

**Regular Meeting of Board of Directors
New Mexico Lottery Authority
April 2, 2019**

MINUTES

Call to Order: Board Chair Dan Salzwedel called the meeting to order at 12:42 p.m. and asked for a roll call. Present and constituting a quorum were: Aubrey McGowen, Dan Salzwedel, Paul Guerin, and Sal Baragiola. Amy Bailey and Mark Koson absent.

Present from NMLA were: David Barden, Carolyn Cabell, Karla Wilkinson, Sylvia Jaramillo, Kevin Duda, Wendy Ahlm, and Wilma Atencio.

Also present were: Mary Stanford and Steve Beck with Intralot; and Othiamba Uni with Think New Mexico.

Approve Proposed Agenda: D. Salzwedel advised there is an editorial change to the proposed agenda to Section V – Reports, Item A-1; added “d” and “c” to the numbering/lettering sequence. D. Salzwedel entertained a motion to approve proposed agenda as amended. S. Baragiola made a motion to approve the proposed agenda as amended; second by P. Guerin. Carried; 4-0.

Approve Minutes of January 14, 2019 Board of Director’s Meeting: D. Salzwedel entertained a motion to approve the January 14th minutes. A. McGowen made a motion to approve the minutes; second by P. Guerin. Carried; 4-0.

Public Comment: None.

REPORTS:

Security and Operations Committee:

Revised External Policies: S. Baragiola reported that the Security and Operations committee reviewed and vetted items A-1a-e (a. NMLA Rules for Online Games; b. NMLA Rules for Quickster Games; c. NMLA Rules for Instant Games; d. Repeal MUSL Policy and Rule Adoption and e. Repeal NMLA Rules for Lucky Numbers Bingo) individually.

S. Baragiola made a motion that these external polices listed as items “a-e”, be accepted and these rules do not involve any operational changes to the business of the Lottery, but merely clarifications and updates to the policies; second by P. Guerin. Carried; 4-0.

D. Salzwedel asked S. Baragiola whether the motion made is to accept all the external policies at once. S. Baragiola stated yes. S. Baragiola reported that he will retain discussion for other business.

No further questions.

Other: S. Baragiola reported that there was considerable discussion at the Security and Operations Committee meeting that items “a-e” in almost their entirety were revisions and changes by the Lottery Authority that did nothing but clarify, change formatting, or adopt or change rules that were mandatory from a national level. Some changes were mandatory rule changes, hence the aggregate approval of “a-e” because there was no decision for the Board to make. As a result of that discussion, the Committee made a motion to give the Lottery Authority under the guidance of the CEO the ability to make mandatory rule changes and clarifying changes to policies without the Committee’s or Board’s approval. There was also discussion that these were not policy changes; they were rules changes.

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S. Baragiola made a motion to approve that the Security and Operations Committee decrees any rule changes as it relates to gaming, clarification, rule changes, updating games, or any operational or security matters for games game will not come before the Security and Operations Committee, but merely be part of the CEO briefing; second by A. McGowen. Carried; 4-0.

D. Salzwedel asked if these type of policy changes involving games will become a report item under the CEO update. S. Baragiola stated yes. S. Baragiola reported as the CEO advised, some games are constantly in a state of flux and not subject to review because there are mandatory rules changes made by each gaming group, i.e. MUSL, Mega Millions. D. Salzwedel stated these mandatory changes only apply to game changes governed at a national level.

D. Barden reported that often there are changes at the national level such as a matrix change, or a promotion and each gaming group will approve these types of changes that affect all states across the board. Lotteries have very little discretion as to what goes into the rules. If a lottery does not institute the changes, it could result in the lottery being suspended from the group.

D. Salzwedel stated he's unsure why these game policy changes were brought to the Board for approval or listed on the agenda, because these changes must be implemented regardless. D. Barden reported that these are external policies and, prior to the direction approved today, the Lottery has brought external policies before the Board for approval.

