

IOWA RACING AND GAMING COMMISSION
MINUTES
JANUARY 16, 2003

The Iowa Racing and Gaming Commission (IRGC) met on Thursday, January 16, 2003 at Stoney Creek Inn, 5291 Stoney Creek Court, Johnston, Iowa. Commission members present were Mike Mahaffey, Chair, Diane Hamilton, Vice Chair, and members Steve Chapman, Kate Cutler and Joyce Jarding.

Vice Chair Diane Hamilton called the meeting to order at 8:30 AM, and requested a motion to approve the agenda. Commissioner Cutler moved to approve the agenda as submitted. Commissioner Jarding seconded the motion, which carried unanimously. Chair Mahaffey was delayed due to weather/road conditions.

Vice Chair Hamilton moved to the approval of the minutes from the Commission meeting of November 21, 2002. Commissioner Chapman moved to approve the minutes from the November 21, 2002 Commission meeting as submitted. Commissioner Cutler seconded the motion, which carried unanimously.

Vice Chair Hamilton called on Jack Ketterer, Administrator of IRGC, for announcements. Mr. Ketterer indicated there would no meeting in February or May. He further advised that the March meeting would be held at Stoney Creek Inn and that the Commission would be reviewing the riverboat license renewal applications at that time. The April meeting will be at Ameristar in Council Bluffs. The June meeting will be held the first week of the month at Stoney Creek Inn.

Vice Chair Hamilton moved to the next agenda item – a report on the Legislative impact on the gambling treatment programs by Lisa Pierce and Jan Meisenbach of the Central Iowa Gambling Treatment Program, Inc. (CIGTP) and Eastern Iowa Gambling Treatment Program (EIGTP), respectively. Ms. Pierce distributed a handout (available in the Des Moines Commission Office). Ms. Pierce stated they were seeking the Commission's support in restoring gambling treatment program funds, as well as possibly redirecting them under a different agency. She noted that the state is divided into eleven different treatment areas, but there are only ten active/current providers. Area Three does not have a provider due to funding and the manner in which it is distributed. Ms. Pierce stated that the original legislation specifies that three-tenths of a percent of all gaming industry revenues was to be set aside for the program. Those funds cover the treatment programs, administrative costs for the State, the advertising and running of the 1-800-Bets-Off line, and anything else that pertains to providing treatment for those individuals that are

compulsive or pathological gamblers, as well as concerned persons. Ms. Pierce advised the Commission that from 2000 through 2002, 55% of the Gambling Treatment Program funding has been redirected to other programs due to Legislative action. Ms. Pierce provided a comparison of July-December 2001 to July-December 2002, which showed a 12.7% increase in the number of individuals seeking services; however, funding for the program continued to decrease. She noted that in FY 2002, CIGTP provided over \$23,000 of services free of charge. For September through December 2002, CIGTP has already provided over \$37,500 of free services. Ms. Pierce noted that the programs cannot continue to absorb the cost of providing services without receiving reimbursement. She noted that Wes Ehrecke, Executive Director of the Iowa Gaming Association, had been very helpful in being able to address various members of the Legislature in an attempt to explain how much the budget cuts have affected the treatment programs. If the demand for services continues at the current pace, CIGTP will either have to cut services or try to absorb a deficit of approximately \$103,204.75. CIGTP has taken steps to cut expenses in an effort to help meet this demand. Ms. Pierce reiterated her request for the Commission's support in getting the funds restored to the Gambling Treatment Program, realizing that it will take Legislative action.

Ms. Meisenbach, Director of EIGTP, advised that they have offices in Davenport, Clinton and Marion. She stated that her counselors are required to take a one-month layoff in order to meet budget, meaning that she and another counselor are left to pick up the additional workload. Ms. Meisenbach noted that approximately 30% of their clients are from Illinois, for which they are unable to obtain funding/reimbursement. She recommended that a system be developed allowing border treatment centers to bill surrounding states for services provided to their residents. Ms. Meisenbach advised that EIGTP has had their budget decreased by just over 19% of their contract in the last two years. She reiterated Ms. Pierce's request for Commission support in restoring funding to the Gambling Treatment Program. She noted that the Gambling Treatment Program is receiving just 45% of the monies being deposited in the Gambling Treatment Fund by the gambling facilities and lottery, which is then divided up between the various treatment providers. The majority of the funds go to these two treatment centers.

Ms. Pierce stated that she and Ms. Meisenbach had talked to their local casinos about being able to receive jackpots won by individuals who had trespassed themselves from the facilities. She also suggested that those individuals be required to seek treatment for their gambling problem. Terry Hirsch, Director of Riverboat Gambling, advised that those funds are eventually paid out to the individual who won the jackpot.

Ms. Pierce also expressed her appreciation for the staff at PMR&C and their support of the program. During National Education Week, PMR&C allows CIGTP to set up two booths right inside the casino to address problem gambling and answer any questions, as well as other functions throughout the year.

Mr. Ketterer thanked Ms. Pierce and Ms. Meisenbach for appearing before the Commission. He noted that the Commission had established a Legislative Committee to

draft recommendations for legislation, one of which was to restore 100% of the three-tenths of a percent to the Gambling Treatment Program. Mr. Ketterer stated that the Commission has been making that recommendation for the last three years since the raiding of the fund began. He noted that the State is in a difficult fiscal situation, but pointed out that the raiding began prior to the State's financial problems. Mr. Ketterer stated that the Commission is saying some of the same things to the Legislators with regard to the Gambling Treatment Program. He also indicated that any information they are able to give to the Legislators with regard to the services and lack of funding would be helpful.

The final three pages of the handout provided statistics taken from a study performed by the Harvard Medical School Division of Addiction for the Iowa Department of Public Health Gambling Treatment Program.

Chair Mahaffey joined the meeting during this presentation.

Chair Mahaffey moved to the next agenda item – Final Adoption of Rules. Mr. Ketterer advised the Commission that the rules before them for final adoption were approved under Notice of Intended Action at the November Commission meeting. He noted there was no significant, if any, public comment with regard to the proposed rule changes. Mr. Ketterer stated that the proposed rules cover a variety of issues from the types of service required for an administrative action or hearing, qualifications and requirements for peace officers, and the last item is a rule proposed by IGT with regard to the funding of the multi-link system jackpots with a “qualified investment” since the government eliminated the 30-year Treasury Bonds. He recommended that the rules be approved for final adoption.

As there was no discussion concerning the rules, Commissioner Jarding moved to approve the final adoption of the Rules as submitted. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 03-01)

Chair Mahaffey moved to the contract approval portion of the agenda, and called on Catfish Bend Casino. Joe Massa, General Manager, presented the following contracts for Commission approval:

- Seabury and Smith – Marine, Liability, etc. Insurance
- Southeast Iowa Regional Riverboat Commission – Extension of Operating Agreement (RP)

Mr. Ketterer asked Mr. Massa if there was any new information with regard to the non-profit Operating Agreement. Mr. Massa advised that the parties would be meeting the following Tuesday. Mr. Ketterer asked if the unresolved issues still revolved around the third city. Mr. Massa indicated that was correct. The contract before the Commission is for a six-month extension of the current Agreement, which should see a resolution to the tax issue.

Hearing no further discussion, Chair Mahaffey requested a motion. Commissioner Chapman moved to approve the contracts as submitted by Catfish Bend Casino. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-02)

Chair Mahaffey called on Lakeside Casino. Kevin Preston, General Manager, presented the following contracts for Commission approval:

- American State Bank – Letter of Credit (RP)
- Blecker Productions – Entertainment Bookings
- Progressive Design L.C. – Advertising Agency Fees and Expenses

Commissioner Hamilton asked if Lakeside had changed advertising agencies. Mr. Preston answered in the affirmative, noting that the change had occurred earlier than expected as their previous agency terminated their contract during the RFP process.

Hearing no further discussion concerning the contracts, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the contracts as submitted by Lakeside Casino. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-03)

Chair Mahaffey called on Ameristar Casino. Jane Bell, Director of Government/Community Affairs, presented the following contracts for Commission approval:

- Aristocrat Technologies – Transfer of 40 Used Slot Machines from Ameristar Vicksburg (RP)
- IGT – Forty New IGT Slant Top Ticket Printing Slot Machines (Replacements)

Hearing no discussion concerning the contracts, Chair Mahaffey requested a motion. Commissioner Chapman moved to approve the contracts as submitted by Ameristar. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-04)

Chair Mahaffey called on Mississippi Belle II (MB II). Gus Linke, Controller, presented the following contracts for Commission approval:

- IGT – Two Replacement Machines – 20% Fee with \$35/Day Minimum
- The Great Midwest Seafood Co. – Retroactive Request for Transaction Approval for 2002

Hearing no discussion concerning the contracts, Chair Mahaffey requested a motion. Commissioner Chapman moved to approve the contracts as submitted by MB II. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-05)

Chair Mahaffey called on Bluffs Run Casino (BRC). Pete Weien, General Manager, presented the following contracts for Commission approval:

- Burke's Mail Service – Direct Mail Services
- C Rallo Construction Co., Inc. – Construction of VIP Lounge
- Cummins – Repairs and Maintenance of Equipment
- Curtis 1000 – Printing Services
- D & D Communications – Purchase Radios & Accessories
- Digital Impression – Printed Materials
- Elman & Co – Printed Materials (Direct Mail)
- Smart DM – Direct Mail Services

He noted that one of the contracts was for a \$1.4 million facility renovation and expansion project.

Hearing no discussion concerning the contracts, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contracts as submitted by BRC. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-06)

Commissioner Chapman asked how much Harrah's had spent on renovations the last twelve months. Mr. Weien stated that between the two properties, including this project, Harrah's has spent approximately \$40 million.

Chair Mahaffey called on Dubuque Greyhound Park & Casino (DGP&C). Bruce Wentworth, General Manager, submitted a contract with Qwest to operate the DSL line.

Hearing no discussion concerning the contract, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the contract as submitted by DGP&C. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-07)

Chair Mahaffey moved to the approval of the purse agreements for the Dubuque Racing Association and Iowa West Racing Association (IWRA) with the Iowa Greyhound Association. He indicated it was his understanding this item was being deferred until the March meeting. Mr. Ketterer indicated that was correct. He stated that Mr. Cownie had contacted the Commission and indicated that the Arbitration Committee had finished one Decision, but were still working on the other one. Mr. Cownie indicated written Decisions would be submitted for the March Commission meeting.

Chair Mahaffey moved to the Appeal of IRGC's decision to approve the license renewal application of IWRA/BRC filed by Timm Reid on behalf of Robert C. Miller. Mr. Reid distributed copies of the Management and Lease Agreements between IWRA and Harveys BR Management Company, Inc. and HBR Realty Company, Inc. and IWRA respectively. Mr. Reid stated that he was appearing on behalf of Mr. Miller and other

interested parties, and asked the Commission to rescind its decision to renew IWRA's license to operate BRC and to immediately revoke the license. Mr. Reid stated that in September 1999, the Commission approved the sale of IWRA to Harveys Casino and also approved the above-mentioned Management Agreement, which is in full force and effect at this time without any changes. As part of the Agreement, IWRA would retain its license and ownership of the slot machines as required by Iowa law. Mr. Reid noted that under the current law, the license is not transferable; and that Iowa Code Section 99D.9(3)c requires the licensee to be the true owner of the enterprise. He stated that the current arrangement between IWRA, and its current owner, Harrah's, as set forth in the Management Agreement nullifies all reasonable indicia of ownership that one would expect to the extent that IWRA can not be considered to be the true owner of the enterprise as required by law. Mr. Reid stated that the current statute does not define the term "true owner of the enterprise", and that unless a specific definition is given in Iowa law, then ordinary and customary meanings of the term will be used. He referred to a case heard by the Iowa Supreme Court in 1983, City of Cedar Falls vs. Cleve, in which they defined "ownership". Mr. Reid stated that Black's Law Dictionary defines ownership as "a collection of rights to use and enjoy property, including the right to transmit it to others, the right of one or more persons to possess and use the thing to the exclusion of others, exclusive right of possession, enjoyment, disposal, involving an essential attribute to the right to control, handle and dispose. He further stated that allowing IWRA to maintain its licensure under the circumstances of the Management Agreement violates the clear language and spirit of 99D.

Mr. Reid stated there are a number of things one would expect to go along with true ownership. He further stated that reasonable indicia of ownership would include the following: risk of loss of profit; possessing some provisional authority to manage the operation which you supposedly own; possessing some authority with regard to advertising and promotional budget; the selection, hiring or termination of employees in management; possessing final authority, or at a minimum, having some input in the procurement and maintenance of property and casualty insurance or other types of insurance; doing something, anything, having some measure of legitimate reasonable input in the administration, management and operation of the building – oversight alone is not ownership. Mr. Reid noted that oversight with some element of provisional authority might be acceptable.

Mr. Reid stated that after reviewing the Management Agreement, it appears that there is not one legitimate indicia of ownership belonging to IWRA, and they have become nothing more than the lessor of slot machines and their license. He indicated that IWRA is no longer necessary to the running of its own business, having sold their business interest and appear to no longer have any interest in the business.

Mr. Reid noted that Harrah's paid \$165 million to IWRA, with the final payment of \$45 million being made after the passage of the referendum. He stated that the wholly owned subsidiary, HBR Management Company (HBRMC), now receives, and has since the Management Agreement was approved, 100% of the profits from this ongoing business,

with a small amount of interest paid as required by statute. Mr. Reid also stated that HBRMC has all of the decision-making authority concerning the running of the business without limitation. He notes the Management Contract did provide for an advisory committee with an equal number of advisors to be appointed by Harrah's and IWRA; however, the advisory committee does not have any power to bind. The advisory committee only has the ability to make recommendations and only if the management company assents to their suggestions would they be implemented. Mr. Reid stated that IWRA has become a consultant to their own business enterprise.

Mr. Reid noted that BRC was sold in 1999, with the current owner being Harrah's Casino, Inc. IWRA has retained insufficient indicia of ownership of the facility as required by law to warrant retention of its licenses. Mr. Reid pointed out that the Legislature intended local ownership of the gaming facilities for several reasons, including the sharing of the profits from the gaming industry with Iowans. He reiterated his earlier statement that all of the profits are going to Las Vegas, and that control of the facility is in Las Vegas, and the true owner of the enterprise is Harrah's Casino. He again requested that the Commission immediately revoke the license of IWRA, or void the Management Agreement.

At this time, Chair Mahaffey called for any questions for Mr. Reid. Hearing none, Chair Mahaffey called on anyone who wanted to address Mr. Reid's comments. James Campbell, legal counsel for IWRA, stated that the issues being broached are murky, partially due to the fact that the issue has already been decided. He stated that the contractual Management Agreement in existence today is the same one approved at the Commission's September 23, 1999 meeting. Mr. Campbell stated that the case has already been decided, and the Appellant is raising issues that have already been decided by the Commission; therefore, the issue must be dealt with on a legal basis. He further stated that the Commission cannot go back and review its own decisions unless there has been an actual change in the documents. The documents have not changed. Mr. Campbell stated that he had met, on behalf of IWRA, with Jean Davis, Assistant Attorney General for the Commission, and other counsel to attempt to identify all of the issues involved in this matter. It is the opinion of those individuals that the Appellant is out of order on this issue, as a decision has already been made.

Mr. Campbell stated that IWRA continues to control the areas they agreed to control in the Management Agreement. He stated the license continues to be the property of, and responsibility of, IWRA. All parties involved in the negotiations decided that in order to make the sale work properly, payment would be made beforehand, allowing the non-profit to fulfill its obligations and duties in a timely manner as required by statute.

Mr. Campbell stated that IWRA objects to the appeal as they feel it is improper and untimely. Mr. Campbell turned the floor over to Ms. Davis.

Chair Mahaffey asked Ms. Davis to address the issues of preclusion, as well as the definition of "owner" or lack thereof in the Code.

Ms. Davis stated that with regard to the Decision entered earlier, filed under Other Agency Action as defined in Iowa Code Chapter 17A, the Commission in September 1999 was presented with the same legal issue by the same person in basically the same format at the time the documents were being reviewed and considered at a Commission meeting. She stated that the analysis before the Commission today is the same as then if the issue of administrative finality is separated, which she feels could be an impediment. She feels the Commission has attempted to deal fairly and squarely with the issues raised to this point, but indicated the issue of administrative finality is an issue that would have to be resolved by the Court. Ms. Davis stated that it was not necessary for the Commission to resolve the issue today based on administrative finality, but that they could reserve the issue as a legal barrier to the issue presented and any motion made at this meeting.

Ms. Davis moved on to the underlying merits with regard to the issue of ownership. She advised the Commission that because the matter has been before the Commission in September 1999, and again in October 2002, she had compiled the relevant documents that were reviewed at those times in a tabulated packet for their reference. Additionally, prior to the meeting today, legal counsel for IWRA submitted additional arguments regarding their position in an Affidavit of Tony Payne, former Executive Director, which is included with the materials.

Chair Mahaffey noted that a majority of the Commission members were not on the Commission in 1999.

Ms. Davis stated that she agreed with Mr. Reid if the issue is reviewed as a straight legal issue without regard to administrative finality, there is an issue of what constitutes ownership. It is her belief ownership is a fact-based determination based on a number of factors. She noted that the two statutes under which the Commission issues licenses do not define ownership; but both statutes contemplate the presence of a management agreement. Therefore, the Commission does not have to resolve this issue based upon the presence or absence of a management agreement, nor does the matter have to be resolved on the presence or absence of a lease agreement. Ms. Davis stated that aside from the fact that IWRA holds the license and must exercise control over the operation in order to maintain compliance with the statutes and regulations that govern the operation as they are accountable for any violations that occur; the other indicia of ownership she considers to be the most important in this transaction is ownership of the gambling machines. She advised the Commission that Mr. Payne's Affidavit states that IWRA is actively involved in the purchase of the slot machines, determining slot machine location, and day-to-day decision making. Ms. Davis stated that Mr. Payne's Affidavit establishes a clear and active presence by IWRA in the operation of the facility. She noted that IWRA also has day-to-day oversight over the capital expenditure budget, the operating budget and the long and short-term business plans. They also have the ability to enter into arbitration with regard to disputes. Ms. Davis stated that the license has not been transferred, and IWRA maintains general oversight of the gaming enterprise, which she feels is the indicia of ownership that a court would review in determining whether or not there was an

interest in the operation. She indicated that no one element should be the determining factor; that the Commission would have to make a fact-based determination. Ms. Davis advised the Commission that for the purposes of 99D and 99F, ownership does not have a fixed definition. She stated that, in her opinion, when the Commission compares the documents before them with the Black's Law definition, the Commission would make a determination that IWRA has not violated the statute and would affirm the Commission's decision of September 1999, as well as the motion made in October 2002.

Chair Mahaffey asked Ms. Davis to address the issues of preclusion and review the merits of the case. Ms. Davis stated that the issue of preclusion could be argued as a very clear legal impediment to judicial review. The elements to be considered are those that would be considered in common law or any type of case where the Commission may have a previously issued decision or taken administrative action, for example. Administrative finality definitely refers to the concept that once the Administrators of Iowa have made a decision, and a sufficient length of time has elapsed to allow for judicial review or appeal of the decision, then everyone moves forward and relies upon the decision that has been made by the administrative body.

As there were no questions for Mr. Campbell or Ms. Davis, Chair Mahaffey called on Mr. Reid for his final comments:

Mr. Reid reiterated the following three points from his presentation:

- Statute Section 99D.9(3)c states that a license shall not be granted to a nonprofit corporation if there is substantial evidence that the applicant for a license is not the true owner of the enterprise proposed. Section 99D.9(7) states: "Upon a violation of any of the conditions listed in this section, the commission shall immediately revoke the license." He stated that a determination of true ownership can be made at any time the Commission becomes aware of the fact that the license holder is not the true owner.
- Indicated that Mr. Payne's Affidavit supports Mr. Reid's point that IWRA is not the true owner of BRC. Beginning with Paragraph 3, the statements begin with the terms "Receive", "Review", and "Monitor". IWRA has no authority with respect to the information being received. He stated that IWRA does own the slot machines as required by statute. He noted that IWRA is informed of and monitors marketing activities.
- Section 99D.9 does consider the possibility of a management contract, and the statute does not prohibit a management contract. It is their position that a management contract cannot be generally what the statutes prescribe specifically. Mr. Reid stated that what the statute specifically prescribes is identified in 99D.9(2)a: "The nonprofit corporation, IWRA, shall not, by lease, contract, understanding, or arrangement of any kind, grant, assign, or turn over to a person

the operation of a race meeting ...” It is their contention that IWRA has turned over to Harrah’s Management Company the operation of BRC.

Commissioner Hamilton asked Mr. Reid what he hoped to accomplish. Mr. Reid stated that he wanted the Commission to uphold the law as stated in the Code of Iowa and legislation. It is not his intent to hurt anyone, but feels it is important that the law be followed correctly. He also expressed a personal concern that the profits that would otherwise be going to the people of Iowa are now going to Las Vegas.

Mr. Ketterer asked Mr. Reid if it was possible that some of the monitoring performed by IWRA would be that there is compliance in the casino with Commission regulations and state law, and that IWRA could request the Commission to review an issue if they felt that there was not compliance, that the Commission has the authority over the licensed facility. Mr. Reid likened that to the fox guarding the chicken coop, but conceded that was a possibility as IWRA does have a responsibility to maintain their license. He asked if it was possible for IWRA to report themselves to the Commission.

Chair Mahaffey noted that the Commission has heard the appeal and is being asked to overturn a previous decision. He asked for direction as to what action was required of the Commission at this time. Ms. Davis stated that the prior motion was to approve the licenses reserving this issue.

Commissioner Chapman, noting that he was not a Commission member in 1999, stated that he had the opportunity to learn a great deal on this subject, and feels that nothing has changed from the original vote to today. He indicated that he appreciated Mr. Reid’s position, but found no new information.

Hearing no further comments, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the license. Commissioner Chapman seconded the motion.

Commissioner Cutler asked if the Commission needed to address the issue of administrative finality. Ms. Davis advised that in order to avoid any argument, the motion should indicate that the Commission has waived that issue as a legal impediment to the action the Commission is about to take. The motion should indicate that the Commission is not ruling on the issue of administrative finality.

Commissioner Cutler amended her motion to include the statement that the Commission is not ruling on the issue of administrative finality. Commissioner Chapman concurred with the amendment.

Hearing no further comments or questions, Chair Mahaffey called for the vote. The motion carried unanimously. (See Order No. 03-08)

Following a short break, Chair Mahaffey called on Racing Association of Central Iowa/Prairie Meadows Racetrack & Casino (RACI/PMR&C). Bob Farinella and Derron

Heldt, General Manager and Director of Racing respectively, presented the season approvals for the 52-day thoroughbred race meet and 48-day mixed race meet.

Mr. Ketterer asked for clarification on the race dates, noting that each pari-mutuel facility had been asked to submit a reduced race schedule to accommodate the Commission's reduced pari-mutuel budget. Bluffs Run Casino and DGP&C have submitted their reduced schedules; however, there is no reduction in dates for PMR&C's thoroughbred meet. He wondered how the cost of regulation for those nine days would be covered at PMR&C.

Mr. Farinella stated that PMR&C had wrestled with the reduction of nine days during their first meet. The nine days represent a 20% cut in the number of racing days, having a significant economic impact. Mr. Farinella indicated he had met with Mr. Ketterer several times to determine the cost of regulation, and in contrast to what PMR&C would lose economically, and the detriment to their racing program, PMR&C firmly believes it is imperative they maintain the full 52 days of racing. It is PMR&C's position that the cost of regulation is a legislative issue. RACI/PMR&C feels the 50-cent head tax they pay to cover the cost of regulation is more than adequate; but through the legislative process, the funds are being used to cover other items in the budget other than regulatory costs. Mr. Farinella stated that PMR&C is proposing to maintain the 52-day thoroughbred meet, and assured the Commission that the regulatory costs for those days would be paid through some mechanism by PMR&C, the horsemen, or some combination thereof.

Mr. Ketterer asked Mr. Farinella if he had any concerns regarding the length of time between the first and second meets and the process of changing out the stalls. Mr. Farinella stated there are always concerns regardless of the time frame between meets. They reviewed the contractual language contained in their stall application, tightened up the language and added penalties to be assessed if the stall is not vacated within a specific time. Mr. Ketterer expressed concern that the tightened stall application and penalties could diminish PMR&C's ability to fill the races during the last two weeks of the meet because horsemen are removing their horses early to insure they are in compliance with the stall application.

Chair Mahaffey called for a motion with regard to PMR&C's racing dates. Commissioner Hamilton moved to approve the racing dates as submitted. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-09)

Chair Mahaffey moved to the season approvals. Mr. Ketterer recommended approval of the request contingent upon:

- The immediate written notification of any change in racing official positions.
- The completion of the necessary DCI backgrounds.
- Continuation of all import/export simulcast contracts being reviewed and approved by IRGC staff.

- Prior notification of any schedule changes: race days, post times, or the number of races.

Hearing no further discussion concerning the season approvals, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the season approvals contingent upon compliance with staff recommendations. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-10)

Chair Mahaffey moved to the additional contracts submitted by PMR&C. Mr. Farinella presented the following contracts for Commission approval:

- IGT-Iowa – Potential Lease of 6 Diamond I-Game + Slot Machines (Replacements)
- IGT-Iowa – Potential Lease of 6 Premium Products Top Box Conversion Kits, Glass, Reels, Etc.
- Graham Construction Co. – Various Construction Projects in 2003
- Konami Gaming, Inc. – Potential Lease of 8 ea. Herculite Series Upright, Top Box Video Slot Games (Replacements)
- Midwest Ambulance Services of Iowa, Inc. – Proposed New 3 Year Agreement for Ambulance and Emergency Medical Care Services for Horse Training and Racing

Commissioner Hamilton questioned the contract with Midwest Ambulance Service, noting there was a 120% increase from last year. Mr. Farinella stated that the contract with Midwest is for three years opposed to one year for the previous service.

Hearing no further comments or questions, Chair Mahaffey called for a motion. Commissioner Hamilton moved to approve the contracts as submitted by PMR&C. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-11)

Chair Mahaffey moved to the Petition for Appeal of Administrative Law Judge Decision for Dick Clark and Larry Dunbar. He asked Ms. Davis to provide a little background concerning the situation.

Ms. Davis stated that the appeal was filed pursuant to Chapter 4 of the Administrative Rules. An Administrative Law Judge (ALJ) originally heard the case. She advised the Commission that their review on appeal is limited to the established record; they could not receive testimony. Ms. Davis likened the Commission to an appellant body to determine the appropriateness of the appeal and whether the Findings of Fact and Decision issued by the ALJ were correct.

Chair Mahaffey asked Ms. Davis who represented the Commission at the hearing before the ALJ. Ms. Davis stated that she represented the Board of Stewards. She clarified for the record that she has not provided legal advice to the Commission with regard to the

pending appeal. Ms. Davis also noted that there is an intervener in the case, James Leech, and that he should be treated as a party to the case and allowed to make comments if he so desires.

Chair Mahaffey called on Maggi Moss, legal counsel, for Dick Clark and Larry Dunbar. Ms. Moss stated that she is before the Commission because she is concerned about a process that occurred. She prefaced her explanation by stating that the integrity and propriety of horse racing is crucial to the public, owners, trainers, and the Commission. All parties do everything possible to avoid the appearance of impropriety.

Ms. Moss stated that when horses race at PMR&C, they are assigned weights, which are very important as one horse could be at a disadvantage if it has to carry a lot more weight than another horse in the same race. She noted that weights are controlled by rules. Ms. Moss stated that she is not appearing before the Commission to decide the weight issue, which is the problem. She stated that her clients are being barred from ever getting to a hearing on what was perhaps an illegal act. Ms. Moss informed the Commission there is a race called the Iowa Stallion Stakes, which is unique in that the girls race against the boys. She noted that the Commission is not able to hear the history or all of the factors in determining weight. When a horse is entered at PMR&C, the trainer or jockey agent is responsible for completing the entry blank, and are responsible for entering the correct weight. In this particular race, the weight of 118 was assigned to Mr. Leech's horse. The racing secretary, trainer and everyone entered the horse with the weight of 118. Ms. Moss advised the Commission that the three stewards are the ones that enforce the rules at the track. The stewards meet every morning before race day to determine if everything is in order to be given to the betting public. It is the contention of Ms. Moss' clients that the horse was properly weighted at 118; however the morning of the race, one of the stewards took five pounds off the horse, reducing the weight it would carry to 113 – considerably less than the other horses in the race. She noted that is not the issue before the Commission. At the Administrative Hearing, that particular steward stated that there was a system in place to notify people of changes. The Clerk of Scales is provided with the changed information, which is then to be announced to the trainers on the back side that are there to train and in the track kitchen. Additionally, the information is also provided to the track announcer to announce that night during the races. Under this system, there would be an announcement at approximately 10:00 AM, and then during the races the information would be scrolled across the TV screens, but only in the grandstand or in the casino. Additionally, the track announcer would announce the changes in the paddock area prior to the races. Ms. Moss noted that in this particular case, the weight the horse would carry was reduced – giving it an advantage; the race is run and the horse wins. Two of the trainers in the race found out about the weight change for the first time after the race was run. Ms. Moss advised that the Commission's rules state that if you want to appeal a decision of the stewards, a Notice of Appeal is filed. The Commission's rules allow for the filing of a protest or an appeal. An appeal must be filed within so many hours after the race to attack a decision of the stewards. A protest is to be filed one hour before the race if the trainer/jockey/owner knows about something that is wrong. Ms. Moss stated that her clients did not know until after the race about the

weight change; and they feel the horse ran illegally. They filed an appeal within the allotted time. The steward, who changed the weight, then determined that the trainers should have filed a protest and denied the appeal; thereby cutting off all avenues to attack a potential illegality.

