

**Workshop and Regular Meeting of Board of Directors**  
**New Mexico Lottery Authority**  
**January 19, 2012**  
**MINUTES**

**Call to Order:** Vice Chair Ken Hoeksema called the meeting to order at 9:05 a.m. K. Hoeksema asked for roll call. Present and constituting a quorum were Nino Trujillo, Herman Tabet, Reta Jones, and K. Hoeksema. Clifford Stroud joined the workshop and board meeting at 9:16 a.m.

**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, Randy Bertram and Wilma Atencio. Also present was Larry McClintock, with Berger Briggs Real Estate/Insurance and Charles Brunt, ABQ Journal.

**Approve Proposed Agenda:** K. Hoeksema called for a motion to approve the proposed agenda. R. Jones moved to approve the proposed agenda. Second by H. Tabet. All in favor, 4-0. There was no further discussion.

**Executive Reports:**

**CEO:**

**General Update:** T. Romero reported that the primary purpose of the workshop and meeting was to discuss the lottery building/lease and Options. The Lease expires March 13, 2013. The building located at 4511 Osuna Road NE, was the original building from 1996.

T. Romero announced that the New Mexico Lottery had the nation's first and only \$1 million Powerball winner following Sunday's launch of the game's new format. The new prize point is \$2, jackpots begin at \$40 million and the second tier prize is now \$1 million dollars. P. Poteat added that while it was too early to identify long-term trends, sales since Sunday were up while the number of plays on individual tickets was down.

T. Romero began the board's discussion of the lottery's building lease by introducing Larry McClintock of Berger Briggs, which represents 4501 Osuna Road, which is leased by the lottery and formerly occupied by GTECH, the lottery's gaming system vendor until 2008. The lottery does not have a contract with Berger Briggs for the current building occupied by the lottery and located at 4511 Osuna Road NE.

T. Romero reported that it has been difficult and challenging in looking for a replacement building. The group comprised of T. Romero, S. Jaramillo, D. Ramirez and V. Torrez have little to no experience in commercial buildings and/or realty business and have relied on some assistance from L. McClintock. T. Romero reported there are special needs that the lottery would require in the replacement building; however, when it comes to permits, zoning, fiber, different connections and one potential building that could become viable for the lottery already has existing tenants. Now the lottery would have to consider shared tenants and how this would impact lottery operations, if any.

T. Romero recommends giving some consideration to doing a "request for bids" and bringing somebody in that has more expertise, possibly a contractor, or somebody else that could work with the lottery and with the realty.

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*Amended on 3/28/12/wa*

T. Romero noted that after occupying the building at 4511 Osuna Road for 16 years, the lottery has made significant investments to customize the facility to its unique needs and that moving to a new site would likely require expensive renovations. T. Romero did indicate that the pricing that will be presented, does not reflect any renovations. T. Romero added that if the lottery just went with the square footage pricing, there would be savings. H. Tabet asked how you would save money. T. Romero responded that the square footage the lottery pays on the current building versus the square footage cost compared to other buildings would cost less than the current building occupied by the lottery. T. Romero added that if the lottery decided to move to another location, it would also need to create and run parallel systems in order to avoid any sales interruption during the relocation period.

K. Hoeksema asked if the lottery had a ballpark estimate for renovations. T. Romero reported “no”; the lottery was waiting for direction from the Board and discussing it. At that time, the lottery hadn’t received any information from the landlords, but do have that information today. T. Romero said the lottery staff did want to do that until it had a specific building under consideration.

N. Trujillo asked if there was an opportunity to renegotiate the terms of the lottery’s lease for the existing building. T. Romero said yes and include in this presentation is the draft initial proposal to the lottery.

(Board reviewed the lease options.)

S. Jaramillo presented a brief overview. The square footage of the building currently occupied by the lottery is: office space – 16,997 square foot; warehouse space – 11,500 square foot. The lottery currently pays \$28,417.84 a month, for an annual total of \$341 thousand dollars. Current property taxes are \$26,500, brought down from \$32,000 after an adjustment was requested. Utility cost for FY 2011 was \$68,000, Insurance rate is \$5,200, and maintenance fee is \$23,600 for a total of \$464 thousand dollars paid for rent, utilities and insurance cost.

