

**OKLAHOMA LOTTERY COMMISSION
MINUTES OF SPECIAL MEETING
August 9, 2005
10:00 A.M.**

Members Present:

Mr. Ron Norick
Mr. William Paul
Mr. Thomas Riley, Jr.
Mr. Jim Orbison
Mr. George R. Charlton, Jr.
Dr. Linda Dzialo

Members Absent:

Ms. Cindy Ball

Others Attending:

Jim Scroggins, OLC	Travis Dusette, OETA
Beverly Hughes, OLC	Lauri Parker, Lotto Partners
Rollo Redburn, OLC	Bobby Stem, G-Tech
Jerry Havener, OLC	Michael McNutt, The Oklahoman
Penny Nicholson, OLC	P. Baker, Lotto Partners
Terry Cordingley, Metro Networks	Francis Marino, Lotto Partners
Charlie Scannella, Scientific Games	Brent McCutchen, Lotto Partners
Jason Smith, Capitol Network News	Mark Tygret, Oklahoma House
Pat Hall, Scientific Games	Barbara Hoberock,
Marc Dillard, KFOR-TV	Bill Bateman
Robert Burese, OETA	Terri Watkins, KOCO-TV

ITEM 1

Call to Order. Roll call and announcement of quorum.

Roll Call: Mr. Norick, Mr. Paul, Mr. Riley, Mr. Orbison, Mr. Charlton, and Dr. Dzialo present. Ms. Ball was absent. A quorum was declared. Mr. Orbison noted that this was Becky Wilson's last meeting acting as the Board's secretary, and expressed thanks for her work with the Board.

ITEM 2

Announcement of filing of special meeting notice and posting of the agenda in accordance with the Open Meeting Act.

Posting of special meeting notice and agenda were confirmed, in accordance with the Open Meeting Act.

ITEM 3

Approval of Minutes of the July 12, 2005 Special Meeting

Mr. Riley asked for two corrections to the minutes of the July 12th meeting. In Agenda Item 9, paragraph 2, he requested "*may have reduced*" be changed to "*could have changed*."

In Agenda Item 6, paragraph 3, "1:30 meeting" should be changed to "9:00 interviews"

Mr. Norick moved that minutes be approved as amended. Mr. Riley seconded the motion.

Discussion was held concerning the necessity of receiving approval from the Attorney General's office for contracts for legal services exceeding \$20,000 within a fiscal-year period. Mr. Riley asked Mr. Scroggins and Mr. Redburn to track expenditures so that when that amount was reached the Board could be advised to contact the AG's office for approval.

Mr. Riley requested that copies of all approved RFPs and contracts be provided to the outside legal firm so they can have them readily available in their files. Mr. Scroggins stated that OLC also maintains a "master file" of contracts and RFPs.

Mr. Riley asked about the purchase of the Missouri equipment. Mr. Scroggins stated the Board had given approval to buy it, and the only thing yet to be determined was how to transport it to Oklahoma.

Roll call: Mr. Charlton, Dr. Dzialo, Mr. Norick, Mr. Paul, Mr. Riley, and Mr. Orbison voted to approve. Motion was carried.

ITEM 4

Interim Committee of Operations and Structure Report-William Paul

Mr. Paul reported on the development of Rules. He received an e-mailed status report from Gay Tudor indicating the AG's office had been working on the Rules. Mr. Scroggins stated that Ms. Tudor had some questions and suggestions, and after those were addressed they would try to have a "next draft" available for the Board's review. A final draft of emergency rules should be ready for the September 13th meeting. One of the items to be finalized is the appeals process for retailers whose contracts have been revoked. Mr. Paul asked that a draft suitable for review be made available to him and other members of the Board as soon as possible. Mr. Scroggins stated the draft should be available by the end of next week. Mr. Orbison asked if the draft contained rules regarding governance of the Commission or Board. Mr. Scroggins replied that most of the issues regarding governance were covered in state law, but some would be in the Rules.

ITEM 5

Executive Director's Report

Mr. Scroggins stated that items for the Director's Report would be covered later in agenda items 7-16.

ITEM 6

Discussion and possible action on financing for the Commission to grant authority to approve necessary documents.

