



Lottery Commission Rules Hearing and Meeting Minutes  
Thursday, February 18, 2021  
Conducted virtually via Microsoft Teams

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**Commission Member Attendees:**

Judy Giniger, Commissioner  
Valoria Loveland, Chair  
Eileen Sullivan, Commissioner  
Daria Willis, Commissioner

**Lottery Staff Attendees:**

Lance Anderson, Assistant Director of Sales  
Jim Bevan, SharePoint and Office Administrator  
Dan Devoe, Director of Security and Licensing  
Cheryl Earsley, Scratch/Promotions Coordinator  
Jon Flores, Security Specialist  
Marcus Glasper, Director  
Gaylene Gray, Instant Product Manager  
John Iyall, Budget Manager  
Jenna Johnson, Procurement Manager  
Josh Johnston, Deputy Director  
Ken Knutson, Graphic Designer  
Maria Lourenco-Douka, Director of Finance

Denise Mitchell, Management Analyst  
Kathi Patnode, Marketing Operations Manager  
Debbie Porter, Administrative Assistant  
Stephanie Porter, Executive Assistant  
Maegan Reed, Procurement Specialist  
Debbie Robinson, Director of Human Resources  
Ron Smerer, Director of Sales & Marketing  
Linda Su'a, Graphic Designer  
Stacy Sund, Merchandising Specialist  
Patti Swihart, Events Coordinator  
Randy Warick, Assistant Director of Marketing  
Kristi Weeks, Director of Legal Services

**Other Attendees:**

Scott Battishill, Curator  
Becky Bogard, IGT  
Peter Bogdanoff, Former Commissioner  
Kristie Christensen, Wunderman Thompson  
Rosina DePoe, WA Indian Gaming Assoc.  
Belle Eliason, Curator

Rebecca George-Kaldor, WA Indian Gaming Assoc.  
Ryan Lonnais, Wunderman Thompson  
Haylee Mills, Assistant Attorney General  
Ashley O'Connell, WA Indian Gaming Assoc.  
Andrew Scolaro, Scientific Games  
Shannon Struempfler, IGT

**Rules Hearing:**

Chair Valoria Loveland began by asking which Commissioners were present to ensure a quorum was reached for the Rules Hearing. Commissioners Judy Giniger, Eileen Sullivan, and Daria Willis 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 proposed changes to the licensing rules. The proposed changes were posted to the Washington's Lottery website for

six weeks and sent to key stakeholders for review and comment. Three public comments were received via the website, and provided to the Commissioners for review and consideration. Kristi discussed each comment, of which none were relevant to the licensing rules or the changes being proposed. The Commissioners were provided with a copy of the previously approved proposed changes to the existing rules language, and the CR 102 form. The form outlined why the changes were being made, which Kristi explained was mostly because some of the rules have not been updated since 1985 and were no longer aligned with how Lottery business is conducted. She said today's hearing will allow the public to make any additional comments they would like the Commissioners to consider, and later in the meeting the Commissioners will conduct a vote to adopt the rules. She then turned the Rules Hearing over to Chair Loveland.

Chair Loveland began the public hearing on proposed rules for chapter 315-04 WAC, filed on December 31, 2020, and published in the Washington State Register as number 21-02-048. She stated the hearing was being held by video conference on February 18, 2021, in accordance with the Administrative Procedure Act, chapter 34.05 RCW, and Executive Orders by the Governor. She noted the time as 8:47 a.m.

Chair Loveland stated the hearing was being recorded. She then performed a roll call of the Commissioners. Commissioners Giniger, Sullivan, and Willis reaffirmed they were present at the virtual 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 changes to the licensing rules. Hearing and seeing no one come forward after several minutes, 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 8:53 a.m. and began the regular Commission meeting.

**Call to Order:**

8:55 a.m. – Chair Loveland called the meeting to order.

