

Massachusetts State Lottery Commission

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STEVEN GROSSMAN

Treasurer and Receiver General

PAUL STERNBURG

Executive Director

DATE: October 30, 2012

TIME: 10:00 a.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
Jane Gabriel, Acting General Counsel and designees for
Commissioner Mary Beth Heffernan
Beth Boland, Commissioner
Tim McMahon, Commissioner

ALSO PRESENT: Paul Sternburg, Executive Director, Lottery
William Egan, General Counsel, Lottery
Beth Bresnahan, Assistant Executive Director of Marketing
and Communications, Lottery
Jean Caron, Executive Assistant, Lottery
Cathy Judd-Stein, Assistant Executive Director of Policy
and Special Counsel, Lottery
Dave Sweeney, Chief Financial Officer, Lottery
Elizabeth Pottier, Internal Auditor, Lottery
Jamey Tesler, General Counsel, Treasury
Al Gordon, Director of Policy, Treasury
James MacDonald, Deputy Treasurer

Steve Connelly, Connelly Partners
Dana Wantman, Connelly Partners
Robert Frasca

1.0 Opening of the Meeting

Treasurer Grossman opened the meeting at 10:05 a.m.

2.0 Acceptance of the Minutes of the Meeting of September 25, 2012

Treasurer Grossman asked the Commission to accept the minutes of the September 25th, 2012 meeting. Commissioner Benison made a motion to accept the minutes of the meeting and Counselor Gabriel seconded the motion. The minutes were approved 5-0 at 10:06 a.m.

3.0 EXECUTIVE DIRECTOR REPORT

Director Sternburg presented the Executive Director's report for September (Please reference the handout).

During the presentation of the 50/50 Raffle (page 4), Treasurer Grossman asked the Director what he anticipated in sales and asked for a low, medium and high estimate. Director Sternburg felt a low figure would be \$2.5 million, a medium figure would be approximately \$4 million and a high figure would be anywhere from \$6 to \$7 million. The last two weeks are when the sales usually spike. Director Sternburg is very confident that the raffle will do well. Commissioner Boland asked if there is any cannibalization of other games due to the Raffle. Director Sternburg told her that based on last year's raffle experience there was no cannibalization and it actually brought in many new players. He feels with the new lower price point the raffle will perform much better this year. He also told the Commission that the 50/50 raffle concluded, he would provide the Commission with an analysis of the game.

Director Sternburg announced that Holiday advertising with Connolly Partners will begin November 26th (page7). He told the Commissioners that Connolly does great work and he is looking forward to working with them.

Commissioner Boland requested a column showing net profit on the MSLC Revenue results (page 26). Mr. Sweeney said he would send the information to Commissioner Boland. Director Sternburg said that work has been done to add the column and it should be done in time for the next commission meeting.

4.0 LOTTERY REFORM SCORECARD

With regard to the Lottery Reform Scorecard Procurement (page 27), finance and policy members of the Lottery will be meeting with OSD to discuss the Lottery's procurement practices and reforms, as well as the supplier diversity program. Counselor Judd-Stein explained to the Commissioners that the Lottery complies with OSD regulations which reflect the Governor's policy set forth in Executive Order No. 524. This program requires that bidders work with a minority and/or women-owned business through the supply chain. In Lottery procurements, ten percent (10%) of the evaluation points may be awarded to vendors who have committed to work with a minority and/or women-owned business to provide subcontracting services (directly related to the RFR), ancillary services, or growth and development services. Any bidder awarded a contract must ultimately participate in the supplier diversity program. Because the Lottery is designated by OSD as a Level II agency, the Lottery may be able to adopt parts of the Treasurer's SDP. However, the Lottery currently is committed to following OSD's program. Treasurer Grossman explained that under his plan, 90% of procurement points are awarded for best value, 5% for diversity, and 5% for conducting business in Massachusetts, through the Treasurer's Invest in Massachusetts program. Under the Treasurer's SDP, points may be earned if the bidder is a certified minority and/or women-owned business or if the bidder has partnered with a minority and/or women-owned business for subcontracted, ancillary, or growth and development services.