Mr. Riley stated the thirty-day protest period on financing would expire on Friday, August 12th. Assuming no protests are filed, counsel will be ready to close on the financing on August 18th. Mr. Riley stated that the Board had already approved the transaction. Mr. Orbison agreed and added the Board was approved to sign the documents. Now that he was in possession of the final documents, which accurately reflect the Board's action, Mr. Riley made a motion to authorize the Chairman or Secretary to sign documents for the loan. Mr. Norick seconded the motion. Mr. Orbison stated that all of the documents exactly interpreted the previously approved actions of the Board and that they authorized the Chairman and Secretary to sign documents. Therefore, the motion was withdrawn. Mr.

Orbison stated he planned to be at the meeting on the 18th and was comfortable signing the documents. He asked that copies of the documents be distributed to all the Commission members. Mr. Redburn stated he had e-mailed the papers the previous day and everyone should have them (except for Dr. Dzialo, as they had difficulty getting the e-mail to go through to her). Dr. Dzialo was given a copy of the documents.

ITEM 7

Proposed Executive Session to discuss Requests for Proposals and Proposals for various game services and vendors, and audit and internal control services pursuant to 25 O.S. 307(B)(7), 51 O.S. 24A10(B)(11) and OAC 580: 15-2-7.

- a. to discuss Proposals for Instant and Online game services and vendors**
- b. to discuss Requests for Proposals for drawing studio**
- c. to discuss Requests for Proposals for drawing auditor**
- d. to discuss Requests for Proposals for audit services**
- e. to discuss Requests for Proposals for internal controls**
- f. to discuss Requests for Proposals for application to multi-state lottery games**

It was suggested that item 7(f) should be discussed in open session. Mr. Norick made a motion to convene executive session to consider items 7(a) through 7(e). Dr. Dzialo seconded the motion.

Roll call: Mr. Charlton, Dr. Dzialo, Mr. Norick, Mr. Paul, Mr. Riley, and Mr. Orbison voted yes. Motion was carried and executive session was convened.

ITEM 8

Discussion and possible action on Proposals for Instant and Online game services and vendors discussed in Executive Session

Announcement was made that items 7(a) through 7(c) were the only ones discussed in the executive session. Items 7(d) through 7(f) would be discussed in open session rather than executive session.

Mr. Riley made a motion that "Vendor A" be recommended to DCS for award of the contract for both Instant and Online. Mr. Charlton seconded the motion.

In discussion, Mr. Scroggins was asked to describe the process used to evaluate the vendor proposals. Mr. Scroggins stated that three proposals had been submitted in response to the RFP, one of which was determined to be non-responsive and was disqualified. He stated that DCS received the proposals and took all of the costs portions and held them out. The OLC evaluation committee reviewed the technical aspects of the bids for Online, Instant, and Alternate proposals (bidding on both Instant and Online combined). DCS then came out and brought the cost proposals. The technical points were combined with the cost points to calculate a final score. Mr. Scroggins explained the scoring system used. Based on these calculations, the recommendation was to award "Vendor A" the entire package, both Instant and Online games and services.

Mr. Riley asked if the pricing of the selected vendor was within or below the established budget. Mr. Scroggins stated that it was. Mr. Norick asked Mr. Redburn what the next step was in awarding the contract. Mr. Redburn stated DCS would award the contract and anyone wishing to view the bids could do so by going to DCS and requesting to see the documents. The bids are public record once the contract is awarded.

Mr. Paul asked if the financial strength of the bidding vendors had been reviewed. Mr. Scroggins said yes, the financial statements that were submitted had been sent to the Auditor and Inspector where they were evaluated for financial soundness. Both of the bidding vendors were found to be financially sound.

Roll Call: Mr. Charlton, Dr. Dzialo, Mr. Norick, Mr. Paul, Mr. Riley and Mr. Orbison all voted yes. The motion was carried.

ITEM 9

Discussion and possible action on Requests for Proposals for drawing studios discussed in Executive Session

Mr. Norick moved to approve DCS to release the RFP, subject to the changes that were made. Dr. Dzialo seconded the motion.

Roll Call: Mr. Charlton, Dr. Dzialo, Mr. Norick, Mr. Paul, Mr. Riley, and Mr. Orbison voted yes. Motion was carried.

ITEM 10

Discussion and possible action on Requests for Proposals for drawing auditor discussed in Executive Session.

Mr. Riley made a motion to recommend to DCS the release of the RFP that was presented, subject to recommended changes. Mr. Paul seconded the motion.