No further questions or discussion.

REPORTS:

Finance Audit Committee:

Approve Minutes of January 14, 2019 Finance Audit Committee Meeting: D. Salzwedel made a motion to approve the January 14th Finance Audit Committee meeting minutes; second by A. McGowen. Carried; 4-0.

FY 2019 Consolidated Revised Annual Budget: D. Salzwedel reported that the Finance Audit Committee will make a recommendation to the full Board that the FY 2019 Consolidated Revised Annual Budget be approved. D. Salzwedel reported once the motion and second is made, S. Jaramillo will provide her report on the FY 2019 revised budget.

D. Salzwedel entertained a motion to approve the FY 2019 Consolidated Revised Annual Budget. A. McGowen made a motion to approve the FY 2019 Consolidated Revised Annual Budget with an amendment to the projection of capital asset expenditure from \$132,500 to \$162,500; second by D. Salzwedel.

S. Jaramillo reported that the Board have been given a copy of the revised budget along with a recap sheet of the consolidated budget showing the changes. Some of the major changes are that were reviewed with the Finance Audit Committee are:

- Powerball sales were decreased by \$4.5 million or 15.79%
- Mega Millions sales were increased by \$11 million or 104.76%
- Roadrunner Cash sales were increased by \$500,000 or 7.14%
- Pick 3 sales were increased by \$1 million or 22.22%
- Pick 4 sales, which started in February 2019, were decreased by \$700,000 or 38.89%
- And net ticket sales had an overall increase of \$7.27 million or 5.61%

S. Jaramillo reported that along with the changes made to sales there were changes to game expenses including prize expenses, retailer commissions, and online vendor fees. The percentages for the direct cost stayed close percentage-wise to what they had been in the FY 19 Original Annual Budget.

Advertising was reduced by \$350,000 or 14.89%. The overall change to game expenses was 6.18%, which is close to the change in net ticket sales of 5.61%.

Operating expenses were reduced except for materials and supplies, which increased minimally by \$8,000. The largest reduction was to salaries, wages, and benefits, which was reduced by \$130,000 or 4.42%. All in all, operating expenses were reduced by \$243,000 or 5.91%.

S. Jaramillo reported that this FY 2019 Consolidated Revised Annual Budget will return an additional \$2,187,000 or 5.63% to the Legislative Lottery Scholarship Fund.

S. Jaramillo reported as A. McGowen stated in his motion, the Lottery is requesting a change to the capital asset expenditure for a data server by adding an additional \$30,000 to this line item.

S. Jaramillo requested Board approval of the FY 2019 Consolidated Revised Annual Budget.

D. Salzwedel reported that the data server line item was discussed during the Finance Audit Committee meeting and the adjustment was needed because of pricing obtained by the Lottery. The pricing came in higher than expected and the additional \$30,000 will cover the unexpected expense. In addition, D. Salzwedel advised that there were savings in the operational budget including \$45,000 in utilities by converting to LED lighting and replacing the roof.

P. Guerin asked if the Lottery can describe the changes to the sales for Powerball, Mega Millions, and Pick 4. D. Barden stated that Pick 4 is a new game and has no historical value this year as far as sales goals. Mega Million was budgeted last year at \$11 million, but with the \$1.5 billion jackpot runup this year, those sales are coming in higher than projected. Powerball also had a couple significant runups and as discussed in the past, sales have decreased over the same period of time. It took six more draws to get to \$750 million versus \$700 million. The sales were relatively flat or reduced for that same time period. The Lottery is not getting the same level of sales per jackpot anymore.

D. Barden reported that the Lottery estimates sales may increase year-over-year for its online games; however, it is hard to predict what online sales will be. They may or may not increase. D. Barden also advised that we are approaching the time of year that sales decrease across the board and with the recent jackpots being hit, it will probably be months away before we can expect another jackpot runup.