**Recognition:**

Chair Loveland recognized and thanked Peter Bogdanoff for his time with the Lottery Commission. Commissioner Giniger said she enjoyed serving with Peter and wished him the best. Director Marcus Glasper thanked Peter on behalf of the Lottery staff for the contributions he made as a Commissioner over the last eight years. He then presented some tokens of appreciation that will be mailed to Peter, which included a certificate, a Lottery Challenge coin, and a letter from the Governor. He also presented a framed "Peter Bogdanoff" \$30 scratch ticket that was designed to commemorate his time with the Lottery. Peter expressed his gratitude to the other Commissioners and to the Lottery staff. He said he enjoyed his time on the Commission and wished everyone good luck in the future.

**Approval of Meeting Minutes:**

Chair Loveland asked if the Commissioners had a chance to review the minutes from the December Commission meeting and if there were any recommended changes. Hearing none, she entertained a motion to adopt the minutes of the December 17, 2020 Commission Meeting as presented.

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

Chair Loveland called for a vote for approval of the minutes of the December 17, 2020 Commission Meeting. Ayes were unanimous. **Motion carried.**

**CR 103 – Chapter 315-04 WAC, Licensing Procedure:**

Chair Loveland asked Kristi Weeks, Director of Legal Services, to brief the Commissioners on the CR 102 they would be voting on. Kristi explained that the Commissioners are being asked to discuss and vote to approve the licensing rules as presented today.

Chair Loveland asked if the Commissioners had any clarifying questions or concerns they wished to discuss regarding the licensing rules. Hearing none, she entertained a motion to approve the CR 103, Chapter 315-04 WAC, Licensing Procedure rules.

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

Chair Loveland called for a vote for the approval of CR 103, Chapter 315-04 WAC, Licensing Procedure rules. Ayes were unanimous. **Motion carried.**

**CR 102 – Voluntary Self-Exclusion Rule Language:**

Chair Loveland asked Kristi to provide a recap to the Commissioners on the draft rule language prior to the vote. Kristi explained that the legislature directed the Lottery to adopt rules creating a voluntary self-exclusion program for people wanting to prevent themselves from playing lottery games. She said other states have implemented similar programs, and it is considered a best

practice for responsible gambling because it provides a tool for individuals to help themselves. Under the program, players who self-exclude would not be able to visit a Lottery office and collect any prize payments over \$600. Kristi shared that the legislature does not expect the program to stop people from playing lottery games, but it should aid players seeking help. They outlined what the program should look like, and the Lottery was tasked with creating rules for how it would work. The Commissioners were provided a copy of the draft rule language for review prior to the meeting. Kristi talked about each section and explained some of the distinct aspects that were included in the language. She said the Commissioners are being asked to approve the draft language today, and assuming it is approved then it will be made available for the public and stakeholders to review and make comments.

Chair Loveland asked if any of the Commissioners had questions or comments about the draft rule language, and they all said they did not. Chair Loveland said she would like to review the bill and the draft language side-by-side and expressed concern about the draft rules being lengthy and potentially too specific. She said although she recognizes the intent, she has apprehensions about the effectiveness of the program.

Kristi explained that the language in the final rules and purpose sections come straight from the statute. The definitions and enrollment sections do not come from the statute, but the Lottery is required to adopt rules for how an individual elects to participate and stop participating in the program. Kristi offered to table the vote until later in the meeting in order to pull up the statute and share with the Commissioners, or move the vote to the April meeting. She noted they are on a strict timeline and must have rules adopted by June 30, 2021.

Chair Loveland said because the other Commissioners are good with the draft language they will move forward with the vote today. However, she decided because of her reservations with the program she would be abstaining from the vote. Chair Loveland entertained a motion to approve the filing of the CR 102, Voluntary Self-Exclusion draft rule language.

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

Chair Loveland called for a vote for the approval of the filing of the CR 102, Voluntary Self-Exclusion draft rule language. There were three ayes, and one abstention. **Motion carried.**

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

Director Marcus Glasper began by sharing that the Lottery's Director of Security & Licensing, Dan Devoe, has announced his retirement and will be leaving in early May. Dan serves a critical role in the agency, overseeing the drawing process and the licensing of over 3,600 retailers. Director Glasper said they have opened the recruitment for his position with the hope of hiring his replacement prior to his departure, to ensure a smooth transition.

