

STATE LOTTERY DEPARTMENT
Lottery Board Meeting
December 11, 2002

The State Lottery Board met on Wednesday, December 11, 2002, at 9:30 a.m., at the State Lottery Department, 900 East Main Street, Richmond, Virginia.

MEMBERS PRESENT: Stephen C. Fogleman (Chairman)
 Virginia D. Hall (Vice Chairman)
 Gilliam M. Cobbs
 Paul J. Lanteigne
 Stuart C. Siegel

STAFF PRESENT: Penelope W. Kyle, Executive Director
 Mark D. Cannon, Director – Internal Audit
 Shelton M. Coleman, Director - Information Technology
 Mickey K. Collins, Director – Human Resources
 Frank S. Ferguson, General Counsel and Director -
 Legislative & Regulatory Affairs
 Mark R. Merritt, Director – Sales
 S. Kyle Rogers, Director - Marketing
 Edward A. Scarborough, Director - Public Affairs
 Dennis P. Shaw, Director - Security
 Donna M. VanCleave, Director – Finance
 Michael J. Bacile, Purchasing Manager – Lottery
 Operations
 Barbara L. Robertson, Board, Legislative & Regulatory
 Coordinator - Legislative & Regulatory Affairs

Mr. Stephen C. Fogleman, chairman, presided and Barbara L. Robertson was the recording secretary.

CALL TO ORDER

The chairman called the meeting to order and stated that a quorum was present. Ms. Kyle introduced Michael Bacile, the Lottery's purchasing manager, who attended for Mr. Richard Wilkinson.

MINUTES OF LAST MEETING

On motion duly made and seconded, the minutes from the closed meeting on September 11, 2002 were corrected as discussed, and the minutes from the regular and closed meetings held on October 30, 2002 were approved as distributed.

PUBLIC COMMENT

Mr. Fogleman then opened the floor for public comment. There was none.

FINANCIAL REPORT

Ms. VanCleave reported the Lottery's financial performance for FY 2003 through November. She stated that October had been a good month with the Lottery earning approximately \$33 million. Total lottery sales through November 2002 were \$450.0 million, which was 2% below budget. The increase resulted primarily from strong scratch ticket sales that were \$20 million or 11% more than sales for this product at this point last year. Sales of all online products were only \$12,999 lower than the prior year.

The total prize expense rate of 55% (prizes as a percentage of sales) through November was 1.4% lower than at this time last year. She reported that the retailer compensation rate through November was 5.6% of sales and operating costs were \$2.6 million or 11% less than costs for the same period last year.

Ms. VanCleave reported that net income generated through November 2002 was \$151.2 million, which was \$16.8 million more than for the same period in FY 2002.

In response to a question from Ms. Kyle, Ms. VanCleave stated that the Department of Planning and Budget has not yet accepted the Lottery's proposed budget. The Lottery will know whether the proposal was accepted when the Governor submits his budget recommendations to the General Assembly money committees on December 20, 2002. Ms. Kyle indicated that further budget reductions may be discussed during the General Assembly session. She pointed out that any further reduction for the Lottery would make it difficult to produce the amount of revenue expected.

Following discussion by the members of the board, it was the sense of the board that if the Lottery is required to reduce its advertising expenses further, the department would need to reforecast its budget to include lower revenue projections.

Mr. Cobbs asked about the possibility of all Lottery revenue being transferred to the general fund rather than transferring the unclaimed prizes to the Literary Fund. Ms. Kyle stated that she will consider legislation for next year's session that would include the unclaimed prizes in the Lottery's total revenue turnover.

BOARD ISSUES

Compensation and Personnel Committee Report

Mr. Stuart Siegel, chairman of the Compensation and Personnel Committee, reported that

BOARD ISSUES (Continued)

Compensation and Personnel Committee Report (Continued)

the committee met today at 9:00 a.m. Mr. Lanteigne, Mr. Fogleman, Ms. Kyle, Mr. Merritt, Ms. McKenzie and he attended.

Mr. Merritt proposed "The Big One," the online retailer incentive program to be conducted February 1 – March 31, 2003. The program is designed to increase overall sales of Pick 3, Pick 4 and Cash 5 by at least 4% during the promotion period and will be coordinated with the marketing bonus ball promotion to maximize the benefit of daily games advertising. An online retailer can earn 0.5% bonus commission on all daily game sales once he reaches his program goal, with no compensation cap. The program goal will be set 2% higher than expected performance so the incentive program will fund itself.

In addition, retailers can earn an extra 0.5% bonus commission for displaying two pieces of extra point of sale. Retailers can choose from three types of advertising material offered by the Lottery. Lottery Sales Consultants will monitor the point of sale portion of the program during their normal visits to the retail locations.

The Lottery estimates that, during the program, retailers will sell \$78 million in daily game products, which is 4% above the program goal. The Lottery expects 75% of the retailers to reach their goals and to earn additional point of sale compensation of \$624,489.

At the recommendation of the committee, and upon motion duly made and seconded, the board members present unanimously approved "The Big One" incentive program.