Ms. Moss stated that she was troubled by the fact that an individual who is charged with enforcing the rules at PMR&C made the change, and then denied the appeal. The case went before an ALJ. The arguments presented by the stewards were that the trainers should have known about the change an hour before the race, and that they should have filed a protest. Testimony presented indicated that the Clerk of Scales always announces the changes, and they should have heard them. The ALJ relied on this testimony. The ALJ stated that the stewards and racing officials are responsible for making sure the owners, jockeys and trainers are advised of changes. In this case, the testimony presented stated that the only time the weight change was announced was 45 minutes before the race, so the owners would not have been able to file a protest. The same steward that made the weight change, and barred the appeal, testified that the Clerk of Scale always announces the changes, indicating that was sufficient notice. Ms. Moss, noting that she technically could not present the following, stated that she found out two days before this meeting that the Clerk of Scales indicated he had never announced weight changes. She noted that the ALJ's Decision could have a widespread effect, as one individual cannot play judge, jury and final decision maker. Ms. Moss stated that the stewards have great power; they are the judges of the races. She expressed concern over the fact that a steward can change a weight allotment that could affect the outcome of a race, and then has the authority to bar the appeal process. Ms. Moss asked the Commission to provide them with due process and allow the merits of the case to be heard. She indicated her clients have not violated the rule as they did file an appeal. They are not asking the Commission to determine the ultimate issue, but are asking that the same individual at PMR&C not be allowed to make a potentially illegal decision affecting the propriety of racing at the track and then to prevent the matter from being heard. Ms. Moss asked the Commission to allow her clients to go back to the Board of Stewards and ALJ to determine if an illegal act occurred.

Chair Mahaffey called for any questions for Ms. Moss. Commissioner Hamilton asked if there was proof that the Clerk of Scales did not make the announcement. Ms. Moss answered in the affirmative. She stated that under the rules, if she has new evidence that was not presented at the administrative level, she has to file it at the time of the appeal or ask for special permission. Ms. Moss stated that she has an Affidavit from the individual that was not available the morning of the hearing. She expressed concern over the fact that the same individual who made the decision to change the weight and deny the appeal testified, under oath, that the announcement was made. Ms. Moss stated that the Affidavit from Chad Keller, Clerk of Scales, indicates that he did not make the announcement with regard to the weight change, nor has he ever done so.

As there were no further questions for Ms. Moss, Chair Mahaffey called on Ms. Davis. Chair Mahaffey verified that she represented the Board of Stewards during the ALJ hearing. Ms. Davis indicated that was correct.

Ms. Davis stated that she had a different view of the case. She encouraged the Commission to apply the Chapter 4 rules, and not take into consideration any evidence outside of the Administrative record. Ms. Davis elected to deal with a procedural issue, and then with some of the legal issues that have been raised with regard to this process.

Ms. Davis advised the Commission that the legal issue presented to them on appeal is whether or not the persons that are affected by the decision made by the stewards filed a timely protest. In her response to the appeal, Ms. Davis cited cases that talked about why this type of dispute should be handled as a protest as opposed to a post-race appeal. She noted that the combination of functions of the stewards has been litigated in the past, and has been affirmed by jurisdictions that have dealt with this question.

Ms. Davis stated that with regard to the decision that was made, the evidence of the record supports the following sequence of events: The morning of the race, while reviewing entries with the Clerk of Scales, the Clerk determined there was an error in the weight. Under Commission rules, there is a specific sex allowance rule that would make the weight change regulatory. She indicated that if the case ever gets to the merits, the rule would be reviewed to determine whether or not the correct decision was made to institute the weight correction. Ms. Davis stated that the stewards made a determination that the weight should be changed, and that the record indicates the change was widely announced in a number of mediums – one of which was the correction to the program and through the PA system at the track. Mr. Leech, the intervener in the case, testified that he heard the announcement.

Chair Mahaffey clarified that the announcement being referred to was the one changing the weight from 118 to 113. Chair Mahaffey asked the significance of the five-pound change – whether it would affect which race the horse would run in. Ms. Davis stated the horse was eligible for the race. Under other pertinent rules that would be reviewed with regard to the merits of the Decision, the Commission would make a determination as to whether or not the horse was allowed the weight allowance. Ms. Davis stated that she would argue that under the rule, the horse was entitled to the weight allowance and the decision to change the weight was correct. She indicated the remedy in this case, if there is one, provided the Commission does not affirm the Decision of the ALJ, is to remand it to the Board of Stewards to determine the correctness of the weight allowance in this case.

Chair Mahaffey clarified that if the case were remanded to the stewards it would be their responsibility to determine if the weight change was appropriate under the circumstances. Ms. Davis indicated that was correct, and the stewards would then issue a decision based on the application of that rule. She noted that in this particular case, the stewards applied two rules – one is the protest rule and the other rule defines objections, both of which

must be filed prior to race time. The concept behind these rules is that there must be some issues that are final at the outcome of a race. She noted there are some issues that can be appealed post-race, and the stewards would have the ability to affect the outcome of the race. Issues that can be resolved prior to the race must be raised prior to the race otherwise someone who is aware of an issue that could affect the outcome of the race could decide not to raise the issue until after the race, depending on whether or not their horse won.

Chair Mahaffey noted that Ms. Moss had talked about the filing of a protest, which has to be filed at least one hour prior to the start of a race. Ms. Davis stated that an objection could be filed up to two hours prior to a race; a protest can be filed up to one hour prior to a race. She stated that if she were advising the stewards regarding the application of the rule, and they received a protest 45 minutes prior to the race, she would advise them to hear the protest. Chair Mahaffey noted that the ALJ Decision referred to the fact that the announcement regarding the weight change was not made until 45 minutes prior to the start of the race, which would preclude a protest. Ms. Davis stated that she felt that application of the rule to bar the protest would be unusual.

Ms. Davis stated, that in this case, the stewards received an appeal post-race on an IRGC Appeal form, which was properly treated as an appeal of the July 31st decision of the stewards, which found that the protest was untimely. She advised the Commission that the parties had received due process, as there was an appeal, a hearing before an ALJ with receipt of testimony and exhibits, with the decision being that the protest was not timely filed.

Chair Mahaffey asked Ms. Davis if an appeal is different than a protest. Ms. Davis stated that any occupational licensee has the right to seek review of a decision by the stewards that adversely affects them. In this case, the stewards deemed the appeal was not timely, and as the decision was adverse to the occupational licensees, they had the right to a hearing before the ALJ.

Ms. Davis stated that as the Commission reviews the arguments that have been made and the record in this case, she believes the Commission can make the determination that the Stewards applied the correct rule. In the event they don't make that determination and feel there was an error on the part of the stewards or the ALJ's Decision, the only relief is to remand the case back to the stewards for a determination on the merits if the Commission determines that a timely protest was filed. Ms. Davis pointed out that even if the case is remanded to the stewards, it does not mean that the relief requested by the Appellants would actually be awarded. There would still have to be a determination as to whether or not a rule was violated, and if so, what the appropriate sanction would be. The Appellants have requested that the horse owned by Mr. Leech be taken down. Ms. Davis stated that the stewards are not required to award the requested relief.

As there were no further questions for Ms. Davis, Chair Mahaffey called on Ms. Moss for her final comments. Ms. Moss reiterated her concern over the fact that up to this point,

they have been unable to get to a hearing on the merits of the case. She asked that the case be allowed to go back to the Board of Stewards for a hearing on the merits. Ms. Moss clarified that Steward D'Amico, who changed the weight, wrote on July 31, 2002 that an appeal was not filed timely. She noted that "Rule 10" states anyone can appeal a decision made by the Board of Stewards. The Board of Stewards made a decision, which her clients appealed. The same exact steward said that the Board of Stewards received a protest, which Ms. Moss acknowledged was written on an Appeal form. The form states, pursuant to the rule, that it must be in writing, signed by the complainant and filed one hour before post time. The scheduled post time for the race was 8:21 PM., meaning the protest would have had to be filed by 7:21 PM – not 7:45 PM. Ms. Moss stated there was no announcement regarding the weight change except for 45 minutes prior to the race; making it impossible for the claimants to file a protest. She is requesting, for the sake of propriety, that the issue be heard, and that one steward not be allowed to act as judge and jury. Ms. Moss stated that the steward is telling her clients that they can't do what they couldn't have done, as well as telling them they don't have a right to appeal a Board of Stewards' decision.

Chair Mahaffey called for any additional questions for Ms. Moss or Ms. Davis. Hearing none, he asked if it was appropriate for the Commission to go into Executive Session for purposes of discussion, and returning to open session to make the motion. Mr. Ketterer stated that the Code allows the Commission to do so.

Commissioner Cutler moved to go into Executive Session pursuant to Iowa Code Section 21.5(1)f for the purpose of discussing a decision to be rendered in a contested case conducted according to the provisions of Chapter 17A. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 03-12)

Following a brief Executive Session, the Commission returned to open session. Chair Mahaffey called for any further discussion. Hearing none, he requested a motion. Commissioner Hamilton moved to remand the appeal to the Board of Stewards with a note that consideration should be given to making other forms of notice or announcements prior to the race.

Chair Mahaffey stated that the Commission appreciates the difficulty of the stewards' job, and are not reflecting on their job performance in this particular case or overall.

Commissioner Chapman seconded the motion, which carried unanimously. (See Order No. 03-13)

Chair Mahaffey moved to Administrative Business and called on Mr. Ketterer, who indicated those in attendance might be interested in a brief overview of the task force appointed by the Governor, of which Chair Mahaffey was the co-chair. Chair Mahaffey stated that the Governor appointed a six-person task force with Ed Stanek, Lottery Commissioner as the other co-chair. The first public meeting was held via telephone with two additional meetings held last week. The charge to the task force from the

Governor was to make a recommendation regarding the gaming tax that would be revenue neutral. He noted that Dr. Stanek did a significant amount of work in that regard, as did Mr. Ketterer and IRGC staff. On Friday, January 10th, the task force voted on two models to be presented to the Governor that they felt met the Governor's charge. The vote was 4-2, with Senator Gronstal and Representative Chiodo voting against the task force recommendations. They wished to accept the recommendations of the Iowa Gaming Association, which were in the form of a letter dated January 9, 2003. Dr. Stanek advised the legislators that it would be difficult to develop a model based on the recommendations and the majority of the task force concurred. Chair Mahaffey stated that the discussions were good and spirited, and everyone conducted himself or herself in a professional manner. Chair Mahaffey thanked Mr. Ketterer for his help in the process. He wanted the Gaming Association to understand that Mr. Ketterer participated at the Chair's request.

As there was no Public Comment, Chair Mahaffey requested a motion to adjourn. Commissioner Hamilton so moved. Commissioner Cutler seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

JULIE D. HERRICK CPS

**IOWA RACING AND GAMING COMMISSION
MINUTES
MARCH 6, 2003**

The Iowa Racing and Gaming Commission (IRGC) met on Thursday, March 6, 2003 at Stoney Creek Inn, 5291 Stoney Creek Court, Johnston, Iowa. Commission members present were Mike Mahaffey, Chair; Diane Hamilton, Vice Chair; and member Kate Cutler. Commissioners Steve Chapman and Joyce Jarding were absent.

Chair Mahaffey called the meeting to order at 8:30 AM, and noted that agenda items 7B and C were approved at the January meeting, and were being removed from the agenda. He requested a motion. Commissioner Cutler moved to approve the agenda as amended. Commissioner Hamilton seconded the motion, which carried unanimously.

Chair Mahaffey moved to the approval of the minutes from the January 16, 2003 Commission meeting. Commissioner Cutler moved to approve the minutes as submitted. Commissioner Hamilton seconded the motion, which carried unanimously.

Chair Mahaffey made the following announcements with regard to upcoming Commission meetings:

- April Commission Meeting – April 17, 2003 – Ameristar Casino, Council Bluffs (Submissions due by April 3, 2003)
- No May Commission Meeting
- June Commission Meeting – June 5, 2003 – Stoney Creek Inn, Des Moines (Submissions due by May 21, 2003)

Chair Mahaffey moved to the next agenda item – National Problem Gambling Awareness Week. He called on Frank Biagioli, Manager of the Iowa Gambling Treatment Program (IGTP) in the Iowa Department of Public Health, to address the Commission. He noted that IGTP would participate in the inaugural National Problem Gambling Awareness Week taking place March 10-16, 2003. The week is designed to increase public and professional awareness of problem gambling issues, and emphasize the “Help and Hope” available for individuals and families experiencing difficulties as a result of problem gambling. The primary focus of the week is to promote the benefits of gambling treatment and education services. He noted that National Problem Gambling Awareness Week is a collaborative effort sponsored by the Association of Problem Gambling Service Administrators, the IGTP, the National Council on Problem Gambling, Iowa providers of gambling treatment services and local organizations nationwide.

Mr. Biagioli advised Chair Mahaffey that IGTP has received support for this event from IRGC staff and the Iowa Gaming Association, as both had posted a web banner to their respective web sites. He spoke briefly on the issues of sports and Internet gambling.

Chair Mahaffey noted that Mr. Biagioli had not asked the Commission to approve the Proclamation, noting that the Commission does not normally approve Proclamations, but would be willing to do so for him. Commissioner Cutler moved to support the Proclamation establishing the week of March 10-16, 2003 as National Problem Gambling Awareness Week. Commissioner Hamilton seconded the motion, which carried unanimously. A copy of the Proclamation is available in the Des Moines office. (See Order No. 03-14)

Chair Mahaffey moved to the administrative rules being submitted under Notice of Intended Action. Karyl Jones, IRGC staff, advised that items 1-4 would allow staff to consider deferred judgments as convictions for the purpose of occupational licensing, and item five was proposed by the American Quarter Horse Association to adopt rules outlining how quarter horse time trials would be run. Ms. Jones recommended approval of the rules under Notice of Intended Action.

Commissioner Cutler moved to approve the rules as presented for Notice of Intended Action. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 03-15) (Copy available in the Des Moines office)

Chair Mahaffey moved to Administrative Business. He gave notice that Requests for Proposals for the 2003 Horse Racing Promotion Fund are due in the Commission's Des Moines office by April 1, 2003. Ms. Jones noted that Notice had been given to interested parties in the industry.

With regard to the proposed meeting dates for FY 2004, Chair Mahaffey noted that Commission members have received a draft of proposed dates. Dates will be approved at the April Commission meeting in Council Bluffs.

The final item under Administrative Business was a discussion of multi-year licenses. He indicated there would be no action today; that the issue is one the industry would like the Commission to consider. Chair Mahaffey called on Wes Ehrecke, Executive Director of the Iowa Gaming Association, who submitted a letter to the Commission requesting that the annual license renewal requirement be extended to at least every three years, noting that other states had moved away from the yearly requirement, and that the Iowa properties are well-established and have been through at least two annual renewals. He noted that the Commission could include a provision allowing the latitude to place a property back on a one or two-year period based on any significant property changes or charges warranting such an action. The licensees would continue to submit an annual license renewal fee, and submit an Affidavit attesting to the accuracy of previously submitted information.

Commissioner Hamilton asked how the contracts for the calendar year, which are currently submitted with the license renewal, would be handled. Mr. Ehrecke suggested that they could possibly be included in the above-mentioned Affidavit.

Chair Mahaffey moved to the Contract Approvals and called on Prairie Meadows Racetrack & Casino (PMR&C). Ray Sears, representing PMR&C, presented the following items for Commission approval:

- Banker's Trust – Potential New 3-Year Lease for ATM Services (RP)
- Combined Systems Technology, Inc. – Computer-related Products and Services (Increase)
- Crescent Chevrolet, Inc. – Purchase of Automobiles, Trucks, Vans, Parts and Services
- Giesecke & Devrient America, Inc. – Potential Purchase of New Banknote Processing Systems, Equipment & Supplies
- Shive-Hattery, Inc. – Fees for Miscellaneous Consulting Services (Increase)

As there was no discussion, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the contracts as submitted by PMR&C. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-16)

Chair Mahaffey moved to the next agenda item – Purse Supplements from Slot Revenues at Greyhound Tracks – Approval of Arbitration Decisions. He called on Bruce Wentworth, General Manager of Dubuque Greyhound Park & Casino (DGP&C). He noted Mr. Wentworth was going to make a brief presentation as to the impact of the Arbitration Decision before the Commission, as well as providing some historical background information.

Mr. Wentworth showed several slides, providing the following information comparing 1988 to 2001: live handle in 1988 was \$67 Million and had decreased to \$2.7 Million in 2001. He noted that handle has fallen to the point where purses either exceed or are close to exceeding the live handle. The average purse per performance was \$8,500 in 1988, and was \$16,000 in 2001. DGP&C is ranked 5th in the country in average purse per performance, Bluffs Run Casino (BRC) is third. The average purse per kennel per week in 1988 was \$189/week in 1988 and is now \$6,483/week. The average purse per kennel has increased from \$102,000 in 1988 to \$165,000 in 2001. Mr. Wentworth showed a chart indicating that DGP&C pays out more per performance than Sarasota, where a number of their kennels come from.

Mr. Wentworth went on to show statistics as to where the money is going. There were 142 non-Iowa owners who received \$988,856, while 86 Iowa owners received \$1.8 million. The top ten owners received 50% of the funds, or \$1.4 million. He stated that the greyhound industry is not growing, and a small number of individuals are receiving the large amount money.

Mr. Wentworth went on to discuss the impact of the Arbitration Decision before the Commission, noting that this is the first time DGP&C has gone to arbitration. He noted that the purse supplements have increased over time from 7% to 8.25%, while the gaming taxes were also on the rise.

Mr. Wentworth distributed a chart comparing 2002 and 2003 costs for all greyhounds and Iowa-bred greyhounds based on the Arbitration Decision. There was also a page setting out the projected purse payments under the Arbitration Decision compared to 2002 Actual Purse Payments. Total purse payments in 2002 were \$2,800,556; projected 2003 purse payments are \$3,684,080 for an increase of \$883,524 or 31.55%. Mr. Wentworth also discussed the fact that in 2002 DGP&C paid out \$42,800 for Stakes Races, but the Arbitration Decision calls for DGP&C to set aside \$250,000 for Stakes Races in 2003.

Mr. Wentworth advised the Commission that the Arbitration Decision would have a negative impact on DGP&C's grant program, as well as the funds available for the county and city. He noted the grant program currently has approximately \$2.5 million, and distributed approximately \$2.2 million last year. Mr. Wentworth stated that he felt things were getting out of whack, that they needed to be kept in perspective, and that the Arbitration Decision established bad public policy. Mr. Wentworth called on Steve Krumpke, DGP&C's legal counsel.

Chair Mahaffey advised that there would be a short break to allow everyone to assimilate their thoughts on the information just presented, but stated that he would allow everyone to address the Commission. He specifically requested that comments address any ambiguities and specificities causing concern contained in the Arbitration Decision.

Following the break, Mr. Krumpke stated that DGP&C was asking the Commission to take responsibility for a significant public policy decision. Money from the Dubuque Racing Association (DRA) goes to the city of Dubuque, charitable organizations and for operations at DGP&C. He noted that DRA and the Iowa Greyhound Association (IGA) have had "base-line" contracts for several years, and that the current decision goes "off-track". Mr. Krumpke stated that it is the Commission's decision as to whether the Arbitration Decision is approved or not. He stated that unless someone could articulate a good reason why \$900,000 more than last year should be paid to the greyhound owners, resulting in reduced funding for the city of Dubuque and charitable organizations, Mr. Krumpke indicated that the Arbitration Decision should not be approved.

Mr. Krumpke stated that DRA's statutory purpose is charitable, and its tax exemption status is based on meeting certain requirements, and are not changed by language contained in the arbitration statute, which reminds the Commission that dog racing is an agricultural industry. He noted that DRA is required to be a tax-exempt organization, and perform primarily charitable and civic betterment functions. Mr. Krumpke noted that while this issue is separate from the tax case currently before the U.S. Supreme Court, he pointed out that the Iowa Supreme Court's Decision to invalidate the different tax structures for riverboats and pari-mutuel tracks stated the main reason for invalidating the

tax structure was that it frustrated the racetracks' responsibility to distribute money to local government and charitable organizations. The racetracks are statutorily required to distribute profits for educational, civic, public, charitable, patriotic and religious uses. (Iowa Code Section 99F.6(4)a) Mr. Krumpé stated that without the charitable gifts and grants, many Iowa communities and charitable organizations would suffer. He stated the Arbitration Decision would have the same effect.

Mr. Krumpé advised the Commission that the Arbitration Decision does not specify a reason for the large increase in payments to the greyhound owners. He pointed out that the number of individuals winning the money is static, and pouring more money into it will not increase the number of dog owners or the number of dogs. Mr. Krumpé stated that the current owners have the least interest in increasing these numbers.

Mr. Krumpé stated that the statute requiring a casino supplement for the racing program is a factor in the decision, but it is not the primary factor in what the racetracks do and it is not the reason for the track's existence. He asked the Commission to approve the 9% purse supplement recommended in the Arbitration Decision, and disapprove the \$250,000 payment for Iowa Stakes Races.

Chair Mahaffey asked how this Arbitration Decision is significantly different than previous agreements reached with the IGA. Mr. Krumpé stated even though the 9% purse supplement represents a substantial increase, the \$250,000 stakes race amount is excessive. He also asked that the next to the last paragraph, which states, "In addition, this arbitration panel may reconvene if the U.S. Supreme Court and/or the legislature takes action to materially alter the existing gaming tax." not be affirmed. He stated there is no basis for the arbitration panel to be a standing panel to monitor the situation and have the ability to change the agreement in the middle of the meet.

Commissioner Hamilton asked what would happen if the U.S. Supreme Court ruled in favor of the State and the tracks had to revert to the higher tax rate. Mr. Krumpé indicated it would affect the amount paid out to the greyhound owners. He indicated that DGP&C had proposed a sliding scale for purse supplements be utilized to take that possibility in to account.

Chair Mahaffey advised Jean Davis, Assistant Attorney General for the Commission, that he would like her to provide her thoughts as to the paragraph contained in the Arbitration Decision that would allow the arbitration panel to reconvene should a material change occur to the gaming tax following Mr. Crawford's comments.

At this time Chair Mahaffey called on Jerry Crawford, legal counsel for the IGA. Mr. Crawford stated that before the Commission could invade the province of the arbitration panel, they would need to agree to receive and review all of the materials submitted to the arbitration panel by DGP&C and BRC, and hear all of the presentations and testimony presented to the panel. He stated that it should be relatively simple for the Commission

to decide they were not going to invade the province or decisions made by the arbitration panel.

Mr. Crawford referred to Iowa Code Section 99F.6, which sets forth the process that ultimately comes before the Commission. It states that in part: "If the two parties cannot reach agreement, each party shall select a representative and the two representatives shall select a third person to assist in negotiating an agreement. The two representatives may select the commission or one of its members to serve as the third party. Alternately, each party shall submit the name of the proposed third person to the commission who shall then select one of the two persons to serve as the third party. All parties to the negotiations, including the commission, shall consider that the dog racetracks were built to facilitate the development and promotion of Iowa greyhound racing dogs in this state and shall negotiate and decide accordingly." He noted that a former Commission member was fond of pointing out that the racetracks were tracks with ancillary casinos, not slot casinos with ancillary racetracks. He provided the following quote from the Iowa Supreme Court Decision on the tax issue: "Similarly, this taxing scheme frustrates the racetracks' ability to contribute to the overall economy of this state. The racetrack industry is responsible for employing hundreds of Iowans. It also supports the horse industry by distributing millions of dollars to purse supplements. The differential tax takes away the money racetracks need to accomplish these legislatively mandated goals. Overall, the effect of the tax is contrary to the legislative purpose of promoting agriculture and economic development." Mr. Crawford stated that the law is very clear in terms of what is required. He stated that DGP&C's purse supplement increased from 8.25% to 9%, plus an additional \$250,000 for stakes race purses. He advised that the increase does not come from the arbitration panel, but from the Iowa Supreme Court's Decision that the tax disparity between racetracks and riverboats was unconstitutional. The decision reduced the tax rate at the racetracks from 32% of win after tax to 20% of win after tax. Nine percent of win after 20% tax is significantly larger than 9% of win after 32% tax. Mr. Crawford called the increase in purse supplements incremental, and in line. He stated that most handicappers would say that the choice as to where the tax will end up is a choice between the Legislature working on an agreement with the tracks for an elevated tax rate - the lowest rate he has heard is 26% or higher; or that the U.S. Supreme Court would reverse the Iowa Supreme Court and establish the tax rate at 34%. He questioned where the increase would come from as mandated by Iowa law if the tax rate goes back up. Mr. Crawford advised that the greyhound industry was not the only industry to realize an increase. The greyhound owners' percentage went from 8.25% to 9% plus \$250,000 for stakes races, but the grant program, due to the reduction in the tax rate, saw a much bigger increase. Mr. Crawford stated that the IGA membership is disappointed in the fact that they were not able to obtain a better decision in light of the reduced tax rate at the racetracks.

Mr. Crawford asked and encouraged the Commission to affirm the Arbitration Decision. He agreed that there are unanswered questions and suggested that the parties take those issues back to the arbitration panel to resolve.

Mr. Crawford stated that he had received a letter from Brian Carpenter, Director of Racing at DGP&C, indicating that he thought the stakes program would be enhanced if the stakes races were open stakes races. He indicated the IGA Board was in complete agreement with that assessment. Mr. Crawford felt the arbitration panel would agree.

Mr. Crawford stated that if the Commission intends to re-litigate the arbitration decisions, and not affirm on a 3-0 vote, he would ask for a continuance in order to present all of the information presented to the arbitration panel to the Commission.

Mr. Crawford concluded his remarks by advising that several members of the IGA were present. He indicated that should the Commission decide to not affirm the Arbitration Decision, then those individuals would like to address the Commission.

Chair Mahaffey asked Mr. Crawford if he wanted to address DGP&C's comments with regard to the stakes races or the second to last paragraph with regard to the arbitration panel's ability to reconvene if there was a material change in the tax rate. Mr. Crawford stated that the arbitration panel reserved jurisdiction in the event of a material change in the tax rate, and voiced his opinion that the panel is probably less than eager to hear from the parties again. He indicated that he did not see any need to change the paragraph, particularly as the parties may have to go back to the arbitration panel for clarification of some issues.

Chair Mahaffey asked Ms. Davis to address the issues previously requested. Ms. Davis stated there were two issues raised by Chair Mahaffey: The first was whether the statute would give the arbitration panel ongoing jurisdiction in this matter. Ms. Davis stated that she could not read that into the statute. However, she stated that in contract negotiations and arbitration, the parties could agree to stipulate to a term being material. Ms. Davis indicated that the parties could have negotiated or discussed the inclusion of this paragraph in the final Arbitration Decision; however, the panel does not have the ability to grant themselves ongoing jurisdiction. Ms. Davis stated that once the Arbitration Decision has been reached, the jurisdiction of the arbitration panel has ended.

Chair Mahaffey called on Mr. Krumpe for his final remarks. He asked him to address the issue of "unanswered questions" raised by Mr. Crawford, as well as any additional concerns DRA may have with regard to the Arbitration Decision.

Mr. Krumpe stated that there is no ambiguity regarding the stakes races and supplement as to whether it is for Iowa dogs only. The Decision states, "... supplement Iowa stakes races." Mr. Krumpe stated that both parties just happen to agree that would not be beneficial for Iowa greyhounds. He feels that if the parties can reach an agreement on issues covered in the Decision; they have the ability to make those changes. Mr. Krumpe stated that the DRA would like to have the \$250,000 for stakes races removed from the Arbitration Decision. He further stated that the DRA did not request continued jurisdiction during negotiations, nor does he believe the topic was raised. Additionally, he noted that the Iowa Code provision setting out the arbitration process does not indicate a

“right to an increase” as stated by Mr. Crawford. The statute does not provide a right to an increase, but states the parties have to negotiate and are required to keep in mind the purpose of the dog tracks in facilitating the dog industry. Mr. Krumpe noted that the arbitrators considered the purpose of the tracks, but the DRA feels they did not take anything else into consideration. This statute does not change the fact that the DRA is also required to be a non-profit organization under the same statute and distribute funds for charitable and civic betterment.

Mr. Krumpe concluded his remarks by noting that promoting the dogs is one factor to be considered in the Arbitration Decision, but not the exclusive factor, nor is there a “right to an increase”. He stated that the arbitration panel has the ability to look at all issues and arrive at a decision, but that it is ultimately the Commission who determines if the Decision will be approved, just as the Commission approves contracts. Mr. Krumpe stated it is the DRA’s opinion that this is a bad Arbitration Decision, and requested that the Commission not approve it as it does not further the purposes for which the DRA exists. The Arbitration Decision in its present form will hurt local charitable organizations and local communities.

Commissioner Cutler, citing the reduction in the tax rate and Mr. Krumpe’s statement that the Decision would reduce funding to charities and local communities, indicated that the DRA should have additional funds for distribution. She asked how much more was available for charitable purposes. Mr. Krumpe stated that Mr. Wentworth’s presentation included a chart showing that substantially more funding was going to the greyhound owners than charitable organizations. He acknowledged that there would be an increase based on the lower tax rate.

Chair Mahaffey asked Ms. Davis what would occur if the Commission voted not to accept the Arbitration Decision as presented. Ms. Davis advised that there is no alternative provision. She stated that the fair grieving of this Decision would be for the parties to go back to the first step and attempt to reach an agreement, and barring that, reconvene an arbitration panel. Ms. Davis indicated there is some urgency with regard to this issue as DGP&C’s racing season commences on April 26, 2003. Chair Mahaffey stated his understanding of Ms. Davis’ advice was that if the Commission did not accept the Arbitration Decision, the process would have to start anew. He questioned whether a new arbitration panel would be selected, or if the original panel would be utilized. Ms. Davis stated that to her knowledge an Arbitration Decision had never been rejected by the Commission, but felt the same panel could be reconvened. She further stated that the statute does not envision the Commission now making different findings than those found in the Arbitration Decision. Ms. Davis stated that she agreed with Mr. Crawford in that she did not feel the Commission had the ability to pick and choose which provisions of the Arbitration Decision to approve. Chair Mahaffey stated that his understanding was that the Commission would have to either accept the Decision in its entirety or throw back to the parties.