Roll Call: Mr. Charlton, Dr. Dzialo, Mr. Norick, Mr. Paul, Mr. Riley, and Mr. Orbison voted yes. Motion was carried.

Mr. Scroggins added that it was his intent to make the award for the drawing auditor and drawing studio at the regularly scheduled meeting on September 13.

ITEM 11

Discussion and possible action on Requests for Proposals for audit services discussed in Executive Session

Mr. Orbison stated that this item had not been discussed in executive session, and would be discussed now in open session. Mr. Scroggins stated this agenda item dealt with the portion of the Act requiring that OLC's financial statements be audited annually. He stated there would be no formal requests for proposals issued, but potential vendors were being sent a letter inviting them to attend a special meeting in which the audit services needed and method of submitting proposals would be explained. He said that the vendors would be informed that the annual audit would have to be completed by November 1st in order to be included in the state's combined financial statement.

Mr. Riley made a motion to approve the request for proposal for an audit of the annual financial statement for the year ending June 30, 2006. Mr. Norick seconded the motion.

Roll Call: Mr. Charlton, Dr. Dzialo, Mr. Norick, Mr. Paul, Mr. Riley, and Mr. Orbison voted yes. Motion was carried.

ITEM 12

Discussion and possible action on Requests for Proposals for internal controls discussed in Executive Session.

This item was not discussed in Executive Session. Mr. Scroggins stated that this agenda item dealt with the need to have an audit firm to set up internal controls for OLC and OLC vendors prior to the start of sales on October 12th. He stated the proposal would cover two objectives: 1) to make sure that the proper internal controls are in place, and; 2) to provide some assurance to the firm chosen to perform the annual financial audit that financial controls were in place prior to the start of sales. He stated that this was especially critical in light of the recent problems experienced by several privately traded companies. Mr. Norick stated that the firm setting up internal controls should be different from the firm that does the financial audit. Mr. Riley stated that they would most likely be different companies, as this was standard practice and would probably already be part of the internal procedure for companies bidding for the auditing contract.

Mr. Scroggins stated that the two different audit functions would be presented to the accounting vendors on the same day so that they could see that, although they could bid on both, OLC would prefer to make the award to two separate firms.

Dr. Dzialo made a motion to approve the RFP for internal controls. Mr. Norick seconded the motion

Roll Call: Mr. Charlton, Dr. Dzialo, Mr. Norick, Mr. Paul, Mr. Riley, and Mr. Orbison voted yes. Motion was carried.

ITEM 13

Discussion and possible action on application to multi-state lottery games.

Mr. Scroggins stated that he felt that participation in multi-state lottery games (either Mega-millions or Powerball) would be an important part of any marketing plan. Mr. Scroggins requested that the Board authorize him to make application to both.

Mr. Paul made a motion to authorize Mr. Scroggins to make application to the two multi-state games described. Dr. Dzialo seconded the motion.

In discussion, Mr. Riley asked if OLC would be accepted in just one of the games, and did Mr. Scroggins anticipate 2006 sales. Mr. Scroggins stated that a decision would have to be made about where multi-state games would fit into the sequence. He stated that he felt sure it would not be until after the first of the year, but was unsure exactly when. Mr. Riley pointed out that the marketing and advertising firm selected would want to have some input. Mr. Scroggins agreed that the advertising agency, the lottery, and "Vendor A" would want to meet to coordinate activities. Mr. Riley asked for assurance that the application process for joining multi-state games would not take away resources and time needed to meet the October 12th sales deadline. Mr. Scroggins replied that application could be made quickly, probably through e-mail.

Roll call: Mr. Charlton, Dr. Dzialo, Mr. Norick, Mr. Paul, Mr. Riley and Mr. Orbison voted yes – motion was carried.

ITEM 14

Discussion and possible action on commissions to be paid to retailers for selling lottery tickets.

Mr. Scroggins stated that commissions of 5% for sales and around 2% for cashing bonus were discussed initially, but after some additional consideration he felt that retailers would prefer a 6% flat fee without any additional bonus for cashing. Mr. Orbison asked how this 6% fee compared with fees nationwide. Mr. Scroggins said the fees varied, but that the 6% was comparable with other states.

Mr. Scroggins reported sending out approximately 4,400 letters to potential retailers explaining how to apply to become lottery retailers. He stated he had received a number of questions about the application process and that to date about 89 or 90 completed applications had been submitted with the application fee. Mr. Scroggins was asked how many retailers he anticipated having signed up by the start of sales, and he stated that he hoped there would be about 3,500, as had been originally estimated. He said he thought the requirement for a separate bank account authorized for electronic funds transfers might be slowing up the application process a bit.