P. Guerin asked if the online sales estimates may be higher than what the Lottery can achieve. D. Barden reported yes they could be. P. Guerin asked when these estimates in sales begin. D. Barden stated July 1st and then they're updated throughout the year based on sales and runups. The Lottery anticipates that we will be close to our estimate and have a return of \$41-\$41.5 million. P. Guerin noted that the total operating expenses are still going down. D. Barden stated that the Lottery has not filled a couple of positions.

D. Salzwedel reiterated that the Lottery has used the unclaimed prize fund seven of the last eight months to satisfy the 30% return mandate to the lottery tuition fund.

D. Salzwedel entertained a vote on approving the FY 2019 Consolidated Revised Annual Budget. Vote: all ayes, no nays; Carried; 4-0.

Financial Statements: S. Jaramillo reported on the February 2019 financial statements. The Lottery returned nearly \$3.216 million for the month to the Legislative Lottery Scholarship program. With this

transfer, we have transferred nearly \$28.7 million to the scholarship fund for FY 2019. For February 2019, the Lottery has met the statutorily required 30% return. In FY 2019, the Lottery has used a total of \$2.379 million in unclaimed prize funds to meet the 30% return.

During the last 11 years, eight months, we have used unclaimed prizes over 83.57% of the time to meet the mandated return (117 months out of the 140 months). During this time, the Lottery has returned nearly \$41 million in unclaimed prizes to the scholarship fund. This year the average balance of the unclaimed fund has been about \$2.7 million. This unclaimed balance ebbs and flows depending on what instant games are being closed and whether we have jackpot runups for Powerball and Mega Millions.

The net income for the fiscal year is nearly \$3.3 million or 12.95% more than the FY 19 YTD budget, but only \$1.5 million or 5.52% more than the same period in fiscal year 2018. This transfer increase is mainly due to the Mega Millions sales in October from the \$1.5 billion jackpot and the Powerball sales in October due to the \$687 million jackpot, which together helped to more than double sales for the month to \$21.8 million.

P. Guerin commented Instant sales did not increase. D. Barden reported that Instant sales have remained fairly flat the past couple of years due to low prize payouts. The Lottery tends to see sales increase in the fall and begin to decline in the spring and summer months as a result of players getting ready for graduations, weddings, and vacations. D. Salzwedel reported that instant sales increased a few years back when the Lottery increased its prize payout as a test pilot project which shows that if you increase the prize payout, sales will increase.

The Lottery has returned more than \$807.6 million to the State for education since its inception.

Net instant ticket sales through February 2019 (after deducting prize, spoiled, and stolen tickets) were approximately \$48.8 million, whereas YTD Net Instant Sales through last February were approximately \$47.9 million – an increase of \$854,000 or 1.78% from last year. Net Instant sales for the first eight months surpassed the FY 19 YTD Budget by nearly \$1.2 million or 2.51%.

Net drawing game sales for the first eight months were approximately \$46.9 million. Net drawing sales ended approximately \$9.3 million or 24.75% more than the YTD 2019 Budget. Net drawing sales through February 2019 were approximately \$4.1 million or 9.71% more than net drawing sales of \$42.7 million for the same eight months in fiscal year 2018.

Total Game Expenses ended February at 112.15% of the YTD Budget while total net sales ended at 112.32% of budget, tracking close to each other. Actual game expenses were 66.76% of Gross Revenues; the YTD Budget was 66.88% of gross revenues – again close to the budget percentage.

Total Operating expenses ended February at 3.23% of Gross Revenues. Each line item of operating expenses for this fiscal year are being held as much as possible and are less than budgeted amounts.

S. Baragiola requested that the CEO give an update on the Lucky Numbers Bingo game ending. D. Barden reported that that the Lottery launched the Pick 4 game recently with the understanding that the Lucky Numbers Bingo game was going away. The Lottery anticipates that Pick 4 sales will surpass Lucky Numbers Bingo sales. D. Barden reported that the Lottery periodically reviews all of its games and if there is a game that is underperforming, that game is likely to end and possibly be replaced with a new game. The Lucky Numbers Bingo game was slated for restaurants/bars and never really took off.

