

Massachusetts State Lottery Commission

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STEVEN GROSSMAN

Treasurer and Receiver General

PAUL STERNBURG

Executive Director

DATE: October 5, 2011

TIME: 2:30 p.m.

PLACE: Office of the Treasurer and Receiver General
12th Floor
One Ashburton Place
Boston, MA

MEMBERS PRESENT: Steven Grossman, Treasurer and Receiver General, Chair
Martin Benison, Commissioner
Beth Boland, Commissioner
Mary Beth Heffernan, Commissioner
Tim McMahon, Commissioner

ALSO PRESENT: Paul Sternburg, Executive Director, Lottery
William Egan, General Counsel, Lottery
Jean Caron, Executive Assistant, Lottery
Beth Bresnahan, Director of Marketing & Communications,
Lottery
Cathy Judd-Stein, Assistant Executive Director of Policy
and Special Counsel, Lottery
David Sweeney, Chief Financial Director, Lottery
Katherine Craven, 1st Deputy, Treasury
Jamey Tesler, General Counsel, Treasury
Al Gordon, Director of Policy, Treasury
James MacDonald, Deputy Treasurer

Robert Frasca

1.0 Opening of the Meeting

Treasurer Grossman opened the meeting at 2:46 p.m.

Treasurer Grossman spoke of key personnel changes at the Treasury. Effective December 1, 2011, Katherine Craven will be stepping down as 1st Deputy Treasurer and Executive Director of the Mass School Building Association (MSBA) to accept a position at the University of Massachusetts school building authority. Her appointment to this position will give her a direct role in implementing the college system's recently announced \$3.1 billion capital plan. Katherine has expended over \$8 billion dollars in the last six (6) years and enriched public education. Treasurer Grossman stated that he will have a hard time finding a replacement with the talent that Katherine exhibited. The Treasurer stated that Jack McCarthy will serve as Katherine's interim replacement as Executive Director of MSBA. The Treasurer also introduced Jim MacDonald as Katherine's replacement as 1st Deputy Treasurer. The Treasurer stated that Jim has many years of experience at the Treasury and he looked forward to working with him in his new role.

Treasurer Grossman explained that the Casino Bill specifies that the Lottery has exclusive licensing rights to KENO. NASPL is doing a survey to determine the impact of casino's to lotteries. Treasurer Grossman feels that they will be unable to compare Massachusetts to other states, and that we should be ready with options and steps we can take to oversee the Lottery.

The Treasurer plans to go to the Commission asking auditor of RFP to hire an outside consultant to help us with guidelines, rules & regulations.

EXECUTIVE DIRECTOR REPORT

Executive Director Sternburg introduced David Sweeney as the Chief Financial Officer of the Lottery. Dave spoke of his past experience, including working for Speaker DeLeo.

On behalf of the Commission, Treasurer Grossman thanked Director Sternburg and Beth Bresnahan for their teamwork on instant tickets. The tickets are performing so well because of their work and the work of an absolutely superb Marketing team.

Cash Winfall now has a limit of \$2,500 per drawing in the system. The Raffle game will start in October. Powerball will cost \$2 as of January, and Lucky for Life, the New England States game, will start in March.

Treasurer Grossman told the Commissioners about the recent Lottery Employee Recognition in which he recognized 138 employees at the Lottery for 25 – 39 years. We are also approaching the 40th anniversary of the Lottery. He wants to recognize the 96 agents that have served the Lottery for 40 years. We will be launching a special instant ticket for that event.

Treasurer Grossman would like the Lottery Senior Management Team to meet once a year with the Commissioners and do a presentation of their department. This would be an opportunity for the Commissioners to meet the people who do not meet on a monthly basis.

Executive Director Sternburg informed the Commission that the Lottery's overall net profit for the first 2 months of FY12 is up \$18.8 million. Sales for the month of August were up \$13 million due in part to the \$11 million increase in instant ticket sales. Powerball, KENO and Mass Cash sales increased by \$3 million in August. Three games that saw decreases in

sales in August were: Mega Millions - sales were down \$2 million, Cash Winfall - sales were down \$2 million and the Numbers Game- sales were down \$1 million.

Instant Ticket Portfolio

Instant tickets have been more appealing due to the redesign of instant tickets. Simple changes such as colors, themes and glitter or foil tickets draws the customers eye. The black ticket did so well because the black color stood out. The design of the 40th Anniversary ticket will likely be foil or glitter.

