



Lottery Commission Rules Hearing and Meeting Minutes  
Thursday, April 22, 2021  
Conducted virtually via Microsoft Teams

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**Commission Member Attendees:**

Fred Finn, Commissioner  
Judy Giniger, Commissioner  
Valoria Loveland, Chair  
Daria Willis, Commissioner

**Lottery Staff Attendees:**

Jim Bevan, SharePoint and Office Administrator  
Amy Brever, IT Customer Support  
Bill Castillo, IT Systems Administrator  
Dan Devoe, Director of Security and Licensing  
Cheryl Earsley, Scratch/Promotions Coordinator  
Crystal Fischer, Chief Information Officer  
Bobby Frye, Human Resource Consultant  
Marcus Glasper, Director  
Gaylene Gray, Instant Product Manager  
Shar Hawley, Org. Perf. & Planning Administrator  
John Iyall, Budget Manager  
Jenna Johnson, Procurement Manager

Josh Johnston, Deputy Director  
Ron Kessler, Director of Security and Licensing  
Sean Lee, Human Resource Consultant  
Maria Lourenco-Douka, Director of Finance  
Kathi Patnode, Marketing Operations Manager  
Debbie Porter, Administrative Assistant  
Stephanie Porter, Executive Assistant  
Ron Smerer, Director of Sales & Marketing  
Stacy Sund, Merchandising Specialist  
Patti Swihart, Events Coordinator  
Kristi Weeks, Director of Legal Services

**Other Attendees:**

Scott Battishill, Curator  
Becky Bogard, IGT  
Kristie Christensen, Wunderman Thompson  
Rosina DePoe, WA Indian Gaming Assoc.  
Rebecca Echols, Attorney General's Office  
Rebecca George-Kaldor, WA Indian Gaming Assoc.  
Ryan Lonnais, Wunderman Thompson

James Mackenzie, Wunderman Thompson  
Dan Miller, Curator  
Patrick Racine  
Andrew Scolaro, Scientific Games  
Aubrey Seffernick, Kalispel Tribe of Indians  
Shannon Struempf, IGT

**Rules Hearing:**

Chair Valoria Loveland began by asking which Commissioners were present to ensure a quorum was reached for the Rules Hearing. Commissioners Valoria Loveland, Judy Giniger, Daria Willis, and Fred Finn were confirmed present at the virtual Rules Hearing.

Kristi Weeks, Director of Legal Services, explained that during this Rules Hearing the Commissioners would be asked to consider public comment related to the creation of the

Voluntary Self-Exclusion Program rules. In 2019 the Legislature passed House Bill 1302, requiring the Lottery Commission to adopt rules to create a Voluntary Self-Exclusion program by June 30, 2021. The proposed rule language was filed with the Code Reviser's Office on March 1, 2021 and posted to the Washington's Lottery website for public comment. Kristi said five public comments were received via the website, and four of those were provided to the Commissioners for review and consideration. The fifth comment came after the Commissioner's received their agenda packets, so Kristi read the comment for the record. It was a question about the Lucky for Life scratch ticket game, and was appropriately responded to by a Lottery customer service representative. None of the public comments received were relevant to the proposed rules. In addition to the public comments, Commissioners were provided with a copy of the bill language, and the proposed rule language they approved in February.

Chair Loveland stated she only received three of the public comments and asked Kristi to review what was received. Kristi read each comment aloud for the record.

Chair Loveland began the public hearing on proposed rules for chapter 315-06-220 WAC, filed on March 1, 2021, and published in the Washington State Register as number 21-06-080. She stated the hearing was being held by video conference on April 22, 2021, in accordance with the Administrative Procedure Act, chapter 34.05 RCW, and Executive Orders by the Governor. She noted the time as 8:41 a.m.

Chair Loveland stated the hearing was being recorded. She then performed a roll call of the Commissioners. Commissioners Finn, Giniger, and Willis reaffirmed they were present at the virtual hearing. Commissioner Sullivan was noted as absent for the hearing.

Chair Loveland next read through a list of instructions for individuals wishing to testify during the hearing. The instructions included direction on unmuting to provide comment, not interrupting others, limiting the time they speak, and only commenting on the content of the licensing rules. She stated the Commissioners would not respond to questions during the hearing, but may ask clarifying questions regarding the comments received. She said all comments would be summarized and sent to anyone requesting a copy. Chair Loveland then stated the public hearing was open for public testimony.