Retailer Compensation Plan Policy: D. Salzwedel entertained a motion to approve the Retailer Compensation Plan Policy. A. McGowen made a motion to approve the Retailer Compensation Plan Policy; second by D. Salzwedel.

D. Salzwedel reported that this item was reviewed and vetted at the Finance Audit Committee meeting with a recommendation to the Board to approve the changes to the policy.

D. Barden reported that there is a possible amendment to the policy. This policy establishes guidelines for providing compensation and incentive programs to retailers at a commission rate of 6%. This policy was established by the Lottery in 2001. There are many unique challenges today compared to the early days of the Lottery. For years, retailers have been telling us where they will put our tickets and how they will sell our tickets. Retailers don't pay for tickets upfront; they get charged when they have sold the tickets. Due to increased expenses over the past several years, including an increased vendor contract, in addition to being locked into a 30% return to the state, there may need to be changes to other expenses. What we brought to the Committee today was the possibility to reduce the 6% commission rate to 5%, which is what approximately half of other states use today as their commission structure. The commission structure for other states that have a 6% commission rate do not have a mandate that restricts their operations.

D. Barden stated that this policy allows the CEO to reduce the retailer sales commission by up to 1%, including if the CEO deems it is necessary to meet the annual approved budget or to meet statutory transfer requirements. The policy also states that the CEO must come before the Board for any reductions of more than 1%. D. Barden asked the Board to consider adding a sentence to the first bullet item under "Policy" which states that the CEO may use the 1% reduction if implemented to enhance commissions made to retailers based on sales incentives adopted by the CEO.

D. Salzwedel asked if this would give the flexibility to incentivize. D. Barden stated yes.

A McGowen made an amended motion to add new language that states, "The CEO may use the 1% reduction if implemented to enhance commissions made to retailers based on sales incentives adopted by the CEO."; second by D. Salzwedel.

D. Salzwedel reiterated this policy gives the CEO the flexibility to reduce as well as add based upon criteria that has been established to incentivize better performance by each retailer. This will not apply across the board. Most states have a commission rate of 5%. The impact is unknown, but to have the flexibility is important. We have to guard against our own margins to be able to pay out on certain games because of the 30% requirement. The Lottery has been in a decline in Scratcher sales for some time and this is just another safeguard for the Lottery and its beneficiaries.

S. Baragiola noted that the policy doesn't address the frequency that the CEO could make 1% changes, and thus could be interpreted that the reduction could be more than 1% if one were to piggyback on the reduction. D. Barden stated that the Lottery would interpret the policy as anything below a 5% retailer commission would require coming back to the Board.

D. Barden reported that retailer commissions will go in front of the Finance Audit Committee when we prepare our budget, and if there are any changes the Committee would take notice of it there as well. S. Baragiola stated that his only concern was the possible interpretation, but with the CEO's interpretation in place and reiterated in the minutes, he is fine with the amendments.

No further questions.

Vote – all ayes, no nays. Carried 4-0.

Other: None.

CEO, David Barden:

General Update - CEO: D. Barden reported that we just finished with the legislative session and once again there was a favorable bill that made it through the Senate but died on the House floor on the final day of the session. The Lottery worked hard on a compromise bill and we did our best to get it passed. D. Barden thanked Think New Mexico for being there. Think New Mexico stayed neutral during the session and we would like to reach out to them next year and see if they will help us pass a similar bill next year. D. Barden talked about a 2-page document that was passed out during the legislative meetings regarding Senate Bill 283, which included the top five aspects of the bill. The Lottery was able to educate more people this year on what continues to matter most to the Lottery: maximizing revenue for New Mexico students.

