

MINUTES

ARKANSAS LOTTERY COMMISSION

Friday, May 15, 2009

9:00 a.m.

**Winthrop Rockefeller Drive
Morrilton, Arkansas**

The Arkansas Lottery Commission met May 15, 2009, at 9:00 a.m., at the Winthrop Rockefeller Institute in Morrilton, Arkansas. Arkansas Lottery Commissioners present were: Ray Thornton, Chairman; Dianne Lamberth, Vice Chair; Derrick Smith, Secretary/Treasurer; George Hammons, Susan Jones, Mike Malone, Ben Pickard, Patty Shipp and Joe White. Also attending were Bureau of Legislative Research (BLR) staff: Laura Gilson, Attorney; Estella Smith, Legislative Analyst; Nell Smith, Research Analyst; Kendra Drone, Secretary; and Patrick Ralston.

Chairman Thornton called the meeting to order and motioned for the assembly to resolve into a Committee of the Whole for further discussion by Mr. Ernie Passailaigue, Executive Director, South Carolina Education Lottery Organization; and Ms. Margaret DeFrancisco, President/CEO, Georgia Lottery Corporation. He also encouraged continued participation by the Commissioners.

Mr. Passailaigue concurred with the Commission regarding the publication of the job description for the position of director. He also recommended that the Commission do whatever they could to speed up the Request for Proposal (RFP) process, especially with the nature of gaming procurement contacts to secure the online procurements. He added that the RFP process was very time consuming. He reminded the Commission that they had a 30-day window to receive bids and noted that this was the Commission's program and they were there to serve as a resource.

Commissioner Malone stated that one of the things that continued to come to his mind was the timeline, list of action items, and the schedule for reaching a target date to implement ticket sales. He asked if Mr. Passailaigue could further explore the topic in greater detail. He also suggested that the Commissioners think about setting a target date for selling lottery tickets. Ms. DeFrancisco asked if it was inappropriate to ask the two seasoned lottery vendors, that are in the audience and very familiar with timelines, to verify if the timelines discussed were realistic; however, she wouldn't identify which companies they represent. Commissioner Lamberth stated that hopefully, at some point, the Commission would be hearing from them anyway, so why not today. She added that if the lottery vendors weren't going to identify where they were from and try to push their products, she would sure like to hear from them.

Chairman Thornton stated that he was uncomfortable with the suggestion of allowing the two lottery vendors to speak, noting it would be inappropriate to hear from them and that other competitors would probably feel displaced. He added that when the Commission issues RFP's and conducts interviews, it would be appropriate to interview everyone in the market to give the Commission their services. Therefore, he recommended that the Commission not hear from representatives of industry groups.

Ms. DeFrancisco added that the lottery vendors could give information based on their experience in the industry. Chairman Thornton asked if she could state that information to the Commission without having them speak. Ms. DeFrancisco stated that the information would vary and further suggested that the Commission decide where they would want to start selling lottery tickets then work backward from there with the understanding that it may be different when everything is figured out. Chairman Thornton said he appreciated the vendors expressing interest, but felt it only proper that all interested persons/vendors were invited to meet with the Commission at the appropriate time. He added that the Commission had a duty to all who were interested in providing

services that they have an equal opportunity to make their presentation. He added that he strongly recommended that no particular vendor or individual be given an advantage by speaking with the Commission without other vendors being present. Mr. Passailaigue stated that the Commission walked a fine line with the lottery vendors that were present and noted that they would be bidding on a contract and added that it was a competition. He further stated that he believed that the lottery vendors would concur that the timeline he presented was realistic for Arkansas. Commissioner White stated that he was very appreciative to everyone that has shown an interest in assisting the Commission and personally benefited from some of the information. He added that he believed that it would be proper for the Commission, at the appropriate time, to give everyone the opportunity to meet with the Commission. He concurred with Chairman Thornton's reasoning regarding his recommendation to not allow the lottery guests to speak. Commissioner Lamberth stated that if the Commission narrowed the lottery vendors' scope of what they were asking to exactly what Ms. DeFrancisco had stated, that it would behoove us to hear that narrow scope.