Participants were given the opportunity to speak, or type in the chat feature of the virtual meeting, comments related to the proposed Voluntary Self-Exclusion rules. Hearing and seeing no one come forward after several moments, Chair Loveland stated the hearing was closed. She stated all comments received will become part of the official rulemaking file, and be considered by the Commission and used to adopt the rules or make changes to the proposed rule language. If the rules are adopted, the notice of adoption will be filed with the Code Reviser and become effective 31 days after filing.

Chair Loveland concluded the public hearing at 8:45 a.m. and began the regular Commission meeting.



**Call to Order:**

8:45 a.m. – Chair Loveland called the meeting to order.

**Approval of Meeting Minutes:**

Chair Loveland asked if the Commissioners had a chance to review the minutes from the February Commission meeting and if there were any recommended changes. Commissioner Finn asked about the wording “fail over” which was included in the Director’s Update portion of the meeting minutes. Director Glasper confirmed that was the term used during the February meeting, and it is a technical term used when a main system moves over to a backup system.

Chair Loveland entertained a motion to adopt the minutes of the February 18, 2021 Commission Meeting as presented.

Commissioner Giniger **so moved** and Commissioner Finn **seconded**.

Chair Loveland called for a vote for approval of the minutes of the February 18, 2021 Commission Meeting. Ayes were unanimous. **Motion carried.**

**CR 103 – Voluntary Self-Exclusion Rules:**

Chair Loveland asked Kristi to provide a recap to the Commissioners on the Voluntary Self-Exclusion rules prior to the vote. Kristi said there have been no changes to the rule language since the Commissioners approved the draft language at the February meeting. The rules establish the purpose of the self-exclusion program, how an individual enters into the program, the length of time they participate, and the process to exit the program. There is also a section that describes what it means to be a voluntary participant in the program, which includes not being able to claim Lottery prizes over \$600 or win promotional second chance drawings. If a program participant attempts to collect an excluded prize, monetary prizes would be turned over to the Problem Gambling fund and merchandise prizes would be maintained by the Lottery to be used at another time. The rule language also includes information taken from the bill explaining the Lottery’s immunity from suit in matters related to the program. There is also a section in the rules that cover confidentiality of participant information, which is not subject to public disclosure.

Commissioner Giniger asked when the self-exclusion program is set to launch, and what the Lottery has planned for communicating the program to the public. Kristi said the program is scheduled to begin July 1, 2021. The team is working on the participant form which includes very specific information outlining the program that would need to be read and signed. They are currently developing a page on the Lottery website where people can go to read the self-exclusion rules and law, and they will post comprehensive frequently asked questions for players to review. Kristi said they are also updating the Lottery’s point-of-sale materials to include

information about the program, and have been sharing information with the State's Problem Gambling Task Force, and the Evergreen Council on Problem Gambling.

Chair Loveland asked if the program effected a participant's ability to gamble in tribal casinos or anything outside of the Lottery. Kristi said it does not. It only pertains to Washington's Lottery games. The bill did require the Gambling Commission to create a separate voluntary self-exclusion program for the casinos they regulate, and it encouraged the tribal casinos to participate.

Commissioner Finn asked if there was any information available related to the number of people that take advantage of self-exclusion programs. Kristi said the program is a best practice for responsible gambling, and many states have adopted a similar program. She said for lottery specific agencies, the participant level tends to be very low. For lotteries that fall under a larger state gambling umbrella, the participant numbers are a little more. She referenced Oklahoma, which had less than 100 participants in their Lottery-only program.

Chair Loveland entertained a motion to approve the filing of the CR 103, Voluntary Self-Exclusion rules.

Commissioner Finn **so moved** and Commissioner Giniger **seconded**.

Chair Loveland called for a vote for the approval of the filing of the CR 103, Voluntary Self-Exclusion rules. Ayes were unanimous. **Motion carried.**

#### **Director's Update:**

Director Marcus Glasper began by sharing that Dan Devoe, Director of Security and Licensing, is retiring in early May and this will be his last Commission meeting. He thanked Dan for his years of service and the great job he has done for the Lottery. He also shared they have hired Ron Kessler as the new Director of Security and Licensing. Ron comes from the Department of Enterprise Service where he was the Program Development Manager for Capitol Campus activities. Prior to that, he served in a variety of positions for the Washington State Patrol, before retiring as a Lieutenant after 27 years of service.

Director Glasper said the Mega Millions Consortium lead director, Gordon Medencia, of Maryland, is retiring in June. In addition to serving as the Director of the Maryland Lottery, Gordon has led the Mega Millions group for several years and become a pillar in the lottery industry. Pat McDonald, the Director of the Ohio Lottery, will take over as the Mega Millions Lead Director.