D. Barden reported that in FY 2007 there was \$2.7 million in unclaimed prizes and in FY 2018 there was \$1.6 million. From 2008 to 2018 the Lottery collected \$37.6 million in unclaimed prizes and the Lottery transferred more money out of the unclaimed prizes than we actually collected. The students have received the money, but the fund does allow the Lottery to use the funds to operate during the year.

D. Barden reported that he received feedback after the session stating the Lottery gave a lot away with Senate Bill 283. D. Barden advised that we were trying to show that we are willing to do what's necessary to return more money to the students.

D. Barden reported that the Powerball jackpot was hit last week. D. Barden reported that he was appointed Chair of the Powerball Group last year and has had a fun and interesting time thus far. He's on the phone during draw nights, helps to set the jackpot with Powerball staff, and distributes quotes/advertising across the nation. D. Barden recited some of those quotes.

D. Barden also reported that Powerball will be giving away \$1 million during the Dick Clark's New Year's Rockin' Eve television broadcast. Many Powerball states will send participants to the promotion. The New Mexico Lottery will send 10 participants to Times Square for the midnight drawing for the million-dollar giveaway. Powerball will have several minutes of national advertising from coast to coast.

D. Barden reported that the Lottery building was painted recently, along with our logo painted on two sides of the building making it more visible to the public.

D. Barden reported that Pick 4 launched with some issues and we worked through them. Our vendor was helpful in this matter.

D. Barden advised that the Lottery's return will come in higher than last year at \$41.5 million to the tuition fund.

Other: None.

Board

Legislative Matters: D. Salzwedel reported that the Board of Directors and the Lottery would like to recognize two Senators, Senator John Arthur Smith and Senator Jacob Candelaria, for their extraordinary efforts with Senate Bill 283 and give them plaques as a token of the Board's and Lottery's appreciation.

Executive Closed Session: At 1:40 p.m., S. Baragiola made a motion to enter into executive closed session under the open meetings act, section 10-15-1, subsection H2, for limited personal matters to discuss the CEO annual review; second by A. McGowen. A roll call vote was taken. A. McGowen, yes; D. Salzwedel, yes; P. Guerin, yes; and S. Baragiola, yes.

At 3:14 p.m., A. McGowen moved to bring the Board back into a public meeting with the affirmation that no votes were taken, or decisions made during the executive closed session and that there was no discussion

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of topics beyond those stated in the motion to go into executive closed session; second by P. Guerin. A roll call vote was taken. A. McGowen, yes; D. Salzwedel, yes; P. Guerin, yes; and S. Baragiola, yes.

D. Salzwedel reported pursuant to the duties and responsibilities of the Board with regards to the CEO's annual review, the Chairman entertains a motion for action. S. Baragiola made a motion that the CEO's current contract period be extended to June 2022 and that the Board give the Chairman authority to negotiate the terms of the new contract with the CEO and the contract be brought back to the Board for final approval; second by A. McGowen. Carried; 4-0.

No questions or comments.

D. Salzwedel stated that the Board is very appreciative of the CEO's services and work he has done for the Lottery during his tenure. The money the CEO has saved for the Lottery has been tremendous, and the State of New Mexico is better because of the experience and value he has brought to the Lottery. The leadership and organizational skills he's incorporated at the Lottery and at the national level with his Presidency of the Powerball game has brought a spotlight on our lottery. The Board is grateful for all his efforts along with the executive and lottery staff in making the Lottery a success and looks forward to the future.

Other Info: D. Barden reported that the Internal Auditor is requesting only one volunteer from the Board of Directors to serve on the evaluation committee for the RFP for Financial Audit Services that was issued on April 1, 2019. D. Salzwedel volunteered. The evaluations will take place in May 2019.

Adjournment: D. Salzwedel entertained a motion to adjourn. S. Baragiola moved to adjourn the meeting; second by A. McGowen. Carried; 4-0. The meeting adjourned at 3:18 p.m.



Dan Salzwedel, Chairman

Date: 6-26-19



Amy Bailey, Secretary/Treasurer

Date: 6/26/19