Commissioner Jones concurred with Commissioner Lamberth's comments. She stated that we have the expertise present and we are here to get down to the nuts and bolts and can glean from the information that they can gather as long as there is not any slant to their company. She also stated that she thought all of the other vendors/retailers had the opportunity to attend. Bishop Woolsey, Assistant Attorney General, Attorney General's (AG's) Office, stated that maybe the appearance of the lottery vendors seemed to be a little inappropriate since it was not an agenda item. Ms. DeFrancisco stated that the sooner the Commission could meet with the vendors and have them present their capabilities, the better. Based on the advice given by the AG's office, Chairman Thornton stated that the Commission would not hear from the two potential lottery vendors that were present because they were not on the agenda and would limit the presentation from the vendors to the proper time and place when they have been invited to participate. There was not a motion to overturn Chairman Thornton's ruling.

Chairman Thornton resolved the Commission into a Committee of the Whole for further discussion with Mr. Passailaigue and Ms. DeFrancisco regarding the timeline. Mr. Passailaigue stated that North Carolina, Tennessee and Oklahoma had adopted a similar timeline and suggested that Arkansas look at this type of timeline. He recommended that the Commission explore the disbursement issue as soon as possible. He also suggested that the Commission explore D&O insurance as soon as possible. He reiterated the importance of hiring a director and added that the success and failure of the Arkansas Lottery launch rests upon the director's shoulders. Ms. DeFrancisco stated that she had just received job descriptions for the CEO, Senior Vice President of Finance and Internal Auditor for total comparison and would send the information to Ms. Laura Gilson.

Mr. Passailaigue further discussed adopting a budget and business plan and suggested that the Commission contact Mr. David Gale, Director, NASPL, for some guidance, or he could contact Mr. Gale on their behalf. Ms. DeFrancisco stated she had been in contact with Mr. Gale and noted that he had finished with the Lottery Leadership Institute. She also stated that he directs a great lead call for discussions. She also made a reference to sending out a survey that the Commission could build and lead from as to what works best for them as their starting point. Mr. Passailaigue discussed areas regarding headquarter and office spacing issues. He noted that Arkansas could look at the ease for Arkansans, disability issues and security issues. He added that the Commission would want to ensure that they had back-up generators and cooling units that take into account all of the IT requirements. He noted that whoever obtains the online vending contract for the Commission's gaming services could assist with the configuration. He also stated that they could involve the contracted vendors with the issue. Ms. DeFrancisco suggested that the Commission contact Mr. Tom Shaaeen from North Carolina regarding space and leasing issues and noted that he could assist the Commission with their internal control system.

Mr. Passailaigue suggested that the gaming, IT, and sales and marketing individuals should have lottery experience and noted that the individuals that have the lottery experience understand what is involved. He

added that it would take strong and unique individuals to make the commitment to the Arkansas Lottery. Ms. DeFrancisco stated that the key individuals for the lottery were: Finance, Sales, Marketing, General Counsel and Chief Technology Officer. She added that there could be a mix of lottery and non-lottery individuals. Ms. DeFrancisco added that the director should allow the teams to build their teams. Mr. Passailaigue stated that having legal counsel with lottery experience was very important because they know where the mine fields are in the RFP process in terms of steering clear of potential protest.

Ms. DeFrancisco stated that the RFP process was very complex and complicated and would take an evaluation committee to understand. Mr. Passailaigue suggested that if the Commission desired, they could have other lotteries participate in their evaluation committee process along with your own people. He added that the majority of the lottery jobs should go to Arkansans. It was noted that Arkansas was an at-will state. Mr. Passailaigue also discussed the Personnel Procedure and the importance of structure for employees and guidelines. Ms. Laura Gilson stated that the employee handbook is part of the lottery contract and the lottery employees would be state employees. She noted that the Commission would be exempt from some state requirements. Mr. Passailaigue stated that he deals with human resource (HR) issues fifty percent of the time.

