud said he would accept and serve on the Operations and Security Committee until the vacancy was filled.

M. Rael will serve as the Ex-Officio committee member.

**Announcements:** M. Rael announced that next Board of Directors meeting is scheduled for Wednesday, August 3, at 11 a.m.

R. Jones requested that the Operations and Security Committee meet at 9 a.m. and the Finance and Audit Committee meet at 10 a.m., before the 11 a.m. board meetings. Meeting times have been changed.

**PUBLIC COMMENT:** There was no public comment.

**ADJOURNMENT:** M. Rael entertained a motion to adjourn the meeting. K. Hoeksema moved to adjourn the meeting. C. Stroud second. All in favor, 6-0. The meeting was adjourned at 1:10 pm.