Commissioner Cutler asked about the provision allowing the arbitration panel to reconvene if a material change occurred. She wondered how that provision would affect the Decision if the panel did not have the authority to include the provision in the Decision.

Ms. Davis stated that upon reading the provision again, she does not feel the arbitration panel was attempting to confer ongoing jurisdiction. She is under the impression from information presented at this meeting that the panel was concerned that there could be a material change that would affect the items negotiated; and understands the panel's need to plan for that. Ms. Davis stated that she did not feel issues would have to be submitted to the panel if the parties were able to reach an agreement on the material change and how it affected the related pieces of the Arbitration Decision.

Ms. Davis advised the Commission that the Attorney General's Office is on a short time frame for disposition of the tax case before the U.S. Supreme Court. She indicated that arguments will be presented on April 29th and a Decision will be issued by the end of the term (July 1, 2003).

Chair Mahaffey asked Ms. Davis what would happen if the U.S. Supreme Court does not uphold the Iowa Supreme Court's Decision. Ms. Davis stated that from her work on the case, she feels the U.S. Supreme Court will do one of two things: either affirm the Decision of the Iowa Supreme Court or reverse it. She does not feel the case will be remanded back to the Iowa Supreme Court.

Chair Mahaffey called for any further comments or questions with regard to the Arbitration Decision for DRA/IGA. Hearing none, he requested a motion.

Commissioner Cutler moved to approve the Arbitration Decision submitted for DRA/IGA. Commissioner Hamilton seconded the motion, noting that she did not feel the Commission could sit in judgment of the arbitration panel picked by them. The motion carried unanimously. (See Order No. 03-17)

Chair Mahaffey moved to the Arbitration Decision submitted for BRC. Pete Weien, General Manager at BRC, and Lorraine May, legal counsel, were present to address issues surrounding the Arbitration Decision. Mr. Weien stated that they had encountered the same ambiguities that were set forth by Mr. Wentworth and Mr. Krumpe. He turned the floor over to Ms. May to cover some of the highlights of the Arbitration Decision.

Ms. May advised that BRC is in somewhat of a different position than DGP&C. She read from the third page of the Decision: "In making this determination, this panel is mindful of the recommendations of previous panels ... that future supplements be capped at eight and one-half percent (8.5%) ..." She then referred back to Arbitration Decision from 2002, which established an eight percent (8%) purse supplement rate based on the 2001 Arbitration Decision, which also established an 8% supplement. Ms. May recalled that she has heard Mr. Crawford advising the Commission that they have the authority to

reject an Arbitration Decision, and requested that the Commission reject the Arbitration Decision before them at this time based on errors contained in the Decision. She stated that if the Commission approves the Decision, they would be giving the arbitration panel the authority to reconvene, in direct conflict of legal counsel.

Ms. May distributed a chart showing the total amount bet on Iowa greyhounds at BRC. She noted that the legislative intent was to build the Iowa greyhound industry. Ms. May distributed a chart showing that the number of individuals receiving Iowa-bred supplements at BRC has remained fairly constant from 1996 through 2001, going from 49 in 1996 to 50 in 1997 and 1998, and then dropping to 48 for 1999 through 2001. She stated the Commission needs to question whether the supplements are actually helping to build an industry, and should eventually determine whether the supplements should continue forever. Ms. May distributed a third chart showing that 14 individuals received almost half of the money paid out to greyhound owners at BRC. She stated that the greyhound industry has reached the point where there is such a concentration of interest in a small group of people that have a vested interest that it can become counter-productive to the actual growth of the industry itself. Ms. May stated that statistics presented were from the Iowa Department of Agriculture. She concluded her remarks by asking the Commission to reject the Decision and send it back to the arbitration panel.

Chair Mahaffey called for any further comments or questions with regard to the Arbitration Decision. Mr. Weien pointed out that the third to last paragraph addressed charitable contributions from BRC to the community and tied future purse supplement decisions on increased charitable contributions. He stated that he did not feel the arbitration panel had all of the facts when they looked at this particular issue, as this area was not included in BRC's presentation. Mr. Weien advised that since the passage of the referendum last fall, Iowa West Racing Association (IWRA) has given \$50 million, Harrah's has given \$7 million, and under the Arbitration Decision before the Commission, one third of BRC's profit, or \$9 million will go to the IGA. He stated that he did not feel it was appropriate to tie future purse supplements to charitable contributions without all of the information.

Chair Mahaffey, noting that the Arbitration Decision was signed by all three arbitration panel members with no dissenting Decisions, stated that he felt the next to last paragraph was included in the Decision because the panel members felt they should somehow be able to address the U.S. Supreme Court Decision. He indicated that it was his understanding that neither DGP&C nor BRC raised the issue during negotiations. He stated that if the panel does not have the authority to reconvene, he does not believe that paragraph in and of itself does not invalidate the rest of the Arbitration Decision. Ms. May stated that in her opinion if the Commission approves the Arbitration Decision with that paragraph, the Commission is giving the arbitration panel authority to reconvene.

As there were no further questions for Ms. May, Chair Mahaffey called on Mr. Crawford. He asked Mr. Crawford the same question with regard to the second to last paragraph of the Decision. Mr. Crawford indicated that he had already addressed this issue while

discussing the DGP&C Arbitration Decision. He stated that IGA presented information to the arbitrators indicating the number of Iowa-bred greyhounds has increased significantly, and advised those issues could be covered if there was a need to do. Mr. Crawford stated that it is important to stay focused on getting more individuals involved in the industry.

With regard as to whether or not there was a mistake in setting purse supplements at 8.5% versus 8%, Mr. Crawford stated that the Decision is very clear as to the arbitrators' intent. The Decision states in part "... constitutes approximately a 20% plus increase in the absolute dollars as compared to 8% in 2002." He noted that decisions of prior arbitration panels are not binding on this panel. Mr. Crawford stated that the arbitrators were attempting to establish a particular increase based on the tax savings to BRC. The next paragraph states "In light of the future tax savings that BR is likely to enjoy and the favorable purse supplement decision, ..." Mr. Crawford pointed out that the arbitrators consider this Decision to be favorable to BRC, not the IGA, and now BRC is asking to have the Decision set aside. Mr. Crawford stated that he would not address the final point except to point out that the Decision was agreed to by Jim Cownie, the Commission's selection, Rick Olson, the IGA's representative and Rita Sealock, a former Commission member and BRC's choice for the panel.

Commissioner Cutler asked Mr. Crawford if he felt the \$2.5 million in charitable contributions was discretionary, and not mandated by the arbitration panel. Mr. Crawford stated that he did not feel it was a mandate. Commissioner Cutler asked for BRC's understanding with regard to the \$2.5 million. Ms. May indicated they also felt it was discretionary.

Chair Mahaffey allowed Ms. May to make final comments. Ms. May stated that the current points being paid at BRC are \$140 for Iowa-breds and \$100 for regular points. At this point, BRC does not know what its tax rate is going to be, and has no idea what action the Legislature or U.S. Supreme Court will take. The points being paid are the same as last year. Should the tax rate remain at 20%, there will be approximately \$2 million available next year for stakes races. BRC is holding five stakes races this year with a purse of \$60,000 and could not fill the cards. Ms. May stated that the Iowa stakes races at BRC have historically been a positive event. BRC sponsors a luncheon and invites various IGA representatives and all of the kennels; however, approximately half of the kennels elected not to participate or send a representative. Ms. May reiterated her previous statement that the purse supplement issue needs to be revisited, and requested that the Arbitration Decision be sent back to the arbitration panel.

Commissioner Cutler asked what happens to the purse money for the stakes races if they are not run, or not filled. Ms. May advised Commissioner Cutler that the races are run with a short field, and the money is distributed to fewer people.

Chair Mahaffey thanked everyone for their comments, and requested a motion concerning the Arbitration Decision between BRC and IGA.

Commissioner Hamilton reiterated her reluctance to send the Decision back to a panel approved by the Commission. She pointed out that the Decision is supposed to be binding and the parties do not get the opportunity to pick and choose which parts they like or dislike.

Commissioner Cutler commented on the difference in the language contained in the two Arbitration Decisions, and wondered what happened with the information presented by the parties. She stated that the BRC Decision seems to be more “touchy-feely”. Commissioner Cutler indicated she felt there needed to be closure to the issue and was disinclined to send it back to the arbitration panel, as she did not see any clear errors that would impact their reasoning.

Chair Mahaffey concurred with the sentiments expressed by Commissioners Cutler and Hamilton. He indicated that he felt the prior discussions were an opening salvo in what could turn into an ongoing debate about the future of the greyhound industry, and possibly the horse industry, and whether or not the industries are actually growing in Iowa. Chair Mahaffey requested a motion.

Commissioner Hamilton moved to approve the Arbitration Decision between BRC and IGA as submitted. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-18)

Chair Mahaffey moved to the next agenda item – Restoration of Pari-Mutuel Funds – Approval of Final Race Dates for 2003. He called on PMR&C. No representative was present. It was noted that PMR&C had not changed their race dates from what was previously approved. Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the race dates as previously submitted by PMR&C. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 03-19)

Chair Mahaffey called on DGP&C. He stated it was his understanding that DGP&C would return to the original schedule, and would commence racing on April 26, 2003. Hearing no further comments, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the final race dates for DGP&C. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 03-20)

Chair Mahaffey called on BRC. Mr. Weien, Ms. May and Rory DeSantiago, Director of Racing, were available to answer questions. Mr. Weien stated that BRC would like to continue with the current schedule for the rest of the year. He noted that BRC reduced its racing schedule due to a request by Jack Ketterer, IRGC Administrator, to accommodate the State’s budgetary shortfall. He pointed out that racing couldn’t take place without the required racing officials present. Mr. Weien stated that he had requested that the Commission take into consideration information BRC would gather with regard to the impact of the modified schedule on BRC. The information gathered shows that the modified racing schedule has been beneficial to the racing industry. Mr. Weien stated that when he made his presentation to the Commission with regard to the modified

schedule, he feels there was a misunderstanding by the Commissioners that the 45-day plan submitted for approval was a joint submission by BRC and IGA. He advised the Commission that the 45-day plan is not a joint effort, and is BRC's 45-day plan. Mr. Weien is aware of the fact that Mr. Crawford believes the Commission does not have the authority to reverse its previous decision on this issue, which was for BRC to return to the race schedule utilized in 2002 within 45 days of being notified of the restoration of pari-mutuel funds. He stated that decision was in error due to the fact that the Commissioners felt the 45-day plan was a joint submission.

Chair Mahaffey stated that his recollection of the November motion, regardless of who submitted the 45-day plan, was that BRC would return to the original race schedule unless the parties (BRC and IGA) agreed otherwise. He asked Mr. Weien if that was his understanding as well. Mr. Weien stated that he was not sure as Commissioner Chapman kept asking about the 45-day plan and the parties' approval, and if the parties had agreed to the race schedule, why would they not agree to go back to the original schedule. Mr. Weien noted that the parties did not agree. Chair Mahaffey stated that Mr. Weien's point was that the original 45-day plan was BRC's plan, not a joint plan. Mr. Weien also stated that he had advised the Commission that there could be some benefits to BRC and the greyhound industry based on the modified schedule. He noted that for the short period of time the reduced schedule has been in effect, there have been benefits in terms of exposure of Iowa greyhound racing nationally based on BRC's ability to negotiate simulcast contracts. Chair Mahaffey clarified his understanding that Mr. Weien was indicating the reduced schedule was beneficial to the greyhound industry as well as BRC. Mr. Weien indicated that was correct.

Ms. May stated that her recollection of the November meeting was that the assumption was that the 45-day plan was a joint submission by BRC and IGA. She reiterated Mr. Weien's comment that it was not a joint submission, and never has been. Ms. May stated that it is BRC's obligation to set the schedule subject to the approval of the Commission. She called this a classic example of something good happening when no one planned on it.

Ms. May pointed out the highlights of two letters submitted to the Commission with regard to this issue:

- BRC has been able to maintain the level of handle received with one less performance per week, giving BRC an opportunity to drive the export handle. This provides the Iowa greyhound industry with national exposure, which in turn provides more opportunities for individuals to become involved in the Iowa program. Ms. May pointed out that growing the Iowa greyhound industry is to be the goal, not establishing a set schedule that accommodates a few people.
- Ms. May asked if the current schedule was hurting the kennels. She indicated that it was not. The majority of the revenue for the kennels at BRC comes from live racing. She pointed out that live handle dipped in January when BRC moved to

the current schedule, but noted that it has returned to its previous level. Additionally, Ms. May advised the Commission that during the week ending February 15, 2003, when BRC was only able to run 5 live performances, the export handle was higher than any week in 2002 when BRC was running seven live performances, and was almost as high as the week of September 7, 2002, when eight performances were held.

- Ms. May advised the Commission that the Arbitration Decision ultimately determines the amount of funds to be distributed to the kennels. The same amount will be distributed to the kennels whether BRC holds six, seven or eight performances. The amount will be determined by 8.5% cap contained in the Arbitration Decision just approved by the Commission.
- Ms. May noted that the Commission has a long history of changing racing schedules to respond to circumstances. She noted that there are several circumstances to support this requested change: a reduction in kennels and available dogs at BRC; and the benefit to Iowa greyhound racing and the betting public. Additionally, there is no adverse impact on the kennel operators and dog owners at BRC.

Chair Mahaffey called on Mr. Crawford. He asked Mr. Crawford to respond to the various points raised by Ms. May. Mr. Crawford stated that the only way the Commission could reverse its vote in November was if they were convinced that the greyhound industry was better off now than it was when the original vote was taken. He indicated that he would not dispute the fact that Harrah's was in a better position with the reduced number of performances; however, the point is what has happened to the greyhound industry based at BRC during the reduced schedule. Mr. Crawford stated that he had documentation showing that purses and racing opportunities have declined. With regard to live handle, Mr. Crawford advised the Commission that through the week of March 2nd, his information shows there is not one week in 2003 when the live handle was at the 2002 level. He stated that live handle is currently at \$399,564. Mr. Crawford distributed information taken from the Commission's website with regard to handle by calendar year for 2002 and 2003. This report shows that live handle for January 2003 was \$445,899 versus \$677,324 for January 2002 and \$662,667 for January 2001. He stated that through the week of March 2nd, the live handle for 2002 was \$1,379,592. For the same period in 2003, the handle was \$980,029, for a difference of \$399,564.

Mr. Crawford then distributed information taken from BRC's publications. He advised that page 1 shows 2003 statistics through March 1, 2003, while page 2 gives statistics through March 2, 2002. He called the Commissioners' attention to the Year-to-Date column on the far right hand side of the page, which shows total purses of \$1,324,448 paid through March 1, 2003 versus \$1,583,944 paid through March 2, 2002. Mr. Crawford also pointed out that there has been a reduction in the number of starts from 6,966 in 2002 versus 5,795 in 2003, for a difference of approximately 1,200 starts. He

indicated that a reduction in the number of starts, purses or live handle for Iowa-bred greyhounds is not the way to grow the industry.

Mr. Crawford did concede that something good has happened as the export dog signal is up \$662,000 as of March 2, 2003. He referred to BRC's letter of February 14th, which states in part on Page 3 "...As a result, Bluffs Run is unable to export Iowa greyhound racing if the performance begins after 4:00 pm.", meaning that BRC has grown the export handle by starting performances by 4:00 pm. Mr. Crawford stated that IGA has gone along with BRC every time they have been asked to amend the simulcast schedule to make the schedule more attractive. He pointed out that BRC and IGA are partners in the simulcast business as IGA pays 50% of the costs, meaning they have an interest in growing the simulcast schedule. Mr. Crawford stated that is not a reason to reduce the number of live performances from seven to six and incur the losses to greyhound owners at BRC.

Mr. Crawford noted that BRC was before the Commission during the previous agenda item arguing against the Arbitration Decision. He stated that if the Commission reversed its November vote, they would be reducing the purse award from the arbitrators even though they intended to provide an increase based on the tax reduction. Mr. Crawford advised the Commission that the IGA would go along with maintaining the change in signal times, but reiterated his earlier comments that a reduction in the number of performances would continue to drive down the number of racing starts and opportunities, and live handle. Mr. Crawford noted that the IGA receives significantly higher percentage of the live handle than they do from the export handle. He requested that the Commission reaffirm its November vote.

Ms. May stated that it was important to compare apples to apples. She noted that during the week of January 4th, BRC had cut additional races due to the holidays, as well as the reduction in funding. Ms. May stated that it was necessary to compare full weeks of racing, which would be six performances for 2003 and seven performances for 2002. She stated that in order to do an accurate comparison, it is necessary to look at the issue from week to week to week, etc. She referred to a chart, Weekly Handle Comparison for Full Race Weeks, attached to BRC's letter to the Commissioners dated March 5, 2003, noting that Mr. Crawford had been provided a copy. Ms. May stated that the chart shows that live handle had held its own and is now on the rise as individuals get accustomed to the new schedule. The charts are available for review in the Commission office.

Ms. May stated that BRC had attempted to work with IGA to add back the performance. IGA presented two suggestions to BRC in an attempt to increase the number of races weekly. The first suggestion was to maintain the 4:00 PM Saturday performance, and add a second performance at 7:00 PM. Ms. May explained that IRGC rules require that the track assume control of the racing greyhounds one hour before post time, which would cause one performance to run into the other. The other suggestion was to maintain the same number of performances, but increase the number of races per performance. Ms. May indicated this suggestion also had its drawbacks as the ginny pit at BRC is only

large enough to hold enough greyhounds for fifteen races, which is what BRC is currently running. Increasing the number of races would require a break in the performance in order to bring in more greyhounds, requiring a judge to be present for weigh-in.

Ms. May addressed the number of starts. She noted that BRC is down two kennels at this time, and would have to bring at least one more kennel to maintain the current racing schedule. If they are to return to the original schedule as submitted in the 45-day plan, both kennels would have to be added. Once a kennel is booked, the dogs must be schooled prior to being entered in races.

Mr. Crawford requested a few more minutes of the Commission's time. He stated that through January and February year-to-date purses to kennels are down \$250,000, or 26%. To continue under the present scenario would take \$1.32 million out of purses at BRC at the time the arbitration panel issued a Decision that they felt gave a 20% increase in purses to the greyhound owners.

Commissioner Cutler stated that she was confused, noting that Ms. May indicates the greyhound owners will not earn less money and Mr. Crawford is stating the opposite. She wondered how the Commission reconciles the information, noting that is not the issue to ultimately be decided by the Commission.

Ms. May stated that she is unaware of any year in the history of BRC that the amounts for purses have not been determined by the percentage of adjusted gross receipts at the track. Mr. Crawford suggested that Ms. May point out a week, other than a weather-affected week, comparing 2002 to 2003 where the live handle has been as great this year as it was last year. He stated that it could not be done. Ms. May asked Mr. Crawford if there is any year in the history of BRC where the purses paid to the dogs at BRC has not been determined by the percentage of adjusted gross receipts after tax.

Commissioner Cutler stated that her original question was whether or not the greyhound owners would earn less money in 2003 over 2002, and if that was due to other factors unrelated to the number of performances then she wanted information on that issue as well.

Mr. Crawford stated that in 2003, year-to-date, BRC has paid \$1.32 million in purses, last year in the same time frame; BRC had paid out \$1.58 million. He asked Ms. May what was going to occur at BRC for the remainder of the year that would result in the greyhound owners receiving the increase anticipated by the arbitrators in the Arbitration Decision. Ms. May response was that the owners would see the increase due to the fact that BRC will have to pay 8.5% of adjusted gross receipts after taxes in purse supplements. Ms. May stated that she felt two different issues were coming into play.

- Mr. Crawford is comparing total purses instead of week to week. She stated that her information does not differ from what is posted on the web site. Ms. May

advised that for a full week of six performances compared to a full week of seven performances, the live handle has remained steady. Live handle is the major source of revenue for purses.

- The second issue is the amount of purses paid per week. She stated that the amount is dependent upon the point amount, which is dependent upon the number of races. The 8.5 % supplement is on top of the purses paid based on points. Ms. May stated that Mr. Crawford had not addressed the issue of purse payment per kennel. In 2002, BRC had sixteen kennels while there are only fourteen kennels receiving purse payments this year.

Mr. Crawford asked if Ms. May was saying that BRC would agree to pay point values equal to whatever 8.5% of win after tax is on an amortized basis, or to put it another way, adjust the current fixed point value to reflect the new award. Ms. May stated that it could not be done. The difference between the two amounts has historically been used to supplement the stakes races.

Commissioner Hamilton asked if increasing the number of kennels at BRC and; therefore, giving other greyhounds an opportunity to race and win, would be considered "growing the industry". Ms. May pointed out that 14 breeders are receiving 51% of the money going to the Iowa breeders. Growing the industry in terms of having individuals from other jurisdictions purchase Iowa greyhounds comes from sources other than purses. That requires having the Iowa greyhound recognized as the best greyhound in the United States, which comes from exposing more people to Iowa greyhound racing via exporting BRC's races. Ms. May reiterated her earlier statement that by increasing purses, all that is accomplished is increasing the payments to the 14 breeders currently receiving those payments.

Commissioner Hamilton stated that she felt by increasing the number of kennels, and therefore, increasing number of greyhounds having the opportunity to race and breeders to make money meets the goal of growing the industry. Ms. May concurred that was the goal. Commissioner Hamilton noted that in order to increase the number of kennels, BRC would have to increase the number of races as the greyhounds can only run so many days.

Commissioner Cutler asked if there was any way the parties could come to an agreement in light of the foregoing discussion. Mr. Crawford stated that the parties attempted to reach an agreement. He advised that the IGA is adamant about having the same number of racing opportunities in 2003, which is what the Commission determined at the November meeting based on the restoration of funds. He noted that the IGA presented two different options to BRC, one of which was to add another performance on Saturday. Mr. Crawford suggested beginning the additional performance at 8:00 PM in order to comply with IRGC rules, which he feels would draw a larger audience than a weekday afternoon.

Ms. May stated that at some point there has to be a point to the races other than racking up a specific number of live races. BRC has found that the current schedule works, the greyhound owners are not receiving less money and the Iowa greyhound is receiving greater exposure.

Hearing no further comments or questions, Chair Mahaffey stated that the issue before the Commission is whether the Commission affirms its decision in November or allows BRC to continue with its current schedule. Chair Mahaffey advised that he had asked for, and received a copy of the November Commission minutes pertaining to this issue.

Chair Mahaffey read the following excerpt from page 8 of the November minutes:

“Chair Mahaffey gave the following summary of his understanding of the motion: BRC will proceed under the revised race schedule until if and when funding is restored, at which time the race schedule would return to the schedule submitted on October 1, unless the parties submit a different race schedule at that time. Commissioners Chapman and Cutler concurred with Chair Mahaffey’s summary.

Mr. Weien stated that his understanding of the motion was that if funding were restored, BRC would have 45 days to return to the race schedule submitted on October 1, unless an alternate plan was submitted for approval by BRC/IGA.

Commissioner Cutler asked if there was a way for BRC to come back before the Commission with an alternate plan in the event BRC and IGA could not agree on a race schedule. Chair Mahaffey advised that BRC could submit their plan next fall at license renewal.”

Commissioner Cutler stated that she was disappointed the parties were unable to reach an agreement. She is excited by BRC’s ability to send their signal into new jurisdictions; however, the Commission has already made a determination on this issue. She wondered if there were any compelling reasons to change or override the original decision. She would like to find a way to make the situation work for both parties in light of BRC’s entrepreneurial approach to a racing schedule that has turned out to be a positive change for the industry, but is not sure about individual kennels.

Chair Mahaffey reiterated the motion from the November Commission minutes, noting that the Commission could overturn that decision if they desire.

Ms. May wondered if BRC would have to go back to the 7:15 post time if they resume running seven performances. Mr. Crawford stated IGA would work with them on the post times.

Ms. May reminded the Commission that BRC is down two kennels from what is necessary in order to run seven performances per week. Additionally, there are simulcast

signals and contracts that they will lose immediately upon returning to the original schedule.

Commissioner Hamilton asked if it was possible to return to the original schedule but adjust the starting times. Ms. May reiterated the difficulties to adding a race to the Saturday schedule. Mr. Crawford suggested starting times of 3:30 PM and 7:30 PM. Rory DeSantiago stated that if BRC were to add a 7:30 PM race, all of the greyhounds would have to be in the ginny pit by 6:30 PM.

Commissioner Cutler suggested putting the issue back in the parties' court for another month. Ms. May stated that BRC would be happy to attempt to reach another agreement.

Mr. Crawford asked that the Commission vote to have BRC return to the 7-card schedule with time adjustments by one month from today, unless the parties agree to a different schedule within that time frame. Ms. May indicated that BRC would not be able to add the two kennels within the specified time. She deferred to Mr. DeSantiago. Chair Mahaffey stated that he did not want to address that issue at this time.

Chair Mahaffey asked Mr. DeSantiago if the post times of 3:30 PM and 7:30 PM were workable. Mr. DeSantiago indicated there could be some problems. Commissioner Cutler suggested the times of 3:30 PM and 8:00 PM. Chair Mahaffey stated that BRC was cognizant of the fact that if pari-mutuel funding was restored there was the possibility they would have to return to the original schedule. He asked if the fact that BRC was down two kennels was the reason the other issues had become complicated.

Commissioner Hamilton stated she recalled a meeting where it was noted there were kennels waiting to get into BRC. Mr. Crawford stated that he could provide BRC with kennel applications by the end of the day.

Commissioner Cutler stated that she liked what BRC had done with the schedule and was unclear as to why the industry is unhappy. Various IGA members in the audience advised Commissioner Cutler that they were very unhappy with the new schedule because they have lost a performance. Commissioner Cutler asked if they were happy with the schedule aside from the fact they lost a performance. The greyhound owners indicated that the lost performance was more important than the increased exposure.

Commissioner Hamilton asked how many races were run per performance. She was advised there are between 12-15 races per performance. She wondered how many dogs were impacted. Mr. Crawford stated that 1,200 fewer greyhounds have raced in the first two months of 2003 than in 2002.

Commissioner Cutler stated that she would like BRC to keep their current racing schedule and add one performance. She noted that they would not return to the original schedule, thus continuing to receive the benefits of the new schedule. Then, based on the November motion, the parties would work out the details and come back before the

Commission in April. She wondered what would happen if the parties could not agree on the seventh performance. Chair Mahaffey stated that his understanding was that BRC was to add an additional performance somewhere in the week within a reasonable time period.

Commissioner Cutler moved to have BRC return to the seven-performance schedule, and the parties are to determine the time frame of the race. There was a discussion as to the time frame for adding back the race. Mr. Crawford noted that BRC had originally been given 45 days, and further stated that IGA feels there are sufficient greyhounds at the track to begin running seven performances immediately. The IGA does not see a need for any delay in implementing the seventh performance. It was determined the original 45-days would expire on approximately March 17th. Commissioner Cutler amended her motion to state that BRC must add the seventh performance thirty days from today, or by April 6th. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 03-21) Mr. Weien and Mr. Crawford stated they would work together to accomplish the wishes of the Commission.

Chair Mahaffey called on DGP&C with regard to the approval of the 45-day plan. Mr. Wentworth was present to answer any questions. Chair Mahaffey noted that Linda Vanderloo, IRGC staff, had recommended approval in her report to the Commission.

Chair Mahaffey requested a motion with regard to the 45-day plan. Commissioner Cutler moved to approve the 45-day plan, including the staff recommendation. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 03-22)

Chair Mahaffey moved to the additional contracts submitted by DGP&C. Mr. Wentworth presented the following contracts for Commission approval:

- American Trust & Savings Bank – Banking Services (RP)
- United Steel Workers Local 1861 – Labor Agreement
- Mathis, Earnest & Vandeventer – Advertising (Revised)
- Sierra Design Group – Lease of 4 Slot Machines (Replacements)

Commissioner Cutler moved to approve the contracts as submitted by DGP&C. Commissioner Hamilton seconded the motion, which unanimously. (See Order No. 03-23)

Following a brief break, Chair Mahaffey called for a motion to switch the order of agenda items 11 (Review of 2002 Year-to-Date Economic Impact Reports) and 12 (Hearing – Appeal of Administrative Law Judge Decision – Danny Wichmann). Commissioner Hamilton so moved. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-24)

Chair Mahaffey moved to the Appeal of Administrative Law Judge Decision (ALJ) filed by Danny Wichmann, noting that Mr. Wichmann was present. He noted that this is not

an evidentiary hearing, but would receive comments from Mr. Wichmann and Ms. Davis. Mr. Wichmann presented the various reasons for his appeal and submitted a copy of the urine analysis lab results.

Ms. Davis stated that she represented the Board of Stewards before the ALJ proceeding, and that legal counsel also represented Mr. Wichmann. At the outset of the hearing, said counsel, with the agreement of Mr. Wichmann, stipulated to all of the factual findings that were made by the Board of Stewards. She stated that Mr. Wichmann is objecting to the revocation now, because by IRGC rule, he is ineligible to reapply for a license for five years. Ms. Davis advised the Commission that their review of the case is even more limited than normal; they are not permitted to review any facts not presented to the ALJ, and should disregard any facts or written material presented today. Ms. Davis stated that the sanction imposed by the Board of Stewards, and upheld by the ALJ, was correct under the standards established for an occupational licensee in Iowa. She noted that all of the conduct attributed to Mr. Wichmann crosses a variety of lines, with each instance being sufficient to warrant revocation of his license in and of itself. She recommended that the Commission affirm the ALJ's Decision.

