

OKLAHOMA LOTTERY COMMISSION
MINUTES OF SPECIAL MEETING
Tuesday, September 13, 2005 – 1:30 p.m.

Member Present:

Ms. Cindy Ball
Mr. George Charlton, Jr.
Dr. Linda Dzialo
Mr. Ron Norick
Mr. James Orbison
Mr. William Paul
Mr. Thomas Riley, Jr.

Others Attending:

Jim Scroggins, Executive Director OLC
Beverly Hughes, OLC
Rollo Redburn, OLC
Jerry Havener, OLC
Penny Nicholson, OLC, Recording Secretary
Tony Thornton
Lauri Parker
Charlie Scannela
Mary Wills
David Kinney, Attorney General's Office

Paul Ostendorf
Allen Blankinship
Pat Hall
Steve Botthol
Don Shafar
Steven Dow
Mick Hinton
Jeff Packham
Bobby Stern, G-Tech

ITEM 1

Call to Order. Roll Call and announcement of quorum.

Roll was called. All Board of Trustees members were present. 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.

The Chairman asked Penny Nicholson to confirm that the agenda was posted in accordance with the Open Meeting Act. Ms. Nicholson confirmed the agenda was posted within 24 hours of meeting, as required.

ITEM 3
Approval of Minutes of the August 29, 2005 Special Meeting

Mr. Riley made a motion to approve the minutes of the meeting held August 29, 2005. Cindy Ball seconded the motion. No additions or corrections were requested.

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

ITEM 4
Interim Committee of Operations and Structure Report – William Paul

Mr. Paul reported the staff, members of the Attorney General's office and Mr. Riley had been working on the Rules.

Mr. Norick asked about the legal process for submitting rules. Mr. Kinney stated that the emergency rules would be submitted to the Governor for approval and would become effective as soon as he signed them. Permanent rules would be subject to review and approval by the Legislature, and that would be done sometime around late winter or early spring. Mr. Norick asked if the Commission was required to have Rules, or could some type of administrative guidelines be used instead. He noted that the drafts of the rules were very lengthy and detailed, and in the event that something was overlooked or was overly restrictive in some way, formalized Rules approved by the Legislature might be very difficult to change. Mr. Kinney stated there were no restrictions on the number of emergency rules that could be passed, so these problems could be dealt with using emergency rules. Mr. Riley pointed out that there were some restrictions on the use of emergency rules, and that they could be used only when there was "an imminent peril to the preservation of public health, safety, welfare, or a compelling public interest that requires an emergency rule." Mr. Norick asked if "Formal Procedures" could be adopted by the Board of Trustees in lieu of Rules. Mr. Kinney stated they could be, but that method would provide no permanency for the retailers to rely upon. Mr. Scroggins stated he thought the Statute required the retailer selection criteria and retailer appeals to the Board be set up as Rules. Mr. Norick asked that the Attorney General's office check on what items were required to be promulgated in the Rules. Mr. Scroggins said he invited and encouraged any input or comments from Board members regarding the Rules.

Mr. Paul asked if Rules had to be in place before the start of sales of Instant Tickets. Mr. Scroggins stated that Rules would need to be in place, as required, but that the use of formal procedures for some matters would be ideal, if permitted by law.

Mr. Paul asked about using the Administrative Procedures Act for problems requiring a quick decision. Mr. Kinney stated the Administrative Procedures Act could be used as a default means for dealing with administrative problems.

Mr. Orbison commented that the Statute had very few provisions regarding the governance of the Board of Trustees. He stated that he felt more specific provisions,

such as by-laws, should be put in place for the Board. Mr. Paul agreed and said he would undertake to address that concern.

Ms. Ball asked what had to be done prior to the October start-up date and whether an interim meeting was needed to discuss finalization of the Rules for Retailers. Mr. Scroggins and the other Board members agreed that an additional meeting would need to be scheduled prior to start-up. In the meantime, the Attorney General's office and Mr. Scroggins would get more specifics as to what information had to be contained in the formal Rules and what might be addressed through other means. Mr. Scroggins stated that he would e-mail the information to the Board members, hopefully by the end of the week.