With the only a few days left in the legislative session, Director Glasper said they do not yet have an approved budget. The Senate passed its budget on April 1<sup>st</sup>, and the House decided to do a striker on the Senate version instead of passing their own. The striker passed out of the House on April 3<sup>rd</sup> as Engrossed Substitute Senate Bill 5092. The bill then needed to go back to the



Senate for concurrence, however the Senate did not concur and on April 14<sup>th</sup> called for a joint conference committee. Director Glasper said unfortunately that means we do not have a budget yet and Sine Die is in three days. He said all versions of the budget that have passed so far do not include furloughs and there are no current issues related to the Lottery. He also shared that Lottery staff has been doing a wonderful job preparing for a government shutdown, although he believes it to be an extremely remote possibility that there will be a shutdown. He explained they must be prepared because shutdown activities for the Lottery would need to begin May 5<sup>th</sup>. This is due to the fact that players are able to purchase advanced tickets for future draws, which means they have to start the draw-down process at the beginning of May to ensure no tickets are sold for a drawing that would occur beyond June 30<sup>th</sup>.

Director Glasper shared that the State Auditor's Office has begun a compliance audit on the Lottery. The audit covers three fiscal years: 2018, 2019, and 2020. He said auditors have been working with Lottery staff since the end of last year, reviewing information to determine which areas they wanted to focus on. Some of the areas they will be looking at include, cash receipting at kiosks, payroll related items, retailer commissions, and compliance with the Open Public Meetings Act. These are mostly broad areas, however he said the Open Public Meeting Act is the only area with the potential to involve the Commissioners. He said the entrance conference was held last Tuesday, and Finance Director, Maria Douka, will serve as the agency's key point of contact.

During the ongoing pandemic, the majority of Lottery staff are still working from home. Director Glasper said the agency continues to assess customer service gaps and business needs under the Governor's re-opening plan. The Lottery recently gained approval to reopen the kiosks at the SeaTac airport and Tacoma Mall, and also to open two of the regional offices two days per week. Players were having to drive long distances to redeem prizes with only the Olympia and Spokane customer service locations open. In an effort to provide more balance and convenience for players, they are happy to be partially reopening the Yakima and Everett offices to the public. Opening up the kiosks allows for consistency with other retailers who are open in those locations, as well as honoring the contracts with those locations. Director Glasper said they are hoping to open those locations in early May, or as soon as they are able to get them outfitted with the required safety protocols and equipment.

Chair Loveland asked if the Lottery is doing anything to encourage or assist employees with getting vaccinated. Director Glasper said they frequently share information with staff about vaccine availability, and recently there were a couple of vaccine events that were highly geared towards state employees.

#### **Deputy Director's Update:**

Josh Johnston, Deputy Director, began by sharing the status of the Powerball and Double Play project. The Powerball game currently has two draws per week, and in late August it will be moving to a three-day-a-week draw. This rule change was decided by the Multi-State Lottery Association (MUSL) a few months ago, and along with this decision they provided states the



opportunity to participate in a second drawing called "Double Play." This add-on game gives players who purchase a \$2 Powerball ticket the opportunity to enter into a second drawing for an additional \$1. The second drawing occurs immediately following the normal Powerball drawing. The jackpot for the Double Play drawing is \$10 million, but it has more opportunities for lower tier prizes to be won. Josh said they have decided to participate in the Double Play game, and the project is underway. The team is on track for a late August launch and he thanked the project's executive sponsor, Crystal Fischer, as well as Shar Hawley, who is leading the project.

Last August, the Lottery made changes to optimize two of their in-state games, and Josh said he wanted to provide an update on how things are going since those changes were implemented. The Hit 5 game was changed from a three-day-a-week draw to a daily draw, and since that change on August 30, 2020, the daily sales are averaging \$111,000. This is 90% higher than the daily sales average for the same time period one year ago. Additionally, the Lottery met their annual sales goal for Hit 5 in mid-February. The Pick 3 game, formally the Daily Game, was a simple name change and some small adjustments to the play slip based on customer feedback. Josh said that game has seen a year-over-year performance increase of approximately 13%. He said both games are performing extremely well and exceeding sales goals.

Commissioner Giniger asked how the Spokane Department of Imagination (DOI) store is doing since its opening. Josh said it is going very well and sales are doing better than expected. The players seem to really enjoy the new store, and Lottery staff have adapted quickly to selling products from the office and interacting with players in a new fun way. He said they are very proud of the outcome of the DOI store project.

