

**Oklahoma Lottery Commission**  
**Minutes of Meeting**  
Tuesday, December 13, 2005 – 1:30 p.m.

**Members Present:**

Mr. Orbison, Chairman  
Mr. Norick, Vice-Chairman  
Dr. Dzialo

Ms. Ball  
Mr. Charlton  
Mr. Paul

**Member(s) Absent:**

Mr. Riley

**Others Present:**

Jim Scroggins, OLC Executive Director  
Jerry Havener, OLC  
Beverly Hughes, OLC  
Rollo Redburn, OLC  
Penny Nicholson, OLC

Jason Smith, Capitol Network News  
Allen Blankenship, SGI  
Barbara Hoberock, Tulsa World  
Bonnie Webster, OLC

**ITEM 1**

**Call to Order. Roll Call and Announcement of Quorum**

Roll Call: Mr. Orbison, Mr. Norick, Dr. Dzialo, Ms. Ball, Mr. Charlton, and Mr. Paul were present. Mr. Riley was absent. Mr. Orbison declared a quorum.

**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 Meetings Act.

**ITEM 3**

**Approval of Minutes of the November 8, 2005 Special Meeting**

Dr. Dzialo made a motion to approve the minutes of the November 8, 2005 meeting. Mr. Paul seconded the motion.

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

**ITEM 4**

**Executive Director's Report**

Mr. Scroggins handed out copies of the new DHS Operational Policies regarding collection of Child Support payments from lottery winnings. He discussed some of the various questions raised by the DHS policies and stated he and Mr. Redburn would try to meet with DHS for clarification.

Mr. Scroggins reported that, to date, 1,820 lottery retail locations have been installed and are fully operational, and approximately 30 are pending and will be completed by the end of the week, bringing the total to 1,850. He stated that he had met with Scientific Games and they are actively recruiting retailers, particularly in under-served areas of the state. He stated that based on ticket pack activations and settlements, weekly instant sales have averaged \$5.7 million. He passed out a copy of the Combined Sales Report to the Board members, and the Board members asked questions and received clarification regarding the report. Mr. Scroggins explained that the figures on activations could be thought of as accounts receivable. Money has not yet been received, but there was an obligation on the part of the retailer to pay the money.

Mr. Scroggins discussed the sales trends and offered possible explanations on why sales numbers varied from week to week. Mr. Scroggins stated that the Commission and Scientific Games were stressing "best sales practices," with retailers, such as locating the display near the cash register, displaying \$5 tickets at the top of the dispenser, paying winners at the store, customer service, etc., in order to boost sales. He stated that sometime between the introduction of Powerball and the end of January, OLC would probably introduce a couple of new \$1 games. He noted that the best selling games in terms of revenue generated were \$1 games, followed closely by \$5 games. He stated that the number one \$2 game in sales and revenue was "Oklahoma Gusher," although "Rush to Cash" had exactly the same prize structure. He added that "Lucky 7's" was doing good, steady business and would probably remain as a "base game."

Mr. Charlton asked if our ad agency, Jordan & Associates, was looking at ways to educate the public to make them more comfortable playing the lottery. Discussion was held regarding the current advertising and what was being done to help retailers and players. Mr. Scroggins stressed the importance of educating the retail clerks, as an uncomfortable clerk was unlikely to instill confidence in players wishing to purchase lottery tickets. Ms. Ball asked if sales to date indicated that the lottery would be able to meet the projected revenue goal of \$65 million by the end of the first year. Mr. Redburn replied that so far it looked like there was no reason to think projections would not be met. Mr. Scroggins stated that OLC would have a better idea of overall revenue after observing sales activity after the start-up of Powerball in January.

Ms. Ball asked where the lottery was in terms of revenue versus projections. She stated that she had received many questions about why the lottery was not meeting sales projections. Mr. Redburn commented that was more a problem of perception than fact, and that some lottery opponents began accusing the lottery of failing to reach projected sales even before sales began. Mr. Scroggins added that the big unknown was how well Powerball would do after it is introduced in January. Dr. Dzialo stated she had received similar questions, and she and Ms. Ball requested regular updates on sales in order to be prepared to answer those questions. Mr. Scroggins agreed and said he would make regular sales reports to the Trustees. Mr. Scroggins stated that total sales for the first, partial fiscal year would need to be around \$218 million in order to net the projected \$65 million profit to the state.

