

NEW HAMPSHIRE GAMING REGULATORY OVERSIGHT AUTHORITY
APPROVED – Minutes of Meeting – November 9, 2010

Member Attendance:

Tom Ferrini, CHAIR (Mayor, City of Portsmouth)
John Barthelmes, Commissioner, Dept of Safety
Paul Kelley, Director, NH Racing & Charitable Gaming Commission
Charles McIntyre, NH Lottery Commission
Michael Delaney, Attorney General, State of NH
David Bailey, Chief of Police, Bedford NH
William Graham, NH State Police

Absent:

Debra Douglas

Additional Attendees: see Exhibit A

Meeting called to order by Chair, Tom Ferrini

Minutes of October 21 have been accepted.

Ayes - 7 , Nays – 0

Wayne Lemons, Director of the Delaware Lottery, gave us an overview of the gaming history in The State of Delaware. As you recall at the end of our last meeting Delaware is one of the states that we were charged with reviewing while putting together our structure.

- Delaware is about to finish their 15th year in the slots/video lottery industry.
- Legislation was passed in 1994, and the first operation was started in December 1995.
- Delaware has three race tracks; one thoroughbred track at Delaware Park in Wilmington, and then in the southern two counties they have two harness tracks.
- There is only one thoroughbred farm in Delaware, however, there are a number of thoroughbred owners. The majority of their farms are across the State line in Maryland.
- Video lottery legislation is only confined to the three race tracks. Once legislation was passed we went right to work establishing rules and regulations. Since it was lottery the legislation stated that it had to be under the lottery supervision/regulations. The regulation says that the machines have to be operated by the State. Legislation says they have to be controlled by a central system.
- Tried to design the regulations as close to the traditional lottery as is possible. We were given the option of either owning or leasing the slot machines. We chose to lease the slot machines. The machines are leased from the basic manufacturers. We do not lease them from distributors. The lease includes maintenance for the machines. We hold contracts with the 4 major benefactors of slot machines in this country (world): IGT, Bally, WMS and Speleo/G Tech. The contract says if there is anything wrong with the machine they have to respond within 2 hours. Therefore they have to have people ready to go if they get called, 24 hours/day. They are paid on the basis of the amount of revenue that goes through their machine. Six years ago is the last time we renegotiated these contracts. Each week we calculate the state average of all the machines within the state.
- There is a short wait time for them to be compensated for their work. This works out to the state's advantage because it makes them available when needed. The vendors are the first to suggest that maybe these machines are not performing as they should and swap them out with another machine. This is certainly to the states advantage and the track ownership.
- This year we went into table games at the three tracks. The race tracks preferred not to have table games, it was too expensive to operate the table games and they preferred just slot machines. The operators said they had experience with both slots and table games in Atlantic City and knew what was involved. In the last two-three years West Virginia and Pennsylvania added table games to their casinos. Legislation was passed in late January 2010 to add table games, but we had made a move before the legislation was actually passed to start advertising (put out a bid) for a consulting firm to help us plan and institute table games because we did not have the experience. Spectrum was selected and Delaware is

very pleased with them. From May to June we added table games to all 3 race tracks. Table games are labor intensive. Delaware had to double their lottery staff. There are over 200 tables in the State of Delaware. Personnel wise the tracks themselves hired over 800 people as dealers. The race tracks are open 24 hours/day. The State of Delaware *lottery* hired an additional 33 employees, over a 50% increase of the existing 28 employees.

- The lottery personnel functions are called either inspectors or auditors. The inspectors are ones that stand and watch the operations. Table games cannot be operated yet by a simple system, so they're operated or regulated by people of three levels; people watching people watching people. Much more expensive to operate than the slot machines.
- The slots as far as the regulations are concerned, is left up to the lottery to develop these regulations. If there was a slots dispute, which we haven't had many, it would go directly to Wayne Lemons and he would then go to the Secretary of Finance. That is how it would be settled. Unaware of any lawsuits that the State of Delaware has with slots. With table games there was in the legislation a commission (not a regulatory commission) to settle disputes. They have only been operating since mid summer. To date there have been 4 or 5 people who were denied licenses and they appealed to the commission. They were potential dealers, not operators. If there was something that happened, it would be settled by the commission.