Mr. Passailaigue further discussed the Marketing Research and Launch Strategies. He stated the importance of having focus testing and focus groups before the gaming contracts are issued. Ms. DeFrancisco stated that the Commission needs to do market research and understand who their customers are and what they want. She added that marketing research should be completed right away to see what people are expecting. Mr. Passailaigue suggested that the Commission have focus testing and research groups before the gaming contracts are issued. Commissioner Malone asked if the marketing research should be done before the communications. Mr. Passailaigue stated that he thought part of the instant game contract included marketing research in the RFP. He stressed the importance of market research and focus group testing and focus testing for the retailers.

Mr. Passailaigue discussed the importance of recruiting minority owned businesses for services. He added that he hired someone to his staff that had the sole responsibility of recruiting minority contractors and assisting them with getting certified with the State and noted that they recruited minority retailers as well and suggested that the Commission "think outside of the box". Ms. DeFrancisco stated that there was a great expectation among minority owned businesses that they would be able to replicate. She added that the Georgia Lottery back-up site for their online gaming system is run by a minority contractor. She also stated that it was a matter of informing them that you want their business. Commissioner Hammons asked Ms. DeFrancisco what had she meant by using the term "back-up" site. Ms. DeFrancisco discussed having a back-up site and noted that the Commission should never be without selling tickets. She added that the system has to operate and the back-up system and testing system automatically kicks in to a power system if something goes array.

Mr. Passailaigue suggested that the Commission "think outside the box" when considering a bank. He also discussed Retailer Contracting Licensing. It was stated that the Commission would need someone that had retailer personnel training. Mr. Passailaigue noted that the Commission would have a lot of input from the Retail Commission. Once the contracts were set, the amount could only increase and not decrease. He also stated that retailers would do all of the Commission's banking, for the most part, and sell their tickets. Mr. Passailaigue recommended that the Commission contact his legal counsel regarding finger printing and background checks. Ms. DeFrancisco stated that there are only three online gaming systems vendors and there are three printers. However, they are not the same. She said that one of the three ticket vendors did not offer an online gaming system. She suggested that the Commission invite all vendors to make a presentation.

Mr. Passailaigue stated the University of Arkansas School of Business may have individuals that would probably have a game of approach to advertising, government relations or IT. Ms. DeFrancisco suggested that, for the online gaming system, the Commission would need a computer finance person and a technology person. Ms. DeFrancisco stated that the evaluation committee would probably often do site visits.

Mr. Passailaigue stated that once the Commission selects the evaluators, they need to be isolated from the entire world and not communicate with each other, vendors or other lottery individuals. Ms. DeFrancisco stated that the Commission would want the director to understand the business; however, he should not be near the evaluation process. Mr. Passailaigue stated that in South Carolina, the actual material for evaluations goes to the evaluators. However, the financial material regarding the bids goes to a separate group, a material management office under the Governor. He added that the evaluators were not concerned with the cost but were concerned with the qualitative aspect. Commissioner Malone suggested inviting the State Procurement Officer for a discussion on the RFP process. A schedule of dates and the number of days required would be helpful as we work toward a larger timeline. Chairman Thornton recommended that the procurement process be discussed at the next meeting. He made a request for a representative from the Department of Finance and Administration (DFA) to attend next Wednesday's meeting to discuss the procurement process. Ms. Gilson stated that she would contact DFA to invite a representative to attend the meeting.

