

MINUTES
IOWA LOTTERY BOARD
May 27, 2009

The Iowa Lottery Board convened at 10:05 a.m. at Lottery Headquarters in Des Moines, Chairperson Junge presiding. Board members present: Elaine Baxter, Mary Junge, Michael Klappholz, Thomas Rial, Brad Schroeder, Michael Fitzgerald.

Lottery staff present: Terry Rich, CEO; Kenneth Brickman, Executive Vice President; Brenda Loy, Chief Financial Officer; Joe Hrdlicka, Vice President for Marketing; Larry Loss, Vice President for Sales; Mary Neubauer, Vice President for External Relations; John Ellison, Security Investigator; Evelyn Halterman, IT Manager; Therese Spaulding, Validations Manager; Sally Robson, Advertising Manager; Marci Tooman, Assistant Vice President for Legal Affairs; David Van Compennolle, Assistant Attorney General; Barbara DeHeck, secretary. Participating by telephone: Joe Diaz, Vice President for Security.

Others present: David Berger (Scientific Games), Bill Petroski (Des Moines Register), Jeff Burnham (Ombudsman's office).

Minutes

Baxter moved to approve the minutes of the March 25, 2009 meeting. The motion was seconded by Klappholz and carried unanimously.

Monthly Reports

Written security, financial, and marketing/sales reports were included in the agenda package. Staff members reviewed the information and responded to questions from Board members.

Diaz indicated he was attending a conference involving 35 lotteries from all over the world, addressing ways to be proactive in conducting compliance checks. He reported that the compliance checks conducted since he began as head of lottery security had shown 100 percent compliance, with some room for improvement in enforcement of the signature requirement. He said the Lottery would continue to educate retailers in that regard. He reported that the new security database had been up and running for about a week. The new database was searchable by date, time, location, and many other factors.

Loy noted that financial reports for March and April were included in the agenda package. She said transfers to the state general fund were a little ahead of the previous year, but slightly behind the Lottery's budget projection.

A budget amendment for fiscal year 2010 (Attachment A) was also included in the agenda. Loy noted that, as in past years, the initial budget approved by the Board did not include money for salary adjustments. She said \$27,000 was needed for step increases, which would apply to about 20 employees, the remainder of the staff having reached the top of their pay range, and for increases in health insurance costs. Adjustments were also made to some individual line items to provide funding to more closely match actual anticipated expenses related to building repairs, IT equipment and software needs. The amendment also reflected the fact that funds previously sent to the Iowa gambling treatment fund would now be included in transfers to the general fund. Recent legislation had eliminated the specific fund, while leaving the gambling treatment program itself intact.

Schroeder moved to approve the proposed budget amendment. The motion was seconded by Rial and carried unanimously.

Hrdlicka said the Midwest Millions \$10 scratch ticket game continued to be very popular, and Lottery staff had begun working with the Kansas Lottery on another joint game to begin later in the year. He said the Keep Your Ticket Handy promotion continued, with great promotional value, and showed the latest television spots.

Rich reported that the "Big Beepin' Deal" promotion, in which every twentieth player making a \$5 Powerball with Power Play purchase won \$20, was so successful it was extended for an additional week. However, due to an error on the part of Scientific Games (SGI), the promotion was not in effect for the first two and one-half days of that week. Working with SGI, Lottery staff had decided that, in fairness, anyone who made a qualifying purchase during that time period should receive \$20. SGI had stepped forward to say it would fund the payments and the administrative cost.

Fitzgerald said he thought the situation was handled very well, with good media coverage.

Klappholz said he was impressed with how quickly Lottery staff and SGI had acted, adding that it reflected well on their working relationship.

Schroeder moved to approve the monthly reports. The motion was seconded by Baxter and carried unanimously.

CEO Update

MegaMillions/Powerball. Rich reported that some states wanted to cross-sell both of the multi-state games. He indicated the Powerball Group had begun preliminary discussions, and the Lottery Board would be kept informed of any further developments.

Federal Legislation. Brickman outlined the provisions of a bill introduced in Congress which would establish standards for the regulation of internet gambling in the U.S., noting that it contained a provision for states to opt out of internet gambling. Rich indicated the staff would continue to monitor the situation and keep the Board members informed.

Request for Proposals – Battelle. Rich reviewed the timeline for the on-line system RFP process, noting that the goal was to have a new system in operation in July of 2010.

Brickman requested Board approval to contract with Battelle Memorial Institute to advise and assist the Lottery's RFP evaluation team. He indicated Battelle, a not-for-profit organization, was the only firm possessing the needed technical expertise and experience, having worked in the lottery industry since 1979 and with on-line gaming systems since 1984. Every lottery which Battelle had assisted had been able to withstand any challenge to its procurement. Brickman noted that the Iowa Lottery had utilized Battelle's services in procuring its current online system. A proposed contract, subject to possible minor, non-substantive changes, was provided for the Board's review. Brickman said total costs were anticipated to be \$25,000 or less.

Rial moved to approve the technical services agreement with Battelle in an amount to up \$25,000. The motion was seconded by Schroeder and carried unanimously.

Casino Expansion. Rich noted that there had been recent media reports regarding anticipated requests to establish new casinos in the state. Neubauer reviewed past gaming expansions and their effect on lottery sales. Rich indicated the staff would continue to inform the Board of any further developments. He said the Lottery was not taking a stance either for or against casino expansion.