Mr. Scroggins reported that since starting Pick 3 about five weeks ago, sales totaled about \$1.4 million (an average of about \$285,000 per week). He reminded the Board members that one of the goals of Pick 3 was to familiarize retailers and the public with the process of picking numbers prior to the start of Powerball. He discussed prize payouts and explained the difference between the prize structure for Pick 3 and Powerball or Lotto. Mr. Scroggins discussed the decline in the percentage of money paid out in prizes over the past few weeks, and how that, along with the holidays and bad weather, probably accounted for a downward trend in sales. Mr. Norick asked if the prizes should be increased to bring the payout percentage back in line. Mr. Scroggins explained that over time, the imbalance would correct itself. He stated that a better option might be to try to hold two drawings in one night. Mr. Scroggins said that normally there would be a big Pick 3 promotion around this time of year, but with the promotions scheduled for the start of Powerball in January, OLC was unable to do that this year.

Mr. Scroggins reported that everything was currently on track for the start of Powerball on January 12th. He stated that there was training going on to prepare retailers, as well as a new reference cards to assist retailers with common questions. He explained the power play promotion available in Powerball where a player pays an additional \$1 for the chance to multiply their winnings by two, three, or more times (for all prizes except the jackpot). Mr. Orbison asked if the Powerball organization ran any type of uniform advertising in participating States. Mr. Scroggins replied that they did not, but said that some States had joined together to develop and share advertising ideas. He also stated that OLC would install very visible "Jackpot" signs in retail locations and that there were plans to have nine (9) large, programmable Powerball billboards throughout the state. He stated that ticket checkers, which allow players to determine if their ticket is a winner without the assistance of a clerk, would also be placed in some locations starting later this month.

Mr. Norick asked Mr. Scroggins to describe the process used in Powerball drawings and how the payout occurs. Mr. Scroggins explained that drawings take place on Wednesday and Saturday nights in Des Moines, Iowa. Tickets sales in Oklahoma will commence on January 12, 2006, with the first drawing on January 14<sup>th</sup>. He stated that the drawing on the 14<sup>th</sup> would take place at the International Finals Rodeo in Oklahoma City. He explained that the jackpot winners could either take a one-time cash payment, or be paid over a thirty year period, in which case Oklahoma would receive money to make the first payment,

and then subsequent payments would be funded through securities purchased by the multi-state organization. All other prizes (second level and down) are paid by OLC.

Mr. Paul asked Mr. Scroggins for a brief overview of the flow of money in lottery sales. Mr. Scroggins explained the process of weekly reconciliation on Monday and sweeping retailer accounts on Tuesday. He explained that funds are deposited with the State Treasurer and are then used to pay prizes and the expenses of the Lottery Commission. Net revenue is transferred to the State on a quarterly basis. Mr. Paul asked if OLC had any other bank accounts besides the one with the Treasurer, and Mr. Redburn replied that during the initial application process an account had been set up in Norman (where the applications were being processed) to receive deposits of application fees. That account is no longer active, and now the only OLC account is with the State Treasurer.

Mr. Norick asked about the problem of retailers refusing to pay out prizes over a certain, arbitrary dollar amount that was less than the \$600 limit. Mr. Scroggins reported improvement in this area through more emphasis on pay-outs during initial training and by working one-on-one with retailers and explaining various payment options available to them.

Mr. Paul asked about OLC's legal requirement to file a budget for 2006, and Mr. Redburn reported that the budget was due prior to October 1, 2005, and had been prepared and submitted by that date. Mr. Paul asked what gross sales figure was shown in the budget. Mr. Redburn replied that he did not recall, but would send out figures to the Board members. He stated that he was currently working on some revisions to the budget.

## ITEM 5

### **Consideration and Possible Action Regarding Adoption of By-laws of the Board of Trustees of the Oklahoma Lottery Commission**

Mr. Paul stated that he, Ms. Ball, and Dr. Dzialo had met and drafted proposed by-laws, which had been distributed to the Board and discussed at the November Board meeting. Since that time, the committee met again and consulted with the Attorney General's office to add language to cover and clarify the issue of vacancies. Copies of the revised by-laws were distributed to the Board members, and Mr. Paul pointed out this new language in paragraph 2.6 at the bottom of page 1. He stated they had also consulted with the Attorney General's office about terms of Board members, to clarify that all Board members remain in office until their successors are appointed and confirmed.

In discussion, Mr. Norick asked Ms. Tudor about the item under paragraph 4.1 concerning "New Business" on the agenda. He asked if action could be taken on an item listed as "new business" or whether the item had to be more specifically described on the agenda in order for the Board to take any action. Ms. Tudor replied that under the Open Meeting Act, action could be taken as long as the item met the definition of new business as described in the Act.

Mr. Norick then asked the committee members about the provisions in the bylaws under item 4.3 and 4.4, which state that two board members could request an item be listed on the agenda. He questioned why one member was not sufficient. Dr. Dzialo and Mr. Paul explained that the language was not intended to limit an individual Board member's ability to place an item on the agenda, but rather was a means by which Board members could add an item to the agenda even over the Chairman's objection.