On the national front, Director Glasper said the Mega Millions group continues to explore options for revamping the Mega Millions game through research and presentations from many of

the national game vendors. Late last year, IGT was the first to give a presentation and offer their recommendations and options for revitalizing the game, and last week Scientific Games provided the second presentation for consideration. There was some recent excitement with the Mega Millions game reaching a \$1 billion jackpot amount in January. It was the second largest jackpot in Mega Millions history, and only the second time it has reached the billions level. He said in 2018, it took 25 draws for the jackpot to hit \$1 billion, but with this latest jackpot it took 37 draws. They are looking at this as another sign of jackpot fatigue. Director Glasper noted in terms of national sales, Mega Millions has only outperformed Powerball in two of the last ten years. This is one of the motivators that pushed the Mega Millions Consortium to start looking at ways to revamp the game and distinguish it from Powerball.

Director Glasper spoke briefly about the current legislative session and preparing for a new biennial budget. The Governor released his budget in December, and for the most part the Lottery was not significantly impacted in terms of services. However, as expected his budget did not include general wage increases and reflected 24 unpaid furlough days in the next biennium. This equates to an approximate 4.6% pay reduction for most state employees, but there was a provision that the furlough days may be adjusted if the state's financial outlook changes. He said it will all be based on the legislative session and how the economic forecast outlook turns out, but they do not expect to see the official budget until mid-March. Lottery staff have begun suspended operations planning, in the unlikely event that a budget is not enacted by June 30<sup>th</sup>.

The Department of Imagination retail store in Spokane opened as planned in December and Director Glasper said things are going better than expected. He said they will be presenting more on the store later in the meeting. They are not currently making any plans for a grand opening event, however they hope to plan one in the future.

Director Glasper shared there was a major outage to the IGT data center earlier this week, lasting several hours. The data center is located in Austin, Texas which has been suffering from a severe winter storm that caused rolling blackouts. Unfortunately, when power was lost at the data center the back-up generator system failed. This caused the Lottery systems to go down for almost eight hours and they were unable to sell tickets during that time. Several states were affected by the outage, including California. Director Glasper said IGT moved Lottery operations over to their Rhode Island data center during the outage and they will remain there until the Texas power grids have been stabilized. IGT is currently investigating what caused the back-up generator failure, and Deputy Director Josh Johnston is working with them on recovery efforts, lessons learned, and mitigation strategies to prevent a similar situation in the future.

Chair Loveland asked what time the outage occurred and if the Lottery would be compensated for the time they were unable to sell. Director Glasper said it happened on President's Day from about 6:30 a.m. to 2 p.m., and there are provisions in the IGT contract concerning liquidated damages that they will be reviewing.

Commissioner Willis asked if the outage would fall under a natural disaster and if that would make a difference in the contract. She also asked if they would consider relocating the data

center to an area that would be at lower risk for future outages, given the extreme weather patterns in southern states over the last few years. Director Glasper agreed that the weather patterns are concerning and while there are mitigation strategies in place they don't yet have information to share on what will be done. They have significant generator systems and from what they understand the main issue was when the outage occurred it did not failover to the generator. IGT is investigating and they hope to know more soon.

Commissioner Giniger commented that the Texas power grid is very unusual and it may not make sense to keep operations in that area knowing how their power grid is constructed and the regulatory framework around it. Director Glasper thanked her and said that is definitely something they are considering, and they hope to learn more about the stability of using the data center in Texas versus Rhode Island, or somewhere else. He added that IGT has been a great partner through all of this. They were very responsive and did everything possible to get things up and running quickly.

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

Josh Johnston, Deputy Director, began by providing an update on the One Washington project that he spoke about at the last Commission meeting. This is a statewide initiative to replace the enterprise core systems that state government relies on and have been in place since the 1980's. The state just kicked the project off, and the team handling this project for the Lottery had their kick-off meeting earlier this week. The new system is expected to launch in the summer of 2022.