Commissioner Barthelmes: Slot machines are controlled and operated by the State of Delaware and regulated by lottery. The table games are operated by the track, and regulated by the lottery. The horse racing is controlled by the track, who are they regulated by?

Wayne Lemons: There is a commission (two commissions) one thoroughbred and a standard bred commission. They regulate racing. The lottery has nothing to do with racing.

Commissioner Barthelmes: How does that work for the track owners where they are dealing with different regulatory authorities?

Wayne Lemons: It is accepted and it does work.

Charlie McIntyre: What was the time frame for which you were given the go ahead?

Wayne Lemons: We were not given a time frame. We did our best to set up a time frame on our own. The legislation was not effective for 90 days because the Governor chose not to sign it. It was 90 days before it could go into effect, so it was in the fall before we could legally start working on rules and regulations. We then went out to bid for machines. We did not have to bid for a central system because the previous time that we had filled out the bill for a central system there had been some discussion on video lottery or possible slot machines coming into the state. The consultant we were working with put in the bid for the central system, if called upon, will have to be able to add a group of slot machines in the state. That was in the contract that we had with the vendors so we didn't have to go out to bid for the central system. This saved some time. We did have to prepare bids for slot machine manufacturers. The bids were released sometime after the first of 1995. Then the tracks had to do a considerable amount of regulation to receive these machines. We were ready to go before the tracks got all of their consultants ready to go. We opened the first two operations on December 29, 1995.

Charles McIntyre: How much time do you think it saved by already having the bid for the central system?

Wayne Lemons: It saved several months work.

Commissioner Barthelmes: Back to enforcement, how does it work in regards do you have on site law enforcement personnel? As far as coordination with local law enforcement, county, state, and the Attorney General's Office, how is it determined as to who does what? Who has what responsibilities?

Wayne Lemons: The State Police have the responsibility. We did not have a "security group" at the lottery. We asked that State Police be assigned for this purpose. A State Police Unit, about 8 uniformed people, was formed to

perform all of the background checks (which are considerable) and investigations when anything went wrong. They are still responsible for doing this. That unit has also been expanded since table games came in.

Tom Ferrini: How much expansion w/table games?

Wayne Lemons: These numbers are not yet available. Before table games were started, last fiscal year the expense for that unit was just over \$1 million.

Tom Ferrini: Back to personnel numbers, the lottery had 28 employees and you took on an additional 33 employees. Is that increase directly related to the establishment of the 200 table games? What are those 33 new employees doing?

Wayne Lemons: Yes, the increase is directly related to the establishment of 200 table games. These employees are called auditors or inspectors. The inspectors are the ones that stand at and watch all the tables. There is at least one inspector there at all times. In addition to the inspectors there are cameras everywhere. These cameras can zero in to read the serial number on a dollar bill if necessary. They are that sensitive. In the security room, there is a staff of people looking over these cameras at all times. They can look at anything on the floor at the casino. The auditors are present for all the counts that go on in the count room. They certify that counts are correct.

Those are the lottery employees at the tables. In addition there are the State Police. The State Police Unit that we have for the slots has been expanded and now we call it the Dept of Gaming Enforcement (DGE). They have expanded number wise because there are so many more background investigations to do and then also they have a 24 hour presence over the floor. They don't have enough people to watch everything that is going on with the table games but in case something happens they have people there 24 hours/day.

Tom Ferrini: What % of your income comes from lottery, what % comes from racing, what % comes from slots, what % comes from table games?

Wayne Lemons: The % numbers and revenue numbers are not available at this time. The revenue for last year (contribution to the general fund) for slot machines was \$210.8 million, traditional lottery games was \$37.2 million, sports betting (parlay bets and football only) \$1.3 million. We had a staggered start for table games this summer, to date the states share for that operation is \$3.4 million for just a few months.