Mr. Norick asked Ms. Tudor about the requirement of the Open Meetings Act that agenda items be very specifically described. He asked if the Act required, for example, that a personnel matter appearing on the agenda identify the specific employee being discussed. Ms. Tudor replied that the Act requires that the person being discussed be specifically identified, either by name or by title. Mr. Norick asked if this was also true for issues such as the acquisition of property. Ms. Tudor replied there were provisions in the Act allowing the purchase and/or appraisal details of real property to be kept confidential.

Mr. Charlton asked if the bylaws should include language acknowledging that when conflict arose between the by-laws and the Open Meeting Act, that the Open Meeting Act would prevail. Mr. Paul pointed out that language to that effect was already included in the by-laws.

Mr. Paul made a motion that the proposed by-laws be adopted by the Board. Mr. Norick seconded the motion. Roll call: Mr. Orbison, Mr. Norick, Dr. Dzialo, Ms. Ball, Mr. Charlton, and Mr. Paul voted to approve. Motion was carried.

## **ITEM 6**

### **Discussion and Possible Action Regarding Establishment of Regular Board Meetings for 2006**

Members were provided a copy of the proposed meeting dates, times, and places for 2006. Mr. Paul asked if meetings could be cancelled if the Board found it had no business to discuss, and Ms. Tudor replied that they could. She recommended posting the cancellation at least 10 days prior to the scheduled meeting, if possible.

Dr. Dzialo made a motion to approve the list of meetings for 2006. Ms. Ball seconded the motion. Roll call: Mr. Orbison, Mr. Norick, Dr. Dzialo, Ms. Ball, Mr. Charlton, and Mr. Paul voted to approve. Motion was carried.

## **ITEM 7**

### **Report on Internal Controls**

In Mr. Riley's absence, Mr. Scroggins reported that the firm of Arledge and Associates, the CPA firm performing the internal control review, was meeting with OLC's Internal Auditor, Carl Selby, and Comptroller, Stan Van Ostren, today. He stated that a report on their findings would be made available to the Board at the next scheduled meeting.

## **ITEM 8**

### **Report on Accounting and Finance Items**

Due to Mr. Riley's absence, this report will be given at the next scheduled Board meeting

## **ITEM 9**

### **Discussion and Possible Approval of Amendment to Emergency Rules**

Ms. Tudor stated that amendment of the Emergency Rules was not necessary as the suggested changes could be made part of the Permanent Rules.

## **ITEM 10**

### **Discussion and Possible Action to Submit Proposed Permanent Rules for Public Comment**

Mr. Paul made a motion that for the purpose of approving a draft of proposed Permanent Rules, paragraphs 2.3 through 2.6 (inclusive) of the by-laws, be added to the current Emergency Rules. Mr. Orbison seconded the motion. Roll call: Mr. Orbison, Mr. Norick, Dr. Dzialo, Ms. Ball, Mr. Charlton, and Mr. Paul voted to approve. Motion was carried.

Mr. Paul then made a motion that the existing Emergency Rules, as amended in the motion above, become Permanent Rules, and that the staff, working in conjunction with the office of the Attorney General, commence the process under applicable State law and regulations for approval as Permanent Rules. Ms. Ball seconded the motion. Roll call: Mr. Orbison, Mr. Norick, Dr. Dzialo, Ms. Ball, Mr. Charlton, and Mr. Paul voted to approve. Motion was carried.

## **ITEM 11**

### **Report from Interim Committee**

Mr. Paul stated the only other issue involving the Interim Committee was to nominate a slate of officers, which was to be addressed in agenda item number 12.

Mr. Orbison thanked the interim committee members for their hard work in handling a large number of projects during the past year.

## **ITEM 12**

### **Report of Nominating Committee and Election of Officers of the Board of Trustees to serve in Calendar year 2006**

Mr. Paul reported that the committee members had met for the purpose of preparing a slate of officers for 2006 for the Board's consideration. It was their unanimous decision to ask the current officers to continue to serve for 2006.

Mr. Paul made a motion to elect the proposed slate of officers (Mr. Orbison, Chairman; Mr. Norick, Vice-Chairman; Mr. Riley, Treasurer, Dr. Dzialo, Secretary). Mr. Charlton seconded the motion. Roll call: Mr. Orbison, Mr. Norick, Dr. Dzialo, Ms. Ball, Mr. Charlton, and Mr. Paul voted to approve. Motion was carried.

### **ITEM 13**

#### **Appointment of Members and a Chair of the Two Standing Committees to Serve in 2006, and Board Approval of Appointments**

The newly adopted by-laws call for the establishment of two standing committees. Mr. Orbison stated that he had spoken with individual Board members and had obtained their consent to be appointed to serve as follows:

Audit and Finance Committee – Mr. Paul, Chairman; Dr. Dzialo and Mr. Riley, members.

Government and Citizen Relations Committee – Mr. Norick, Chairman; Ms. Ball and Mr. Charlton, members.