Josh was excited to report that the Lottery just hired a new Chief Audit Executive, Alex Satterlund. He joins them from the Washington State Department of Social and Health Services, and Josh shared some of Alex's experience working with them as an internal auditor. Alex is also a certified public accountant, with a Bachelor's degree in accounting from Western Washington University, and a recently retired member of the Army Reserve. Josh said Alex is very intelligent and well versed in auditing, and he is eager to jump in and start working with the Lottery on March 1<sup>st</sup>.

Josh wrapped up by providing an update on the Powerball changes made. A few months ago the Multi-State Lottery Association (MUSL) decided to move the game from a two-day draw, to a three-day per week draw. During that decision, MUSL also gave each state the option to participate in a second drawing, called Double Play. Josh explained that with this add-on feature offered to a player who buys a \$2 Powerball ticket. It gives them the chance to purchase an additional \$1 ticket for a chance to win a second drawing prize of \$10 million, or lower tiered prizes. Washington's Lottery decided to move forward with adopting the Double Play feature, with the hope of improving Powerball sales. Powerball is currently one of two underperforming games in the state, and the Double Play feature has shown success on other draw games in other states.

Chair Loveland asked Josh what the name of the software is that is replacing the old financial system in the One Washington project, and if other states are using it. Josh said the software is

called Workday and is implemented by a company called Deloitte. It is being used in several states, including Washington at the University of Washington and Washington State University.

Commissioner Giniger said she was working at the University of Washington when Workday was implemented, about three years ago. She said it was a big change, but after a couple of months employees became comfortable using it. She asked if they are planning to use the software as an across-the-board replacement for all state agencies. Josh said yes that is the plan.

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

Kristi Weeks, Director of Legal Services, began by sharing that the Lottery has received eight formal requests for records/information since the December meeting. In that time they have not received any lawsuits, administrative actions, or prize assignment cases.

Kristi said there is new information on the Wire Act saga, but first she wanted to provide some background on the issue for the new commissioners. She talked about the history and intent of the Wire Act when it was enacted in 1961. In 2011, the Department of Justice (DOJ) issued an interpretation upon request from Illinois, that the Wire Act applied only to sports betting and did not prohibit lottery tickets from being sold over the internet. Based on that interpretation, some state Lotteries moved forward with internet sales. In January of 2019, the DOJ issued a revised interpretation stating the statutory prohibitions are not limited to sports betting. This initiated a lawsuit from the New Hampshire Lottery declaring injunctive relief. In June, the district court rejected the DOJ's new interpretation and confirmed the Wire Act only applies to sports betting. The DOJ filed a notice of appeal and the case was heard in the US Court of Appeals, first circuit. The appellate decision was issued on January 20, 2021, upholding the district court decision. Kristi said this was great news for the Lottery industry, however the DOJ has 90 days to petition the US Supreme Court for discretionary review. Kristi said in her opinion it is unlikely they will petition the Supreme Court, or that the Supreme Court would accept the discretionary review.

Kristi shared that after nine years, the Department of Imagination (DOI) trademark is up for renewal. There is a one year period for the agency to request a renewal, and the Attorney General's Office has engaged a private intellectual private law firm to assist. It is in process now and hopefully they will be successful in renewing it for another ten years.

Kristi next talked about the virtual legislative session, and said it has had its pro's and con's. It's been hard not being able to connect with people in person, but it has been a benefit to the public to be able to participate remotely. She said Policy Committee cut-off was last Monday, February 15<sup>th</sup>, so they are getting a better look at what bills may move forward. There are a handful of gambling related bills, however none of them directly affect the Lottery. Kristi shared that one of the bills would have allowed state licensed card rooms to offer sports wagering. Last year a bill passed which allowed the tribes to begin offering sports wagering. Card rooms in the state wanted to be a part of it, but were unsuccessful. This year's bill to include them is not moving. It had a hearing but not a vote before cut-off.