#### **Legislative & Legal Services Update:**

Kristi Weeks, Director of Legal Services, began by sharing that since the last commission meeting the Lottery has received 11 formal requests for public records or information. She mentioned they have seen a shift in the types of requests they are receiving during the pandemic, with a lot more in-depth data inquiries coming in. She said they have not received any lawsuits or administrative actions, and they had one annuity assignment case. Kristi explained that these types of cases require a court order as part of the processing, and occurs when someone wins a prize for a period of time, or a lifetime, and they want to sell future payments to a third party in order to get immediate cash.

Kristi shared that Haylee Mills, the Lottery's assigned Assistant Attorney General for the past year, has decided to leave the Attorney General's Office. Assistant Attorney General Rebecca Echols will be filling in until they are able to find a permanent replacement.

Next, Kristi provided some information about a lottery courier service that has popped up in Washington. Pursuant to state laws, a person or entity must be licensed by the Lottery in order to sell tickets and cannot sell them for more than the ticket's face value. However, tickets can be given as gifts. The law also strictly prohibits the sale of tickets over the internet, as well as offering any game allowing or requiring a player to become eligible for a prize or to otherwise



play any portion of the game by interacting with any device. She said in a few other states and countries, some businesses have emerged calling themselves lottery courier services. They refer to themselves as "instacart for lotteries," saying they do not sell the tickets but act more like a friend who stops by a store and picks up tickets for you. Kristi said they offer a mobile app, and explained how it is used for ordering and paying for lottery tickets. The courier service makes money by charging a convenience fee of around 7-10% on each transaction.

In the past when approached by a courier service, the Lottery has been consistent in telling them it is not authorized in Washington and they will not support such a service. However, last July the Lottery met with a courier service called Mido. Following the meeting, the Lottery sent them a letter explicitly stating that they would not support or endorse their business. Recently however, Mido has begun operating in Washington, and their activities reported on some media outlets. They are currently only offering Mega Millions and Powerball and not any in-state games. Kristi said they are working with the Gambling Commission and the Attorney General's Office to determine what, if anything, can or should be done. They have also been in contact with the Governor's Office and the Washington Indian Gaming Association.

Lastly, Kristi provided an update on the 2021 Legislative session. Two of the four gambling related bills that she spoke about at a previous Commission meeting have moved forward. House Bill 1469, which will allow larger raffle prizes of \$5 million to \$10 million, is awaiting the Governor's signature. This bill only applies to raffles under the authority of the Gambling Commission, not raffles offered by the Lottery. The other is House Bill 1022, which would allow the Horse Racing Commission to receive state funding. The bill passed the House and then the Senate, but with an amendment expiring the new language at the end of 2023 fiscal year. The House refused to concur and asked the Senate to recede, but the Senate has insisted and asked the House to concur. Kristi said the two other gambling related bills did not move. They included a bill to allow the sale of raffle tickets over the internet, and a bill to expand sports wagering beyond tribal casinos. Kristi said the Lottery is still sorting through the law enforcement reform and accountability, regulatory reform, and IT bills that have passed but there does not appear to be anything that will significantly impact the agency.

Commissioner Giniger asked if Kristi had any additional information on the Wire Act, and if the 90 days on the petition by the Department of Justice has expired on the appellate decision. Kristi said it has not yet expired but they are not hearing there will be an appeal, although still possible.

Chair Loveland expressed concern for the Mido courier service and asked why the Gambling Commission is looking into it. Kristi said they are conducting the investigation because if it falls outside of what is allowed by the Lottery statutes it becomes an illegal gambling issue.

#### **Financial Report:**

Maria Lourenco-Douka, Finance Director, presented the third quarter 2021 fiscal year (FY) results that ended March 31, 2021. She began by going over the nine month financial comparison for FY2020-FY2021, and then the budget to actuals comparison. She talked about the total



operating income, which was ahead of last year, total expenses, net income, and total contributions for the year. Maria shared the foot notes to the financials she presented, and then a vendor expense comparison graph of the Lottery's three main vendors for FY2021. She also went over the estimated net profits by product, and the appropriated expenditure authority report.

Chair Loveland asked if Luman Field is the new name of CentryLink Field, and if we have finished payments. Maria said yes, and the last payment was made in December of 2020.