Chair Mahaffey indicated it was his understanding that the revocation of Mr. Wichmann's license would preclude him from reapplying for a license for five years. He asked if the action, given the severity of the accusations, was in line with past actions. Ms. Davis stated that she is not sure there has been anyone with the same number of violations with regard to racing concerns and public welfare; but would be consistent when taking any of the actions in isolation or reviewing the severity of the conduct.

Mr. Wichmann stated that the revocation would preclude him from working in any racing jurisdiction because of reciprocity. Ms. Davis stated that there is reciprocity with regard to the revocation, but that each jurisdiction has their own standards and varying rules.

Commissioner Cutler moved to affirm the ALJ Decision and deny Mr. Wichmann's appeal. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 03-25)

Chair Mahaffey moved to the review of the 2002 Year-to-Date Economic Impact Reports filed with the Commission by the licensees. Mr. Ehrecke thanked the Commission for compiling the information contained in the reports, as they make it clear that the gaming industry is benefiting Iowa. The reports also show that the gaming industry is a viable part of Iowa's economy and are committed to providing premier entertainment facilities for the state as well as tourism. Mr. Ehrecke reviewed some of the figures contained in the report.

Chair Mahaffey moved to the Excursion Gambling Boat Renewals. He asked Terry Hirsch, Director of Riverboat Gambling, if he had any comments with regard to the renewal. Mr. Hirsch stated that he had attempted to point out some contracts being presented under the new rule allowing an ongoing contract to only be approved once. He

indicated there were several out-of-state contracts that have been submitted as ongoing that the Commission may want to impose a time limit on so that they will be resubmitted.

Chair Mahaffey called on Iowa West Racing Association (IWRA)/Ameristar Casino Council Bluffs. Jerry Mathiason, Associate Executive Director of IWRA, stated that the past year has been good, noting that the November referendum passed with 80% of the vote. He noted there has been continued growth in the community. Mr. Mathiason pointed out that IWRA has signed new sponsorship agreements with both Ameristar and Harrah's that will be in effect through 2010. He advised the Commission that IWRA, Ameristar, and Harrah's have distributed over \$20 million in 2002 to charities. Since IWRA's inception, they have distributed \$100 million to non-profit organizations representing 1,000 projects in approximately 100 communities.

At this time, Mr. Mathiason introduced Troy Stremming, Vice President of Legal & Government Affairs, and Jane Bell, Director of Government/Community Affairs, from Ameristar, who will be followed by Mr. Weien from Harrah's.

Ms. Bell stated that they were available to answer any questions. Chair Mahaffey asked Mr. Hirsch if he had any concerns with regard to the application. Mr. Hirsch indicated he did not have any concerns.

Mr. Weien advised the Commission that 2002 was Harrah's first full year in Council Bluffs. He provided the following information: Over \$30 million in various tax payments, representing approximately 22% of total revenue; invested \$23 million in renovations; \$21 million with Iowa vendors; \$22.5 million in payroll; \$6.5 million for employee benefits; and employees had 2,000 community volunteer hours.

Mr. Weien withdrew the contract with Worldwide Gaming, Inc. submitted with the license renewal application, and presented the following additional contracts for Commission approval:

- Bluffs Run Casino – Purchase 2 Coin Redemption Machines (RP)
- Carpenter Paper – Paper Products

Commissioner Cutler commended both Ameristar and Harrah's on their outstanding corporate citizenship, integrity and professionalism.

Chair Mahaffey called for a motion with regard to Ameristar Casino's license renewal. Commissioner Hamilton moved to approve the excursion gambling boat license renewal application of IWRA/Ameristar Casino Council Bluffs d/b/a Ameristar Casino. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-26)

Chair Mahaffey called for a motion with regard to Harrah's license renewal. Commissioner Cutler moved to approve the excursion gambling boat license renewal

application of IWRA/Harvey's Iowa Management Company, Inc. d/b/a Harrah's Council Bluffs Casino Hotel. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 03-27)

Chair Mahaffey called for a motion regarding the additional contracts submitted by Harrah's. Commissioner Cutler moved to approve the contracts as submitted by Harrah's. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 03-28)

Chair Mahaffey called on Scott County Regional Authority (SCRA)/Isle of Capri Bettendorf, L.C. d/b/a Isle of Capri Bettendorf (IOCB). Patsy Ramacitti, Vice President of SCRA and Mike Hirsch, General Manager of IOCB, were present to answer questions. Ms. Ramacitti advised that SCRA is distributing approximately \$4 million per year, and has distributed \$26 million to various charitable groups within the community over the last ten years. She distributed a flyer documenting the ten-year history of SCRA and the Riverboat Development Authority (RDA), the non-profit licensee for the Rhythm City Casino in Davenport, which was used prior to the referendum. Ms. Ramacitti stated that SCRA is experiencing a turnover as the terms are expiring for the last four members who have been on the board from the beginning. The Board has undertaken a comprehensive review of the by-laws, administrative practices; grant process, and the distribution policies in terms of the types of organizations that have received funds. The Board felt the process was necessary to insure that the funding distributed is meeting the greatest needs of the community.

Mr. Hirsch provided the following numbers with regard to the Bettendorf operation: generated over \$98 million in gaming revenue; paid over \$18 million in taxes; contributed over \$4 million to SCRA and \$2.1 million to Bettendorf. IOCB has over 800 employees, and paid out in excess of \$22 million in salaries, wages and benefits in 2002. He stated that IOCB, combined with Rhythm City, is the sixth largest employer in the Quad Cities area. Mr. Hirsch stated that IOCB spent over 84% of its money for discretionary purchases with Iowa vendors. Mr. Hirsch requested renewal of IOCB's riverboat license.

Chair Mahaffey called on Mr. Hirsch for any comments concerning the license renewal application. Mr. Hirsch recommended that the contract with Chesapeake Advertising be approved for the license year only as it is with an out-of-state company. Mr. Hirsch explained that IOC, Inc. utilizes Chesapeake to gain consistency in advertising with the IOC properties. He noted that a lot of the final product is produced in Iowa.

Chair Mahaffey called for a motion. Commissioner Hamilton moved to approve the excursion gambling boat license renewal application of SCRR/IOCB, L.C. d/b/a IOCB and the Chesapeake Advertising contract for one year. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-29)

Chair Mahaffey moved to the additional contracts submitted by IOCB. Mr. Hirsch presented the following contracts for Commission approval:

- Midwest Game Supply Company – Purchase of Slot Machines
- Cambridge Integrated Services – Third Party Insurance Claims Adjuster
- Prestige Games – Source for Sale of Used Slot Machines
- Skipper Marine Development – General Contractor for Marina
- Universal Gaming Resources – Source for Sale of Used Slot Machines

Hearing no discussion concerning the contracts, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contracts submitted by IOCB. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 03-30)

Chair Mahaffey called on RDA/IOC Davenport, Inc. d/b/a Rhythm City Casino. Mary Ellen Chamberlin, President of RDA, noted that Davenport had received a Vision Iowa Grant for the River Renaissance project, and that RDA has made that project a priority at this time. RDA feels that in the long term, the project and funding will increase the number of visitors to the boat.

Nancy Donovan, General Manager, noted that Rhythm City has been in operation for two years. Revenues have increased 7% over prior year revenues. She stated that Rhythm City and IOCB have worked to make the public aware of the differences between the two properties. Purchases from Iowa vendors have increased to 77% this year, a 35% increase from last year. In conjunction with the River Renaissance project, a 445-space parking garage is located across the street. Rhythm City pays \$1/space/day, and operates the parking garage in the evenings and on weekends. IOC has committed \$1.8 million to the sky bridge, which will eventually connect the property with the downtown area.

Ms. Donovan advised the Commission there was an error on the summary page setting out the contracts. The contract with Lamar Co. indicates the company is an Iowa vendor with an out-of-state address while the summary page indicates Lamar is an out-of-state vendor.

Mr. Hirsch noted that Rhythm City's application also contained a contract with Chesapeake Advertising. He recommended that the contract be approved for the license year instead of as an ongoing contract.

Hearing no comments or questions concerning the license renewal application; Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the excursion gambling boat license renewal application of RDA/IOC Davenport, Inc. d/b/a/ Rhythm City Casino and the Chesapeake Advertising contract for one year. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 03-31)

Chair Mahaffey moved to the additional contract submitted by Rhythm City. Ms. Donovan presented a contract with Giesecke and Devrient for a BPS 500 Bank Note Processing System. As there was no discussion, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contract as submitted by Rhythm City. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 03-32)

Chair Mahaffey called on Clarke County Development Corporation (CCDC)/Southern Iowa Gaming Company (SIG) d/b/a Lakeside Casino Resort. Kevin Preston, General Manager, advised that gross gaming revenue increased from \$49 million to \$54 million in 2002. The facility will be celebrating its third year in operation later this month. He introduced Dr. Fred Wood, President of CCDC and Stacy Gibbs, the new Executive Director. Dr. Wood stated that CCDC has a \$2 million impact on Clarke County and the communities of Osceola, Murray and Woodburn, in addition to the pillar grants, which are distributed to five other counties in the area. Dr. Wood noted that Lakeside Casino is the second largest employer in Clarke County.

As there were no comments or questions concerning CCDC/SIG's license renewal application, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the excursion gambling boat license renewal of CCDC/SIG d/b/a Lakeside Casino Resort. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 03-33)

Chair Mahaffey called on DRA/Peninsula Gaming Company, LLC d/b/a Dubuque Diamond Jo (DDJ). Mr. Wentworth and Ms. May, legal counsel for Peninsula Gaming, were present to answer any questions.

Hearing no comments or questions concerning the renewal application; Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the excursion gambling boat license renewal application of DRA/Peninsula Gaming Company, LLC d/b/a DDJ. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-34)

Chair Mahaffey called on Missouri River Historical Development, Inc. (MRHD)/Belle of Sioux City, L.P. d/b/a Belle of Sioux City (BSC). Jesus Aviles, General Manager, was present to answer any questions concerning the license renewal application. Mr. Aviles advised the Commission that BSC would be inaugurating their lighthouse project and has instituted cashless gaming. BSC has also completed their renovation project. MRHD has distributed 40 grants over the last year, as well as completing the Lewis & Clark Interpretive Center, which cost \$4 million. Mr. Aviles stated that BSC has paid \$7.5 million to the state, \$1.6 million to Sioux City, \$1 million to MRHD, and paid out \$11.2 million in payroll.

As there were no comments or questions concerning the license renewal application, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the

excursion gambling boat license renewal application of MRHD/Belle of Sioux City, L.P. d/b/a BSC. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 03-35)

Chair Mahaffey called on Upper Mississippi Gaming Corp. (UMGC)/Isle of Capri Marquette, Inc. d/b/a Isle of Capri Marquette (IOCM). Kim Hardy, General Manager, advised that revenues increased by 4% from the previous year and that the referendum passed by 81%.

Mr. Hirsch reminded the Commission that IOCM had also submitted a contract with Chesapeake Advertising. He recommended that the contract be approved for the license year rather than as an ongoing contract.

As there were no further comments or questions, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the excursion gambling boat license renewal application of UMGC/Isle of Capri Marquette, Inc., d/b/a IOCM, and the Chesapeake Advertising contract for one year. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-36)

Chair Mahaffey called on Southeast Iowa Regional Riverboat Commission (SIRRC)/Catfish Bend Casinos, L.C. d/b/a Catfish Bend Casino (CBC). Joe Massa, General Manager, and Dr. Larry Smith, President of SIRRC, were present to answer any questions.

As there were no comments or questions, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the excursion gambling boat license renewal application of SIRRC/Catfish Bend Casinos, L.C. d/b/a CBC. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-37)

Chair Mahaffey called on Clinton County Gaming Association (CCGA)/Mississippi Belle II Employees Ownership Co. d/b/a Mississippi Belle II (MB II). Ken Bonnet, General Manager, noted that 2002 was the first year for the employee ownership company. He indicated the employees would be receiving their first statements in approximately a month showing what ownership means to them.

Mr. Bonnet stated that CCGA committed \$2 million to the Clinton Vision Iowa project, which is the largest single funding source other than the city for the project.

As there were no comments or questions concerning the license renewal application, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the excursion gambling boat license renewal application of CCGA/Mississippi Belle II Employees Ownership Co. d/b/a MB II. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 03-38)

Chair Mahaffey moved to Public Comment and recognized Mr. Ehrecke. Mr. Ehrecke stated that he wanted to make the Commission aware of extensive efforts that the Iowa properties, as well as other vessels around the country, have responded to proposed rules by the Coast Guard under the Maritime Transportation Security Act, which was implemented to prevent ocean-going vessels from becoming terrorism targets. However, the proposed rules will also impact inland vessels. Mr. Ehrecke stated that it is important the proposed rules differentiate between “blue” water and “brown” water. Mr. Ehrecke distributed a packet of material put together by several states and agencies that was submitted to Iowa’s congressional delegation. The Coast Guard requested answers to 40 questions. It is anticipated the rules will be finalized sometime in June or July.

As there was no further business to come before the Commission, Chair Mahaffey called for a motion to adjourn. Commissioner Cutler so moved. Commissioner Hamilton seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

JULIE D. HERRICK CPS

**IOWA RACING AND GAMING COMMISSION
MINUTES
APRIL 17, 2003**

The Iowa Racing and Gaming Commission (IRGC) met on Thursday, April 17, 2003 at Ameristar Casino Council Bluffs, 2200 River Road, Council Bluffs, Iowa. Commission members present were Mike Mahaffey, Chair; Diane Hamilton, Vice Chair; and members Kate Cutler, Steve Chapman and Joyce Jarding.

Chair Mahaffey called the meeting to order at 8:30 AM, and requested a motion to approve the agenda, noting that there had been an amendment to the proposed agenda adding an Executive Session. Commissioner Hamilton moved to approve the agenda as amended. Commissioner Cutler seconded the motion, which carried unanimously.

Chair Mahaffey called on Tom Hanafan, Mayor of Council Bluffs, who welcomed the Commission to Council Bluffs. He noted that there had been a brief tour of the city the previous evening to show the Commission members some of the projects funded by Iowa West Racing Association (IWRA). Mayor Hanafan stated that when the licenses were granted, the community did not realize that the license holders became more than just operators of the facilities, that they would immerse themselves in the community. He noted that the operators and the facilities have a very good relationship. The original goals when Council Bluffs applied for a license were to drive economic development, create new jobs and bring tourism to that area of the state. He noted that gaming had created 3,500 jobs. Mayor Hanafan stated that Council Bluffs has built over 1,000 hotel rooms, both on and off the gaming complexes, and the occupancy rate is approximately 92% throughout the community. He introduced some of the IWRA Board members that were in attendance.

Chair Mahaffey called for a motion regarding the minutes from the March 6, 2003 Commission meeting. Commissioner Chapman moved to approve the minutes of March 6, 2003 as submitted. Commissioner Hamilton seconded the motion, which carried unanimously.

Chair Mahaffey called on Jack Ketterer, Administrator of IRGC, for announcements. Mr. Ketterer introduced IRGC employees who work at the Council Bluffs facilities. He noted that there is no meeting in May and that the June 5th meeting will be held at Stoney Creek Inn in Johnston. Mr. Ketterer stated that the Commission would be deciding on meeting dates for fiscal year 2004 under Administrative Business on today's agenda.

Chair Mahaffey moved to the contract approval portion of the agenda and called on Dubuque Greyhound Park & Casino (DGP&C). Bruce Wentworth, General Manager, presented the following contracts for Commission approval:

- Interspace Advertising – Ad in Cedar Rapids and Dubuque Airports
- Tricore Insurance – Property and Casualty Insurance

As there were no comments or questions concerning the contracts, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the contracts as submitted by DGP&C. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-39)

Chair Mahaffey called on Bluffs Run Casino (BRC). Scott Barber, Assistant General Manager, presented the following contracts for Commission approval:

- Sierra Design Group – Lease of 6 Slot Machines (Replacements)
- Wdesign – Design and Production of Marketing Materials

As there were no comments or questions concerning the contracts, Chair Mahaffey requested a motion. Commissioner Jarding moved to approve the contracts as submitted by BRC. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-40)

Chair Mahaffey called on Prairie Meadows Racetrack & Casino (PMR&C). Bob Farinella, General Manager, presented the following contracts for Commission approval:

- All Makes Office Equipment Company – Office Supplies and Misc. Equipment (Increase Request)
- Combined Systems Technology, Inc. – Computer-related Products and Services (Increase Request)
- Graham Construction Company – Various Construction Projects in 2003 (Increase Request)
- Kone Elevators/Escalators – Elevator and Escalator Maintenance and Repair (Increase Request)
- Shuffle Master Gaming – Potential Lease of One Each Shuffle Master Complete Upgrade Kit for a Williams Slot Game Box

As there were no comments or questions, Chair Mahaffey requested a motion. Commissioner Chapman moved to approve the contracts as submitted by PMR&C. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-41)

Chair Mahaffey called on Lakeside Casino Resort. Kevin Preston, General Manager, presented the following contracts for Commission approval:

- Blue Cross/Blue Shield of K. C. – Employee Insurance
- Clarke Electric Cooperative – Wireless Communication System (RP)
- Loffredo Fresh Produce Co. – Produce
- Pepsi Cola – Soda Beverages

Commissioner Chapman noted there was a memo indicating Lakeside is negotiating with several vendors to provide healthcare benefits beginning June 1, 2003, but they are requesting the Commission approve a contract with Blue Cross/Blue Shield.

Mr. Preston stated that the current contract expires June 1, 2003, and there is no May meeting; therefore, they are requesting approval of the renewal with Blue Cross/Blue Shield. Should a different vendor be selected, they will submit a contract for Commission approval at the June meeting.

As there were no further comments or questions, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contracts as submitted by Lakeside Casino Resort. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 03-42)

Chair Mahaffey called on Catfish Bend Casino (CBC). Joe Massa, General Manager, presented the following contracts for Commission approval:

- Aristocrat – Replace 10 Slot Machines
- IGT – Replacement of 272 existing machines
- Konamai Gaming – Replacement of 20 existing machines
- WMS Gaming, Inc. – Replacement of 72 existing machines

As there were no comments or questions, Chair Mahaffey requested a motion. Commissioner Chapman moved to approve the contracts as submitted by CBC. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-43)

Chair Mahaffey called on Ameristar Casino. Jane Bell, Director of Government/Community Affairs, presented the following contracts for Commission approval:

- Aristocrat Technologies, Inc. – 10 Hyperlike System Games (Replacements)
- IGT – 30 IGT Ticket Printing Slot Machines (Replacements)
- IGT – 53 Slot Machines transferred from Ameristar Casino St. Charles (RP) (Replacements)
- Terry Thomas Auto Center – Sport Utility Van and Passenger Automobile

Commissioner Hamilton asked how many vehicles were being purchased. Ms. Bell advised that there were only two vehicles being purchased under this contract. Art Hill,

Vice President of Finance, stated that one of the vehicles is a suburban that was purchased for company use. The other vehicle will be utilized as a promotional vehicle, and the final price will vary depending on the model and options selected by the winner.

As there were no further comments or questions, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the contracts as submitted by Ameristar Casino. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-44)

Ms. Bell distributed copies of Ameristar's Community Review.

Chair Mahaffey called on Harrah's. Mr. Barber presented the following contracts for Commission approval:

- Cummins – Currency Counting Equipment and Maintenance of Equipment
- Sigma Games, Inc. – Sale of 2 Slot Machines (RP)
- Wdesign – Design and Production of Marketing Materials

As there were no comments or questions concerning the contracts, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contracts as submitted by Harrah's. Commissioner Chapman seconded the motion, which carried unanimously. (See Order No. 03-45)

Chair Mahaffey moved to the review of the licensees' financial audits. He requested that the licensees provide some background on their current status, and how things are going. He called on Ameristar Casino Council Bluffs (ACCB). Troy Stremming, Vice President of Legal & Government Affairs for Ameristar Casinos, was present to address questions surrounding the fact that ACCB filed their financial audit seven days late. He introduced Ed Fasulo, General Manager, and Mr. Hill, who will present the audit following this discussion. Mr. Stremming stated that Arthur Andersen had previously performed ACCB's audits. Some of the auditors from Arthur Anderson moved to Deloitte and Touche, who performed this year's audit, and completed the audit in the same method used previously. However, a Deloitte & Touche manager was not comfortable with the format utilized, and wanted the audit changed to a different format. Ameristar was not notified of the requested change until late in the month, at which time they requested the extension.

Chair Mahaffey asked Mr. Ketterer if there was anything further the Commission needed to do. After hearing the explanation, Chair Mahaffey stated that he felt the explanation was reasonable, and that under different circumstances ACCB would have met the deadline. He stressed that it was important that the audits be filed timely.

Mr. Ketterer indicated he did not have the ability to waive statutory law, and reiterated Chair Mahaffey's comment that it is important the licensees' meet the statutory

requirement. He indicated that there was no other adverse impact by the audit arriving on April 7, 2003 versus March 31, 2003.

Mr. Fasulo informed the Commissioners that ACCB entered 2001 with a 33.7% market share, and closed out 2002 with a 37.9% market share, a 12% growth. During 2002, ACCB reached a market share of 40% during December. Net revenues in 2001 were \$124 million, and increased to \$145 million in 2002 – an increase of \$22 million or 18% gain. Net income from operations in 2001 was \$20 million, which rose to \$30 million in 2002 – an increase of \$10 million or 44% gain.

Commissioner Cutler asked about the \$16 million shown under Related Party Expenses on the Statement of Other Income (page 5). Mr. Hill stated that the Council Bluffs property was constructed using capital advances from Ameristar Casinos, Inc., as well as debt incurred by Ameristar Casinos, Inc. The portion of financing related to ACCB is shown on the financial statement, but because the bonds and other debt are shown in the name of Ameristar Casinos, Inc., it is also shown on their financial audit. When ACCB makes interest payments, they actually pay Ameristar Casinos, Inc., who then pays the bondholders and/or banks.

Mr. Hill stated that when ACCB looks at what they are financially responsible for in order to maintain their license, they look at the following items: continue to grow the market; be financially sound; and utilization of Iowa vendors, which increased from \$88 million in 2001 to \$102 million in 2002. He noted that ACCB has invested approximately \$2 million in property, plant, and equipment in 2002.

Commissioner Chapman asked if the revenue growth resulted from casino operations. Mr. Hill indicated casino operations was the largest generator of revenue, but not the sole source of the increase. Commissioner Chapman commented on the revenue and income growths. Mr. Hill stated that one of the major expenses, interest, is decreasing as the notes are paid down. He stated that food and beverage revenue increased \$1.5 million, hotel revenue increased \$600,000, and other revenues increased \$25,000.

Chair Mahaffey called on Belle of Sioux City (BSC). Jesus Aviles, General Manager, noted that although BSC is a smaller property they have experienced three years of growth. He stated that BSC accomplished impressive growth in 2002 while undertaking a major renovation – spending \$6 million on capital expenditures. BSC built a new barge facility, and did not have the amenities they normally have. Mr. Aviles stated that the new facility is open and features a lighthouse. He noted that BSC is unable to determine its market share as they compete with a Native American facility.

Commissioner Chapman asked how the growth this year compares to the previous year. Mr. Aviles stated that during the first three months of 2003, with only one entrance for all facets of the operation, BSC managed single digit increases. In March, with the new facility fully operational for three-quarters of the month, they saw double-digit growth in revenue. Mr. Aviles attributed the growth to the fact that the business is exclusively

retail. Patrons come with a small pocketbook, but come for the socialization. Growth is achieved through volume. Mr. Aviles indicated there are additional plans for the property.

Chair Mahaffey called on CBC. Mr. Massa advised the Commission that revenue declined approximately 2.2%, due to increased competition from a new casino that opened in Missouri and the softness of the economy in southeast Iowa. He stated that 2,000 jobs have been lost in Des Moines and Lee counties over the past twelve months. Mr. Massa stated that net income decreased 31%, but last year's net revenue was inflated due to the dissolution of the United Coin acquisition, which accounted for about half of the profit. He noted that CBC has no long-term debt, and increased its equity in 2002. Revenue for 2003 is expected to be about the same as 2002.

Commissioner Chapman noted the auditors expressed concern with regard to the internal controls. Mr. Massa stated that CBC had addressed the matter, and noted that it had been an ongoing concern based on the size of the operation. He stated that CBC is not large enough to have an internal auditor.

As there were no further questions regarding the CBC audit, Chair Mahaffey called on Peninsula Gaming Corporation (Dubuque Diamond Jo (DDJ)). Dustin Manternach, Compliance Director, stated that pages 2-5 of the audit contain a consolidated report for Peninsula, and pages 23-26 show the figures related to the Iowa property. He stated that Peninsula had capital expenditures of approximately \$1.7 million in 2002, consisting largely of slot machines, upgrading the slot system and changing the third deck to ticket in/ticket out coin-free slot machines. Net revenues increased by 2.5%. The company is seeing some growth in 2003 to date, and expect it to continue with the opening of the major portions of the America's River project.

Mr. Ketterer noted that the hotel for the America's River project is already open. He asked if that had helped increase the numbers at the DDJ. Mr. Manternach stated they are in the process of trying to track it, but have not seen anything significant to date. They are more optimistic once the convention center opens. Mr. Ketterer asked if the museum and aquarium were to open this spring. Mr. Manternach stated that he had just read that a June opening is planned for those facilities.

Commissioner Hamilton stated that she had difficulty following all of the purchases and the various companies. She requested that Mr. Manternach prepare a flow chart for the next meeting to show how all the different entities relate. He advised that Peninsula Gaming Partners is the parent company for the DDJ. Peninsula Gaming owns 100% of Old Evangeline Downs Acquisition (OEDA), which is a holding company formed to purchase Old Evangeline Downs in Louisiana. There are two additional shell companies that were formed to facilitate bond offerings.

Chair Mahaffey called on Harveys Iowa Management Company, Inc. (Harrah's). Mr. Barber stated that 2002 was Harrah's first full year of operation in Council Bluffs. They

had gross gaming revenues of \$111 million, operating income of approximately \$17 million, and capital expenditures were \$8.4 million. Since the conversion to Harrah's in June 2001, Harrah's has spent \$23 million on capital expenditures. Mr. Barber pointed out that Harrah's had spent \$21 million with Iowa vendors. He noted that the audit company had been changed to Deloitte and Touche.

Hearing no comments or questions, Chair Mahaffey called on Southern Iowa Gaming Company d/b/a Lakeside Casino Resort. Mr. Preston and Tom Timmons, Assistant General Manager, presented the following information: Gaming revenues increased 9%, with an overall increase of approximately 5% from 2001 to 2002. The company made some significant changes during the last quarter of 2002, and hopes to see the impact of those changes in 2003. They changed out approximately 20% of their slot machines, moved all of the table games to the main floor, and have only slots on the lower level, making the facility more customer-friendly. Mr. Preston indicated they had a record month in March.

Chair Mahaffey called on the Mississippi Belle II (MB II). Ken Bonnet, President, distributed a comparative income statement, which the auditors were not able to prepare due to the transition to the ESOP company. He stated that gaming revenue was up 1.5%, most of the expenses stayed in line with previous years, and MB II ended 2002 at approximately the same level as 2001. Mr. Bonnet stated that revenue is down slightly during the first quarter of 2003. He noted that a number of their patrons are older and have been impacted by the economy and the low interest rates. Mr. Bonnet stated that MBII is in the process of renegotiating their debt obligations, and hope to reduce the interest rate by half. He noted that MBII's business stays pretty constant.

Commissioner Chapman advised Mr. Bonnet that there is a GAAP statement for ESOP companies that would more fairly represent the company. He advised Mr. Bonnet to have the auditor review the statement.

Chair Mahaffey called on Bluffs Run Casino (BRC). Mr. Barber noted that the story was pretty much the same at BRC as Harrah's. BRC had gaming revenues of \$126.6 million with operating income of just over \$25 million, and invested approximately \$5.5 million in capital expenditures for a total of \$13 million since the conversion in June 2001. Another \$8.5 million is slated for capital expenditures in 2003, for a total of approximately \$40 million between Harrah's and BRC. BRC spent \$12.9 million with Iowa vendors in 2002.

Chair Mahaffey called on Iowa West Racing Association (IWRA). Tony Payne, Executive Director of IWRA, stated that the most significant change is that in 2001 there was an indemnity account of \$7.6 million on the balance sheet, which is not there for 2002. The account was a requirement in the sale of BRC's land and buildings to Harveys. The account was required for a three-year period, which expired on October 5, 2002.

The income statement shows a \$50 million payment to HBR Realty, which goes back to the same contract previously mentioned, and approved by the Commission in 1999. On the expense side, the professional expenses increased from \$27,000 to \$530,000 of which \$500,000 is for a fee that was due to the investment banking group that put together the 1999 contract. There was an additional \$85,000 of expenses related to the extension of the sponsorship agreements with Harrah's and Ameristar to 2010.

Hearing no comments or questions on IWRA's audit, Chair Mahaffey called on Dubuque Racing Association (DRA). Roger Hoeger, Controller, advised that net revenues were up approximately \$2.3 million, or 10%. The gaming tax impact allowed DRA to pay out \$1.5 million to various charitable organizations and the City of Dubuque. He stated that net income was down approximately \$506,000, or 36%.

Mr. Ketterer stated that with the gaming tax issue still undecided, he noted that IWRA and PMR&C had accrued taxes in the event that the Iowa Supreme Court Decision was reversed so that funds would be available to pay the difference, but did not see that in DRA's audit. He wondered how they were handling that. Mr. Hoeger stated that DRA is not accruing funds, and feels they have adequate funding to pay any back taxes due; however there would be less money available to the city and charitable organizations.

Hearing no further questions on DRA's audit, Chair Mahaffey called on Racing Association of Central Iowa (RACI). Mr. Farinella stated that slot revenue increased by approximately 4% and net racing revenue grew by just over 8%. With the impact of the tax decision, which RACI is accruing, RACI has been able to make considerable charitable and community distributions. To date in the current year, RACI is on target with budgeted revenues, and has made some facility improvements in an effort to accommodate more patrons with the beginning of live racing season.