Mr. Norick made a motion to set the retailers' fee at 6% of sales. Mr. Paul seconded the motion.

In discussion, Mr. Riley was asked if this fee was in line with what was figured in the preliminary budget. Mr. Riley stated it was the outside maximum range that allowed the budget to work.

Mr. Paul asked how this information, including the 6% fee, would be put together contractually. He also asked how much was being charged for the application fee. Mr. Scroggins stated the fee was \$95; \$45 application fee (non-refundable) and \$50 to go into the bond fund (refundable if a merchant is not approved as a lottery retailer). He explained that the forms in the application package actually serve as the contract. The package contains forms describing the requirements under the law, the application form asking for business information for required background checks, a form authorizing electronic funds transfers, and a form to list multiple locations (if applicable). There is also a voluntary form designed to assist OLC with complying with the part of the law requiring that minority businesses be encouraged to become retailers and vendors. When all that information is filled out, it becomes the framework of the contract. Concern was expressed as to how the 6% commission information is communicated to the retailers, and if that 6% could be subject to revision if required by the budget. Mr. Scroggins stated the 6% figure would be contained in the Rules. A suggestion was made that information regarding the commission fee could be included in a cover sheet sent with the other application documents. Mr. Scroggins suggested that this information be included in the letter mailed to merchants upon their acceptance as retailers.

Mr. Scroggins was asked how the list of 4,400 retailers was obtained. He stated that many packets were mailed out in response to the interest forms retailers had downloaded from the OLC website. In addition, databases were furnished by grocer, petroleum marketer and pharmacist organizations, and letters were sent to everyone who had not already received information in response to submitting an interest form.

Mr. Kinney asked Mr. Scroggins if the motion regarding the 6% commission needed a time frame, and Mr. Scroggins agreed that it did. The motion was amended to add the date of June 30, 2006, unless otherwise amended by the commission. Mr. Paul seconded the motion, as amended.

Roll call: Mr. Charlton, Dr. Dzialo, Mr. Norick, Mr. Paul, Mr. Riley, and Mr. Orbison voted yes. Motion was carried.

ITEM 15

Discussion and possible approval of proposed FY-2007 operational budget to present to the Office of State Finance and the State Auditor and Inspector for informational purposes only, to comply with Title 3A, Section 733, paragraph (6).

Discussion of this agenda item was deferred to the next meeting of the Board of Trustees

ITEM 16

Discussion and possible action regarding budget projections, expenditures and approval of budget.

Mr. Redburn reported on OSBI charges for background investigations. He stated that \$16,758.22 was charged for the background investigation of Mr. Scroggins, and \$13,115.12 was charged for the background investigations of Ms. Hughes, Mr. Havener and Mr. Redburn. These figures total under \$30,000, which was the amount allotted for these background investigations; however, the cost for Mr. Scroggins' investigation was more than the \$10,000 initially anticipated due to the manpower applied by the OSBI to get a quick turnaround.

Mr. Riley made a motion to approve the two invoices for OSBI background investigations. Dr. Dzialo seconded the motion.

Roll call: Mr. Charlton, Dr. Dzialo, Mr. Norick, Mr. Paul, Mr. Riley, and Mr. Orbison voted yes – motion was carried.

ITEM 17

Scheduling of Next Special Meeting.

Motion was made by Mr. Riley to schedule the next special meeting for Monday, August 29th at 1:30 pm (place to be announced). Mr. Norick seconded the motion.

In discussion, Mr. Scroggins stated he planned to have the advertising award and internal controls award on that agenda.

Roll call: Mr. Charlton, Dr. Dzialo, Mr. Norick, Mr. Paul, Mr. Riley and Mr. Orbison voted yes. Motion was carried.

ITEM 18

Adjournment

Mr. Norick made a motion to adjourn the meeting. Dr. Dzialo seconded the motion.

Roll Call: Mr. Charlton, Dr. Dzialo, Mr. Norick, Mr. Paul, Mr. Riley, and Mr. Orbison voted yes. Motion was carried and meeting adjourned.

Submitted by:

Linda Dzialo, Secretary

Approved by:

James Orbison, Chairman

Linda Dzialo, Secretary