Kristi said another interesting bill would have allowed the sale of raffle tickets over the internet, however it did not get a hearing. There is a similar bill that would allow changes to the raffle system, but it does not include internet sales. Kristi said, one other bill that was of note would allow The Horse Racing Commission to receive funds from the state for their operating expenses. Currently they have a prohibition in their law from receiving state funds, and they must be completely funded by licensing fees. She explained that the horse racing industry is currently struggling and licensing fees are not sufficient to pay for operating expenses. The bill does not specify where the money would come from, or guarantee any funds, it just removes the prohibition.

Kristi said the biggest legislative workflow for the Lottery this year has been from an odd place. Few people know that the Lottery, specifically the Director's office, is a limited law enforcement agency. She said there have been several bills this year related to law enforcement accountability and reform. Because the Lottery does not exercise most traditional law enforcement powers, such as apprehension and arrest, these bills mostly do not impact them. However, they are still required to do the analysis and the fiscal note for each one, which are a lot of work. In addition to those bills, there have been the usual slate of regulation reform, IT, and data privacy bills that they are analyzing and providing fiscal notes on.

Lastly, Kristi shared that on January 28<sup>th</sup> she and Marcus presented virtually to the House Commerce and Gaming Committee. They were allowed to present first, because the Committee ran out of time when they were invited to a previous work session. The presentation was focused on equity, and they also addressed COVID impacts. They talked about the Lottery's sales over the past year, as well as the limited information they had on player and retailer demographics and equity issues. They seemed to appreciate the presentation, and the good news about sales last year.

### **Financial Report:**

Maria Lourenco-Douka, Finance Director, presented the second quarter financials, which ended December 31, 2020. She began with the fiscal year FY2020 and FY2021 six-month financial comparison for sales and operations. Next, Maria shared the budget to actual comparison for the same six month period and the associated foot notes. She noted that contributions to Lumen Field, formerly Century Link Field, have been paid in full as of December 8, 2020. Maria then talked about the year-to-date vendor expenses, showing a chart comparison of the Lottery's three largest vendors for the current and prior year. She concluded her report by going over the sales and estimated net profit by price point, and the Lottery appropriation amount for the biennium.

### **Department of Imagination Retail Store Update:**

Deputy Director Josh Johnston stepped in for Crystal Fisher to provide an update on the Department of Imagination (DOI) retail store in Spokane. The store opened on December 21<sup>st</sup>, and Josh shared photos of the outside and interior of the new space located at the Northtown

Mall. He shared information about the store's sales since opening, and said they set a weekly goal of \$1,307. So far they have surpassed that goal each week, with a weekly average of \$4,770.

Josh said the store seems to be doing well, despite the ongoing pandemic, and shared they have already processed 72 claims in the short time they have been open. The Olympia Headquarters office is the only other location currently open to the public, so the Spokane store provides a closer option for players on the east side of the state to redeem large prizes. Josh also noted they are seeing an increasing trend of players reinvesting, meaning they claim their low tier prizes and immediately use it to purchase another ticket. Josh thanked the DOI project team and the Spokane regional staff for their patience and hard work through the whole process.

Commissioner Giniger commented that the store looks great and thanked Lottery staff for hanging in there through all of the challenges this project brought.

Chair Loveland asked what the lease agreement length and costs are for the new space. Josh said the current lease is through 2025, and said he does not know the exact cost comparison of the new lease versus the previous one, but would get that information and share it with the Commissioners. He said it was very minimal, and believed it was under \$100.

Commissioner Sullivan commented that the store looked beautiful and congratulated the Lottery staff on a job well done and for a successful outcome, despite all the roadblocks along the way.

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

Lance Anderson, Assistant Director of Sales, began by talking about the FY2021 sales goals and actuals. They are currently \$85.4 million above goal and \$115.5 million above last year, at \$563 million in overall sales year-to-date. He shared the break-down of sales per game, with Scratch continuing to bring in the largest amount of sales. He said all their games are currently sitting above goal, except for Lotto. Lance shared some fun facts about Mega Millions and Powerball, and then talked about Hit 5 and the successful impacts of the recent game change. He said they experienced their highest Cashpot at over \$1 million, twice since August. Their team is now looking at the success of the Hit 5 changes and brainstorming ways to improve Lotto.