Boston Bruins Instant Ticket Launch event on October 4th at the TD Garden was the first attempt by the Lottery to sponsor a contest through Facebook in which 75 fans won 2 tickets to attend. We also selected 100 top agents to attend. There were 3,000 fans that entered the contest, helping to build exposure to the Lottery's growing fan base.

The Massachusetts \$10 Million Raffle Update

The Lottery will launch its first ever online raffle game at the end of October. Only 1 million \$20 tickets will be sold. The drawing will be on New Years Day, 2012 and the results will be posted on masslottery.com. The lump sum prizes will be awarded as follows:

One \$7 million prize

One \$1 million prize

Twenty \$50 thousand prizes

One-thousand \$1,000 prizes

2.0 Acceptance of the Minutes of the Meeting of August 23, 2011

Treasurer Grossman asked the Commission to accept the minutes of August 23, 2011.

Commissioner Heffernan made a motion to approve the minutes of the meeting of August 23, 2011 at 3:29 p.m. The motion was seconded by Commissioner McMahon. The minutes were unanimously approved.

3.0 Votes presented to the Commission

3.1 Counselor Egan asked the Commission to ratify and adopt the Decision of William Egan, Esq. in the matter of the appeal of Carlos Carvalho v. Director, MSLC.

Commissioner Boland motioned to approve the recommended decision, Commissioner McMahon seconded. The decision was unanimously adopted.

3.2 **Demeo & Associates, LLC.** The Commission discussed the request by former Treasurer Cahill and former Executive Director Cavanagh to have their legal costs paid in the Bingo Innovative Software LLC v. Timothy P. Cahill et. al. civil action in Suffolk Superior Court that was brought during their tenure as chairman and executive director of the Lottery.

Counselor Egan explained to the Commission the history of the case and the transition from representation by the Office of the Attorney General to agency counsel, and now the requirement that the individuals retain their own counsel. Counselor Egan also gave a brief overview of the mandatory and discretionary indemnification provision under MTCA. He also informed the Commission where this was an active case that the new

attorneys had to take over the case and had already incurred approximately \$28,000 in fees. No fees have been paid as of the date of the meeting.

Counselor Tessler stated that the vote would only approve up to \$50,000 in fees, and the Commission has an obligation to indemnify a former constitutional officer.

Counselor Egan stated that the majority of claims have already been dismissed, and the Lottery agrees with the position of the case. The judge in dismissing the case gave an indication that he did not believe the remaining claim would make it to trial.

Counselor Egan stated that authorizing a limited amount of fees gives the Lottery control where the Commission would have to review and authorize any amount over the approved figure.

Commissioner Boland has two (2) issues with this. She said the Treasurer's right to indemnification will kick in and she is concerned about controversy surrounding the former Treasurer. She has a concern with the perception that the Commission funding fees to a law firm handling other matters. The Commission will determine if it will pay costs. She said in some cases indemnification does not apply until the process is complete, at the end of the litigation. A client pays the fees, and gets reimbursed through indemnification. Mr. Cavanaugh's legal fees will be determined.

Treasurer Grossman asked if we could modify the motion and authorize payment of \$28,000 in fees to date, and whereas we meet monthly vote on additional fees.

Counselor Egan stated that he has requested a budget from Attorney DeMeo for each possible stage of the litigation.

A motion to amend the legal costs to \$28,000 was made by Commissioner Boland and seconded by Commissioner Benison. Motion approved (4-0).

4.0 Executive Session

Treasurer Grossman was looking for a motion to allow the Commission to convene in executive session to allow the Commission to discuss strategy with respect to the ongoing litigation matter, Access with Success v. MSLC, because discussing the same in an open meeting may have a detrimental effect on the litigating position of the Commission.

He stated that no votes will be taken in executive session, and that the Commission will not reconvene in open session.

A motion was made by Commissioner Heffernan and seconded by Commissioner Benison.

A motion to move into Executive Session was approved by roll call vote by Commissioner Benison, Commissioner Boland, Commissioner Heffernan, Commissioner McMahan and Treasurer Grossman. Treasurer Grossman said that the Commission will not be going back into open session.

Treasurer Grossman thanked everyone for attending the Commission meeting. The meeting was adjourned.

The next Commission Meeting will be October 31st, 2011 at 2:30 p.m.