Mr. Passailaigue stated, regarding the procurement process, he did not do anything in executive session because he wanted everything to be open and public. He noted that the Commission will need to discuss contractual issues. Chairman Thornton stated that the four-month timeline scared him because the Commission has to have a "shop that's up and running". He added that BLR staff services would expire on September 1, 2009. Ms. DeFrancisco stated that the Commission could launch the holiday games toward the end of October. Mr. Passailaigue addressed the importance of site visits. He suggested that the Commission visit with vendors of other lotteries. Ms. DeFrancisco stated that the Commissioners could visit Intralot USA, located in Georgia, and GTECH Americas contact person in South Carolina. Mr. Passailaigue stated that his Commission (South Carolina Lottery Education Lottery Organization), had invited the Arkansas Commissioners to visit their site.

Ms. DeFrancisco stated that David Gale would be happy to visit with the Commissioners. Chairman Thornton encouraged the Commissioners to attend the Spring Director's Meeting in Nashville, Tennessee, the last week of June and noted that the Commission had been given a special invitation to attend the Conference in Oklahoma City in October. She stated that David Gale would be sending out a request for bylaws to all lotteries and commissions. Mr. Passailaigue discussed the initial launch of the instant games and noted that the Commission would have to adopt game rules. He added that the internal communication system was very important to the lottery. Ms. DeFrancisco stated that Mr. Gale was developing standards for the lottery industry. Mr. Passailaigue stated that he felt the majority of play should be used by discretionary dollars and noted that the Commission should have a Gaming Policy or Point of Service (POS). He added that the Commission would have to decide what Arkansas needs regarding marketing and advertising. Chairman Thornton suggested that the Commission consider adopting the presented timeline. Commissioner Malone stated that he was interested in a target date and more information about the RFP process. He added that he was a little nervous adopting the timeline at this time.

Commissioner Shipp stated that the Commission would be well served if they took a step in the direction of setting a target date for the timeline then work backward. She added that once they receive the procurement information, they could work their timelines back. Ms. DeFrancisco suggested that the Commission invite the Battele Institute to discuss the procurement process and suggested a Mandatory Bidders Conference.

The Commission recessed at 10:25AM.

Chairman Thornton reconvened the meeting at 11:10 a.m. and asked that the Commission resolve into a Committee of the Whole to discuss the job description for the Director's position. He stated that the Commission needed to give a nationwide opportunity for individuals to submit applications and recommended a deadline of June 1, 2009, for responses and for those nominated by individual Commissioners. Commissioner Smith made a motion that the Commission adopt the description of the Director's job duties, that applications be received by June 1, 2009, and that the position be publicized as necessary. Commissioner Shipp seconded the motion. Commissioner Hammons made a motion that any commissioner may nominate, with the nominee's consent, any other individual for consideration for the position of executive director until the position is filled by action of the Commission. To assist with consideration of commissioner-nominees, a letter from the nominating commissioner describing the education, work history, and other pertinent information would be appropriate (Attachment #1). Chairman Thornton seconded the motion then stated that the Commission resolve into a Committee of the Whole.

Commissioner Smith's motion to adopt the Director's job description was approved by the Commission. It was stated that all appropriate amendments be made. Commissioner Pickard stated that he would like to have a statement added to the Director's job description that included knowledge of the industry is highly desirable. Commissioner Lamberth suggested that the following words be added to the Director's job description in paragraph three: "weighted consideration of candidates" and delete "required expertise". A motion was made by Commissioner Lamberth, and seconded by Commissioner White, to make the aforementioned changes. The amended version was accepted by Commissioner Smith. Chairman Thornton stated that the motions of amendments were adopted as amended. Commissioner Malone stated that he did not want to exclude individuals from applying. He suggested omitting the second statement in the second paragraph of the job description. Commissioner Pickard seconded the motion. Commissioner White suggested that the Commission change the wording to the aforementioned paragraph and sentence stated by Commissioner Malone to read as establishing detailed knowledge of the state of Arkansas is imperative. Commissioner Malone accepted the change. Chairman Thornton made a motion that the same paragraphs include understanding the importance of diversity. The motion was seconded and approved by the Commission.