Chair Mahaffey stated that he had asked Mr. Ketterer to provide the Commissioners an update on the growth rate of the casinos at the current time as there are some projected revenue increases being floated around the Legislature. Mr. Ketterer stated that he had reviewed some internal documents, which are done on a fiscal year basis. Noting that while there is some variance between the facilities, Mr. Ketterer stated that the combined growth rate for fiscal year 2003 over fiscal year 2002 is approximately 1.4%.

Following a short break, Chair Mahaffey moved to the next agenda item – Approval of Distribution of Horse Racing Promotion Fund, and called on Mr. Ketterer. Mr. Ketterer stated that Iowa Code Section 99D.12 provides for a small percentage of the remaining breakage to be set aside in the horse racing promotion fund. He stated there were three applicants for the funds – Iowa Quarter Horse Association, Iowa Harness Association, and the Iowa Thoroughbred Breeders and Owners Association. Mr. Ketterer noted that the amount available is just over \$4,000 this year. He advised the Commission that they could discuss how to distribute the funds or he could make a recommendation. Chair Mahaffey requested that Mr. Ketterer make a recommendation. Mr. Ketterer recommended that the funds be distributed equally between the three organizations.

Hearing no further comments or questions concerning the distribution, Chair Mahaffey requested a motion. Commissioner Hamilton moved to distribute the Horse Racing Promotion Fund equally between the Iowa Quarter Horse Association, Iowa Harness Association and the Iowa Thoroughbred Breeders and Owners Association. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-46)

Chair Mahaffey called on DRA/Iowa Greyhound Association (IGA) regarding the Memorandum of Agreement submitted for Commission approval. Mr. Wentworth and Jerry Crawford, legal counsel for IGA, were present. Chair Mahaffey requested that Mr. Wentworth provide the Commission with a summary of the document. Mr. Wentworth stated that the Arbitration Decision was either silent on some issues or did not set out how the funds were to be distributed. In one instance, the \$250,000 Stakes Race program, the parties felt that open stakes races would be better than restricted stakes races. The Arbitration Decision also did not address the adoption program. The document is mostly based on past history.

Hearing no further comments or questions concerning the Agreement, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the Memorandum of Agreement as submitted by DRA/IGA. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-47)

Chair Mahaffey moved to the next agenda item – a video entitled “Ensuring the Welfare of the Racing Greyhound” made by the American Greyhound Council.

Following the video, Chair Mahaffey moved to Administrative Business and the approval of the meeting dates for fiscal year 2004. Mr. Ketterer indicated dates previously sent out showed a meeting on September 11, but the current schedule calls for a meeting on either September 4 (Tuesday) or September 9 (Thursday). The Commissioners elected to meet on September 4.

Hearing no further discussion, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the meeting dates as amended, with the September meeting taking place on September 4. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-48)

Chair Mahaffey moved to Public Comment. As no one has signed up to speak during Public Comment, Chair Mahaffey moved to the next agenda item – an Executive Session for the purpose of discussing a licensing examination or whether to initiate licensee disciplinary investigations or proceedings if the governmental body is a licensing or examining board pursuant to Iowa Code Section 21.5(1)(d). He asked Ms. Davis if the matter coming before the Commission was appropriate for Executive Session. Ms. Davis indicated that it was a matter for Executive Session, and that a roll call vote should be taken.

Commissioner Jarding moved to go into Executive Session for the purpose of discussing a licensing examination or whether to initiate licensee disciplinary investigations or proceedings if the governmental body is a licensing or examining board pursuant to Iowa Code Section 21.5(1)(d). Commissioner Cutler seconded the motion. A roll call vote was taken. The vote was 5-0 in favor of going into Executive Session. (See Order No. 03-49)

Upon returning to Open Session, Chair Mahaffey advised that a discussion had taken place, but that no motion had been made in Executive Session pursuant to state law. He moved to the next agenda item – Consideration of Motions, if any, to Initiate Contested Case Proceedings.

Commissioner Cutler moved that sufficient probable cause exists to initiate a licensee disciplinary contested case proceeding for the licenses of James Rasmussen in a hearing set for May 15, 2003. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 03-50)

Chair Mahaffey made the following comments:

- The date of May 15, 2003 was discussed with Mr. Rasmussen's legal counsel, and was not arbitrarily set.
- Since probable cause has been found to initiate proceedings, there will be a contested case hearing on May 15th at either the Commission's Des Moines office or the capitol. The hearing will be open to the public. He stated that since the Commission will be serving in the capacity as trial judge, it is no longer appropriate for them to discuss the case with anyone under any circumstances. He requested that everyone refrain from contacting them to discuss the case.

Chair Mahaffey requested a motion to adjourn. Commissioner Hamilton so moved. Commissioner Cutler seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

JULIE D. HERRICK CPS

**IOWA RACING AND GAMING COMMISSION
MINUTES
JUNE 5, 2003**

The Iowa Racing and Gaming Commission (IRGC) met on Thursday, June 5, 2003 in the Pioneer Room at Stoney Creek Inn, 5291 Stoney Creek Court, Johnston, Iowa 50131. Commission members present were Mike Mahaffey, Chair; Diane Hamilton, Vice Chair; and members Kate Cutler, Steve Chapman and Joyce Jarding.

Chair Mahaffey called the meeting to order at 8:30 AM. He noted that agenda item 5, Rules – Notice of Intended Action, had been withdrawn and would be taken up at the July meeting. Chair Mahaffey requested a motion to approve the agenda as amended. Commissioner Cutler moved to approve the agenda as amended. Commissioner Jarding seconded the motion, which carried unanimously.

Chair Mahaffey called for a motion regarding the minutes from the April 17, 2003 Commission meeting. Commissioner Cutler moved to approve the minutes as submitted. Commissioner Jarding seconded the motion, which carried unanimously.

Chair Mahaffey called on Jack Ketterer, Administrator of IRGC, for announcements. Mr. Ketterer provided the following information with regard to upcoming Commission meetings:

- July Commission Meeting – July 17, 2003 at Stoney Creek Inn, Johnston, Iowa (Submissions Due July 2, 2003)
- August – No Meeting
- September Commission Meeting – September 4, 2003 at Stoney Creek Inn, Johnston, Iowa (Submissions Due August 20, 2003)

He noted that the Commission would be electing the chair and vice chair at the July Commission meeting. Mr. Ketterer stated that the September meeting would be held the Thursday after Labor Day.

Chair Mahaffey moved to the next agenda item – Rules – Final Adopt. The following rules were submitted for final adoption by the Commission:

- Rescind and reserve subrule 4.4(3), paragraph “d”
- Amend 491-Chapter 6 by adding new definition in alphabetical order
- Amend subrule 6.2(1), paragraph “c”, sub-paragraph (1) and paragraph “j”

- Amend subrule 6.51(1), paragraphs “d”, “e”, “f”, and “h”
- Amend rule 491-10.6(99D) by adding new subrule

Mr. Ketterer advised the Commissioners that they had previously reviewed and approved the rules under Notice of Intended Action. He noted that no public comment had been received regarding the rules, and that they have gone before the Administrative Rules Review Committee. Mr. Ketterer stated that the rules deal with how a conviction is defined with reference to deferred judgments and adjudication of delinquencies, and quarter horse time trial rules that were recommended by the American Quarter Horse Association. He recommended that the rules be approved for final adoption.

As there were no further comments or questions concerning the rules, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the final adoption of the rules as presented. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-51)

Chair Mahaffey moved to the next agenda item, “Buy Iowa First” and called on Wes Ehrecke, Executive Director of the Iowa Gaming Association (IGA). Mr. Ehrecke thanked the Commission for their ongoing support and focus on encouraging the casinos to utilize Iowa-based vendors. He stated that the IGA has established a website, www.buyiowafirst.org, which lists the contact person at the member casinos, making it easier for vendors to reach the appropriate person when initiating contact with a casino. He indicated that the flyer included in the meeting packets is being distributed through numerous publications plus direct mailings.

Hearing no comments or questions, Chair Mahaffey moved to the contract approval portion of the agenda, and called on the Belle of Sioux City (BSC). Jesus Aviles, General Manager, advised that the light had been installed in the lighthouse and was visible for 20 miles. He presented a five-year contract with the Siouxland Initiative, a not-for-profit organization that works with the Sioux City Chamber of Commerce to promote the Siouxland area as a viable business option. Mr. Aviles stated that the Siouxland Initiative is in its tenth year of operation, and is in the process of raising \$2 million.

Hearing no further comments or questions for Mr. Aviles, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contract as submitted by BSC. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 03-52)

Chair Mahaffey called on Dubuque Diamond Jo (DDJ). Mr. Ketterer advised the Commission that neither legal counsel nor the general manager could be present due to scheduling conflicts. He presented a contract with AON Risk Services for insurance (property, ocean marine, worker’s comp, business etc.), which is an Iowa company.

Mr. Ketterer informed the Commission that the weekly attendance figures for DDJ and two or three other facilities were running 15-20% ahead of the same week a year ago, which he attributed to the closing of the Meskwaki Casino in Tama.

Mr. Ketterer recommended approval of the contract submitted by DDJ.

Hearing no comments or questions for Mr. Ketterer, Chair Mahaffey requested a motion. Commissioner Jarding moved to approve the contract as submitted by DDJ. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-53)

Chair Mahaffey called on Harrah's. Pete Weien, General Manager, presented the following contracts for Commission approval:

- Hnedak Bobo Group – Design and professional services for renovations from Harveys to Harrah's
- Micros Systems, Inc. – Purchase additional point-of-sale terminals for the bars and restaurants and maintenance services throughout the year
- Pinnacle Construction, Inc. – Complete renovations to the hi-limit areas in the casino and hotel (diamond lounge), employee dining area and kitchens
- Ulster Carpets Inc. – New carpet for the hotel areas

Commissioner Chapman asked about the contract with Hnedak Bobo Group. Mr. Weien stated that Harrah's has developed a relationship with the design group, and they understand Harrah's philosophy and standards. Mr. Weien stated that company has already done work at the Council Bluffs facility and is knowledgeable of the facility and operation. Commissioner Chapman asked Mr. Weien if the group performed work company-wide. Mr. Weien answered in the affirmative.

Commissioner Chapman then asked about the contract with Ulster Carpets. Mr. Weien stated that the carpet is purchased directly from the company in Ireland, and is used company-wide. He stated that by purchasing the carpet directly from the company, Harrah's was able to save approximately 20%. Mr. Weien advised the Commissioners that local vendors would be utilized to install the carpet, as well as performing any renovations under the Hnedak Bobo contract.

Hearing no further comments or questions concerning the contracts, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contracts as submitted by Harrah's. Commissioner Chapman seconded the motion, which carried unanimously. (See Order No. 03-54)

Chair Mahaffey called on Bluffs Run Casino (BRC). Mr. Weien presented a contract with Atronic Americas, LLC for the purchase of replacement slot machines.

Hearing no comments or questions concerning the contract, Chair Mahaffey requested a motion. Commissioner Chapman moved to approve the contract as submitted by BRC. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-55)

Chair Mahaffey called on Prairie Meadows Racetrack & Casino (PMR&C). Bob Farinella, General Manager, presented the following contracts for Commission approval:

- Atronic Americas, LLC - Slot game parts and service
- Bankers Trust Company N.A. – Potential Renewal of Revolving Line of Credit (RP)
- Charles Gabus Ford – Purchase of automobiles, trucks, parts/service
- General Fire & Safety Equipment – Fire and safety equipment; purchase/service
- Hanson Distributing Company – Slot game parts and service
- Lawson Associates, Inc. – Information Systems Software Upgrade (Increased amount)
- Taylor Industries – Miscellaneous equipment purchases/service (Increased amount)

Commissioner Cutler asked why the Revolving Line of Credit was so much higher this year than last year. Mr. Farinella stated that PMR&C was utilizing the line of credit as a form of bonding as they received a reasonable rate, making it cheaper than utilizing a bonding company.

Hearing no further comments or questions regarding the contracts, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the contracts as submitted by PMR&C. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-56)

Chair Mahaffey moved to Administrative Business, and called on Mr. Ketterer. Mr. Ketterer advised that this is the meeting when the admission fees for the upcoming fiscal year are normally approved. He explained that Iowa Code requires the admission fees to cover the appropriation from the Legislature for the Commission's riverboat budget and the expenses of the DCI that are allocated to law enforcement at the riverboats, which is then divided between the ten riverboat facilities. Mr. Ketterer stated that the appropriation bill has not been signed; therefore, no information is available to determine the admission fees. He advised that as of July 1 the Commission would continue to bill the facilities at the current rate, and will have the new admission fee schedule ready for approval at the July 17th Commission meeting. Any necessary adjustments will be made following the July Commission meeting.

Chair Mahaffey moved to the next item under Administrative Business – Referenda, and again called on Mr. Ketterer. Mr. Ketterer stated that Worth, Palo Alto and Dickinson Counties have scheduled referenda to be held within the next month for the purpose of authorizing riverboat gambling in those counties. He indicated that he felt it was

appropriate to review the history behind the Commission's Administrative Rule establishing a moratorium on any new licenses.

Mr. Ketterer noted that the Commission's first application for a riverboat on inland waters was from Clarke County, which was not approved by the Commission. The application raised some concerns for the Commission, as the Department of Natural Resources indicated there were 35 lakes in Iowa that were larger than West Lake. The Commission was concerned that a riverboat casino might be viewed as a panacea for some smaller counties for economic development. Mr. Ketterer noted that in many states there is a maximum number of licenses established in the statute; but in Iowa, the statute states that the Commission shall determine the number, location and type of license.

The Commission commissioned a study with Christiansen and Cummings to determine what areas of the state had unmet demands, as well as those areas that were saturated, with regard to gambling. After reviewing the study, the Commission recommended to the Legislature that a moratorium be placed on the issuance of any new licenses. Mr. Ketterer stated that the Legislature agreed with the Commission and passed a law establishing a moratorium; however, there were other elements in the bill that Governor Branstad disagreed with, and he vetoed the bill. The Commission members at that time took some of the language from the bill and established a new rule putting the moratorium in place.

Mr. Ketterer stated that should any of the referenda pass, those communities would look to the Commission for direction. It is incumbent upon the Commission to address the moratorium rule. He indicated that some of the interest stems from a bill introduced by Senator Lamberti that provided for three new licenses. The interest generated planted a seed that everyone needed to hold a referenda soon because if they weren't one of the first three to apply they would not receive a license. Mr. Ketterer advised that was not the case, and if the Commission reached a point of receiving new applications, it would not be on a first come, first served basis.

Chair Mahaffey moved to the last item under Administrative Business – the Notice for Requests for Proposals for the Greyhound Promotion Fund, and called on Mr. Ketterer. Mr. Ketterer advised that requests for the fund are due in the Commission's Des Moines office by July 2, 2003, and that approval of the distribution would be on the agenda for the July Commission meeting.

Chair Mahaffey asked if any gambling bills were passed in the last Legislative session. Mr. Ketterer indicated that he was not aware of any that had passed. Chair Mahaffey also asked if an agreement had been reached with the racetracks with regard to the tax rate. Mr. Ketterer stated that an agreement between the Legislature and racetracks had not been reached.

Chair Mahaffey moved to Public Comment. Tom Alger, from Palo Alto County, stated that he was in attendance to familiarize himself with the process and advise the

Commission of Palo Alto County's intent to go forward with the referenda. He stated his belief that the referenda would have a positive outcome. Mr. Alger stated that supporters had entered into an agreement with Grace Entertainment. He indicated that a feasibility study would be conducted following the passage of the referenda. It is his group's intent, over the next few months, to present a compelling case for a casino in northwest Iowa. Mr. Alger stated that in an 80-mile radius around Palo Alto County, there are approximately 625,000 people, including approximately 180,000 from Minnesota. He feels their location is one of their strong points, as they are quite a distance from all of the other licensed facilities, as well as its beautiful natural resources.

As there were no comments or questions for Mr. Alger, Chair Mahaffey moved to the next agenda item – Executive Session, and asked if the other members desired to go into Executive Session. Commissioner Cutler moved to go into Executive Session pursuant to Iowa Administrative Code Section 21.5(1)c for the purpose of discussing strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the government body in that litigation. Commissioner Hamilton seconded the motion. A roll call vote was taken. The motion carried 5-0. (See Order No. 03-57)

Chair Mahaffey stated that a tentative date of June 19th had been set for the continuance of the Contested Case Hearing for Jim Rasmussen, but that it would not be occurring on that date. He indicated that discussions are continuing on establishing another date.

Chair Mahaffey called for a motion to adjourn. Commissioner Hamilton so moved. Commissioner Jarding seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

JULIE D. HERRICK CPS

IOWA RACING AND GAMING COMMISSION
MINUTES
JULY 18, 2003

The Iowa Racing and Gaming Commission (IRGC) met on Friday, July 18, 2003 in the Northwoods Conference Center, Stoney Creek Inn, 5291 Stoney Creek Court, Johnston, Iowa. Commission members present were Mike Mahaffey, Chair; Diane Hamilton, Vice Chair; and members Kate Cutler and Joyce Jarding. Commissioner Steve Chapman joined the meeting at 10:20 AM.

Chair Mahaffey called the meeting to order at 10:00 AM, and requested a motion concerning the agenda. Commissioner Cutler moved to approve the agenda as submitted. Commissioner Hamilton seconded the motion, which carried unanimously.

Chair Mahaffey called for a motion regarding the minutes from the June 5, 2003 Commission meeting. Commissioner Jarding moved to approve the minutes as submitted. Commissioner Cutler seconded the motion, which carried unanimously.

Chair Mahaffey called on Jack Ketterer, Administrator of IRGC, for announcements. Mr. Ketterer provided the following information with regard to upcoming Commission meetings:

- September Commission Meeting – **September 4, 2003** – Stoney Creek Inn, Johnston (Submissions due by August 20, 2003)
- October Commission Meeting – October 9, 2003 – Dubuque (Dubuque Greyhound Park (Submissions due by September 25, 2003)
- November Commission Meeting – November 20, 2003 – Stoney Creek Inn, Johnston (Submissions due by November 5, 2003)
- No December Meeting

Chair Mahaffey moved to the next agenda item – Approval of the Dog Racing Promotion Fund as Authorized by Iowa Code § 99D.12(2)C. Mr. Ketterer advised that IRGC received one application from the Iowa Greyhound Association (IGA) for the Dog Racing Promotion Fund. He noted that staff recommended approval of the IGA as the recipient of the FY 2004 Dog Racing Promotion Fund, contingent upon the following recommendations:

1. The recipient shall provide an evaluation of the agreement(s) with, and performance by, the investment manager annually and consider soliciting and evaluating new proposals if they are under performing. An independent audit

- company should provide this evaluation in an annual audit of the Escrow Account(s). The audit should cover activity from January 1, 2003 through December 31, 2003, and be submitted to the IRGC by April 1, 2004.
2. The cost of the annual audit of the Escrow Account(s) shall be paid from the Escrow Account Fund(s).
 3. Investment agreements should be for one-year terms subject to renewal conditions approved by the IRGC. Provide a report on the status of the investment agreements.
 4. Requests for proposals and all other correspondence should include a copy to IRGC and Iowa West Racing Association (IWRA).
 5. The recipient shall disclose any potential related parties to the IRGC.
 6. Investment funds shall not be withdrawn from the account(s) until the IRGC has approved contracts or expenses. If events occur which no longer require expenditure of funds, the funds will be immediately returned to the Escrow Account(s) and not deposited in any other account(s).
 7. The recipient shall have and maintain written minutes of all meetings and include copies to the IRGC and IWRA.
 8. In the event of arbitration, the recipient shall ensure availability to the arbitration committee so that decisions are provided to the IRGC by November 1, 2003.

Commissioner Hamilton noted that Bluffs Run Casino (BRC) had not contributed to the escrow account, and wondered why. Jerry Crawford, legal counsel for the IGA, advised that the Dog Racing Promotion Fund is different than the escrow account. He noted that Dubuque Greyhound Park & Casino (DGP&C) uses a different formula to determine their contribution to the promotion fund than BRC.

Lorraine May, legal counsel for Harrah's, advised that Harrah's has paid all of the breakage amounts, and in order to make the 12% required by the arbitration decision, have contributed their own funds. She pointed out that the promotion fund is funded by breakage; however, Harrah's priority is the breeder's fund, which takes all of their breakage.

Mr. Ketterer advised Commissioner Hamilton that the issue was prompted by slot revenues supplementing purses. In the formula utilized by the Legislature, the breakage typically amounts to a static percentage of the mutuel handle. When slot revenues were used to supplement purses, purses were increased by a very large amount, so that when the tracks were required to use a specific percentage of the purse to determine the amount paid into the breeder's fund, the mutuel handle failed to generate enough breakage money to cover the breeder's fund. This scenario is what caused the confusion regarding the manner in which the promotion fund monies are to be calculated. Mr. Ketterer indicated that all three tracks calculate the promotion fund in a different manner.

Ms. May referred to the arbitration decisions for BRC and DGP&C. She stated that the agreement between BRC and DGP&C in previous years, instead of just supplementing

purses, have stated that a portion of the slot revenue funds would be treated as breakage, meaning more money would go into the breakage account than toward purses. She voiced her opinion that Harrah's is in compliance with the statute as they have contributed their own funds on top of that in order to meet the 12% of Iowa-bred purse money; they have exceeded what is required of them.

Bruce Wentworth, General Manager of DGP&C, stated that Ms. May's assessment was correct. He advised the Commission that if DGP&C calculated the payments in the same manner as BRC, they would be in the same situation as BRC. Mr. Wentworth stated that DGP&C has used the same formula for a number of years, and that no one has ever indicated that it was correct or incorrect.

Chair Mahaffey stated that the staff's recommendation to approve the IGA as the recipient of the Dog Racing Promotion Fund for FY 2004 was contingent upon several recommendations. He noted that the final recommendation stated: "In the event of arbitration, the recipient shall ensure availability to the arbitration committee so that decisions are provided to the Commission by November 1, 2003." Chair Mahaffey stated that was a very important point. Hearing no further discussion, Chair Mahaffey called for a motion.

Commissioner Hamilton moved to approve the IGA as the recipient of the Dog Racing Promotion Fund for FY 2004, contingent upon compliance with staff recommendations. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-58)

Chair Mahaffey moved to the IGA's request to utilize \$5,000 from the IGA/BRC escrow account to help fund kennel cough research. Mr. Crawford stated that funds would be a contribution to the final push for a vaccine to prevent kennel cough, a flu-like virus that affects greyhounds, and prevents them from training, being transferred from one facility to another, etc. He indicated the funds would be taken from the interest earnings of the escrow fund, and would be given in the name of the escrow account.

Hearing no further comments or discussion, Chair Mahaffey requested a motion. Commissioner Jarding moved to approve the donation of \$5,000 from the interest earnings of the escrow account to fund kennel cough research, with said donation to be made in the name of the escrow account. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-59)

Chair Mahaffey moved to the next agenda item – a request from the Clinton County Gaming Association (CCGA) to change the name of the non-profit organization. Ken Bonnet, President of Mississippi Belle II, was present to answer any questions. He advised that when the association was formed, they were under the impression that they would be actively involved in the casino operation. However, their main function has been to disburse funds throughout the community, which were focused on tourism and economic development. In recent years, CCGA has added enhancement of life grants

(grants to volunteer fire departments, emergency medical units, parks, etc). CCGA now feels that Clinton County Community Development Association is a more appropriate name.

Hearing no additional comments or questions for Mr. Bonnet, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the request of the Clinton County Gaming Association to change its name to Clinton County Community Development Association. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-60)

Chair Mahaffey moved to the contract approval portion of the agenda and called on Rhythm City Casino. Nancy Donovan, General Manager of Rhythm City and Isle of Capri Bettendorf, advised the Commission that the marina, the last component of IOC Bettendorf's expansion project, had opened on July 2nd. The marina has 70 docking slips, with 49 of those slips being dedicated. The marina has the ability to handle 300' vessels. Ms. Donovan presented a contract with Innovative Gaming, Inc. for the purchase of machines, components, and parts. She advised that the RTA showed last year's total as zero, but it should be \$95,085.00.

Hearing no comments or questions for Ms. Donovan, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the contract as submitted by Rhythm City Casino. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-61)

Chair Mahaffey called on MB II. Mr. Bonnet presented a contract with Dubuque Bank & Trust to amend a loan agreement. He indicated the amendment would dramatically lower the interest rate being charged, but does add a pre-payment penalty.

Hearing no comments or questions for Mr. Bonnet, Chair Mahaffey requested a motion. Commissioner Jarding moved to approve the contract as submitted by MB II. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-62)

Chair Mahaffey called on Catfish Bend Casino (CBC). Joe Massa, General Manager, presented the following contracts for Commission approval:

- AC Coin, Inc. – Lease of 4 slot machines. Lease rate is at 20% of revenue. (Replacements)
- WMS Gaming, Inc. – Lease of 6 participation games at a rate of 20% of revenue. (Replacements)

Hearing no comments or questions for Mr. Massa, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the contracts as submitted by CBC. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-63)

Chair Mahaffey called on Harrah's Casino. Scott Barber, Assistant General Manager, presented the following contracts for Commission approval:

- Absolutely Fresh Seafood – Purchase Seafood
- C Rallo Contracting Co., Inc. – Renovations to Beverlee's Restaurant
- Food Services of America – Purchase Food Products

Mr. Ketterer asked Mr. Barber to provide a brief explanation as to the types of renovations being made to the restaurant. Mr. Barber advised that Beverlee's is located on top of the hotel tower, and is the final component of a complete renovation of the tower. Tower renovations have been approximately \$8.5 million, and the restaurant renovations will be an additional \$1.1 million. The restaurant will have a completely new look from ceiling to floor, and will also have a new name.

Hearing no further comments or questions for Mr. Barber, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contracts as submitted by Harrah's. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 03-64)

Chair Mahaffey called on Lakeside Casino. Kevin Preston, General Manager, presented the following contracts for Commission approval:

- WMS Gaming Inc. – Lease of 12 Slot Machines (Lease Renewal)
- IGT – Lease of Slot Machines (Lease Renewal)
- IGT/IA Trust – Lease of Slot Machines (License Renewal)
- IGT – Purchase 30 New Slot Machines (Replacements)
- Bally Gaming Systems – Purchase 12 New Slot Machines (Replacements)

Hearing no comments concerning Lakeside's contracts, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contracts as submitted by Lakeside Casino. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-65)

Chair Mahaffey called on BRC. Mr. Barber presented a contract with Screenco for the purchase of promotional items for Commission approval.

Hearing no comments or questions for Mr. Barber, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the contract as submitted by BRC. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-66)

Chair Mahaffey called on Racing Association of Central Iowa regarding the season approvals for the upcoming harness meet. Derron Heldt, Director of Racing, was present to answer any questions concerning the information previously provided to the Commission members.

Hearing no comments or questions for Mr. Heldt, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the season approvals for the harness meet, including the following staff recommendations:

- The immediate written notification of any change in racing official positions.
- The completion of necessary DCI backgrounds.
- Continuation of all import/export simulcast contracts being reviewed and approved by IRGC staff.
- Prior notification of any schedule changes: race days, post times, or the number of races.

Commissioner Cutler seconded the motion.

Mr. Ketterer, noting that all arrangements have been finalized, asked Mr. Heldt to provide his best guess as to the number of export locations PMR&C would have for the harness meet, as well as the numbers for the first and second meets. Mr. Heldt called on Mike Jacobsen, Simulcast Coordinator, who advised that the thoroughbred-only meet is the most exported meet, with the mixed meet having a somewhat smaller number. The harness meet is not simulcast as it would be competing with thoroughbred and quarter horse race signals from other jurisdictions. Mr. Jacobsen stated that Iowa standard-breds are not recognized on a national basis; making it more difficult to compete against the other signals. Mr. Ketterer noted that most standard-bred facilities race in the evening. He asked if they were competing against greyhound tracks for signal time. Mr. Jacobsen indicated that was correct, as well as thoroughbreds and quarter horses.

Chair Mahaffey called for any further comments or questions. Hearing none, he called for the vote. The motion carried unanimously. (See Order No. 03-67)

Commissioner Chapman joined the meeting at this time.

Chair Mahaffey moved to the contracts submitted by PMR&C. Gary Palmer, Senior Vice President of Operations, presented the following contracts for Commission approval:

- Audiovisual, Inc. – Audio-visual Equipment, Parts, Service (Increase)
- Data Business Equipment – Maintenance, Supplies, Equipment (Increase)
- Des Moines Asphalt & Paving – Asphalt Application and Patching Services (Increase)
- ECO-TECH – Potential Contract for Concrete Construction Services
- IGT-Iowa – Potential Lease of 6 Each American Bandstand Games (Replacements)
- Nuckolls Concrete Services – Potential Contract for Concrete Construction Services
- Shive-Hattery, Inc. – Miscellaneous Consulting Services (Increase)

Chair Mahaffey called for any comments or questions. Hearing none, he requested a motion. Commissioner Chapman moved to approve the contracts as submitted by PMR&C. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-68)

Chair Mahaffey moved to the next agenda item – Rules – Notice of Intended Action to amend Administrative Rule 491-11.12(8)(e). LaVonne Withey, Director of Regulatory Compliance for IGT, advised they requested the above rule, which requires the monitoring room to be located in Iowa, be amended to allow IGT to move Iowa's wide area progressive monitoring activity to IGT's monitor room located in Reno, Nevada, enabling them to utilize the Exception Management System (EMS). Ms. Withey noted that the present rule also requires that the office containing the central monitoring system be equipped with a surveillance system approved by the administrator. It is IGT's belief that Iowa's wide area progressive system security would be enhanced by the surveillance and security measures in place at IGT's corporate headquarters in Reno, Nevada. IGT feels the security and surveillance of the monitor room and the Reno, Nevada facility as a whole meet the requirements outlined in the Commission's rule.

