

MINUTES

ARKANSAS LOTTERY COMMISSION

Wednesday, May 20, 2009

1:00 p.m.

University of Arkansas System's Board Room
Little Rock, AR

The Arkansas Lottery Commission met May 20, 2009, at 1:00 p.m., in the University of Arkansas System's Board Room in Little Rock, Arkansas. Commissioners present were: Ray Thornton, Chairman; Dianne Lamberth, Vice Chair; Derrick Smith, Secretary/Treasurer; Susan Jones, Mike Malone, Ben Pickard, Patty Shipp and Joe White.

Also attending were Bureau of Legislative Research (BLR) staff: Laura Gilson, Attorney; Nell Smith, Research Analyst; Estella Smith, Legislative Analyst; Kendra Drone, Secretary; and Patrick Ralston.

Chairman Thornton welcomed the Commissioners. He recognized Dr. Alan Sugg, President, University of Arkansas System, and thanked him for making this facility and the Winrock facility available to the Commission.

Minutes – May 12, 2009

Chairman Thornton called for approval of the May 12, 2009, Commission meeting minutes. The motion to approve the minutes was made by Commissioner Smith and seconded by Commissioner White. The motion carried.

Director Search

Chairman Thornton stated the Commission was well advised to proceed with running the advertisement for a Director rather than waiting until a post office box number was secured. The ad ran Sunday in the Arkansas Democrat Gazette and was also posted on www.publicgaming.com, www.lotteryinsiders.com, and the Arkansas government jobs website. David Gale, NASPL (North American Association of State and Provincial Lotteries); and Doug Orr, MUSL (Multi-State Lottery Association), sent the ad to their contacts and member lotteries. The position has been mentioned in numerous print and broadcast stories. Chairman Thornton advised that ten applications have been received by BLR. The names of the applicants will be available to the press upon request.

Laura Gilson reported that the Commission has been assigned a post office box number to receive applications and mail for the Commission. The box is checked daily by BLR.

Bylaws

Chairman Thornton reported the by-laws research is moving forward and we have examples from South Carolina and Louisiana, and a draft governor's manual from Colorado. He expressed the need to establish a committee to review and study the bylaws.

Model Requests for Proposals (RFP)

Chairman Thornton stated numerous states have expressed willingness to provide example requests for proposals (RFP). He provided for review copies of RFPs obtained from the Law School Library from the states of Michigan, Kentucky, Texas, and California. Chairman Thornton pointed out that in other states, the RFP can be a very litigious matter; therefore, RFPs should contain language to prevent the possibility of litigation and state clearly what is being bid for and what is not. The Commission will need a lawyer well versed in this area. Chairman Thornton reported that at the Chair's request, Ms. Gilson contacted Battelle Consultants (who specialize in start-up consultation) but they are too busy to come down right now to educate the Commission about RFPs. If they were to phone in and other businesses similar to them were not represented, they would have to disqualify themselves from helping with the preparation of the RFP.

Chairman Thornton expressed that he would like to be able to consider Battelle Consultants in the preparation of writing the state's RFP; therefore, they were not asked to phone in.

Procurement of Contracts

Chairman Thornton recognized Jane Benton, Administrator, Office of State Procurement, Arkansas Department of Finance and Administration (DFA). Ms. Benton advised that her office has the responsibility and oversight for procurement of commodities, technical, and professional services for all state agencies. She stated the lottery's procurement director will be very critical to the operation of the Commission and that one of the first things the director will want to do is fill this position. The procurement director will be critical in developing RFPs and procurements, and in addressing the large amount of administrative work after the contract is let. Ms. Benton's office will be available to help the procurement person when hired and will work very closely with them to bring them up to speed.

Ms. Benton stated RFPs are used for major procurements over \$75,000. The procurement person will do his/her own solicitations and the language in the Act gives the Commission a lot of latitude. For procurements under \$75,000 you would follow normal procurement laws. Those under \$5,000 are open and competitive; you get quotations when practical; this is not required by statute. From \$5,000 - \$25,000 you must have a minimum of three quotations. For \$25,000 - \$75,000, a formal bid solicitation is required.

Ms. Benton said her office has state contracts that will be helpful to the Commission in obtaining furniture, computers, etc. If items can not be procured as quickly as needed, surplus property can be rented on a short time basis. Commissioner Malone asked if Ms. Benton's office can assist the Commission during the lag period between when the director is hired and hiring a procurement person. Ms. Benton replied that they can.