K. Hoeksema asked if the lottery used all its current warehouse space. T. Romero said yes.

C. Stroud commented that in triple net leases, landlords typically cover expenses such as insurance and maintenance and grounds maintenance, is this not common in the local metro area. T. Romero reported that his understanding of a “triple net lease” is that the lottery pays the landlord the use of the building. The landlord basically has no responsibilities after that. The landlord is responsible for the structure, the four walls, foundation and the roof. However, under this current lease and how it was set up initially, the lottery is responsible for all expenses including but not limited to the grounds maintenance, any electrical issues that come up and heating and cooling systems. The lottery has been paying for these expenses; however, in the last several years, the lottery has been able to work with the new landlords and they took over the heating and cooling expenses. The landlord has put in a significant amount of funds into the heating and cooling system.

C. Stroud commented that this current lease the lottery has is a triple net lease to the “lessee”. A triple net lease is that the landlord is responsible for all the expenses that T. Romero just mentioned. Triple net lease is “the lessee” only pays for the rent, the landlord pays for everything else.

L. McClintock said that in triple net leases, tenants pay all expenses. In full service leases, landlords pay all expenses. In a modified gross lease, tenants pay utilities in addition to the monthly lease.

T. Romero explained that the lottery’s current landlord was offering a triple net lease price of \$10.50 a square foot for the first five years (a five-year savings of \$205,000 over the current lease) and \$10.81 a square foot for the second five years (a 10-year savings of \$365,000 over the current lease). A reduction of 10.7%.

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T. Romero deferred to the board to discuss the landlord's proposal or discuss the other buildings. The board collectively decided to review the entire presentation. T. Romero reported that the group looked at five buildings. Three were close to the current lottery location; one building was east at Eubank Blvd. and I-40 and the other near the airport. The list was provided by L. McClintock based on the needs of the lottery. The summary of comparable buildings, the price per square foot, and the blended rate which means both the office and warehouse space all but one come in at a smaller square footage rate.

K. Hoeksema asked ideally, what type of space is the lottery looking for in regards to office space. The list shows a space of 16,000 square foot. Is there crowding at the current location. T. Romero said yes, there is crowding. When you look at the marketing division they have a unique impact, because they do use chemical sprays, adhesive sprays and things of that nature and we currently don't have room to expand or put in a ventilation system, the marketing division is asked to go outside and do some of their work outside when working with these chemicals. The finance group is in the common area and it makes it difficult for them to discuss issues taking place with other divisions, salaries and things of that nature. It would be nice to separate those areas, we just don't have the room for expansion and the reality is that we are cramped in this area, but we make it work and have done so for sixteen years.

R. Jones commented that based on T. Romero's comment, why would the board and lottery look at the first two options on the list. They both have 6,000 square feet of office space.

T. Romero stated that S. Jaramillo would go into detail about the options, but initially this is what they are providing us on the five buildings and this is where we would need to decide on renovations. An option would be to use the warehouse space for office space. Every building that was looked at and the proposal given, it appears that there would be considerable savings just based on the square footage; however, due to the needs of the lottery, extensive renovations would be needed at all five locations.

N. Trujillo commented that it would be feasible and cost saving if the lottery were to negotiate with the landlord at its current location.

L. McClintock suggested that based on the time remaining on the current lease, the lottery could possibly choose two or three of the building proposals and negotiate with the owners of those buildings, along with the current landlord and ask for their best proposal for the lottery.

T. Romero reported that this was discussed with the executive staff and as mentioned earlier, it would be in the best interest to bring someone in that has more experience in these matters. The other concern is the equipment outlay. The lottery would need to pay for the equipment up front. Based on estimation just for security and MIS; to be able to set up a data center, claim center, the security system at the new building and that can run parallel, were looking at \$500,000 dollars alone in computer and security equipment. The lottery also needs to consider the 30% state mandated return every month, every year.

R. Jones asked in terms of keeping our options open, if the lottery went to another space to run parallel, even with the back-up center provided by Intralot, the lottery couldn't sustain for twenty-four hours. T. Romero deferred to D. Ramirez, Director of MIS. It would take more than twenty-four hours to move equipment. The cost to move some computer equipment would cost \$20,000 dollars. D. Ramirez reported that at this time, it is not a fully functional back-up center. The lottery would only have the capability to process transactions from the vendor only.