Tom Ferrini: Fair to assume that we're in the realm of \$10-\$15 million for table games. If that's true, is that net of your operating costs?

Wayne Lemons: This is the actual contribution to the general fund so our operating costs have already been subtracted. This is also subtracting the State Police operating costs as well.

Tom Ferrini: Do you also need to use Attorney's General?

Wayne Lemons: The lottery never had a staff attorney but there is an Assistant AG assigned to the lottery.

Charles McIntyre: Is the Assistant AG assigned solely to the lottery? Is this a full time position? Has his salary also been deducted?

Wayne Lemons: Yes to all three questions. Sometimes the AG will be assigned to something else temporarily.

Chief Bailey: How many slots are in the state?

Wayne Lemons: As we speak there are 7007 in the state.

Chief Bailey: Is that number regulated by law or whatever the market fares?

Wayne Lemons: No, it's whatever they request and what we agree to.

Chief Bailey: Next question, sounds like you have different vendors for the leasing. Why do you have different vendors? With the different vendors, how do you decide who gets what?

Wayne Lemons: It was a management decision to have different vendors because you want the largest selection of machines on the floor as possible and you have that with multiple vendors. We do have a rule that no more than 60% of machines can be from one vendor. IGT does have basically the 60% of the machines in Delaware. IGT is the largest manufacturer in the business and they have a good reputation.

Charlie McIntyre: A lot of the states now portion out the floor space of the machines, based on their performance. This is reassessed monthly, quarterly and yearly.

Wayne: To a degree we do. That was the intent. We have found that this is not necessary because the vendors try to keep the best machines on the floor because it scales their pay. If you have a poor performance machine, they are the first ones to pull it off the floor. We seldom have to suggest to them that they remove a machine from the floor.

Paul Kelley: Is there any charitable gaming that goes along with this?

Wayne Lemons: Yes but it's not regulated. It is regulated by a separate board. It is unknown as to the amount of revenue they bring in.

Paul Kelley: We have about 110-150 tables depending on the time of year. In NH the average sales are around \$45 million in table games. We have 13 locations.

Chief Bailey: Do you have any idea of what the impact of the table games has on charitable gaming?

Wayne Lemons: We haven't been in table games long enough to be able to answer this question.

Tom Ferrini: Is there a provision within your legislation with respect to social costs, giving back in that regard and how it works?

Wayne Lemons: The legislation says that from the State share of the net proceeds either \$100,000 or 1% would go to problem gaming. That figure is calculated every month and transferred to health and social services. Health and social services decide how it's going to be used. Last year we transferred \$1.7 million.

Commissioner Barthelmes: Do you have statistics on where the people gambling are coming from? Are people coming from In-state or out of state?

Wayne Lemons: That is some of the problems we're having because the surrounding states are doing the same thing we are doing or have been doing. Pennsylvania now has 10 casinos. One of them is just across the State line from Delaware Park. Maryland opened their first casino about a month ago and they will have more in time. We do a biannual survey of the surrounding states. We have a pretty good idea; a copy of these numbers will be forwarded to the Chair.

Tom Ferrini: Discussion on what our process might be going forward. For a review we have had an opportunity to be oriented as to the nature and extent of any potential land use issues and development issues in our State. We've had an opportunity to hear from professionals as to how gambling can be set up in the State so that you're ready from a regulatory perspective thinking of Spectrum's presentation and proposal. We've also benefited from Attorney Stocker who has talked about how, from a policy and legal perspective, we make sure we deal with any consequences of how gambling or gaming might work in NH and how you make sure that the regulatory environment is adhered to. Do the things you want it to do and avoid the things you don't want to have happen.