Commissioner Pickard requested that DFA help the Commission begin the RFP process for general counsel. The general counsel can hire legal assistance. Bishop Woosley, Assistant Attorney General, Attorney General's Office, stated he believes the Commission can hire outside counsel. He added that in-house counsel is referred to as general counsel and would be hired by the director. Outside counsel would be an outside law firm specializing in the lottery business.

Chairman Thornton recognized Mr. Hogan Brown, General Counsel, South Carolina Education Lottery, who attended the meeting by phone. Mr. Brown explained the procedure for entering into RFP's, explaining that within the industry there are three basic approaches:

- NASPL involves vendors and various lottery directors who developed templates for states to use for their RFP process for the online procurement in particular. This is a heavily spec driven document for normal computer procurement referencing the number of transactions per minute, etc.
- Battelle created a template that relies on a lot of specs with detailed specifications which is easier to understand but it has downsides, particularly in the protest arena.
- Solution based approach involves designing a system that will work for the retail outlets in the state.

Mr. Brown stated that in 2007, South Carolina (SC) brought vendors in and let them tell a little about themselves and asked what the vendors want in a procurement document as the vendors would write their proposal to the document. This may cause you to buy more than you need. Of SC's 67-page document, only 10-12 pages dealt with the system itself. SC asked the vendors to design a system that would work for their state with 4.3 million people and 3,500 retailers. Chairman Thornton stated a figure of around 2,000 retail outlets has been mentioned for Arkansas. Mr. Brown stated that within a week of being hired, the executive director was ready to hire his staff. Mr. Brown stressed the importance of having someone think outside the box and develop non-standard terms and conditions and non-standard provisions. Chairman Thornton

thanked Mr. Brown for his summary of the issue and for taking the time and effort to participate in the meeting.

Committee Structure

Chairman Thornton recognized Vice Chair Commissioner Dianne Lamberth. Commissioner Lamberth presented a tentative committee structure (Handout #1) consisting of Finance and Audit, Higher Education, Personnel, Retail and Vendor. Discussion followed on the need for an administrative and operations committee to work closely with the Director and also the need for a legal committee. A majority of the Commissioners supported having a legal committee. Commissioner Lamberth stated there may be spin-offs as committees mature. A motion was made by Commissioner Malone, and seconded by Commissioner Jones, to add a Legal Committee and add the administrative operations function to the Finance and Audit Committee, changing its name to "Administrative, Finance and Audit". The motion carried. A motion was made by Commissioner Smith, and seconded by Commissioner Shipp, to include the bylaws function under the Legal Committee. The motion carried. Commissioners Smith and Shipp agreed to serve on the Legal Committee. Commissioner Smith will ask Commissioner Hammons to also serve on this committee.

Commissioner Lamberth pointed out that the Commissioners are ex-officio voting members of each committee and can attend any committee meeting. Commissioner Malone inquired as to who would convene the committee meeting as there is not a recommendation for a committee chair. Commissioner Lamberth stated that as the committees meet, they could then designate a committee chair.

Chairman Thornton stated that at an upcoming meeting, the Commission will consider a resolution delegating authority to the committees subject to review and approval of the full Commission (to be drafted by staff). Committees are to follow the FOI and notify the public and media of all meetings.

Website presentation

Mr. Jim Schratz, Chief Information Officer, BLR, was recognized to make a presentation on the Commission's website, which is now live as of Monday at 7:00 pm. Mr. Schratz advised that changes can be made fairly quickly, as needed. The front page contains welcome page information, which was garnered from information produced by BLR, staff openings, and meeting dates and agendas. The staff needs direction as to the number of meetings listed on the front page (maybe the last two meetings). The meeting agendas are available for review as soon as they are posted. Contact information is also on the first page and includes the post office box number. There are five other pages: commissioners, meeting information, enabling legislation, retailers, and one for other links. Later, the Commission may want to add a small photo of each commissioner. The meeting information page will include the minutes, upon approval by the Commission. This page will probably grow in time and be kept as a historical set of dates, times, minutes and agendas as a means of looking back in time. The enabling legislation page contains information produced by BLR combining Acts 606 and 1405. The links page is blank and the Commission can decide what to place on this page. The Information Network of Arkansas (INA) has a test ready for review to add another tab for entities interested in being a lottery retailer to submit their contact information. Mr. Schratz added that INA bumped the Commission's job to the front. The Commissioners thanked Mr. Schratz for the quality and speediness with which he has accomplished this result.