### **Sales & Marketing Update:**

Ron Smerer, Director of Sales and Marketing, began by sharing that the Scratch ticket sales goal for the year is \$567.3 million. He said as of April 17, 2021, with just over two months left in the fiscal year, sales were at \$554.5 million and on track to hit their goal this week. In addition, the overall sales goal is \$800.2 million, and they are at \$756.3 million in total sales for the year. He shared the year-to-date sale comparison for each Lottery game, and sales are ahead of last year in every category. Ron also talked about sales in the different Lottery owned locations. The new Spokane location is averaging around \$4,800 a week; the SeaTac airport lottery vending machine is averaging about \$35,000 a week; and the Tacoma Mall vending machine is bringing in about \$5,500 a week. He is hopeful that once they are able to reopen the kiosks those sales averages will go back up. He mentioned the Lottery vending machines at the Spokane airport and Auburn Mall are also starting to recover from the impacts of the pandemic, and sales are starting to grow. He said the Muckleshoot Casino has been a great retailer for the Lottery, and after being closed for a period of time they are now back up and averaging about \$25,000 a week in vending machine sales. Ron said at the next Commission meeting he will report out on some of the Lottery's corporate accounts, the sales numbers, and some of the initiatives.

Commissioner Finn asked what they think will happen with future sales as the economy opens back up. Ron said they have found they have maintained some of the players that turned to Lottery games while the casinos were shut down. He attributes the increase in sales to those added players, and believes their sales will hold as long as they continue to put out fun Scratch products and look at ways to improve the player experience on the in-state games.

Kathi Patnode, Marketing Operations Manager, began her update talking about public relations, and thanked Dan Miller from Curator for the great work he has been doing for the Lottery. They received positive news coverage throughout the state related to the high jackpots for Powerball and Mega Millions, unclaimed prizes, new scratch tickets, each region's Luckiest Retailer, and the recent \$100,000 Hit 5 winner in Spokane. Kathi played a segment that recently aired on a Spokane new station about the region's luckiest retailers.

Kathi next talked about the new Department of Imagination campaign, "Imaginations Unite." They recently shot four new broadcast spots for the campaign: "Family," "Neighbor," "Reunion," and "Book Club." She shared a little about each one and then played the spots for the Commissioners. She also talked about the Jackpot reset promotion, which gives players a free \$2 ticket with every \$4 ticket purchase, for three days after the Powerball or Mega Millions jackpot



is hit. Kathi next talked about the four-week Lotto promotion that launched in March, called Spring Cashfall. It gave players a chance to win an additional \$10,000 when they purchased a \$5 Lotto ticket Sunday through Saturday. She shared some of the digital and print advertising used for the promotion. She said because of the success of both the Winter Cashfall and Spring Cashfall promotions, they will also be doing a Summer Cashfall promotion in July.

Kathi gave an update on the Lottery's social media presence, and thanked Wunderman Thompson for creating engaging posts that support Lottery initiatives. The posts are used to inform players about new scratch tickets, promotions, winner's stories, responsible gambling, and beneficiaries. She talked about one of the most successful Facebook posts that was related to the past "Bee" broadcast spot, and the posts used during Problem Gambling Awareness Month in March. Kathi also shared that currently on Facebook the Lottery has a 2.1% engagement rate, which is higher than the industry average of 1%.

Commissioner Giniger asked what industry the Lottery is being measured against for the Facebook engagement percentage. Kathi said she believes industry refers to overall advertising posts on Facebook, but said she will confirm and let the Commissioners know.

#### **Commission Report – Instant Ticket Artwork Review:**

Gaylene Gray, Instant Product Manager, presented new scratch ticket artwork for the Commissioners review and briefly talked about each one.

Chair Loveland asked on the scratch ticket "9s in a line," if there was a lottery connection to the number nine. Gaylene said the game is designed for players to unveil a nine, or multiple nines, for the chance to win \$999,000.

The Commissioners did not have concerns with any of the presented artwork.

#### **Commission Business/Agenda Items:**

Chair Loveland asked if there was any other business that Commissioners wished to put forward or any suggestions for the next meeting agenda, which will be held on June 17, 2021.

Commissioner Willis expressed her gratitude to Director Glasper for sending the Commissioners the follow-up email updating them about the power outage in Texas.

Chair Loveland thanked Dan Devoe for all his assistance over the years and wished him well in the future. Commissioner Giniger also added her well wishes.

#### **Public Comment:**

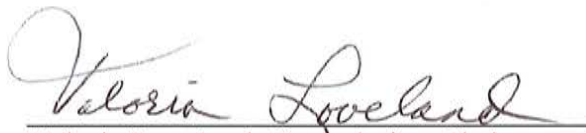
Chair Loveland asked if any members of the public wished to make public comment or voice any concerns. There were no comments made.

**Adjournment:**

10:21 a.m. – Chair Loveland adjourned the meeting.

The April 22, 2021 Lottery Commission Meeting Minutes were approved this 17 day of  
June, 2021.

Respectfully submitted,

  
Valoria Loveland, Commission Chair

  
Stephanie Porter, Executive Secretary