Finally, with Wayne Lemons presentation here today, we get a sense for example to the State of Delaware which is comparable in terms of size to NH. A bit smaller but the same amount of operations at least from the gaming study commission report. This gives you a sense as to what the order of magnitude might be, how many employees there would be, the real nuts and bolts, and it gives us a sense to frame it. Now as we go forward it probably makes sense to sooner rather than later talk about how we might take the next step in actually getting the rest of the work in the pipeline. If you look at your schedules you will note that we have a meeting on November 23 and December 14, and scheduled out after that. It is my understanding that there is a G&C meeting November 17 and then another December 8. If this Commission is to go forward we're going to need to have more draft proposals from groups like Spectrum so that we can look at them. I would ask for some guidance as well from the Attorney General as to how we might solicit those. We want to put in the near future an idea that we have an opportunity to have presentations at our next meeting from a couple of these groups if they care to come. By then we would have gathered a number of draft proposals such as this then we can deliberate after presentations at the next meeting so that we would be perhaps ready to present at a G&C meeting. Question to Attorney General Delaney as to how we might proceed as well.

Attorney General Delaney: Obviously we have been granted some appropriations with barely broad authority to use those funds as we deem fit, to further the work of this commission. I do not believe that would authorize us to obtain consultants without approval of G&C where necessary and certainly the prior study commission that was addressing gaming issues grappled with some of these same ideas. To that extent likely the scope of work we're talking about will require G&C submission. In terms of how to approach that from here, certainly some level of having vetted some potential vendors and having made a selection from a series of candidates would be a course of action that the General would recommend to this authority. In terms of doing that what levels of formality in terms of RFP in competitive bidding do we want to get into. In terms of precedent it is fair to say that there is not a very rigid competitive bid process that was formulated by the prior study committee that albeit was a study committee by executive order we are authority provided by statute. However we do have some time for consideration that we've been asked to do things under some fairly strict time frames. In that regard some of meeting those requirements should dictate how we proceed forward. My recommendation to the chair would be that we solicit some other input from entities that may be similarly suited to those we've heard from to provide us with assistance. Make some selections from there, but would not recommend that we engage in a very rigorous RFP or scoring process thinking because we don't have the luxury of the time frame for doing that. Some councilors may not look upon the merit of our proposals based on what process we follow, but there is a balance that we need to strike. Recommendation would be that we do some vetting between entities but do it somewhat in the expedited basis in a way that would make all the commission members comfortable that we could stand before the G&C and say that well we may not have had a formal RFP and a precise scoring criteria and as an authority we have heard from several potential consultants and have a recommendation.

Tom Ferrini: Spectrum is talking about an order in the magnitude of \$40,000 to essentially analyze and provide some reason to the state that we're talking about, provide a statutory scheme and provide a regulatory enforcement scheme and structure. This is merely taking what in many cases is an existing body of work for many of these companies, assembling it and getting it in front of us. Assuming we proceed in the direction as suggested by the General we would then get this done. Spectrum indicated that they could turn around this piece of work within a short time frame – probably 2 – 3 weeks. The real work comes for us when we get that piece of work. We are going to be convening right after the holidays to really vet this and work through it and determine how it fits with New Hampshire's governmental regulatory enforcement structure. It will be our goal and role to go through and make sure we are appropriately vetting it. We may use the services of Attorney Stocker who has already presented to us to get certain policy considerations down, given his nature and his experience. Now that we've gotten to this point of learning and understanding of what it is we're doing, we need to have the corpus of this in front of us so that we can actually do the work. Would like to ask for everyone's input based on what General Delaney has said. Tom would seek to take this proposal and seek to reach out and contact a number of groups of names that have been provided by Charlie McIntyre. We'll put out and say this is what we're looking at doing, this is the time frame, we want some sort of draft before the holidays that would also comport with the concerns that some had to have a sense as to what the magnitude of work that we're going to be engaging in and what the state might be looking at prior to the legislative session. While it would not be a report that had been fully evaluated and completed by this commission it is likely that we would have a piece of work product prior to the holidays as we had hoped we would. If we follow through with this procedure, we would then be ready to present it

appropriately to the G&C. At this point having an outline would be a probable course of action. I would certainly like to get input and see how people feel.