H. Tabet asked if there was a potential opportunity to negotiate the lease terms. T. Romero said he believed there was, particularly in expenses that the landlord could assume from the lottery.

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R. Jones asked if the lottery would prefer to stay at 4511 Osuna Road. T. Romero said yes because he felt the landlord was open to negotiation and ticket sales could be impacted by moving.

H. Tabet said he believe the most appropriate course of action would be to negotiate a new lease for the current building and have the landlord assume responsibility for expenses such as roofing and heating and cooling.

C. Stroud said that since there is the potential for negotiation with the current landlord, the lottery should work to make the landlord responsibility for the variable expenses.

H. Tabet added that the building owner should pay for janitorial services.

R. Jones said that terms negotiated for a new lease should go into effect immediately rather than when the lottery's current lease expires in 2013. R. Jones added that the lottery has done due diligence in providing the board a frame of reference that the proposal provided is a reasonable deal.

C. Stroud asked L. McClintock if he had information about lease terms for comparable properties.

L. McClintock said Albuquerque office space had an average lease price of \$12 a square foot while warehouses leased for an average price of \$6 a square foot. All expenses are negotiable. Based on the numbers provided by the lottery, the cost is \$9.60 per square foot.

K. Hoeksema urged the lottery to work quickly with the current landlord so that the lottery would have time to exercise other options if the negotiations didn't have a satisfactory outcome.

H. Tabet asked if the current lease had any extension options. T. Romero said no. According to legal, based on it being "property", we don't have to get bids. The lottery can work with the existing landlord, either by drafting a new proposal or do an amendment to the existing, but the thought is to draft a new contract with the existing landlord. The existing contract has a lot of stuff in it that doesn't apply to the lottery. At one time, all this property was owned by one landlord and added items that shouldn't have been part of the contract.

N. Trujillo asked if the building at 4511 and 4501 Osuna Road were designed by an architect. T. Romero said yes.

K. Hoeksema entertained a motion to enter lease negotiations with the current landlord. H. Tabet moved that the lottery begin negotiations with its current landlord, with any lease being subject to board approval. Second by R. Jones. All in favor, 5-0.

**Internet Gaming Update:** T. Romero advised the board that in early December, the Department of Justice announced a ruling that existing prohibitions on Internet gambling applied only to sports betting and not to lottery ticket sales. As a consequence, T. Romero said the New Mexico Lottery had begun collecting information to determine collecting information about possible Internet sales for the board to review. He also said the lottery was moving forward to develop a subscription plan, which would not involve online sales.

K. Hoeksema asked if other state lotteries were moving forward with Internet sales. T. Romero said other states have expressed their intentions, but that they also need to fully understand state law. He added that states are grappling with a lack of any estimates about how Internet sales might increase sales and revenues.

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R. Jones said it was her understanding that the DOJ's ruling applied to sales within a state and that if her understanding was correct, the New Mexico Lottery could observe what the larger states are doing without risking its own sales and revenue to new intrastate sales. T. Romero said the DOJ ruling did not authorize ticket sales across state lines.

**Open Meetings Notice Resolution:** T. Romero presented the Open Meetings Act and Notice Resolution for Board adoption. The resolution specifies that the Board will follow the Open Meetings Act adopted by the Board at the beginning of each year.

K. Hoeksema entertained a motion to accept the Open Meetings Act and Resolution. C. Stroud made a motion to accept the Open Meetings Act and Resolution. Second by N. Trujillo. All in favor, 5-0.

**BOARD CHAIR:**

**Announcements:** K. Hoeksema asked if the board could schedule its next meeting. T. Romero suggested that the meeting not be scheduled until mid or late February so that the lottery could complete lease negotiations as well as a contract for banking services, both of which would be submitted for board approval.

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

**ADJOURNMENT:** K. Hoeksema entertained a motion to adjourn the meeting. H. Tabet moved to adjourn the meeting. N. Trujillo second. All in favor, 5-0. The meeting was adjourned at 10:28 a.m.

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