Commissioner Chapman asked Mr. Ketterer why the original rule was written to require the monitoring room be located in Iowa. Mr. Ketterer stated there would still be an IGT office in Iowa with other IGT employees, but new technology enables them to do the monitoring portion with fewer employees, and more efficiently from the corporate headquarters.

Commissioner Chapman asked how the move would affect IGT's employment in the state. Ms. Withey stated IGT currently has 23 employees in Iowa, and eight would be affected by the proposed change.

Commissioner Cutler stated that she had spoken with several individuals in the Council Bluffs area who are very resistant to allowing this change due to the loss of jobs. She feels it could set a precedent for other companies to move other jobs out of Iowa citing cost effectiveness.

Ms. Withey advised that the affected employees have been provided information as to what would occur if the rule change were approved.

Commissioner Chapman asked how the proposed change would improve services. Ms. Withey stated there would be a faster response time to exception messages, as the EMS system would prioritize them, which is currently done manually. There would be a higher level of security, and additional security during unforeseen downtime.

Ms. Withey called on Mike Jensen, Mega Jackpots Director, to also address the Commission on the benefits of the proposed change and EMS. EMS is not part of the wide area progressive system, but is a separate rules-engine software system used to analyze, track, and store exception messages from the wide area progressive system and

monitor and log action taken with regard to the exception messages, enhancing the overall security features of the wide area progressive system as it relates to the messages. Ms. Withey stated that IGT believes the relocation of the central system and monitor room would be more efficient and manageable and would not decrease the integrity of the existing level of security in the system. Iowa's wide area progressive system line would remain a segregated system, and not commingled with any other jurisdiction's wide area progressive system link, which is IGT's standard business practice.

Chair Mahaffey called for any other questions or comments concerning the proposed rule change. Commissioner Chapman asked if the monitor room is required to be inspected, and if so, if the room is relocated would someone have to travel to Reno, Nevada to inspect the facility. Mr. Ketterer advised that the change would not require anyone to travel to Reno, Nevada to inspect the facility.

Hearing no further comments or questions, Chair Mahaffey requested a motion. Commissioner Chapman moved to approve the proposed change to Administrative Rule 491-11.12(8)(e) as submitted by IGT. Commissioner Jarding seconded the motion.

Commissioner Cutler stated that she was opposed to the amendment as she does not want the jobs moved out of Iowa, nor does she want to establish a precedent for other companies to leave Iowa. Commissioner Chapman stated that he agreed with Commissioner Cutler's statement, but does not want to stand in the way of efficiency.

Chair Mahaffey called for the vote. The motion was defeated on a 3-2 vote, Chair Mahaffey and Commissioners Cutler and Hamilton voting no. (See Order No. 03-69)

Charles Krogmeier, Iowa legal counsel for IGT, requested that this item be placed on a future agenda to address the issues raised. Chair Mahaffey agreed. Mr. Krogmeier suggested deferring the issue. Commissioner Cutler stated that she did not want to defer the issue, as the employees need closure, and hoped there would be no retaliation for expressing their opinion.

Following a short break, Chair Mahaffey moved to Public Comment. He called on Chuck Hurley with the Iowa Family Policy Center. Mr. Hurley thanked the Commission for their careful regulation of the gaming industry, and urged them to continue in the same manner. He urged the Commission to go slow and do an objective study on whether additional licenses are needed in Iowa. Mr. Hurley stated that he has some strong feelings on the issue, but indicated the Commission would make the right decision after reviewing the study.

Mr. Hurley advised the Commission that the Family Policy Center hired JDK Marketing and Public Affairs to perform a survey, which confirmed the Family Policy Center's view that there is enough gambling in Iowa. He noted that the survey also showed that 74% of Iowans think it is a bad idea to have easy accessibility to credit at the casinos. He urged

the Commission to remove the ATM machines from the facility. Mr. Hurley referenced a situation that occurred at PMR&C.

Tom Coates, Director of Consumer Credit of Des Moines, stated that in 1999 the National Gambling Impact Study Commission (NGISC) called Iowa a pioneer state in riverboat gambling. He noted that the report also called for a moratorium on additional licenses, and that Iowa had already imposed such a moratorium. The NGISC report also called for a comprehensive study of the impact of gambling on the various states. Mr. Coates presented the following facts:

- Impact on retail sales in communities with a population 20-50,000 between the years of 1996-2000. The communities without casinos grew at a faster rate than those with casinos.
- A map provided by Iowa Workforce Development showing the impact of gambling on various counties with regard to employment. Those areas underserved are relatively well off, while many of the areas with casinos are not. He noted that Clarke County had an unemployment rate of 8.1% for the month of May.
- A letter written by Jack Krantz, owner of Adventureland Park, which states that ten years ago he supported PMR&C as he hoped it would improve his business, and that he has had four employees embezzle money from him to support their gambling habit.

Mr. Coates then addressed the issue of where the money spent on gambling comes from. He presented a graph showing that the money is coming from a small segment of gamblers. This information was from 1997; however, a more recent study shows that a non-destination casino, like those in Iowa, obtain approximately half of their revenue from problem or pathological gamblers. Mr. Coates pointed out that the Commission's records indicate an increase in the dollar amount lost per visit per customer. He stated that in 1989, Iowa commissioned its own timeline prevalence study, which showed 1.7% of the state's population were lifetime or pathological gamblers. The study was duplicated in 1995, which showed the percentage had tripled to 5.4%. Mr. Coates referenced a study by Howard Schaffer, funded in part by the casinos and available on the Iowa Gaming Association's website, which indicates that 80-90% of the gamblers at the facilities are coming from within a fifty-mile radius. He also referenced a study by the SMR Research Group dealing with bankruptcy rates. Mr. Coates addressed the issue of increased crime in the cities that have casinos.

Chair Mahaffey called on Worth County Development Authority. Dennis May, Supervisor of Worth County, asked the Commission to lift the moratorium on the issuance of additional gambling licenses and to grant additional licenses. He noted that he began serving in the Legislature in the Iowa House of Representatives in 1987, with one of the most dramatic pieces of legislation was the passage of the riverboat legislation in 1989 on a 51-49 vote. Mr. May indicated that the intent of the bill was focused on the river corridors of the Mississippi and Missouri. The state was facing an economic crisis

at that time, and the nation, state, counties and local governments are in the same position again 14 years later. Mr. May advised the Commission that nearly 50% of the registered voters in Worth County voted in the June 24th referenda, with 75% of those voters voting to allow a riverboat casino in Worth County. The committee working for passage of the measure only spent approximately \$1,000. Mr. May stated that the vote passed as the residents of Worth County feel that a casino would work just as well in northern Iowa as anywhere else.

Mr. Ketterer stated that he had toured north central Iowa, and asked what bodies of water were contemplated in Worth County as a location for an excursion gambling boat. Mr. May advised that Worth County would have to build a lake for the boat. Mr. Ketterer, noted there are other counties in a similar situation, advised that the Code requires that the boats cruise. The boats are also required to move under their own power. He noted that the Commission does not have the ability to overlook that requirement. A change in the wording of the Code would require legislative action.

Chair Mahaffey called on Tom Jolas representing Cerro Gordo County, which is just south of Worth County. He noted that the Commission is considering hiring Will Cummings to do a statewide study of the gaming market in Iowa, and encouraged them to do so. Mr. Jolas advised the Commission that Cerro Gordo County has not yet held a referenda vote but may do so in September, moving the county into candidate status for a casino license. He noted that Iowa is a leader in gaming, and that gaming is expanding in other states.

Chair Mahaffey called on Tom Alger, representing Palo Alto County. He noted that at the June meeting he had stated that the County's referenda vote would pass, and was pleased to advised that it had passed on a 71%-29% vote. Mr. Alger noted that the vote had failed in Dickinson County, with 72% voting no. He referenced an editorial in the Des Moines Register, which stated that the voters in each county had made the right choice for their county. Preliminary results of the marketing study show a mutual advantage to Palo Alto County, the northwest lake area tourism, northwest Iowa in general, and the state as a whole by locating a casino in this area. Mr. Alger noted that this area is primarily served by Native American casinos and casinos located in Minnesota. A casino in Palo Alto County would stop the flow of money going to Minnesota. Mr. Alger stated that the northwest lake area is asking the Commission to lift the moratorium, and grant additional licenses. He extended an invitation to the Commission to come to Emmetsburg and see Five Island Lake, which has 12.5 miles of shore lined by parks, fields, and wooded areas. Mr. Alger indicated Palo Alto County is prepared to submit an application after the moratorium is lifted.

Chair Mahaffey called on Larry Seckington, legal counsel for Southern Iowa Gaming (SIG). Mr. Seckington asked the Commission to not issue another license in Polk County, as that would be disastrous for SIG's facility in Osceola.

Chair Mahaffey called on Wes Ehrecke, Executive Director of the Iowa Gaming Association, who made the following points in response to earlier presentations:

- Retail sales – Other factors not related to gambling are also having an effect on retail sales – economy, stores closing, unemployment
- Problem/Pathological Gamblers – 1-800-Bets-Off conducts a study of 3600 Iowans each year, only 33-38% indicate they have gambled within the past year, and 1% indicate that gambling has lead to financial problems or problems with work or family.
- Bankruptcy – Proximity is not an issue. He noted that Utah and Tennessee, which do not having gambling, have consistently ranked Nos. 1 and 2 in the number of bankruptcies per household. Most can be tied to loss of jobs and credit cards.
- Crimes – Feels the counties would not have overwhelmingly approved the continuation of gambling in their counties if there were issues with crime
- Embezzlement – No excuse for bad behavior, but there are other reasons that people embezzle money – shopping, credit cards, etc.
- Krantz letter – Does not want a riverboat on the lake in Dickinson County. He has an excellent relationship with PMR&C.

Mr. Ehrecke advised the Commission that the annual Responsible Gaming Week would be August 4-8. Members work with their employees to promote responsible gaming, and are doing more advertising of the 1-800-Bets-Off line at the suggestion of the treatment providers. He noted that one percent of compulsive gamblers do seek help.

With regard to the amount of money that individuals are spending on gambling (\$50), Mr. Ehrecke indicated that individuals should be able to spend their discretionary money for entertainment as they wish, and if it is on gambling, that they do so responsibly.

Chair Mahaffey asked Mr. Ehrecke about the average loss increasing from \$30 to over \$50. Mr. Ehrecke stated that at the beginning the boats were required to cruise for two hours, and an individual was counted more than once, skewing the numbers. He again indicated that individuals should have the ability to determine how they are going to spend their discretionary funds, not those needed to provide shelter, food, clothing, etc. Chair Mahaffey moved to the next agenda item - Discussion and consideration of possible action on Rule 491-1.6(1). He asked Mr. Ketterer to provide a brief history of the moratorium rule and then review the 1995 statewide gaming study.

Mr. Ketterer stated that the Iowa Code provides for excursion boats on rivers and inland waters. The Commission did not receive any applications for inland waters until 1995 when Clarke County and Osceola submitted their first application. According to the

Department of Natural Resources, there were 35 lakes that were larger than West Lake. The first application was denied, but the Commissioners felt several counties might decide an excursion boat would be an economic boon to their county. Unlike other jurisdictions that established a specific number of licenses to be issued, the Iowa Legislature left it up to the Commission to determine the number, location and type of license. The Commission commissioned a study by Christiansen Cummings & Associates to determine the areas of unmet demand for additional casinos. Upon review of the study, the Commission recommended to the Legislature that a moratorium be put in place. The Legislature drafted a bill, which passed both Houses; however, the bill included additional language in some unrelated areas that Governor Branstad didn't agree with, and he vetoed the bill. Governor Branstad was not opposed to the moratorium. Shortly thereafter, Commission members took the language from the bill and started the administrative rule process for a moratorium rule.

Chair Mahaffey called for comments from the other Commissioners concerning possible action on the rule, or any other action. Commissioner Cutler stated that she did not feel the Commission could take any action on the rule today, and recommended authorizing another study. Commissioner Chapman, noting that the last study is 7 or 8 years old, concurred.

Chair Mahaffey stated that it was the consensus of the Commission that a study be commissioned; that this is the beginning of the process, not the end, with regard to a decision on a major public policy. Chair Mahaffey called for a motion. Commissioner Hamilton moved to direct staff to hire Will Cummings to do a study. Commissioner Cutler seconded the motion.

Mr. Ketterer stated that the study would not be for the purpose of making a decision for the Commission. The Commission consists of five members, three of whom have been on the Commission for 15 months or less, and the two that have tenure, have not been through the licensing process. Mr. Ketterer stated that it is important for the members to gather as much information as possible in order to make an informed decision. The study will look at areas of unmet demand, areas currently interested in licenses, and the impact on existing licenses in those areas. Mr. Ketterer stressed that these are not the only areas that will be considered when the Commission makes their decision, but will provide some information on the relative benefits versus risks of removing the moratorium.

Commissioner Hamilton asked if the study would be statewide, or only cover those areas interested in a license. Mr. Ketterer indicated it would cover the entire state.

Chair Mahaffey called for a vote on the motion. The motion carried unanimously. (See Order No. 03-70)

Chair Mahaffey moved to the discussion and consideration of possible action on multi-year licenses. Mr. Ketterer noted that the Iowa Gaming Association submitted a letter on this topic in February. The Commission deferred consideration of multi-year licenses at that time. Mr. Ketterer stated that he was not in favor of a multi-year license for the

racetracks as the Commission grants race dates each year and there are many variables affecting those dates. He feels those need to be reviewed and considered each year. With regard to riverboats, Mr. Ketterer stated that he did not have a strong opinion. Renewal applications for excursion boat licenses are due in the Commission's office on December 31st. He feels the licensees are concerned about the volume of material required to be submitted with the renewal, but also noted that staff has reduced the volume during the past couple of years. The largest part of the renewal is the contracts they anticipate entering into during the course of the year, eliminating the need to submit contracts for approval on a monthly basis.

Chair Mahaffey asked how often the licenses would be renewed if the Commission moved to a multi-year license. Mr. Ketterer advised that Iowa Code allows up to three years. Should the Commission move in this direction, Mr. Ketterer indicated the need for a plan setting forth whether the licensees would be required to renew the licenses next year or if the current licenses would be amended to be effective through 2005. The Commission needs to decide if and when they want to implement a multi-year license, and establish the length of the license.

Chair Mahaffey asked if there would be some information that would be required on an annual basis. Commissioner Chapman suggested that if the Commission wishes to go to a multi-year license, it should be done when the licenses are renewed in March 2004. He feels the Commission should consider a three-year license. Mr. Ketterer stated that staff would propose some alternatives for the Commission to consider at the next meeting.

Mr. Wentworth stated that he agreed with Mr. Ketterer regarding the issue of multi-year licenses for the racetracks, but noted that the tracks have two licenses. In the past the licenses were renewed in separate months – one in September, the other in October. He requested that the gaming licenses at the racetracks be treated the same as the riverboats.

Mr. Ketterer pointed out that the racetracks are required to have a racing license in order to hold a gaming license, which is why they were originally renewed in separate months. The process was consolidated to reduce the number of times the Commission dealt with license renewals, with the racetrack licenses being considered first on the agenda.

Chair Mahaffey moved to the next agenda item – Excursion Gambling Boat Admission Fees for FY04. Mr. Ketterer stated that the fees for FY04 are to cover the funds appropriated to IRGC from the General Fund and to the DCI to cover enforcement at the riverboats. The licensees have continued to pay the weekly admission fees at the FY03 rate, and that has been credited toward the FY04 admission fees. Mr. Ketterer recommended approval of the FY04 admission fees.

Hearing no further comments or questions, Chair Mahaffey requested a motion. Commissioner Chapman moved to approve the FY04 admission fees as submitted. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-71)

Chair Mahaffey moved to the election of the Commission Chair and Vice Chair for FY04. Commissioner Cutler moved to re-appoint Mike Mahaffey and Diane Hamilton as Chair and Vice Chair respectively for FY04. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-72)

Chair Mahaffey moved to the hearing for Lakeside Casino Resort for a violation of Iowa Code Section 99F.7(9). Mr. Ketterer explained that a patron attempted to use the ATM machine to obtain additional money only to discover that the machine was unplugged and nonfunctional during the cruise. At that point, the patron asked the cage manager if he could obtain money from the facility in order to continue gambling. The patron indicated he would leave his driver's license and debit card with the cage manager until the end of the cruise, at which time he would access the ATM machine to repay the facility. The cage manager contacted the assistant general manager, who approved the transaction. Both the cage manager and assistant general manager acknowledged they were aware of the law prohibiting licensees from extending credit to patrons. Mr. Ketterer stated that he felt this was an inadvertent violation of Iowa Code, noting that this is the first violation regarding the issuance of credit to come before the Commission. He recommended approval of the proposed Stipulation before the Commission, which requires Lakeside to pay a \$5,000 administrative penalty. Kevin Preston, General Manager at Lakeside, advised that the employee has been counseled for the violation.

Hearing no further comments or questions concerning the Proposed Stipulation for Lakeside Casino, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the Proposed Stipulation as submitted. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-73)

Chair Mahaffey moved to Administrative Business, and a discussion of the U.S. Supreme Court Decision regarding the gaming tax case (RACI vs. Fitzgerald). Jeff Farrell, Assistant Attorney General, provided the following information: The racetracks sued the State of Iowa over the different tax rates between the boats and tracks. The State prevailed in District Court, the racetracks appealed to the Iowa Supreme Court, which agreed with the tracks. The State then appealed to the U.S. Supreme Court, which issued a 9-0 Decision in favor of the Iowa State Constitution. The issue of different tax rates was remanded to the Iowa Supreme Court, which has indicated it will make a decision on the tax rates without receiving additional briefs or oral arguments.

Chair Mahaffey moved to Executive Session, and inquired if the Commission desired to go into Executive Session. Commissioner Cutler moved to go into Executive Session pursuant to Iowa Administrative Code Section 21.5(1)c for the purpose of discussing strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-74)

Upon returning to open session, Chair Mahaffey advised that there was a motion to be made concerning a Motion by Jim Rasmussen's legal counsel to continue all proceedings.

Commissioner Chapman moved to accept the continuance with the addition of a hearing date to be established no later than 120 days from this date. Commissioner Cutler seconded the motion.

Craig Kelinson, Assistant Attorney General representing the Commission in this matter, suggested that the motion be amended to direct legal counsel to establish the date.

Commissioner Chapman amended the motion to indicate that legal counsel should establish the hearing date within 120 days from this dates. Commissioner Cutler agreed to the amendment.

Hearing no further discussion, Chair Mahaffey called for the vote. The motion carried unanimously. (See Order No. 03-75)

Chair Mahaffey requested a motion to adjourn the meeting. Commissioner Cutler so moved. Commissioner Hamilton seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

JULIE D. HERRICK CPS

**IOWA RACING AND GAMING COMMISSION
MINUTES
SEPTEMBER 4, 2003**

The Iowa Racing and Gaming Commission (IRGC) met on Thursday, September 4, 2003 in the Pioneer Room, Stoney Creek Inn & Conference Center, 5291 Stoney Creek Court, Johnston, Iowa. Commission members present were Diane Hamilton, Vice Chair; and members Kate Cutler, Joyce Jarding and Gerald Bair. Michael Mahaffey, Chair, was absent.

Vice Chair Hamilton called the meeting to order at 8:30 AM, and requested a motion concerning the agenda. Commissioner Cutler moved to approve the agenda as presented. Commissioner Jarding seconded the motion, which carried unanimously.

Vice Chair Hamilton called for a motion regarding the minutes from the July 18, 2003 Commission meeting. As there were no additions or corrections to the minutes, Vice Chair Hamilton called for a motion concerning the minutes. Commissioner Cutler moved to approve the minutes as submitted. Commissioner Jarding seconded the motion, which carried unanimously.

Vice Chair Hamilton moved to Announcements. She congratulated Gene Meyer on his appointment as the new director for the Division of Criminal Investigation. Vice Chair Hamilton then called on Jack Ketterer, IRGC Administrator, for additional announcements. Mr. Ketterer introduced Gerald Bair, the new Commissioner. Mr. Bair was appointed to the Commission to complete the term of Steve Chapman, who resigned from the Commission. Mr. Bair served as the Director of Revenue and Finance for many years. Mr. Bair stated that he was looking forward to the challenge of serving on the Commission.

Mr. Ketterer provided the following information regarding upcoming Commission meetings:

- October Commission Meeting – October 9, 2003 – Dubuque (Dubuque Greyhound Park (Submissions due by September 25, 2003)
- November Commission Meeting – November 20, 2003 – Stoney Creek Inn, Johnston (Submissions due by November 5, 2003)
- December – No Meeting
- January Commission Meeting – January 15, 2004 – Stoney Creek Inn, Johnston (Submissions due by December 31, 2003)

Vice Chair Hamilton moved to the next agenda item – Approval of Change in Fees for Occupational Licenses pursuant to Iowa Code 99D.7(2), and called on Mr. Ketterer. Mr. Ketterer explained that Iowa Code requires the Commission to approve any occupational license fees. The changes before the Commission are more internal as the number of categories have been condensed. The fees have not changed except that some \$50 fees have been reduced to \$20 for key employees. Mr. Ketterer stated that the changes still have to be approved by the Commission.

Hearing no discussion or questions concerning the changes in the occupational license fees, Vice Chair Hamilton called for a motion. Commissioner Jarding moved to approve the changes in the occupational license fees. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-76)

Vice Chair Hamilton moved to the Review of the Multi-Year License request. Mr. Ketterer stated that since the July meeting, staff has worked with the general managers of the racetracks as those license renewal applications will be heard at the October Commission meeting. There has been an attempt to streamline the renewal application even more so than in the last couple of years. Recently, the Commission has only asked for the changes in some of the categories since the previous year. Mr. Ketterer noted that the Des Moines office often receives requests for information from a variety of sources – the general public, Commissioners, media, Legislators, and other jurisdictions or states considering legislation similar to Iowa. The information has been divided in to two areas – one has to do with the makeup of the licensee – Articles of Incorporation, By-Laws and other information that could be maintained at the office and requested that the licensees notify the office of any changes. This would be separate from the license renewal process. The other information is more statistical in nature – number of slot machines, square footage of the casino floor, etc. It was determined that the best place for this information was the Commission's web page, making it easy to access for anyone wanting that information. Mr. Ketterer stated that the Iowa Gaming Association is interested in having the statistical information on their web page as well. Having that information available on the Commission's web page will reduce the amount of information that is needed in the license renewal application. Mr. Ketterer stated that a consensus had been reached with the track managers on the renewal application, and they have agreed to provide the additional information. The staff is in the process of implementing the same process with the riverboat applications. Mr. Ketterer stated that he did not want the volume of the application to be an issue in the multi-year license discussions, as it is up to the Commission members to decide the multi-year license issue. He noted that most of the volume of the license renewal application is the contract submissions for the upcoming year. This policy was instituted for the benefit of the licensees as they are not having to wait for a Commission meeting to get a contract approved or seeking prior approval from him. Mr. Ketterer stated that unless he heard otherwise, he felt most licensees wanted to continue submitting contracts they are aware of on an annual basis, which should be most of the preparation time for the renewal application. Mr. Ketterer reiterated that the multi-year license request is for the

Commission members to decide, but indicated he would answer any questions concerning the application process or renewal application process.

Vice Chair Hamilton called for any comments concerning the multi-year license. She stated that she did not feel the Commission should take any action on this item in light of Chair Mahaffey's absence and it being Commissioner Bair's first meeting. She suggested that the agenda item be tabled until the October Commission meeting.

Vice Chair Hamilton moved to the Contract Approval portion of the agenda and called on Dubuque Greyhound Park & Casino (DGP&C). Bruce Wentworth, General Manager, submitted a contract with Pitney Bowes for the lease of a postage machine. Hearing no comments or questions concerning the contract, Vice Chair Hamilton requested a motion. Commissioner Jarding moved to approve the contract as submitted by DGP&C. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-77)

Vice Chair Hamilton called on Bluffs Run Casino (BRC). Jeannie Magdefrau, Vice President of Finance, presented the following contracts for Commission approval:

- Cascade Promotional Corporation – Purchase Items for Player Reward Program
- Rhoden Auto Center – Purchase of Automobiles for Promotions

Hearing no comments concerning the contracts submitted by BRC, Vice Chair Hamilton requested a motion. Commissioner Cutler moved to approve the contracts as submitted by BRC. Commissioner Bair seconded the motion, which carried unanimously. (See Order No. 03-78)

Vice Chair Hamilton called on Prairie Meadows Racetrack & Casino (PMR&C). Ray Sears, Director of Logistics, presented the following contracts for Commission approval:

- Atlantic City Coin & Slot Service – Potential Lease Renewal for 6 Slot Machines
- Bally Gaming – Potential Lease Renewal for 1 Slot Machine
- Bally Gaming – Potential Purchase of 40 Various Theme Reel Slot Machines (Replacements)
- Bally Gaming – Potential Lease of 5 Hybrid Reel and Video Slot Machines (Replacement)
- Bally Gaming – Potential Lease of 8 Hybrid Slot Machines (Replacements)
- Correll Contractor – Contractor for Excavating, Grading & Concrete Projects
- IGT-Iowa – Potential Purchase of 155 Slot Machines (Replacements)
- IGT-Iowa – Potential Lease and Wide Area Game Participation Agreement in 10 Each; IGT Megajackpot Slot Games (Replacements)

- IGT-Iowa – Potential Lease Renewal of 9 Slot Games
- IGT-Iowa – Potential Lease Renewal of 5 Slot Games
- IGT-Iowa – Potential Lease Renewal of 8 Slot Games
- Shuffle Master – Potential Lease Renewal of 4 Slot Games
- Shuffle Master – Potential Lease Renewal of 2 Slot Games
- Wes Jarnagin Painting, Inc. – Contractor for Painting and Sandblasting Projects
- Williams Gaming – Potential Lease Renewal of 4 Slot Games

Hearing no discussion concerning the contracts, Vice Chair Hamilton requested a motion. Commissioner Cutler moved to approve the contracts as submitted by PMR&C. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-79)

Vice Chair Hamilton called on Harrah's. Ms. Magdefrau presented a contract with Cascade Promotional Corporation for the purchase of items for the Player Rewards Program. Hearing no comments concerning the contract, Vice Chair Hamilton requested a motion. Commissioner Jarding moved to approve the contract as submitted by Harrah's. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-80)

Vice Chair Hamilton called on Lakeside Casino Resort. Kevin Preston, General Manager, presented a contract with AC Coin & Slot for the lease of six replacement slot machines. Hearing no comments or questions, Vice Chair Hamilton requested a motion. Commissioner Cutler moved to approve the contract as submitted by Lakeside. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-81)

Vice Chair Hamilton called on Ameristar Casino. Jane Bell, Director of Government Affairs, presented the following contracts for Commission approval:

- Aristocrat Technologies – Various Slot Machine Purchases and Casino Management System Software Upgrades as Approved by IRGC. (Increase)
- Iowa Trust – Participation Agreement for Statewide Progressive Slot Machines (Increase)
- Meredith Corporation – Advertising Services and Collateral (Increase)
- Omaha World Herald – Newspaper Advertising and Subscriptions (Increase)
- Sortino's Fruit Company – Fresh Fruits, Vegetables and Produce (Increase)
- Council Bluffs Daily Nonpareil – Newspaper Advertising and Subscriptions (Increase)
- Sacco Marketing Communications – Marketing Services and Supplies (Increase)
- AC Coin – Rental of Slot Machines (Increase)
- Tim O'Neill Chevrolet – Passenger Automobile for Giveaway Promotion
- Hartford Specialty Company – Insurance Provider

- Comrisk Insurance – Insurance Provider
- Western Money Systems – Slot Machine Ticket Redemption Systems

Hearing no comments or questions concerning the contracts, Vice Chair Hamilton requested a motion. Commissioner Cutler moved to approve the contracts as submitted by Ameristar. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-82)

Vice Chair Hamilton called on Catfish Bend Casino (CBC). Joe Massa, General Manager, presented the following contracts for Commission approval:

- Aristocrat Technologies – Purchase of 22 Slot Machines (Replacements)
- Atronic – Purchase of 6 Slot Machines (Replacements)
- IGT – Lease of 8 Slot Machines (Replacements)
- Konami Gaming, Inc. – Purchase of 100 Slot Machines (Replacements)
- Konami Gaming, Inc. – Replacement of Slot Accounting System
- Shuffle Master – Lease of 3 Participation Games (Replacements)

Hearing no further comments or questions concerning the contracts, Vice Chair Hamilton requested a motion. Commissioner Cutler moved to approve the contracts as submitted by CBC. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-83)

Vice Chair Hamilton called on Argosy's Belle of Sioux City (BSC). Grant Gubbrud, Controller, presented the following contracts for Commission approval:

- Flooring Gallery – Carpet and Associated Care Products
- Aristocrat Technologies – Anticipated Purchases of Slot Machines and Related Parts (Replacements/Transaction Increase)
- Konami Gaming, Inc. – Anticipated Slot Machines Purchases and Replacement Parts (Replacements/Transaction Increase)

Hearing no comments or questions concerning the contracts, Vice Chair Hamilton requested a motion. Commissioner Jarding moved to approve the contracts as submitted by BSC. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-84)

Vice Chair Hamilton called on Mississippi Belle II (MBII) Ken Bonnet, General Manager, presented the following contracts for Commission approval:

- Dubuque Bank & Trust – Additional Financing for Purchase of New Slot Accounting System and Related Additional Equipment
- Konami Gaming, Inc. – Purchase of Slot Accounting System

- Aristocrat Technologies – Purchase of 10 Slot Machines and Additional Supplies (Replacements)
- Global Cash Access – Renegotiated Credit Care Advance Contract
- IGT – Purchase of 15 Slot Machines (Replacements)

Mr. Ketterer, noting that three of the facilities had submitted contracts changing their current slot accounting system over to the Konami slot accounting system, asked Mr. Bonnet for an explanation. Mr. Bonnet stated after analyzing the systems for approximately six months, he felt the price was better. Additionally, Konami Gaming is a subsidiary of Konami Worldwide, a major electronics giant, so it is hoped that they will stay on the cutting edge.