Chairman Thornton suggested a two-pronged process for individuals to get their names to the Commission for the selection process: 1) Individuals that were interested in applying for the position that included individuals who have responded to the ad and applied, and 2) Those who have been nominated by a member of the Commission. Chairman Thornton suggested that each Commissioner carefully consider someone for the Director's position; however, he noted that this is not mandatory. It was also stated that the deadline to receive applications and resumes is June 1, 2009. Chairman Thornton recommended adding to the last paragraph and last sentence of the Director's job description: "those who are nominated in writing by the Arkansas Lottery Commission".

Commissioner Hammons stated that individuals need to know that another mechanism is in place. Commissioner Lamberth stated that she would like the discussion on the table as to why the Commission does or does not need the statement "and those who have been nominated by a member of the Commission" in the job description; every candidate needs the same application procedure. Chairman Thornton stated that the Commission should use whatever means that are available to get the absolute best candidate for the Director's position and noted that the Commission should have the right to add to the job description. He also stated that the Commission has the authority and responsibility to seek out the best candidate for the position. Commissioner Pickard stated that he shared Commissioner Lamberth's concerns from a different standpoint. He added that if individuals knew that there was an internal way to apply then it would

discourage other applicants and noted that no qualified person would apply by letter if there is an internal way to apply through nomination. Commissioner Jones stated that we should make this as transparent as possible. She added that everyone should go through the same process and "no two-pronged process."

Commissioner White stated we have a responsibility if we know someone; we should encourage them to apply. He added that the Commission should take every measure to get the best individual for the job and noted that if we state the nomination process on the front-end, he didn't have a problem with it. Mr. Passailaigue stated that the process of selection is similar to the selection of a football or basketball coach. He added that there was a degree of interest and noted that could be a smaller selection pool if the Commission didn't include the Commissioners' nominated candidates.

Ms. DeFrancisco stated that there was a risk of exposure involved for applicants and noted that the Georgia Lottery employs a search firm and doesn't reveal the candidates until the final selection. Mr. Woolsey suggested that the Commission review the pool of applicants and put a date out there. Commissioner Shipp suggested that the Commission add to the last paragraph of the job description that the Commission will begin considering applicants beginning June 1, 2009, and continue until the position is filled.

Commissioners Pickard and Jones felt uncomfortable with the suggestion made by Commissioner Shipp. Commissioner Thornton asked if there were other suggestions for wording. Commissioner Malone stated that some Commissioners agree that there wasn't a need for Commissioners to nominate candidates.

Commissioner Hammons made a motion that consideration of candidates, including those who have applied and those who have been nominated by a member of the Commission, shall begin June 1, and the process will continue until the position has been filled (Attachment #2). Chairman Thornton asked for a show of hands to indicate whether the Commissioners should have the authority to nominate candidates. Five Commissioners raised their hands, they were: Chairman Thornton, George Hammons, Derrick Smith, Patty Shipp and Joe White. Commissioners voting against it were: Mike Malone, Susan Jones, Ben Pickard and Dianne Lamberth. The recommendation made by Chairman Thornton passed and it was noted that 5 Commissioners voted in favor of the recommendation to allow Commissioners to nominate candidates and 4 Commissioners voted against it.

Chairman Thornton called for a vote on Commissioner Hammons' motion that consideration of candidates, including those who have applied and those who have been nominated by a member of the Commission, shall begin June 1, and the process will continue until the position has been filled. The motion carried. It was noted that the 7 Commissioners that voted for the motion were: Chairman Thornton, George Hammons, Derrick Smith, Patty Shipp, Ben Pickard, Joe White and Dianne Lamberth. The two Commissioners that voted against the motion were Mike Malone and Susan Jones.