ITEM 5

Executive Director Report

Mr. Scroggins reported that to date approximately 1,450 retailer applications had been received, some of which had completed the approval process and some still being processed. Mr. Scroggins stated that representatives of the Lottery Commission and Scientific Games were contacting retailers to encourage them to submit applications to become lottery retailers. Mr. Norick asked if there were any major chains that had not made application to become retailers. Mr. Scroggins replied there were some that were expected within the next day or two, and that there would probably be some who would decide not to participate in the lottery. Mr. Charlton requested that Board members be kept updated on the status of the number of retail applications, approvals, installations, etc. Mr. Scroggins stated that several hundred applications had completed the entire process and that Scientific Games had begun installations.

Mr. Scroggins reported the hiring of Carl Selby as internal auditor. He thanked Mr. Riley for his assistance with interviewing candidates for the internal auditor's position. He also reported that 17 key positions had been posted on the OLC website and advertised in the newspaper and that applications were being reviewed.

Mr. Scroggins reported that remodeling of the Lottery offices was progressing. The walls were framed out and basic electrical was being run. The building manager projected that the offices would be ready for occupancy around October 1st. He stated that once the offices were completed, work would begin on the building facade and new entrance to the building.

Mr. Scroggins reported that Mr. Redburn would be attending the meeting of the National Association of State and Provincial Lotteries in Minnesota, a large trade show with approximately 125-130 vendor booths. Mr. Redburn will also attend Multi-State and Powerball meetings while at the conference.

Mr. Scroggins reported that OLC and Scientific Games will have booths at the Oklahoma City State Fair in the Made in Oklahoma building.

Beverly Hughes presented the new Lottery logo and passed out samples of a magnet with the logo that will be given away at the Fair.

Mr. Norick asked when retailer training would begin and was told it was scheduled to begin on September 26th. Mr. Norick asked what was being installed at the retail locations and was told the satellite receiver, wiring, Plexiglas ticket dispenser and lottery terminals were being installed by Scientific Games.

ITEM 6

Proposed Executive Session to discuss Requests for Proposals for drawing studio and drawing auditor services pursuant to 25 O.S. 307(B)(7), 51 O.S.

24A.10(B)(1) and OAC 580:15-2-7.

Mr. Norick asked if the Executive Session could be moved to the end of the agenda so people who were at the meeting for other issues would be able to leave before the Executive Session was convened. In discussion it was decided not to move the session in order that there would be time for the drawing studio and drawing auditor vendors to be formally confirmed by DCS and a public announcement made prior to the end of the meeting. Mr. Norick made a motion to convene the Executive Session. Dr. Dzialo seconded the motion.

Roll call: Mr. Norick, Mr. Orbison, Mr. Riley, Mr. Charlton, Dr. Dzialo, Ms. Ball, and Mr. Paul voted yes. Motion was carried and Executive Session convened.

ITEM 7

Discussion & possible action on Requests for Proposals for drawing studio services discussed in executive session.

Mr. Scroggins stated that RFPs had been posted on the DCS website on August 10th and mailed to major television stations. Two proposals were submitted. Mr. Scroggins briefly explained the process used to evaluate the proposals, and stated the evaluation committee recommended Vendor A (E)*.

Dr. Dzialo made a motion to approve the award of the contract for the Drawing Studio to Vendor E (A)* for a period of one year with the possibility of two, one-year extensions. Mr. Paul seconded the motion.

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

(*Note – There was some confusion about the designation of the vendor. Clarification was made that Vendor “A” and Vendor “E” referred to the same vendor).

ITEM 8

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

Mr. Orbison announced there would be no action taken on this agenda item at this meeting, and that it would be placed on the agenda for the next special meeting.

ITEM 9

Discussion and possible action on Requests for Proposals for internal controls.

Mr. Riley reported that he had had extensive conversations with a national firm interested in providing an assessment/proposal. He stated that the company's terms and conditions were in conflict with some attorney general opinions, particularly in regard to liability and indemnification. Mr. Riley stated that they, and most other national firms, have similar terms and conditions. Specifically, they want their liability limited to the amount of their fees. The opinion of the Attorney General states that liability is unlimited. Mr. Riley said he would be scheduling talks with another auditing group that has expressed interest.