Hearing no further comments or discussion concerning the contracts, Vice Chair Hamilton requested a motion. Commissioner Cutler moved to approve the contracts as submitted by MBII. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-85)

Vice Chair Hamilton called on Rhythm City Casino. Nancy Donovan, General Manager, presented the following contracts for Commission approval:

- Aristocrat Technologies – Purchase 25 New Slot Machines and Conversion of 36 Existing Machines (Replacements/Transaction Increase)
- Bally Gaming, Inc. – Purchase 25 New Slot Machines, Slot System Upgrades to enable Expanded Slot Ticketing and Marketing Features, and Increased Leased Slot Pricing (Replacements/Transaction Increase)
- Build To Suit – Property Repairs, Additions and Remodeling of Food and Beverage Outlets
- Shuffle Master Gaming – Leased Slot Machines, Table Games and Shuffle Machines
- Spielo USA, Inc. – Lease of 4-6 Slot Machines (Replacements)

Hearing no comments or questions concerning the contracts, Vice Chair Hamilton requested a motion. Commissioner Jarding moved to approve the contracts as submitted by Rhythm City. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-86)

Vice Chair Hamilton called on Isle of Capri Marquette (IOCM). Barron Fuller, General Manager, presented the following contracts for Commission approval:

- Bally Gaming Systems – Proposed Installation of E-Ticket System, Licenses and Fees on Approximately 240 Slot Machines
- Britons U.S. Axminster – Purchase of Banana Leaf Carpet for Casino Remodeling
- Elkader Carpet and Design – Remodeling of Casino Interior
- Reinhart Foods – Food Supplier (Transaction Increase)

Hearing no comments or questions concerning the contracts, Vice Chair Hamilton requested a motion. Commissioner Jarding moved to approve the contracts as submitted by IOCM. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-87)

Vice Chair Hamilton moved to the next agenda item – Review of Licensees’ Financial Audits for the Isle of Capri properties. She called on Nancy Donovan, General Manager of the Isle of Capri Bettendorf (IOCB). Ms. Donovan stated that the property had a good year, with the fiscal year ending on April 27. She noted that casino revenue was virtually flat, and actually decreased somewhat due to the fact the Rhythm City Casino was closed the previous year for 20 days due to the flood, which increased the Bettendorf revenues for that year. Ms. Donovan stated that the bottom line is up 6.9% after adding in the operating income and management fee, as well as a good effort on controlling efficiencies. She stated that IOCB had invested \$2.3 million in capital expenditures, replacing numerous slot machines, and putting approximately 35% of the floor in EZ Pay machines. Additionally, they opened a 24-hour restaurant, increasing their food offerings to three different levels. Construction was started and completed on the 48-slip marina, which opened on July 2, 2003, allowing the facility to offer leased slips to guests, and is also the docking site for the water taxi. Ms. Donovan advised that the facility had paid the non-profit licensee, Scott County Regional Authority, approximately \$4 million. The property employs about 900 employees.

Mr. Ketterer stated that the Commission looks at the properties on the state’s fiscal year. He noted that numbers are up at both IOCB and Rhythm City, and asked how much could be attributed to the closure of the Meskwaki facility in Tama. Ms. Donovan stated that they have seen an increase in the individual player as well as the group market. She attributed one – two percent of the overall increase to the closure. The properties are hoping to integrate those players into their various promotions.

Hearing no further comments concerning the IOCB financial, Vice Chair Hamilton allowed Ms. Donovan to proceed with the report for Rhythm City. Ms. Donovan stated that gaming revenues increased 8.7%. She noted that considerable marketing dollars were spent on building the brand, which is musically based versus the tropical theme in the other Isle properties giving customers two totally different experiences between the properties. She noted that the bottom line at Rhythm City is up 2.8%, including operating income, depreciation, management fees, etc. She feels the property will see the true benefit of the marketing dollars this year. Isle spent \$3.7 million at the Davenport property to improve the product. The property has been a test site for the Bally ticket-in/ticket-out system, which is different from IGT’s system. Bally’s system will work in all of the manufacturer’s machines, not just Bally’s, which has allowed them to put over 60% of the floor in E-ticket machines. New office space was built, bringing the offices closer to the boat. Riverboat Development Authority, the non-profit licensee, was able to distribute approximately \$2.6 million. Ms. Donovan noted that the Vision Iowa project in Davenport is progressing with the completion of the parking garage, which is approximately 500 feet from the Rhythm City property. They pay \$1/space/day in order

to utilize the parking garage. The sky bridge has been delayed due to design and cost considerations. There are approximately 600 employees at the Davenport facility. The Davenport property is seeing about the same results as the Bettendorf property with regard to the Meskwaki closure, although it is slightly more in Bettendorf due to the hotel.

Mr. Ketterer asked about the Rock Island facility. Ms. Donovan stated that they have scaled back somewhat on their marketing. They added 40 machines in the spring. Comparing this year to last year, Rhythm City and IOCB has picked between 1.5 and 2 points of market share collectively. Ms. Donovan stated that Rock Island is feeling some of the adjustments they have had to make due to the increase in expenses. She stated that she was not aware of any significant change in employee numbers.

Mr. Ketterer asked about capital investment or relocation. Ms. Donovan stated that Rock Island typically does their capital improvements in the spring when they bring in new machines, which followed the normal pattern this year. She indicated there could be some differences next spring. With regard to relocation, Ms. Donovan stated that she had not heard anything.

Vice Chair Hamilton called on Mr. Fuller of IOCM. Mr. Fuller indicated IOCM saw a 4% increase in gaming revenues, as well as overall corporate revenue. He indicated that IOCM did receive \$751,000 from the 2001 spring flood. Approximately \$2 million was spent on capital improvements, with \$1.2 million being spent on slot product. IOCM did an extensive marketing program in LaCrosse, Wisconsin, and have seen a good return on that investment. They completed the renovation of the Pink Elephant Show Room to the Isle-style.

Mr. Ketterer requested an update on the hotel. Mr. Fuller stated that Isle is in mitigation with the Corp of Engineers, DNR and Fish and Wildlife. Typically, when you have an audience with the Corp of Engineers, they will grant the avoidance, or not. If the Corp of Engineers grants your request, you then mitigate the property afterward; however, the Corps is asking Isle to mitigate the property first in order to gain some leverage if they do grant the avoidance. Mr. Fuller noted there is a very strong naturalist movement in northeast Iowa. He stated they have spent 18 months looking for property to mitigate a wetland. Mr. Fuller stated that IOCM has reached it maximum in parking at this time, and would be able to grow even more if they had the parking. He indicated that including the 65-mile radius surrounding Tama, IOCM has seen a 49% increase.

Vice Chair Hamilton moved to Administrative Business. Mr. Ketterer stated that the study on the Iowa markets is still on track to be completed by the end of September. Mr. Cummings will be in Iowa during September, and will also be at the October meeting to review the study and answer any questions. He stated that the moratorium issue would most likely be on the agenda for a vote in November. Mr. Ketterer stated that the study would not make any recommendations or suggestions related to the moratorium issue.

The purpose of the study is to provide one piece of information for the Commission's consideration in making the decision whether or not to lift the moratorium.

As there was no Public Comment, Vice Chair Hamilton called for a motion to adjourn. Commissioner Cutler so moved. Commissioner Jarding seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

JULIE D. HERRICK CPS

**IOWA RACING AND GAMING COMMISSION
MINUTES
OCTOBER 9, 2003**

The Iowa Racing and Gaming Commission met on Thursday, October 9, 2003 in the Parkview Room, Dubuque Greyhound Park & Casino, 1855 Greyhound Park Drive, Dubuque, Iowa. Commission members present were: Michael Mahaffey, Chair, Diane Hamilton, Vice-Chair, and members Gerald Bair, Kate Cutler and Joyce Jarding.

Chair Mahaffey called the meeting to order at 8:30 AM, and requested a motion regarding the agenda. Commissioner Hamilton moved to approve the agenda as submitted. Commissioner Cutler seconded the motion, which carried unanimously.

Chair Mahaffey called on Angela Simon, President of the Dubuque Racing Association (DRA), who welcomed the Commission to Dubuque. Ms. Simon stated that during DRA's 18 years of existence, they have distributed \$52 million to the City of Dubuque, and \$15 million to area charities and service organizations. In 2002, DRA distributed \$2,568,000 to charitable and service organizations, and \$8,443,000 to the City of Dubuque.

Chair Mahaffey moved to the approval of the minutes from the September 4, 2003 Commission meeting. Commissioner Cutler moved to approve the minutes as submitted. Commissioner Jarding seconded the motion, which carried unanimously.

Chair Mahaffey called on Jack Ketterer, Administrator of IRGC, for announcements. Mr. Ketterer thanked those responsible for setting up the Commission's tour of the new amenities available in the Ice Harbor area.

Mr. Ketterer noted that the Commission staff has fielded several requests for copies of the Cummings Associates market study. He indicated that 20 additional copies had been made, and that the Iowa Gaming Association was making copies for their members. Additionally, he noted that the Commission will be receiving the study in a PDF format, and will be putting it on the website within the next few days.

Mr. Ketterer then introduced Scott Galenbeck, Assistant Attorney General, who is replacing Jean Davis, on a temporary basis, and possibly permanent. He also introduced IRGC employees in attendance: Tracy Potter, Joe Gau, Scott Franke, Cheryl Vetsch and Cathy Dillon. Mr. Ketterer introduced the Division of Criminal Investigation (DCI) agents in attendance: Holly Witt, Rob Winchell, Jon Turbett, Terry Borcharding, and Wayne McLaughlin.

Mr. Ketterer made the following announcements regarding upcoming Commission meetings:

- November Commission Meeting – November 20, 2003 – Stoney Creek Inn, Johnston (Submissions due by November 5, 2003)
- December – No Meeting
- January Commission Meeting – January 15, 2004 – Stoney Creek Inn, Johnston (Submissions due by December 31, 2003)
- February – No Meeting

Chair Mahaffey moved to the next agenda item – Dubuque Racing Association/Iowa Greyhound Association (IGA) for the approval of the third arbitration panel member. He asked Mr. Ketterer to provide some background for the newer Commission members.

Mr. Ketterer stated that Iowa was the first state to approve slot machines at the racetracks; therefore, there was no benchmark to utilize in determining how much slot revenue should be utilized to supplement purses. Most of the states approving slot machines at racetracks in recent years have utilized a percentage of the adjusted gross revenue to determine the amount of slot revenue to supplement purses for greyhounds or horses. The negotiations are between the representatives of the owners of the greyhounds/horses and the racetracks, and by Code, are mandated to be determined by arbitration if the parties are unable to come to an agreement. The arbitration members are determined by each of the parties – the racetrack and the representative of the greyhound owners nominating a person to the panel. If they are unable to agree on a third person, names are submitted to the Commission to determine the third panel member.

Chair Mahaffey asked if the third panel member would handle the arbitration for both DGP&C and Bluffs Run Casino (BRC). Mr. Ketterer advised that in this case, the IGA has nominated the same person, Commissioner Hamilton, for both of the arbitration panels. He noted that the third person for DGP&C is different from the individual nominated for BRC, which is why there are two agenda items. Chair Mahaffey asked if two votes were needed. He was advised that he was correct.

Steve Krumpke, legal counsel for DRA, advised the Commission that they had nominated Roger Stetson to serve as the third arbitration panel member. Mr. Stetson is a prominent Des Moines attorney and has experience with commercial arbitrators. Mr. Krumpke stated that Mr. Stetson was the most appropriate choice for the third arbitrator, primarily due to his arbitration experience, and he is used to dealing with economic issues. He indicated that DRA did not feel it was good public policy to have a Commission member nominated by one of the parties to serve as the third arbitrator as DRA would be placed in the position of having to oppose the nomination and/or appointment of a Commission member as an arbitrator, which would also be a disadvantage when bringing the arbitration decision to the Commission if DRA is opposed to the decision. Mr. Krumpke also stated that the other Commission members are put in the position of possibly voting against one of their own members. He noted that DRA did contest the Arbitration Decision last year. Mr. Krumpke stated that having Mr. Stetson as the third arbitrator would eliminate any of those concerns, and did not know of any reason why he should not serve on the arbitration panel.

Jerry Crawford, legal counsel for the Iowa Greyhound Association (IGA), advised that they had selected Commissioner Hamilton to serve as the third arbitration panel member for both DGP&C and BRC. He indicated the goal of all parties is to not have arbitration. Mr. Crawford stated that DGP&C and IGA had reached an agreement every year except last year; and that since Lorraine May had been appointed legal counsel for BRC, they have been able to reach an agreement with them as well.

Mr. Crawford addressed Mr. Krumpe's comments with regard to public policy. He noted that the IGA, nor the tracks or IRGC, establishes law – the General Assembly establishes law. He stated that 99F specifically states that among those who can be selected for the third arbitrator position are either a member of the IRGC or the entire IRGC. Mr. Crawford stated that for a party to argue for a policy indicating that it is a bad idea for a member of the Commission to serve after state law specifically provides that a member of the IRGC is an acceptable third party would be to defeat the intent of the law of the State of Iowa.

Mr. Crawford then moved to why the IGA believes it would be a good idea for a Commission member to serve on the arbitration panel. One of the reasons is the less than ideal communication that occurred during last years' decision between the parties and the Commission. He believes there would be no communication problems if a Commissioner were serving on the panel. He also noted the uncertainty on the part of DGP&C and BRC as to what certain parts of the arbitration decision meant. It is his opinion that if a Commission member serves as the third member on the panel, the Commission would not have to speculate as to the meaning of certain provisions of the decision. Mr. Crawford stated that an extraordinary learning curve takes place during the arbitration process – the materials are detailed and instructive, as are the presentations. He indicated that if a Commission member sat on the panel, they would leave the two-day arbitration meeting knowing exponentially more about the greyhound industry than they would without participating in the arbitration process. Mr. Crawford suggested that the learning process could occur on a rotating basis, with each Commissioner taking a turn at sitting on the arbitration panel.

Mr. Crawford stated that some felt the Iowa Supreme Court might have issued a ruling on Wednesday, which is his fourth reason for selecting a Commissioner to serve as a member of the arbitration panel. Legal counsel for the two racetracks and the IGA had hoped to have the Supreme Court Decision on the tax case, which would allow them to accelerate the negotiations regarding purse supplements and possibly avoid the arbitration process. Lack of a decision makes the negotiations much more difficult.

Mr. Crawford made the following comments pertaining to the BRC purse supplement agenda item. He pointed out that BRC had also requested that a Commission member serve as the third member of the arbitration panel. Mr. Crawford indicated that caution should be exercised in using the public policy argument in BRC's case. He stipulated to using the same person next year without consulting with the IGA Board. Mr. Crawford stated that he agreed with every word Mr. Krumpe said about Roger Stetson.

Chair Mahaffey called for any questions for either Mr. Krumpe or Mr. Crawford. Mr. Krumpe stated that when Mr. Crawford was describing what the one Commissioner could do, he felt Mr. Crawford was making the same point – that the decision of that Commissioner would be the decision of the Commission. Mr. Krumpe stated that Chapter 99F permits a member of the Commission or the entire Commission to serve as an arbitrator, but the decision is left to the discretion of the Commission. He indicated that any Commission member is welcome to attend the arbitration negotiations. He noted that materials submitted to the arbitration panel last year were also submitted to the Commission members.

Lorraine May, legal counsel for BRC, addressed the Commission, noting that their vote on the DGP&C issue will also impact BRC. She noted that BRC did explore the possibility of a Commission member serving on the arbitration panel. Ms. May stated that there are three members on the arbitration panel. Mr. Crawford indicated that the Commission member could be the communication link to the Commission. Ms. May stated that no single arbitration panel member should be the communication link. She further feels that provision violates the due process provisions. Under the current structure, the decision of the arbitration panel is submitted to the Commission for approval. She questioned whether a member of the appeal panel could vote, having been involved in reaching the decision before the Commission. Ms. May stated that she did not feel they could, as the essence of due process requires an “independent” panel. It is Mr. Crawford’s argument that there is an advantage to the Commission in having a member on the arbitration panel who can keep the Commission apprised of discussions, and his and/or her views. Ms. May advised that there is a wealth of case law on this particular issue. She stated that should a Commission member elect to serve on the arbitration panel, that member should recuse himself or herself from voting on the arbitration decision, thereby deadlocking the panel. She also questioned how a Commission member could vote on whether to approve or disapprove the arbitration decision, thereby eliminating the independent panel. She noted that the Commission has historically rejected having a Commissioner serve on the arbitration panel. Ms. May stated that she has never had an ex parte communication with either Commissioner, or the nominees to the arbitration panel on either the funding of the purses, the operation of the greyhound industry or BRC.

Chair Mahaffey noted that Ms. May stated BRC had initially approached another member of the Commission, but then did some research, and now believes that it is not good public policy. Ms. May stated that not only is it not good public policy, but constitutionally prohibited. She stated that if the Commission member had agreed to serve, BRC would have revoked their request.

Mr. Crawford stated that he would like to know when the due process research was done. With regard to Ms. May’s point that the Commission member would not be able to vote on the arbitration decision at the panel level, he noted that the Commission’s Administrative Rules say if the statute and rules are silent, then Roberts Rules of Order should be followed. Robert’s Rules of Order, page 394, makes it very clear that absent

some personal benefit, the individual would be eligible to vote, and specifically states that they cannot be prohibited or barred from voting.

Ms. May questioned whether the same person would be allowed to vote twice on the same issue, or if there would be an independent review.

Chair Mahaffey stated that one of the most important issues raised is the personal independence of the individuals involved, and that is not an area being contested with regard to the nominees.

Mr. Krumpe advised the Commission that DRA is joining in the constitutional objection as articulated by Ms. May. Chair Mahaffey asked Mr. Krumpe if he was indicating that DRA would have some grave concerns regarding the constitutionality of a Commission member serving on the arbitration panel. Mr. Krumpe answered in the affirmative.

Commissioner Cutler stated that she was the person approached by BRC. She discussed the matter with Mr. Ketterer, and did some review of the issues on her own. She noted that Code allows for a Commission member to serve on the panel, but she did not feel comfortable sitting on both sides of the fence. She did not want there to be any sense of impropriety.

Commissioner Bair stated that he was coming down on the side of public policy. He indicated that he believes Commissioner Hamilton is capable, but does have some concerns.

Chair Mahaffey requested a motion regarding the third arbitration panel member for DGP&C. Commissioner Jarding moved to name Roger Stetson as the third arbitration panel member for DGP&C. Commissioner Bair seconded the motion, which carried unanimously. (See Order No. 03-88)

Chair Mahaffey moved to the next agenda item – Iowa West Racing Association (IWRA)/IGA – approval of third arbitration panel member. Pete Weien, General Manager of BRC, stated that BRC was requesting the appointment of Tom Whitson to serve as the third arbitration panel member. Mr. Whitson is the current Chairman and Chief Executive Officer of Peoples National Bank, and has previously served as a member of the IPERS Investment Board and on the Judicial Review Committee. Mr. Weien advised that BRC has no business relationship with Peoples National Bank.

Mr. Crawford stated that IGA did not know anything about Mr. Whitson, and could not comment on his credentials.

Chair Mahaffey called for a motion. Commissioner Cutler stated that she has known Mr. Whitson for over thirty years, and he has the utmost honesty and integrity. Commissioner Cutler moved to accept Tom Whitson as the third arbitration panel

member for IWRA. Commissioner Bair seconded the motion, which carried unanimously. (See Order No. 03-89)

Chair Mahaffey moved to the next agenda item – Presentation of Updated Statewide Gaming Market Analysis by Will Cummings, President of Will Cummings & Associates. In 1995, Iowa had twelve licensed facilities – seven riverboats, with two more set to open, two racetrack enclosure facilities opened in the spring, with one more preparing to open in the fall. There were also three Native American facilities. Total revenue was approximately \$675 million. Base line annual spending was \$350 per year per adult. There were 4,500 slot machines per 100,000 adults, and 19-22 table games per 100,000 adults. Iowa was in the middle compared to other states. The study showed there was room for growth, an additional \$292 million, with the Cedar Rapids/Waterloo area offering the most potential. The additional revenue was widely distributed across the state.

For the current study, Iowa has 16 gaming facilities - ten riverboats, three racetrack/slot facilities and three Native America casinos, which serve nine markets. All of the major markets, except Cedar Rapids/Waterloo, are being served by the present facilities. Total revenue has increased to \$1.1 billion, and the baseline annual spending per year per adult has increased to \$660.

Mr. Cummings concluded his comments by stating that Iowa does not have too many casinos; when measuring Iowa's capacity against other states, Iowa is lower in the ranks than they used to be; there is room for future growth—although not much; and the Cedar Rapids/Waterloo area offers the most potential growth without impacting current facilities. (A copy of the study is attached, and is incorporated in its entirety by this reference.)

Commissioner Jarding noted that most of the areas contemplating a casino talk about the tourism that it will generate. She asked Mr. Cummings if he felt that was an accurate assumption. Mr. Cummings stated that most of the facilities serve a predominately local area, with Osceola and Marquette being the exceptions.

Mr. Ketterer noted that there is a difference between tourism and spending outside of Iowa. He noted that one of the exhibits in the study indicates that more than half of the current gaming revenues are coming from individuals living outside Iowa, mostly Omaha, but coming from South Dakota, Illinois, Minnesota and Missouri.

Mr. Ketterer stated that Exhibit 3-9 shows that the northern tier of counties is the only area where Iowa facilities capture less than 50% of what those counties spend, indicating they spend more of their gambling dollars in the tribal casinos in Minnesota. Mr. Cummings concurred.

Following a short break, Chair Mahaffey called for any further questions for Mr. Cummings. Hearing none, he moved to the next agenda item – Request for Research

Funding by Julie Fillenwarth and Larry Blixt. Ms. Fillenwarth stated that she collected a lot of data while working on the referenda held in Dickinson County. She found that the information was available but had not been compiled. The information collected includes what happens to towns/counties with riverboats versus those without; unemployment tax rates, decline in retail tax collections, bankruptcies, etc. She stated that she feels it is within the Commission's purview to authorize this type of research, much like it had the authority to fund the market analysis. The group she worked with looked at funding the research privately, but felt it would be better if the Commission had the information compiled in order to avoid the perception that it was coming from one side of the issue. The proposal before the Commission is for David Swenson to perform the study, which would take six to twelve weeks and cost approximately \$20,000. (Copy attached)

Mr. Blixt outlined the events leading up to the referenda and this request of the Commission. He feels the Commission needs to review all aspects of the effects of gaming when considering whether or not to expand gambling within the state.

Chair Mahaffey stated that Mr. Cummings' was asked to do a feasibility study without making any recommendation concerning the moratorium. He asked Mr. Blixt what this study would add to the mix, compared to the information provided by Mr. Cummings. Mr. Blixt stated this study would show the impact of the gaming industry on each county – the economic benefit derived by those counties with gaming versus those without gaming. He feels it is important to know whether jobs are actually being created or just shifted. Mr. Blixt stated that they have no preconceived ideas as to the results of this study.

Commissioner Bair asked if Mr. Swenson would be conducting an independent study or compiling the information already gathered. Ms. Fillenwarth stated that it would be an independent study. She noted that one of the criteria the Commission is to consider in granting a license is the revenue that will be generated for the state and local governments, further indicating this is another way this study fits within the Commission's purview.

Commissioner Hamilton asked if the Commission had the authority to have the study done. Mr. Ketterer advised that funds were not budgeted. Commissioner Hamilton asked if the Commission could do so if the money were available. Mr. Ketterer stated that he is not questioning the value of the study, but feels the results could show whether gambling is a good thing for the state or not, not just in expanding gaming. He feels the study would have more value for the Legislature, or counties with upcoming referenda seeking new facilities, or possibly even existing counties.

Chair Mahaffey asked if there was any action the Commission wished to take at this time. Commissioner Cutler expressed concern that the Commission has not given other individuals the opportunity to come forward and request funding for research projects. She feels it is a public policy decision for the Legislature.

Chair Mahaffey concurred that this study would be a valuable tool, and should be discussed with the Legislature. He indicated that he would look at it in more detail, but there was no motion at this time.

Chair Mahaffey stated that he did not know whether or not the Commission would be voting on lifting the moratorium at the November meeting; that the Commissioners are wrestling with this issue. He noted that it is a major public policy decision for Iowa with many factors, with one of them being the market analysis presented by Mr. Cummings. Chair Mahaffey stated that he has been hearing from individuals around the state on this issue, and expects a serious discussion at the November meeting.

Chair Mahaffey moved to the Contract Approval portion of the agenda, and called on Ameristar Casino. Jane Bell, Director of Government Affairs, presented the following contracts for Commission approval:

- Iowa Workforce Development – SUTA Tax Payments
- Cornerstone Energy/Aquila – Utility Gas Service
- Farner-Bocken Company – Food Service Supplies
- JCM American Corporation – Upgrades for Bill Validator Acceptors in Slot Machines

As there were no questions, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contracts as submitted by Ameristar. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-90)

Ms. Bell advised that Ameristar had completed the 100 cruises as required by Code.

Chair Mahaffey called on Lakeside Casino Resort. Kevin Preston, General Manager, presented a contract with Sysco Food Service of Iowa for food, supplies and equipment for the kitchen.

Hearing no questions regarding the contract, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contract as submitted by Lakeside. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-91)

Chair Mahaffey called on Isle of Capri Marquette (IOCM). Barron Fuller, General Manager, presented the following contracts for Commission approval:

- Cummins Allison – Training, Parts, Maintenance and Interface for E-Ticket
- First Health – Third Party Administrator for Employee Health Benefits

Hearing no comments or questions concerning the contracts as submitted by IOCM, Chair Mahaffey requested a motion. Commissioner Jarding moved to approve the

contracts as submitted by IOCM. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-92).

Chair Mahaffey called on Harrah's. Pete Weien, General Manager, presented the following contracts for Commission approval:

- American Laser, LLC – Printing Equipment for Fast Cash
- Bally Gaming Systems – Purchase of Slot Machine Hardware for Fast Cash
- C Rallo Contracting Co., Inc. – Renovations to Mr. G's Bar
- Ericson Group – Purchase of Promotional Items
- Hnedak Bobo – Design Services
- IBM – Computer Equipment for Fast Cash
- IGT – Purchase of Slot Machine Hardware for Fast Cash
- Mall of the Bluffs – Purchase of Gift Certificates for Total Rewards
- TransAct Technologies Corp. – Printer for Fast Cash
- Western Money Systems – High-speed Coupon Counter

Mr. Weien advised that several of the contracts relate to the implementation of ticket-in/ticket-out slot machines.

Hearing no questions or comments concerning the contracts, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contracts as submitted by Harrah's. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 03-93)

Chair Mahaffey called on Dubuque Diamond Jo (DDJ). Natalie Schramm, General Manager, presented the following contracts for Commission approval:

- McLeod USA – Telecommunications
- Microsoft – Licensing Agreement

As there were no questions or comments concerning the contracts, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contracts as submitted by DDJ. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-94)

Chair Mahaffey moved to the next agenda item – Review of Multi-Year License Request. Mr. Ketterer advised that the matter was deferred at the previous meeting due to the Chair's absence and the fact that Commissioner Bair had just been appointed. He noted that Commission staff attempted to further reduce the volume of paperwork necessary for a renewal application. Mr. Ketterer stated that staff has requested some of the information, which is requested of the Des Moines office such as Articles of Incorporation, By-laws of the Non-profits, and Operating Agreements between the Operator and Non-profit. Staff has also requested statistical information that will be

placed on the website. The licensees have been requested to keep the Commission updated and aware of any changes, and if they do, then that information will not be required in the license renewal application. Mr. Ketterer stated that he felt the above changes had addressed concerns with regard to license renewals whether it is for one, two or three years. The only volume to the license renewals is the contracts for which the licensee is requesting approval for the next year.

Chair Mahaffey called for any other comments concerning this matter. Chair Mahaffey indicated that with the changes made in the process, he does not get the feeling that it is an unduly process for the licensees. He clarified that if the Commission changes the current process, a motion would be necessary, but if leaving as is, no motion is necessary. Mr. Ketterer indicated he was correct.

Commissioner Hamilton stated that when the Commissioners only see all of the people involved with a facility once every year, she feels the license renewal process should continue on a yearly basis. She noted that the only time representatives of the non-profit organizations come to the meetings is for the license renewal. Chair Mahaffey agreed. Commissioner Cutler stated that she feels the matter has been resolved. Chair Mahaffey stated that no motion was necessary.

Chair Mahaffey moved to the renewal of the racetrack licenses and granting of race dates and renewal of the Racetrack Enclosure Gambling licenses. He called on Iowa West Racing Association (IWRA)/BRC. Tony Payne, representing IWRA, advised that the year-to-date gaming revenues of \$290 million are on track to finish the year at approximately \$380-385 million. Total gaming revenue at BRC to date is \$98 million, approximately the same as it was one year ago. Racing revenue is \$4 million, which is also the same as last year. Year-to-date taxes are \$21 million, and capital expenditures either in process or planned for this year total \$1,649,000, \$829,000 of which will be spent on the casino side. Expenditures for the track side include remodeling the clubhouse, boiler, and renovations of the kennels. He asked that the Commission renew the racetrack and racetrack enclosure licenses.

Mr. Weien advised the Commission that BRC is planning to change their racing schedule for 2004, reducing the number of performances to 303 performances, or 939 actual races. He indicated this schedule is consistent with the schedule BRC ran for a portion of this year during the budget issues. BRC believes this schedule to be beneficial to the customer – the race times are more beneficial to the customer, and allows them to focus their attention on promoting BRC's off-track signal, which has been the growth area for the facility.