Chairman Thornton recommended that the Director's job description be posted immediately and that a copy be sent to Mr. David Gale, NAPSL, and the Lottery Insider publication. Commissioner Smith made a motion to ask BLR staff to publish the Director's position online. Commissioner Jones seconded the motion and it was approved by the Commission. Commissioner Lamberth thanked everyone for allowing this discussion to take place. She said that having seen the will of the majority of the Commissioners by a 5-4 show of hands it was important to leave unified, thus the 7-2 favorable vote.

The Commission recessed for lunch at 12:15 p.m. and reconvened at 1:10 p.m.

Ms. DeFrancisco discussed the outline of the Nashville meeting, noting that the Commission did not need to attend the meetings when the vendors are there and noted that the vendors would be attending on June 23, 2009. She added that they could attend on June 22, 2009.

Chairman Thornton informed the Commission that they had obtained publication for the Director's job description. Chairman Thornton thanked the BLR staff and AG representatives for their diligence. He stated that BLR staff would be contacting Anne Laidlaw with Arkansas Building Authority to locate suitable facilities for office space. He further stated that staff would contact the media regarding a walkthrough of the facilities. He added that the meeting was open for concluding and summary remarks from the guest speakers.

Ms. DeFrancisco stated that the Commission has taken several giant bites and complimented them on trying to find out about the uniqueness of the lottery business. She also stated that she hoped that the respect among each of them continues. Ms. DeFrancisco stated that Mr. Gale would publish the Director's position in the national publication. Ms. Gilson will assist the Commission with the Director's job announcement publication.

Mr. Passailaigue stated that the Commission was a professional group and had taken the job very seriously. He also noted that the South Carolina Lottery did not like to have spilt votes and noted that the Commission sends a good signal. Ms. DeFrancisco expressed her hope that the Commission will continue to call on them because everyone wants them to succeed.

Chairman Thornton reminded the Commissioners of matters to consider that included a list of proposals from Commissioner Smith. Commissioner Smith stated that the committees were discussed at the first meeting. Chairman Thornton asked all Commissioners to pick their committee choices. Commissioner Lamberth stated that she would work with Chairman Thornton on the Committee Structure. Commissioner Pickard made a motion to add Higher Education Coordination to the Committee Structure list. Commissioner Lamberth seconded the motion and it was approved by the Commission. Commissioner Lamberth stated that BLR would send a revised list of committees to Commissioners and asked that they reply with their top three choices. Ms. Gilson stated that a temporary website would be available on Monday, May 18, 2009. She also stated that BLR would have a link to the Director's job description as well. Ms. DeFrancisco stated that Mr. David Gale would add Arkansas's publication to the national publication.

Chairman Thornton stated that the Commission would have a P.O. Box by close of business today and recommended adding the P.O. Box address to the website. Chairman Thornton asked that the Commission consider two objectives that included: 1) Submitting the Director's position publication to the website; 2) Post job description to website and to the national newsletter. Commissioner Smith suggested a statewide publication for the position. Mr. Bishop Woolsey, AG's office, recommended that the Commission add the Director's publication to the State website. Ms. Gilson stated that if the lottery P.O. Box is not available, the BLR address could be used on the job announcement.

Chairman Thornton called for the next meeting to be held Wednesday, May 20, 2009, 1:30 p.m., at the University of Arkansas System, in Little Rock, Arkansas; however, he would consider deferring the meeting until the following week. Commissioner Smith stated that regarding TR-1's, DFA recommended using the online method for calculating mileage. Commissioner Lamberth made a motion that the mission statement for the Commission be similar to the Legislative intent and recommended that it include the maximum revenue for scholarships. The Arkansas Lottery Commission Mission Statement would read: "The Arkansas Lottery Scholarship shall be operated and managed in a manner that provides continuing entertainment to the public, maximizes scholarship revenues, and ensures that the lotteries are operated with integrity, dignity and adequate internal controls and free of political influence." Commissioner White seconded the motion and it was approved by the Commission.

There being no further business the meeting adjourned at 1:45 p.m.