It was suggested that the definitions of the structure be broadened to guard against vendors' claims that they have met qualifications as a minority or women-owned business. Counselor

Gabriel asked about the purpose of the supplier diversity plan and the related concerns. Treasurer Grossman explained that the purpose is to develop businesses in the supply chain that may one day be in a position to compete in a bid. The program focuses on supplier diversity because, under the prior program that awarded points to minority and women-owned businesses, the same businesses were receiving points in each bid and the concern was growing more minority and women-owned businesses. Commissioner Boland said that she is “strongly in favor” of integrating supplier diversity in the point system. She felt that there should also be a reward for businesses that are minority and/or women-owned and not just for supplier diversity. She felt that point distribution should be more weighted to the owner. Commissioner McMahon agreed with Commissioner Boland that the primary business should not be excluded when scoring and should be rewarded. Counselor Gabriel stated that she would need to hear more about the distinction between the two programs. Counselor Tesler stated that those participating in the OSD program are all state-certified companies. Treasurer Grossman said he would favor a more comprehensive approach and asked that the Lottery meet as planned with OSD and report back to the Commission.

5.0 Discussion – Internet Gaming and Federal restrictions on state lotteries

Treasurer Grossman updated the Commissioners with regard to on-line gaming and a proposed Act by Senator Reid on behalf of Nevada, limiting on-line gaming. This Act would be harmful to all Lotteries across the country. The bill would give Nevada a two year lead to on-line gaming by excluding all state lotteries. The legislation is opposed by NASPL which filed opposition on behalf of forty-three (43) state lotteries. Nevada, of course, does not oppose the proposal. On December 23, 2011, the Department of Justice modified its interpretation of the Wire Act when it allowed state lotteries to participate in online intrastate sales.

In Massachusetts, prior to the ruling, Treasurer Grossman created an advisory group, Treasurer Grossman’s Online Task Force. He retained the legal services of Greenburg Traurig and research services from Spectrum Gaming Group and Social Sphere. November 14th, 2012 the preliminary results of the research will be presented to the Online Task Force.

Nevada Senator Harry Reid and Arizona Senator Jon Kyl’s proposed legislation would essentially overturn the DOJ’s interpretation and would be harmful to state lotteries. At the current time, there is no idea if the legislation will be adopted, but the Massachusetts Lottery cannot take the chance. This will have a devastating impact on a state lotteries, which would have a devastating impact on the revenue returned to the cities and towns of the Commonwealth. Treasurer Grossman met with Gaming Commission Chair Steve Crosby and Commissioner Enrique Zuniga and discussed his concerns. The Gaming Commission is also concerned and suggested working together.

Treasurer Grossman is asking for Commissioner’s support to oppose initiative. We want to be as aggressive as possible, working with other lotteries as well. Commissioner Boland agreed that we absolutely need to “push back”. She is very much in favor of opposing the Act, making sure that one Lottery isn’t given more consideration than another. Treasurer Grossman said that Massachusetts is in a position to lead because of our standing in Lottery ranking. Acting Counselor Gabriel requested to see the legislation as drafted and feels “hard pressed” to support opposition today. Being a designee, she feels strongly about seeing the legislation. Treasurer Grossman explained to Counselor Gabriel that he is only looking to oppose the approach stating that it is unfair and unjust. There will be tremendous opposition and that is why the Treasurer is looking for support. He understands that the position of designee is a difficult one. Counselor Gabriel thanked the Treasurer for his explanation, but said that she still would like to review before she opposes and would abstain from the

vote. Commissioner McMahon strongly opposes giving advantage to other interests that would potentially harm the Lottery. Commissioner Benison also supports opposing the Act.

There can be no credit card usage without legislative approval. Treasurer Grossman asked for a motion to allow the Treasurer and Executive Director to speak on behalf of the Commission. Motion was made by Commissioner Benison and seconded by Commissioner McMahon. Acting General Counsel Gabriel abstained from voting. Motion approved 4-0-1.

6.0 Votes presented to the Commission

There are no votes to present to the Commissioners at this time.

Treasurer Grossman then informed the Commissioners that they would be going into Executive Session for the purpose of an update with respect to Double Platinum Payday. There will be no votes taken in the Executive Session and the Commission will reconvene solely to adjourn the meeting.

Treasurer Grossman requested a motion to move into Executive Session to allow the Commission to discuss the litigation position of the Commission because an open meeting may have a detrimental effect on the future litigation position of the Commission. The exception is found in Massachusetts General Laws c. 30A, §21(a)(3). The motion was made by Counselor Gabriel and seconded by Commissioner Boland at 11:18 a.m. A roll call vote was taken: Commissioner Boland: yes; Commissioner McMahon: yes; Counselor Gabriel: yes; Commissioner Benison: yes and Treasurer Grossman: yes. Motion approved 5-0.

The Commission reconvened at 11:31 p.m. with a motion to adjourn being made by Commissioner Benison and seconded by Counselor McMahon. Motion approved 5-0.