Daily Games Promotion

Mr. Rogers presented a consumer promotion designed to increase sales of Pick 3 and Pick 4 daily games. The promotion will feature a special bonus ball that, when drawn, would increase the prize payouts of Pick 3 or Pick 4, or both, by 20% for any given day or night drawing. The promotion would be conducted during February and March 2003. He indicated that the risk to the Lottery is limited because the expected prize payout for Pick 3 and Pick 4 would be 51.4% versus the current expected payout of 50%.

On motion duly made and seconded, the board unanimously approved the daily games promotion, as presented.

BOARD ISSUES (Continued)

Appointment of Nominating Committee

Mr. Fogleman then appointed himself and Mr. Lanteigne as chairman and member, respectively, of the Nominating Committee. This committee will develop a slate of officers and committee members to be presented to the board at its January 22nd meeting.

DIRECTOR'S REPORT

Ms. Kyle reported that pursuant to the Setoff Debt Collection Act, the Lottery made a payment to the Department of Taxation totaling \$41,697 in October. Also, in accordance with provisions in the Lottery Law, the department transferred unclaimed prizes of \$664,449 in October to the Literary Fund. The year-to-date total for debt setoff was \$172,188 and for the Literary Fund was \$3,308,411.

Ms. Kyle then announced the names and hometowns of recent major prize winners and stated that the current jackpots for Lotto South and Mega Millions are \$6.0 million and \$39.0 million, respectively.

Ms. Kyle announced that this is the fourth year that the Virginia Lottery has honored outstanding public school educators from across the Commonwealth. This year's third through sixth winners of the Excellence in Education Teacher awards were: Ruth Grillo of Accomack County; Wade Whitehead of Roanoke; Kathleen Osborne of Tazewell County; and Colin Brown of Arlington.

She then updated the board on lottery-related issues in Tennessee where voters recently approved a constitutional amendment that authorizes, but does not require, the General Assembly to establish a lottery in that state. Ms. Kyle stated that Tennessee Senator Steve Cohen, their chief advocate of a lottery, met with her last week to discuss lottery-related issues.

Ms. Kyle reported that in November the Lottery's central region held a retailer meeting. A record turnout of 107 retailers participated. Topics included retailer compensation, underage play, ticket fraud, scratcher ticket planning, customer service from the Lottery and its vendors, real time validation and future ISYS enhancements. Participants included Lottery staff and its vendors.

She then discussed issues related to the Lottery's Retailer Advisory Group. New members for the group have been selected and a meeting will be held soon.

DIRECTOR'S REPORT (Continued)

Following general discussion regarding opportunities for receiving public comment, Ms. Kyle suggested that at a future meeting of the board Mr. Scarborough and Mr. Tanner could give an overview of the Lottery's web site and review the status of enhancements.

She stated that this year's "short" session of the General Assembly will convene on Wednesday, January 8th and is expected to adjourn on February 22nd. She reminded the board members that they had approved two proposals that were submitted to the Governor's Office for consideration: an amendment regarding the submission of fingerprints to the FBI for record checks, and an amendment to permit the Lottery Board to hold deliberations regarding licensing action appeals in closed meetings.

The Governor's Office has given us permission to proceed with the second proposal.

OTHER BUSINESS

Mr. Fogleman then announced that the next meeting of the board is scheduled for Wednesday, January 22, 2003.

CLOSED MEETING

Ms. Hall made the following motion:

MOVED: that, in accordance with the provisions of § 2.2-3712 of the *Code of Virginia*, the board go into a closed meeting for the purpose of discussion, consideration or review of: (i) pursuant to subdivision A 16 of § 2.2-3711, State Lottery Department matters related to proprietary lottery game information exempted from disclosure under subdivision A 37 of § 2.2-3705, specifically, game information for proposed instant games; and (ii) pursuant to subdivision A 7 of § 2.2-3711, legal matters, including consultation with legal counsel and briefings by staff members, pertaining to specific legal matters requiring the provision of legal advice by counsel regarding current litigation.

The motion was seconded and approved by all members present. Mr. Fogleman then announced the conclusion of the open session, and the board went into a closed meeting.

RECONVENED MEETING

Following its closed meeting, the board reconvened in open session. Ms. Hall read the following certification for the closed meeting:

RECONVENED MEETING (Continued)

WHEREAS, the State Lottery Board has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, § 2.2-3712 of the *Code of Virginia* requires a certification by this Board that such closed meeting was conducted in conformity with Virginia law and the motion by which the closed meeting was convened;

NOW, THEREFORE, BE IT RESOLVED that the State Lottery Board certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board.

By roll call, all members present voted in the affirmative that the certification was accurate as read.

On motion duly made and seconded, the board members present approved, as presented in the closed meeting, prize structures for Instant Games 247 through 250, 321, and 556 through 565, including the $\pm 0.5\%$ prize structure policy adopted by the board on September 13, 2000.

OTHER MATTERS

Mr. Cobbs suggested that the Lottery logo should have a standard placement on all tickets and also that each ticket contain a statement regarding "revenues to education." Mr. Rogers will look at the feasibility of each.

Mr. Fogleman suggested that the staff develop recommendations. Ms. Kyle indicated that she will return with those recommendations at the board's January 22nd meeting.

ADJOURNMENT

There being no further business to come before the board, the chairman declared the meeting adjourned.

Stephen C. Fogleman
Chairman

Penelope W. Kyle
Secretary