Temporary Office Space

Chairman Thornton welcomed Anne Laidlaw, Director, Arkansas Building Authority (ABA). Ms. Laidlaw introduced Catherine Mulkey, Administrator, Real Estate Services, ABA. Ms. Laidlaw stated ABA is the leasing agent for the State and, as such, can locate, designate and secure office space for the Commission. ABA starts the process with information about the Commission and what its needs are. ABA does operate a portfolio of buildings but they are completely leased up. ABA's job is to locate space in other state agencies and the private sector and in various markets. ABA will begin looking for options for the Commission and report back on its findings.

Chairman Thornton recognized George Hopkins, Executive Director, Arkansas Teacher Retirement System (ATRS). Chairman Thornton stated that at the request of the commissioners, Laura Gilson has explored a possibility for office space with Mr. Hopkins. Mr. Hopkins explained that the Rose Law Firm was previously located at 720 W. 3rd in a 30,000 square foot three-story building, vacated a few years ago. The building was used as a headquarters for probation officers. The entrance is guarded by a secure position and has an elevator.

Mr. Hopkins stated he has been with ATRS since December 29, 2008. Mr. Hopkins stated the building originally had two-stories and was designed well enough and strong enough to add another floor as the Rose Law Firm expanded. It is capable of having a fourth floor added, if required. It is a brick building with several secure file rooms and has been vacant since October. The building was a high use secure facility with parolees and probationers coming in and out; this high use is reflected in the condition of the carpet. ATRS has not had a chance to reevaluate what it will do with the building. This could be a mutual opportunity as the Commission may not want to tie itself down for a long period of time. ATRS will re-carpet, repaint and do a few cosmetic things to the building regardless of whether or not the Commission rents it. It is typically a one tenant building. If the Commission moves in, ATRS would not move anyone else into the building to ensure the security and confidentiality required by the Commission. The building can be rented on a month to month basis and ATRS would repair the space according to the Commission's specifications.

Chairman Thornton stated that, at his request, Commissioner White arranged a tour of the building during which he was accompanied by Laura Gilson. Commissioner White thanked Mr. Hopkins for the tour and added that the offices the Commission would need could be made ready fairly soon. There are about 30 parking spaces with the possibility of more spaces, if needed. This is an opportunity to move into a facility without long-term commitment. Commissioner White suggested that the entire Commission tour the building at a future meeting. Chairman Thornton asked if the Commission could rent only the space needed and whether ATRS could stay ahead on any needed renovation. Mr. Hopkins replied that they could and, in the event the Commission wanted to stay longer, ATRS would improve certain things that need improvement, including the upstairs restroom and build a new elevator shaft to enable the Commission to accommodate more people and provide a greater service. The Commission could start small, leasing a few offices on a monthly basis at current market rate. If ATRS knew in advance how many offices would be needed, they could have them painted and carpeted and ready before any personnel is hired. Chairman Thornton asked if ATRS could have the work done before the director is hired to which Mr. Hopkins stated it would take 7-10 days to carpet and paint the offices.

Chairman Thornton advised he would entertain a motion to recess and go to the location for a tour, after which the meeting would be adjourned from that location. The motion to recess and reconvene at 720 W. 3rd was made by Commissioner White and seconded by Commissioner Shipp. The motion carried and the meeting recessed at 2:55 p.m.

The meeting resumed at 720 W. 3rd with Commissioners Thornton, Lamberth, Jones, Malone, Pickard, Shipp and White in attendance. The Commissioners toured the building accompanied by staff of BLR, Legislative Audit, and ABA. ABA and ATRS were directed to work on ideas to be presented to the Commission at a future meeting.

Meeting dates

The next Commission meeting will be held Wednesday, May 27th, at 1:30 p.m. at the UA System.

Commissioner Malone sought input on a meeting date for the Vendor Committee to discuss how to get a head start on the procurement contracts. The Vendor Committee members agreed to meet Friday, May 22, at 1:00 p.m. Those unable to attend may call in to the meeting. Ms. Jane Benton is asked to attend the Vendor

Committee meeting. The Higher Education Committee will meet Wednesday, May 27, at 1:00 p.m., prior to the Commission's 1:30 p.m. meeting.

The meeting adjourned at 4:00 p.m.