Security/Dateline NBC. Rich reported that Iowa had seen none of the retailer abuses that *Dateline NBC* had reported from other states and Canada. As Diaz had indicated earlier, the Iowa Lottery continued to conduct comprehensive compliance checks

Ombudsman Report and Discussion

Rich noted that a copy of his response to the recent report issued by the State Ombudsman's office was included in the agenda package. He said that he and the Lottery staff were engaged in continuing dialog with the Ombudsman's office and believed they had a good working relationship. The report, issued on March 27, acknowledged that "the vast majority of Iowa retailers and clerks are honest, reputable and do not engage in fraud or theft." Rich said all of the recommendations presented in the report had been considered by the Lottery in the past and many had already been implemented or were in planning stages.

The Lottery, however, disagreed with some of the recommendations because of cost-benefit factors, personal or game security concerns, or undue governmental intrusion. He said he would like to review several of those issues, to be certain the Board members were in agreement and to obtain their input.

Rich noted that one recommendation was that "The Lottery should develop and install a musical jingle to help cue customers that their ticket is a winner..." He said the staff was looking into ways to address that recommendation while maintaining player security and cost effectiveness. Klappholz suggested that new technology might be available to alert only the player. Rich concurred, noting that the staff continued to investigate new alternatives.

Rich noted that the installation of ticket checkers for players' use had been discussed in considerable detail at the July 17, 2008, meeting when the Board approved the final renewal option for the online contract with Scientific Games. It was decided not to implement them at that time, since it would have taken nine months to have them fully activated, at a cost of nearly \$1 million, when an entirely new system would be installed a year later. Loss added that the system proposed at that time would only check online tickets. With the new system currently out to bid, the Lottery hoped to incorporate devices that would also check instant tickets.

Rich said another issue in question was the instances where the Lottery discovered employee ticket theft but the store owner or local law enforcement officials chose not to file charges. In such cases, did the Lottery have an obligation to pursue the matter further, given that it does not have police powers?

Fitzgerald asked about the suggestion that retail clerks not be permitted to purchase tickets at their place of employment. Rich said enforcement would be difficult, as well as involving undue governmental intrusion; employees were allowed to purchase all other items sold by their employers. Rial said he would be opposed to such a policy.

Burnham said the Ombudsman's office did not expect that everyone would agree with everything in the report. He complimented Diaz on the development of the new electronic database, one of the recommendations. He said the recommendations did not include a ban on people purchasing tickets at their own store. To clarify, he noted that in one instance cited where a clerk had claimed multiple winnings, the report was not suggesting there was necessarily criminal fraud, but rather pointing out that those prize claims had not been investigated. On the issue of suspected violations, the concern was not with cases the local police chose not to prosecute, but rather with violations that were noted in the files where police were not consulted.

Baxter pointed out that in other states the problem had not been with clerks playing, but with clerks taking customers' winning lottery tickets and claiming the prizes.

Rich indicated that once tickets were delivered to a store, the retailer owned them, and ticket theft then became a crime against the store owner. He said the staff would continue to examine the philosophical issue as to whether and to what extent the Lottery should pursue restitution in such cases.

Klappholz expressed concern about the ability to charge someone in instances in which local law enforcement or the county attorney did not have the resources to pursue the case, or chose not to do so.

Rial noted that in many of the report's citations, the problem was with law enforcement or the judiciary, and many of the issues needed to be addressed to the Legislature rather than to the Lottery. He suggested that the Lottery should focus on administrative oversight and providing evidence to law enforcement, and not undertake further measures beyond its authority.

Junge said she was satisfied that the Lottery took the report seriously and was working to make its operation the best it could be. She said the discussion had been good and would be continued at future meetings.

Burnham thanked the Board members for their comments.

Advertising Agency Contract Extensions

Robson requested Board approval for a one-year extension of the contracts with Integer Group Midwest for creative services and with Strategic America for media planning and buying. She noted that the extension, covering fiscal year 2010, was the second of four one-year extension options available under the current contracts. Robson said both agencies had provided exemplary service

Rial moved to extend the advertising agency contracts for an additional year. The motion was seconded by Klappholz and carried unanimously.

Personnel

Brickman noted that state employees would not receive cost of living increases for the coming fiscal year, but those eligible under the state merit system would receive step increases. Board approval was required for any salary adjustments for individuals designated as key employees. He indicated that of the Lottery's nine key employees, one would transfer to another agency at the beginning of the fiscal year, two had been recently hired or promoted and the Board had approved their salaries for the coming year, and three had reached the top of their salary range. Of remaining three, Mary Neubauer and Larry Loss were each eligible for an increase of 19 cents per pay period to bring them to the top of their pay range, and Marci Tooman was eligible for an increase of \$5.60 per pay period. The increases, if approved, would cost a total of \$155.48 for fiscal year 2010.

Baxter moved to approve the salary increases as presented. The motion was seconded by Schroeder and carried unanimously.

Litigation (Closed Session)

Junge announced that the office of the Attorney General was prepared to consult with the Board on the status of pending litigation and that the briefing should be conducted in closed session as provided in Iowa Code chapter 21.5(1)(c) which provided for closed session to discuss strategy with counsel in matters presently in litigation or where litigation was imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation.

Baxter moved to go into closed session pursuant to Iowa Code chapter 21.5(1)(c). The motion was seconded by Rial and carried by a unanimous roll-call vote.

The Board convened in closed session at 12:02 p.m. At 12:18 p.m. the Board returned to open session upon a motion by Rial, seconded Baxter, and carried by a unanimous roll-call vote. No action was taken in closed session.

Rial moved to increase by up to \$75,000 the fees to be paid to the Attorney General's office. The motion was seconded by Klappholz and carried unanimously.

There being no further business, the meeting adjourned at 12:20 p.m.