Commissioner Barthelmes: I agree in concept. My one concern, General, is the Council process. As long as we, before anything goes out, get it thoroughly vetted through the Attorney General's office so we are very clear on what this process is going to entail leading up to making a presentation to the G&C.

Charlie McIntyre: Having had many years in the gaming community I know that there are not that many gaming consultants out there. Normal RFP process would be to find 3 or 4 vendors. There isn't that big a pool of people to draw from.

General Delaney: I agree wholeheartedly that we need to make sure we are all comfortable with the process. The service that we're retaining right now is a little bit unique. We're not hiring someone to assist in a regulatory function. We're not retaining someone to deliver a product to us. We're really looking for essentially consultant brain power to help us with decision making. In that regard insurance of a process that makes sense is a little bit of a different service than we're trying to retain. In that regard we want to make sure that we can stand up and say to the Council we had a clear idea of what we were looking for in terms of the scope of consultant service. We vetted this with a number of qualified applicants and had a process at this table in which we vetted the pros and cons and made a decision as to who we thought was in the best interest of the State.

Tom Ferrini: We have a meeting November 23, my goal is to take the list of vendors provided to me and ask them to provide to us with a proposal.

General Delaney: They have provided us with a proposal – do we want to provide the scope of the costs as well or just outline the product intended.

Commissioner Barthelmes: In the Spectrum proposal, there are quotes and dollar amounts included. Using the same scope should be sufficient in our proposal.

Tom Ferrini: Will take a bear bones outline from Spectrum's proposal. I will seek to have a draft letter done through the Dept of Safety and have that sent out as a draft within the next 1-2 days. We will also ask for biographies for people that work on the project. I could ask two to come to the next meeting. That will take the better part of 1 ½ hours. We will need some time for deliberation. I would even like to cut them down to ½ hour each so it gives us an hour to deliberate. Would it help to see one or two more presentations or does that sound reasonable?

Commissioner Barthelmes: Leave that to be determined depending on how many responses we receive.

General Delaney: Still talking about evaluating a consultant with operational expertise like Spectrum as well as somebody that you articulate in describing more on bigger picture policy options such as Attorney Stocker.

Tom Ferrini: We understand from the nature of the presentations that we have the how to, and then there are some of the bigger policy questions and things that the State needs to be concerned about for example bankruptcy succession of an entity. Those kinds of things are going to be advice we are going to get from an attorney such as him. Let's assume that we get this information and have a work product in a reasonable period of time that we receive. It's at that point that we would want to be working toward having an attorney or someone like that available to us at the same time. As we're vetting this so we can make our recommendation to the Legislature we would want to be soliciting and having that advice available to us concurrent with our deliberations. We may need to do additional vetting in that regard.

Paul Kelley: How much money is spent gambling on charitable gaming? What is the maximum bet of charitable gaming? What is the maximum bet on casino gaming (table games)? New Hampshire has a \$4.00 maximum bet on charitable games. Typically in NH the card rooms are opened typically around 7-9 hours/day versus Delaware 24 hours/day.

Wayne Lemons: Does not have the answer for the first two questions. Question 3, there is no maximum bet on table games.

Motion to Adjourn by Tom Ferrini

Seconded by Commissioner Barthelmes

GAMING REGULATORY OVERSIGHT AUTHORITY

EXHIBIT A

November 9, 2010

ATTENDEES:

**Keith Lohmann, NH Dept of Safety
H. Vanderbeek
Dick Bouley, Dennehy/Bouley
Warren Leary, NH Racing Commission
Curtis J. Barry, The Dupont Group
Ted Connors, Rockingham County Gaming Commission
Mary Beth Wade, NH House – Local & Reg. Revenues
Jim VanDongon
Sudhir Naik, NH Racing Commission
Chuck Saia, NH Racing and Charitable Gaming
Dan Callaghan, Devine Millimet (410-1701)
Elizabeth Sargent, Sheehan Phinney Capitol Group
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