Mr. Orbison expressed thanks to Mr. Riley for his work with this matter.

Mr. Scroggins stated that the newly hired OLC Comptroller, Stan Van Ostren and Internal Auditor, Carl Selby would now be available to participate in this process. Mr. Riley suggested that OLC might be able to save a great deal of time and money by documenting some processes internally. He stated that Carl Selby has completed approximately 2/3 of the training required to be certified as an internal auditor, which should be of help to OLC in this matter.

ITEM 10

Discussion and Possible Action Regarding Building Exterior.

Mr. Scroggins asked the Board members about the wording and lettering size for the OLC building sign(s). Mr. Redburn passed around a photo and schematic of the building facade. He stated that the new entrance being planned for the Lottery Commission would be built to match the existing large entrance. Discussion was held about putting a sign in the median, perpendicular to the building, as well as a sign on the front of the building. The use of the lottery logo as a sign was discussed, as well as the size and wording for the lettering on the sign.

Mr. Scroggins stated that he would like to eventually see a billboard with the Powerball Jackpot placed at the back of the building, visible from the Centennial Expressway.

Mr. Scroggins offered to prepare a couple of renderings of signs for the building and median for the Board members to review. Mr. Norick had made a motion to vote on approving the sign, but withdrew it pending Board review of the renderings being prepared by Mr. Scroggins. Voting was deferred until the next special meeting of the Board.

ITEM 11

Discussion and Possible Action on Commissions Paid to Lottery Ticket Retailers

Mr. Scroggins asked the Board to revisit the subject of “back-end commissions” for retailers. At the August 9th meeting the decision had been made to have a 6% commission on sales, but no commission for cashing prizes. Mr. Scroggins stated that he would like to see some commission on the back end, such as ½% or 1%. Mr. Riley asked if it saved the State money when the vendor cashes prizes as opposed to being paid by check from OLC. Mr. Scroggins replied that studies done in Missouri indicated considerable savings, due to the high cost of producing checks through the State. Dr. Dzialo asked if a cashing bonus would be an incentive for stores to become lottery retailers, and Mr. Scroggins replied that he felt it would be.

Mr. Norick expressed concern that many convenience stores have signs stating cashiers do not have access to any more than \$20 in cash. He asked if that would be a problem when it came to paying out prizes. Mr. Scroggins replied that he could not recall that ever being an issue, since most prizes paid by the retailer were under \$25. Large prizes of \$600 or more have to be paid through OLC, in order that proper taxes are withheld. He added that retailers would also have the option of paying part of the prize with cash and the remainder by check.

Mr. Paul asked if it was optional that retailers pay cash prizes, and if not, why retailers should be given an incentive to pay something they are required to pay anyway. Dr. Dzialo asked Mr. Scroggins how this was handled in Missouri. Mr. Scroggins stated that the sales commission in Missouri was 5% with a 2% cashing bonus. Mr. Orbison stated that he had also had second thoughts on the issue of back-end commissions and thought that some type of commission should be paid for cashing. He asked Mr. Riley how paying that type of commission would affect the budget. Mr. Riley replied that payment of a cashing bonus would be consistent with the practices of other states and would work within our budget. Cost of paying this bonus was estimated by Board members to be less than \$500,000 per year. The bonus would provide additional inducement for merchants to become lottery retailers and thereby helps OLC meet sales goals.

Mr. Riley made a motion to approve an additional .75% cashing commission for lottery retailers. Mr. Charlton seconded the motion.

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

ITEM 12

Discussion and Possible Action Regarding Budget Projections, Expenditures, and Approval of Budget

There were no items to be discussed regarding budget at this time.

ITEM 13
Scheduling of Next Special Meeting.

Mr. Orbison stated that an additional special meeting would be needed before the next scheduled Special Meeting on October 11th in order to finalize the Rules for Retailers and discuss signs for the building façade. Mr. Riley proposed a meeting be scheduled for September 27th at 1:30. Other Board members agreed to meet on that date.

ITEM 14
Adjournment.

Mr. Norick made a motion to adjourn the meeting. Mr. Charlton seconded the motion.

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

Submitted by:

Linda Dzialo, Acting Secretary

James Orbison, Chairman