Randy Warick, Assistant Director of Marketing, began with a public relations update and thanked Curator for the wonderful job they have been doing for the Lottery. He said they have had over 17.5 million impressions, had great coverage on unclaimed prizes, and benefited from all the advertising of the large jackpots for Mega Millions and Powerball. They also had some coverage of the DOI store opening in Spokane, and Randy shared a clip of Kristi being interviewed by King 5 News about the large jackpot runs and the contributions Lottery makes to education in Washington State.

Randy next provided a marketing update and said this month the Lottery wraps up their two-year "Let's Imagine Together," campaign. They will be transitioning over to the new Department of Imagination campaign, "Imaginations Unite," and have recently completed shooting four new

advertising spots. The Winter Cashfall promotion is also wrapping up, and Randy shared some of the promotional advertising that was used and said the promotion was very successful. He also shared new Lotto advertising they are running to help drive some interest in the game.

With a presence on Facebook, Instagram, and Twitter, the Lottery continues to utilize social media to inform players about their games, beneficiaries, responsible gambling, and mobile app. Randy said they continue to gain followers on all three platforms, and through the pandemic this has been an extremely effective method for engaging with players. He thanked Wunderman Thompson for their efforts to keep Lottery a fun and prominent presence on social media.

Finally, Randy provided a glimpse of the Scratch portfolio that has been used over the first half of the year. He said they have done \$80 million over what they had planned for scratch tickets, and they are on an eleven-year trend of Scratch exceeding its goals year-over-year.

Commissioner Giniger asked if other states are seeing the same increase in scratch ticket sales that Washington's Lottery has been experiencing. Randy said in a recent article, Scientific Games highlighted the unbelievable growth that is occurring in scratch sales across the country. He said it did not breakout the numbers state-by-state, but he could request that information. Director Glasper added, Le Fleur's publishes statistics that they can share with the Commissioners.

Commissioner Giniger asked what Randy meant when he said the Lottery is doing, "as well as it can in social media." Randy explained that they have seen positive upward trends in everything they are doing on social media, meaning interactions, engagements, likes, shares, etc. They are trying to challenge themselves now to find other areas that they can explore and grow. They have a solid following but staying ahead of social media trends is a challenge and they are constantly looking at how they can do more and increase their following.

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

Gaylene Gray, Instant Product Manager, presented new scratch ticket artwork for the Commissioners review. For the benefit of new Commissioner Willis, Chair Loveland asked Gaylene to give a brief overview of what the Commissioner's roles are when looking at the artwork. Gaylene said the Lottery aims to supply scratch tickets that are fun, whimsical, number themed, or gambling themed, and just overall attractive to adults, while being mindful not to target or specifically appeal to children. The Commissioner's roles are to look for any possible concerns with using the artwork. Gaylene talked about each ticket design and asked if the Commissioners had any questions or concerns. The Commissioners did not have any concerns.

#### **Commission Business:**

Chair Loveland asked if there was any other business that Commissioners wished to put forward. Commissioner Willis said she would be interested in an update on the outage at the data center in

Texas, if there is new information to share at the next Commission meeting. Director Glasper said he will make sure that an update is provided.

**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.

**Agenda Items for Next Commission Meeting:**

Chair Loveland asked if there were any suggestions for the next meeting agenda, which will be held on April 22, 2021. There were none. She commented that if any Commissioners think of something they would like to have added, have questions, or a subject matter they would like to have discussed, to let Lottery staff know any time prior to the next meeting.

**Adjournment:**

11:09 a.m. – Chair Loveland adjourned the meeting.

The February 18, 2021 Lottery Commission Meeting Minutes were approved this 22 day  
of April, 2021.

Respectfully submitted,

  
Valoria Loveland, Commission Chair

  
Stephanie Porter, Executive Secretary