Mr. Paul made a motion to approve the standing committees as submitted. Dr. Dzialo seconded the motion. Roll call: Mr. Orbison, Mr. Norick, Dr. Dzialo, Ms. Ball, Mr. Charlton, and Mr. Paul voted to approve. Motion was carried.

#### **Follow-up Comments and Questions Under Item #4, Executive Director's Report**

#### **Agenda**

Mr. Norick commented that the Government and Citizen Relations Committee or Mr. Orbison might need to appear before the Legislative Oversight Committee to explain various provisions of the proposed Permanent Rules. Discussion was held about the timeline for the approval process. Ms. Tudor stated that legislators may have questions about various matters, such as the exclusion of certain types of retailers from selling lottery tickets. She stated that the Legislature might determine that the Board does not have the authority to exclude retailers based on the type of business.

Mr. Paul stated that he thought it would be a good idea for committee meetings to be held on the same days as Board meetings in order to save on travel for out-of-town committee members. Discussion was held about the use of teleconferences and Ms. Tudor explained the Open Meeting Act requirements, such as public notice and public access, governing the use of teleconferencing.

Mr. Paul asked Mr. Scroggins for his appraisal of the performance of Scientific Games. Mr. Scroggins stated that while they were not perfect, he did feel that they were working to resolve problems that have been identified. He stated that OLC had devised an internal system to track problems and problem resolution. He stated that OLC was meeting regularly with Scientific Games to ensure all issues were satisfactorily resolved. Mr. Paul asked if he (Mr. Scroggins) felt that Scientific Games was adequately staffed, and Mr. Scroggins replied that Scientific Games was adding more staff members to their Oklahoma City office, which should be very helpful. Mr. Paul asked how often Scientific Games was paid, and Mr. Scroggins replied that they (Scientific Games) would submit monthly invoices, although no invoices had been paid as of yet.

Mr. Orbison stated that although sales were currently a little above projection, he was concerned with the general downward trend. Ms. Ball agreed and asked Mr. Scroggins if this decline would be considered normal. Mr. Scroggins replied that some drop-off would be considered normal after the initial euphoria of start-up. He stated that normally the lottery would try to have a large promotion around this time of year to boost sales, but because of the start of Powerball and the promotions associated with that, OLC was unable to do a major holiday promotion this year. He added OLC will plan major summer and fall promotions to build sales.

Mr. Paul asked how many retailer applications were currently "in the pipeline." Mr. Redburn stated there were about 5-10 new applications coming in per week, with about 30-50 currently pending approval. Mr. Paul noted that the total number of retailers was below the 2,500 originally projected based on demographics. Mr. Scroggins stated that starting on Wednesday (Dec. 13) OLC would be hearing retailer appeals and some of those retailers might prevail and be approved. He stated one scheduled

appeal was from a check cashing business. Ms. Ball and Dr. Dzialo asked what other types of the issues were being appealed, and Mr. Scroggins replied that there were several issues, such as bankruptcy, tax payments, low credit scores, late payments, etc.

Mr. Paul complimented Mr. Scroggins on his performance with the media, and particularly on a recent interview on public television with Dick Pryor. Mr. Paul stated that he felt the majority of media reports on the lottery had been fair and balanced, with the exception of the front-page story regarding a disgruntled check-cashing retailer. Mr. Scroggins agreed, and reported that this retailer's issues had been resolved. Mr. Scroggins observed that although he did not agree with the man's claims, it was in the best interest of OLC and the state to settle the matter.

Mr. Orbison commented on some of the problems encountered with Scientific Games and urged Mr. Scroggins to continue to be sure they fulfilled their contractual obligations. He stated that now that start-up was complete, it was time to go back to improve in some areas, particularly working with retailers. Mr. Scroggins agreed and added that he urged his staff to stop into retail locations periodically just to check and see how they were doing. He stated that he and his staff would continue to closely monitor the performance of Scientific Games.

Mr. Paul asked Mr. Scroggins how many people were currently on the OLC staff, and Mr. Scroggins replied there were currently 33 employees. Mr. Paul asked how many there would ultimately be, and Mr. Scroggins stated probably around 60, although he was hiring very slowly and carefully in order to ensure that each position hired was essential to OLC operation.

Trustees discussed the user-friendliness of the lottery games, and the fact that they were not familiar with the experiences of a first-time player, because as Trustees, they were prohibited from buying lottery tickets in Oklahoma.

## **ITEM 14**

### **Adjournment**

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

Roll call: Mr. Orbison, Mr. Norick, Dr. Dzialo, Ms. Ball, Mr. Charlton, and Mr. Paul voted to approve. Motion was carried and the meeting adjourned.

Submitted by:

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Linda Dzialo, Secretary

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James Orbison, Chairman