Chair Mahaffey noted that the Application for Race Dates included a detailed argument for the requested schedule.

Commissioner Bair asked if the decline in race dates was a national trend. Mr. Weien stated that he is not an expert on national trends, but has seen live on-track handle

decreasing across the country. He indicated that Harrah's has made a concerted effort to stem the trend by investing capital in the facility, and creative marketing. Mr. Weien stated that they have not been able to stop the decline. The simulcast portion of the business is growing, more tracks are seeking BRC's signal. The proposed schedule will allow for additional simulcasting.

Chair Mahaffey asked Mr. Weien if he felt less was more in this case – less racing will allow them to increase interest in BRC's simulcast signal and help the bottom line. Mr. Weien indicated that there is no demand for one session on Saturday, and believes having only one performance on Saturday is a better business decision.

As there were no questions for Mr. Weien, Chair Mahaffey recognized Jerry Crawford, legal counsel for IGA. Mr. Crawford introduced Bob Hardison, President of the IGA, noting that he and other members had signed up to speak to this issue. Mr. Crawford stated that he listened carefully earlier in the meeting when the Commission concluded that even though State law says, "X is OK", the best public policy did not. He noted that state law says BRC can go to a minimum of 290 performances per year. The issue before the Commission is what is the best policy for Iowa and the industry they are appointed to regulate. The question is to how best to develop the greyhound industry in Iowa. Mr. Crawford pointed out that the U.S. Supreme Court commented on that issue in *Fitzgerald vs. Racing Association of Central Iowa* when it stated "The Legislature stated the pari-mutuel dog racing industry is designed for the development and promotion of Iowa greyhound racing dogs in this state." The application before the Commission will result in over 11,000 fewer starts for greyhounds in the coming year. Mr. Crawford noted that when AIM, Inc. and Harveys' operated BRC, they ran significantly more races than Harrah's now proposes. He stated that he does not recall Dubuque Greyhound Park & Casino (DGP&C) ever reducing the number of race dates since casino gaming began in Dubuque.

Mr. Crawford asked what the reduced number of starts means over the coming year. He stated that it would reduce the demand that presently exists in the breeding industry, the portion of the industry that has been developing since the Legislature allowed slot machines at the tracks. Mr. Crawford reminded the Commission that the facilities are not casinos with ancillary greyhound racing, but greyhound racing facilities designed to develop greyhound racing and breeding in Iowa with ancillary slot income. The next question is then whether or not purse supplements have worked. Mr. Crawford noted that the increase in purses since 1996 from casino supplements is mirrored by the increase in the number of Iowa-bred litters and Iowa-bred greyhounds. He noted that quality has also increased. Mr. Crawford stated some of the top greyhound purses are paid at Wheeling, West Virginia. Dogs struggling at BRC were sent to West Virginia, and propelled those kennels that were at or near the bottom of the kennel standings and propelled them to within the first five kennels. In another example, Mr. Crawford advised there is a dog currently running at BRC that was a consistent winner at the highest level, as well as winning the Derby in Phoenix. This dog has been brought to

BRC within the past week and is running at the “D” level, next to the lowest level in greyhound racing and has failed to win. His inability to win is not attributable to injuries.

Mr. Crawford asked what would happen if the Commission allows BRC to slash the number of racing opportunities at BRC. He stated that would pull the plug on the economic livelihood of property tax paying farm owners, people who buy and sell breeding stock, people who buy large quantities of farm equipment, hire Iowans to work, veterinarians to care for the animals at the farm and track, purchase large quantities of food for their stock; people who become involved from the ownership standpoint, and people who own and operate kennels at the track.

Mr. Crawford pointed out that Mr. Payne indicated that receipts are great, and things are going well. If that is correct, the greyhound industry is receiving a small percentage of the very, very large profit number. He noted that BRC had just expressed concern about greyhound promotion, and indicated that IGA has had some serious concerns about the quality of the promotion occurring at BRC. At the IGA Board meeting on Sunday, the Board voted to give BRC an economic incentive to pursue greyhound promotion by letting them keep 100% of every cent profit generated over present handle levels for the coming year. Mr. Crawford stated that IGA members were going to meet with key personnel at BRC to discuss promotion prior to the end of the month.

Commissioner Hamilton asked how the reduced number of race starts would affect the number of kennels at BRC. Mr. Crawford stated the reduction would result in the need for 300 fewer greyhounds at the track. If the number of kennels is not reduced, and depending on how the arbitration turns out, there could be a reduction in income to the owners of the greyhounds, kennel operators, etc. Commissioner Hamilton stated that at one of the previous meetings, someone had indicated that if the greyhounds raced too often, they are more prone to injury. Mr. Crawford indicated that was correct.

Chair Mahaffey asked Mr. Crawford to comment on behalf of the industry with regard to the following areas: Page 3 – Focus on the consumer which states that “Experience has shown that the market for races at BRC and interest in those races and the Iowa greyhound has grown when BRC has been given an opportunity to tailor its schedule to the preferences of the racing fan.”

Mr. Crawford stated that Saturday night is one of the best performances in the nation for this industry, and BRC is looking to eliminate that performance. He noted that the Aksarben facility has done a good job of downplaying the simulcast market.

Chair Mahaffey read the following from the first page of the application: “As the result of the decrease in live handle, it is difficult to determine whether or not the supplement is being used to build the industry or a dependency. The percentage of payments to the kennel operators and dog owners coming from slot machine revenue continues to increase and now far overwhelms the revenue that is earned through the industry’s portion of the live and simulcast handles.” Chair Mahaffey stated that is a troublesome

statement for everyone. Mr. Crawford stated that the first paragraph indicates that live handle at BRC has decreased for the fifteenth straight year. He indicated the two paragraphs are making the same point. The trend of decreasing live handle was already well established when the Legislature allowed the tracks to have slot machines. Mr. Crawford voiced the following questions: 1) Has the supplement developed the industry; and 2) Why the continuing decline in live handle? The answer to question number one is that if the growth lines in the Growth in Iowa-Bred Litters and Iowa-Bred Greyhounds were stagnant as shown on Harrah's chart, the answer is an unequivocal "No", but when the number of dogs has gone from just over 500 to close to 2,000 registered greyhounds per year, then it should be apparent that the industry is growing, with new individuals becoming involved. Mr. Crawford stated that Harrah's charts ignored reality – when someone is shown as a breeder at the Iowa Department of Agriculture, it does not necessarily show how many investors are involved in a particular breeding operation. With regard to the fifteen years of declining handle at BRC, Mr. Crawford noted that the facilities in Council Bluffs and Dubuque were successful with pure greyhound racing until the Native American casinos opened, plus competition from Wisconsin for DGP&C. Mr. Crawford stated that he is unaware of any place in the history of gaming and racing where racing animals have successfully competed against slot machines. Secondly, Mr. Crawford stated that the Legislature knew that live handle would continue to decline if slot machines were allowed at the tracks, but did so in an effort to grow the racing part of the industry.

Mr. Crawford introduced Bob Hardison, President of the IGA. Mr. Hardison stated that Mr. Crawford's statements reflect the feelings of the owners and breeders in the state of Iowa. He indicated they have built their businesses around the schedule the tracks have operated on. He stated that he is not aware of any other track in the United States that does not race on Saturday nights, one of the busiest nights for tracks. Mr. Hardison pointed out that races start at 4:00 on most race days, which is not good for the live handle, but is good for simulcasting because of the different time zones. He suggested that if an exit poll were conducted, he believes it would show that most racing patrons would be saddened to learn that the Saturday night performance was being eliminated. Mr. Hardison stated that the owners and breeders would have liked to have some time to work with BRC on the proposed race dates. He noted they have been invited to a meeting on October 22nd to discuss promotional ideas for live racing. He feels it is ironic that BRC would submit this plan calling for a reduction in live racing, and then invite them to a meeting to promote the industry.

Mr. Crawford stated that three other members would also be addressing the Commission. Harold Miller stated that BRC's proposal would cut several hundred races at the only full-time greyhound racing facility in Iowa. He stated that he, as a breeder, would like to see another 500-1,000 races per year to offset the number of quality greyhounds currently being raised in Iowa under the rules of the Iowa Department of Agriculture and Land Stewardship (IDALS). Mr. Miller stated that the Commission should push for Iowa-based kennels at each track. He noted that past practice of the Commission has been to ask the casinos to purchase goods and services from Iowa-based businesses. Mr. Miller

stated that he and other breeders spend their money in the state. He indicated that he would like to see kennels be required to maintain at least 50% Iowa-bred greyhounds. Mr. Miller advised that in Kansas and Texas if the kennel operators do not maintain 20-25% Kansas and/or Texas-bred greyhounds, they are fined. Mr. Miller stated that the goal of the state was to grow the greyhound breeding industry from where it was prior to the arrival of slot machines at the tracks to where it is today, and where it will be in the future. Mr. Miller stated that he does not see how cutting 300-500 races per year will help the greyhound industry; but does feel that requiring 100% of the kennels be owned by Iowa residents/taxpayers, adding more races at BRC, and maybe a third racetrack, would make the greyhound industry a plus. Mr. Miller requested that the Commission consider increasing racing at BRC.

Commissioner Hamilton, referring to Mr. Miller's comments that kennels in other states can be fined for not maintaining a certain percentage of state-bred dogs, asked how many kennels at BRC did not have 20-25% of Iowa-bred greyhounds. No one was able to provide Commissioner Hamilton with a definite answer. Mr. Hardison stated that he thought every kennel racing at BRC has some Iowa-bred greyhounds.

Mr. Miller noted that Mr. Crawford had talked about dogs racing at the "C" and "D" levels in Iowa. He advised Commissioner Hamilton that he has dogs at Wheeling, Tri-State, Lincoln and Rhode Island. The dogs that were racing at the "D" level at BRC are racing at the "C" and "B" levels at the other tracks. The facilities in the other states are referred to as "racinos".

David Robinette, from Elliott, Iowa, addressed Mr. Crawford's statement as to whether or not the program is working. Mr. Robinette stated that he and his family moved back to the state in 1998, and waited two years in order to participate in the Iowa-bred program. He stated that since he moved back, he is aware of four families in his school district (13 children), and two other places that sat for over a year and a half in order to participate in the program.

Bob Rider, from Vinton, Iowa, who sits on the IGA's Board of Directors and National Greyhound Association's Board of Directors, advised the Commissioners that the quality of dogs at BRC is very tough, which is one reason why not as many Iowa-breds compete there. He indicated that he has a kennel at BRC, and would like to have all Iowa-breds, but tries to get the best dogs in to compete, which has been difficult this year because of the quarantine due to kennel cough. Mr. Rider stated that he had a problem with DGP&C not being under quarantine, while BRC is. Mr. Rider noted that he used to raise between 50-60 pups a year, and that number is now closer to 300. Of the 50-60 that he used to raise, maybe one would be good enough for BRC, five good enough for DGP&C. He stated that many of those pups were given to pet groups. Of the pups he is now raising, he indicated that he has only given five away as pets in the last two years due to injuries. Mr. Rider stated that he has 30 dogs in New Mexico, as well as dogs in Florida, Texas, and Wisconsin, and only five of his own dogs at BRC due to the level of competition. He stated that his dogs racing in the other states are making him some money.

Mr. Rider stated that if anyone told his banker that the Iowa-bred program has not helped, he would say that Mr. Rider used to owe the bank \$250,000, but now has some money in the bank. He noted that he had been able to purchase two new vehicles within the last year, and recently purchased a new walk-in cooler without borrowing any money. He stated that his farm is in the best shape that it has ever been in.

Chair Mahaffey recognized Ms. May. She asked the Commissioners if they saw anything in Mr. Crawford's letter correlating to the number of races and the number of dogs bred. She stated that Mr. Crawford correlates the number of dogs bred to the number of purses. Ms. May stated that last year with fewer races, BRC paid more in purses than it has ever paid in its history – over \$9.6 million. She questioned if that money is building the industry. She believes that if the money were building the industry, more people would be sharing the money. In 2001, there was one fewer individual receiving breeder's award through the IDALS than there was when the program started. Ms. May stated that if it is this money flowing through that is building the industry, this reduction is difficult to explain.

Ms. May stated that it takes approximately three or four years for a greyhound pup to be ready to race. If you take the number of dogs bred from 1998, 1999, 2000 and 2001, there were about 5300-5500 dogs bred. She advised that there are only 248 of those dogs on the active live racing list at BRC at this time. She stated that the number of races at BRC would not negatively impact the breeding segment. Additionally, Ms. May stated that BRC does not have the ability to control the number of Iowa-breds that race at the facility. Referring to the IGA members in attendance, Ms. May stated that if they were sincere in growing the Iowa greyhound breeding industry, it would make sense that almost all of the dogs at BRC would be Iowa-breds. Ms. May advised the Commission that fewer than half of the dogs currently racing at BRC are Iowa-breds. Ms. May stated if the intent is to building the greyhound industry, and a public interest in the industry, then at some point it becomes necessary to consider the consumer.

Ms. May asked the Commissioners to review Graph G of the application, which shows the live and export handle per race. During January, February and March, BRC ran six performances, rather than seven, per week. After returning to the seven performances per week, the average handle decreased. Ms. May stated that in order for the greyhound racing industry to have a future, it will need to build public support, which she feels can be accomplished by building the export handle. The export handle for the first three months of 2003 when BRC had six performances per week was a little over \$77,000. This figure decreased not only on a per race basis, but on a weekly average basis as well, to \$73,000 when the number of performances increased to seven per week. Ms. May advised that the race schedule submitted with the license renewal application is responsive to the market for greyhounds. The growth that has been shown in the greyhound industry, and in the handle, has been in the export handle. Ms. May addressed the concern regarding the Saturday evening performance. She noted that it is not a big handle night; BRC relies on the simulcast handle, which tends to be Saturday matinee performance. Those markets where BRC can show the Iowa greyhound product

are on the east coast and are unable to take the signal if the races begin after a specific time. Growth in the breeding industry occurs as individuals across the nation become aware of the Iowa greyhound, which occurs through the export handle.

Mr. Rider advised the Commission that one of reasons there are only 258 Iowa-bred greyhounds at BRC is because the quality of the greyhounds is so much better at BRC than at most of the tracks in the country; therefore, all of the good dogs are sent to BRC. A greyhound that is racing at Grade D at BRC may be able to race at higher levels at other tracks. He stated that is one of the reasons BRC has one of the best simulcast exports in the country. Mr. Rider did concur with Ms. May's statement that some jurisdictions block signals after a specific time, noting that most tracks have a live performance on Saturday night. Mr. Rider acknowledged that BRC has the right to reduce the number of races/performances, but that it will have an impact on the industry.

Mr. Hardison stated that IGA does want the simulcast signal to work, noting that the simulcast signal had been taken down prior to Harrah's taking over, and was only put back on line when the IGA offered to defray half of the expenses of the signal. Mr. Hardison noted that while the simulcast signal is being built up, the owners/breeders are setting themselves up for a hit in the live handle due to the performance times. He believes that if the live performances were held at 7:00 PM versus 4:00 PM, the handle would be better, but understands the need to give up some of the handle in order to grow the simulcast schedule. Mr. Hardison stated that by eliminating the Saturday performance, BRC is doing away with the one real opportunity for the big handle. Mr. Hardison stated that the live racing handle is what the greyhound industry is about in Iowa. He noted that building the simulcast portion of the industry is also important.

Mr. Hardison then addressed the fact that less than half of the greyhounds presently racing at BRC are Iowa-breds. He noted that for most of this year, BRC has been under quarantine, preventing the movement of dogs into the facility. Dogs could leave, but could not return. Mr. Hardison stated that he has a large number of dogs racing at DGP&C that were scheduled to go to BRC, and he would have had a different set of dogs at DGP&C. He indicated there are two issues at BRC: the kennel operators have not been able to bring dogs in, and DGP&C is conducting racing at the same time as BRC for six months of the year. Mr. Hardison stated that once the season ends at DGP&C, there would be a large influx of Iowa-breds at BRC, shifting the ratio to mostly Iowa-breds.

Commissioner Hamilton asked about the quarantine. Mr. Hardison stated that DGP&C has not been under quarantine at all this year. He noted that the state veterinarian determines whether or not a facility is quarantined. He explained that there was an outbreak of kennel cough across the country, and that the veterinarian at BRC over-reacted to the severity. Mr. Hardison stated that kennel cough happens every year at every racetrack. He noted that there has not been any kennel cough to speak of at BRC, but DGP&C has been open with no quarantine and is not aware of one scratch that occurred there due to kennel cough. He expressed concern about the ability to work

something out with officials at BRC to enable the dogs from DGP&C to go to BRC to race.

Mr. Hardison stated there are two major reasons why the lack of Iowa-breds racing at BRC cannot be attributed to the industry. With regard to the growth issue, he stated that when individuals talk about breeders, the breeders are the core group who do the breeding and raising of the dogs, and there can be several investors. He noted that some individuals breed greyhounds for the sole purpose of selling them. A much larger group of individuals make up the owners.

Commissioner Jarding stated that it is her understanding that there are not enough people attending the races. She asked Mr. Hardison if the IGA was looking for ways to get more people to attend the races. Mr. Hardison answered in the affirmative, and indicated they are anxious for the meeting with BRC officials on October 22nd, and will continue to work with DGP&C as well. Mr. Hardison reiterated Mr. Crawford's earlier comment that the decline in attendance was expected with the opening of the slot casinos at the facilities. No one expected the handle to increase, but hoped all parties would work together to enhance both aspects of the facility.

Commissioner Jarding stated that she felt the casinos could continue to supplement the racing industry, but wondered at what point it becomes detrimental. She wondered why the decline has not been addressed previously.

Mr. Hardison stated that he would have liked to work with BRC concerning the race dates prior to submission to the Commission.

Commissioner Cutler stated that when BRC submitted a reduced schedule last year due to budget constraints there was a contentious discussion about what the Commission would allow BRC to do and what they could not. At the point, the Commission advised BRC that if they wished to reduce the number of races, they needed to come back before the Commission for 2004 with that schedule. She feels everyone should have been on notice a year ago that a reduction was going to occur, and it would have behooved the IGA to get with BRC officials. She suggested that if they feel there is going to be another change next year, they make a point of meeting with them prior to the issue making it to the Commission.

Commissioner Hamilton noted that she and her husband used to be involved in horse racing, and the same thing happened there that is happening with greyhound racing. With the increase in gambling, live racing has taken a hit. She noted that slots were allowed at the tracks for the purpose of supplementing the racetracks.

Chair Mahaffey called for any final comments from the licensee or legal counsel. Mr. Weien stated that BRC has tried to work with IGA, and had even attempted to become an associate member but were turned away. He noted that the organization is currently

without an Executive Director, and have had two since his arrival in Council Bluffs. He indicated that the position seems to be very short tenured.

Ms. May stated that she requested a meeting with the IGA more than a month ago. That is the meeting scheduled to take place on October 22nd.

Hearing no further comments, Chair Mahaffey clarified that the manner in which the Commission would vote on the application before them – each license individually or in total.

Mr. Ketterer advised that the Commission could handle each item separately. Chair Mahaffey noted that the first item was the application for race dates. Mr. Ketterer stated that it also included the renewal of the racing license. The second agenda item is the gaming license for BRC.

Chair Mahaffey called for a motion regarding the race dates and license renewal for BRC.

Commissioner Bair stated that it was his understanding from previous comments that the simulcast signal is very important, but wondered how important it was and if it brought in funds that supported the Iowa-breds.

Mr. Ketterer stated the current arrangement between the IGA and BRC is that they split the cost of the simulcast signal for exporting the signal to other places. The import signal allows individuals at BRC to wager on races taking place at other tracks throughout the country. The idea behind the export signal is not that they are going to break even, but the exposure of the Iowa-bred greyhound throughout the country.

Commissioner Cutler noted that by extending the exposure, the breeders then have more opportunities to take their dogs elsewhere or sell them to individuals that want to race them. The export signal allows BRC and IGA to showcase the Iowa greyhound.

Commissioner Bair noted that the number of Iowa greyhounds has increased over the last several years, and wondered if the dogs were being sent out-of-state in large numbers. Mr. Ketterer answered in the negative. He stated that the greyhound industry has done a better job of promoting itself than the horse industry. Mr. Ketterer stated that Iowa has a finite number of tracks in the state, meaning there is a finite number of races and only room for so many Iowa-bred greyhounds. In order for growth to continue, there has to be distribution of the product to other states. He noted that Iowa's greyhound industry is supported by wagering dollars in other states, importing value into the state.

Hearing no additional comments, Chair Mahaffey again called for a motion concerning BRC's Application for Race Dates and renewal of the pari-mutuel license. Commissioner Cutler moved to accept BRC's Application for Race Dates and renewal of the pari-mutuel license as submitted, and that all import and export contracts should be

submitted for review and approval by staff to insure regulatory compliance. Commissioner Bair seconded the motion. Chair Mahaffey called for any further discussion.

Commissioner Cutler noted that the information provided to the Commission indicates the industry has grown and done well. She voiced her hope that all of the individuals that addressed the Commission don't view the approval as a negative, and that it turns out to be a positive. Commissioner Bair noted that there appears to be communication issues, and voiced his hope that the parties will continue to work together.

Hearing no further discussion, Chair Mahaffey called for the vote. The motion passed on a 3-2 vote, Chair Mahaffey and Commissioner Hamilton voted nay. (See Order No.03-95)

Chair Mahaffey stated that he could go either way on this matter, and understands the situation. He concurred with Commissioner Bair's comments, indicating that he would like to see more cooperation between the parties. He complimented both sides on their arguments/presentations.

Chair Mahaffey moved to the renewal of the racetrack enclosure license and contracts contained in the application for BRC. Commissioner Cutler moved to approve the renewal of BRC's racetrack enclosure license and the accompanying contracts. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-96)

Chair Mahaffey moved to the additional contracts submitted by BRC. Mr. Weien submitted the following contracts for Commission approval:

- American Laser, LLC – Printing Equipment for Fast Cash
- Aristocrat – Purchase of Slot Machine Hardware for Fast Cash
- Bally Gaming Systems – Purchase of Slot Machine Hardware for Fast Cash
- C Rallo Contracting Co., Inc. – Renovations to Bluffs Run Signage
- Ericson Group – Purchase of Promotional Items
- Hnedak Bobo – Design Services
- IBM – Computer Equipment for Fast Cash
- IGT – Purchase of Slot Machine Hardware for Fast Cash
- Mall of the Bluffs – Purchase of Gift Certificates for Total Rewards
- TransAct Technologies Corp. – Printer for Fast Cash
- Waldinger – HVAC Equipment
- Western Engineering – Resurfacing of the Kennel Compound
- Western Money Systems – High-speed Coupon Counters

Commissioner Cutler moved to approve the contracts as submitted by BRC. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-97)

Following a short break, Chair Mahaffey moved to the license renewals for Dubuque Racing Association (DRA)/DGP&C. Bruce Wentworth, General Manager, advised the Commission that the application before them is similar to last year's application, and are requesting race dates from May 1 through October 31, 2004, with a total of 162 performances.

Chair Mahaffey called for any discussion concerning the application for race dates and renewal of the pari-mutuel license for DRA/DGP&C. Commissioner Hamilton moved to approve the application for race dates and renewal of the pari-mutuel license as submitted by DRA/DGP&C. She also noted that all import and export contract should be submitted by staff review and approval to insure regulatory compliance. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-98)

Chair Mahaffey moved to the renewal of the racetrack enclosure license for DRA/DGP&C. Mr. Wentworth indicated approval of this application would represent a continuous renewal since the approval of their first application in 1995. They have 600 slot machines at the facility.

Hearing no further discussion or comments, Chair Mahaffey requested a motion. Commissioner Jarding moved to approve the renewal of the racetrack enclosure license for DRA/DGP&C. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-99)

Chair Mahaffey called on Racing Association of Central Iowa/Prairie Meadows Racetrack & Casino (RACI/PMR&C) concerning their application for race dates and renewal of the pari-mutuel license. Bob Farinella, General Manager, advised that there were minor modifications in this year's application for race dates compared to previous years. In studying the market, it was determined that it is difficult to draw the local patron to the facility five days a week. In order to provide the same number of racing opportunities grow the racing program, and provide an opportunity to attract patrons, RACI/PRM&C decided to race four days per week, noting there will only be 96 days of racing next year versus 100 this year. This year 756 races were originally scheduled, but actual races totaled 750. Mr. Farinella stated that in addition to the scheduled races, PMR&C usually runs some extra races.

Chair Mahaffey asked if it was necessary to approve the three meets separately. Mr. Ketterer answered in the negative.

Mr. Ketterer noted that PMR&C has tried to race five days a week and on Sundays previously without much success, and wondered if they were finally convinced that those

weren't viable options. Mr. Farinella stated that RACI/PMR&C would beef up the racing program on Friday and Saturday, which is when many of the local patrons attend.

Mr. Ketterer noted that PMR&C was looking at reduced dates in June 2002, but due to the tax windfall, PMR&C ended up negotiating approximately the same number of days with the horsemen, and then compressed the schedule by reducing the number of days between the meets to finish racing by the middle of September. With the tax case close to being decided, Mr. Ketterer asked Mr. Farinella if there was any chance PMR&C would try to renegotiate with the horsemen to reduce the number of race dates should the Iowa Supreme Court uphold the U.S. Supreme Court Decision, noting that PMR&C would finish out this year with a tax rate of 34%, which would increase to 36% beginning January 1, 2004. Mr. Farinella stated that the higher tax rate would precipitate a review of the entire program, but was not able to say what action the RACI board would take. He noted that the 36% tax rate eliminates any profit and ability to reinvest in capital items, but provides the ability to operate the facility. The rate will eventually affect PMR&C's ability to operate a competitive facility without some return to the community and the ability to reinvest in the property. Mr. Farinella indicated those are decisions that will have to be made once the Iowa Supreme Court issues a final decision in the case. At this time, Mr. Farinella indicated that he felt the facility would push to continue with the proposal as submitted.

Mr. Ketterer noted that RACI is in the middle of a negotiated \$15 million/year purse agreement with the horsemen's groups. He noted that if race dates were reduced, the quality of the races would actually increase because the purse per race or purse distribution per day would increase while overhead and expenses would decrease.

Hearing no comments or questions concerning the pari-mutuel license renewal, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the racing dates and pari-mutuel license renewal application as submitted, and that all import and export contracts should be submitted for staff review and approval to insure regulatory compliance. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-100)

Chair Mahaffey moved to the renewal of RACI's racetrack enclosure gambling license. As there were no comments or questions for Mr. Farinella, Chair Mahaffey requested a motion. Commissioner Hamilton moved to renew RACI's racetrack enclosure gambling license for the upcoming year. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-101)

Chair Mahaffey moved to the additional contracts submitted by RACI/PMR&C. Mr. Farinella presented the following contracts for Commission approval:

- Accurate Mechanical Company – Potential Contractor for HVAC System Equipment Replacement

- AJ Allen Company – Potential Contractor for HVAC System Equipment Replacement
- Graham Construction Company – Various Construction Projects (Increase/Extension)
- Pro Line Company – Potential Contractor for Horse Barn Roof Construction
- Proctor Mechanical Corporation - Potential Contractor for HVAC System Equipment Replacement
- Shive Hattery Inc. – Fees for Miscellaneous Consulting Services (Increase/Extension)
- Tastefully Simple – Purchase of Specialty Gift and Novelty Items (RP)
- Waldinger Corporation - Potential Contractor for HVAC System Equipment Replacement
- Wood Roofing & Sheet Metal - Potential Contractor for Horse Barn Roof Construction

As there were no comments concerning the contracts, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contracts as submitted by RACI/PMR&C. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-102)

Commissioner Hamilton noted that Item 4 under Capital Improvements for 2004 states in part: “Construction could begin in the fall 2004 on the new paddock and jockey’s quarters.” She asked if this project was the same one that former Commission members Rita Sealock and Bill Hansen were asking about. Mr. Farinella advised that this is an area that RACI/PMR&C has looked at the hardest from a safety standpoint, but deferred any movement on the project until after the referendum. An engineering study has been completed. This project will be taken to the RACI Board for consideration.

Chair Mahaffey moved to Administrative Business. Mr. Ketterer indicated that this area had already been discussed,

Chair Mahaffey moved to Public Comment. He indicated that the sign-up sheet contained a list of names, but that it appeared everyone except Gary Hoyer had addressed the Commission. Mr. Hoyer withdrew his request.

Lana Ross, representing the Iowa Conference of the United Methodist Church, presented the Commission with a letter from Bishop Gregory Palmer encouraging the Commission to keep the moratorium in place. When the Commission put the moratorium in place, the church felt there was sufficient gambling opportunities available to those who wish to do so. Chair Mahaffey advised that the letter would be made a part of the record. (Copy Attached)

Chair Mahaffey called for a motion concerning Executive Session. Commissioner Cutler moved to go into Executive Session pursuant to Iowa Code Section 21.5(1)c for the purpose of discussing strategy with counsel in matters that are presently in litigation or

where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation. Commissioner Hamilton seconded the motion. The motion carried unanimously on a roll call vote. (See Order No. 03-103)

Following Executive Session, Chair Mahaffey called for any motions to be made. Commissioner Hamilton made a motion to dismiss the charges against James Rasmussen and authorize the Chair to sign an Order to that effect. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-104)

Chair Mahaffey called for a motion to adjourn. Commissioner Cutler so moved. Commissioner Bair seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

JULIE D. HERRICK CPS

**IOWA RACING AND GAMING COMMISSION
MINUTES
NOVEMBER 20, 2003**

The Iowa Racing and Gaming Commission (IRGC) met on Thursday, November 20, 2003 at the Foxboro Square Conference Center, 6163 NW 86th Street, Johnston, Iowa. Commission members present were: Michael Mahaffey, Chair; Diane Hamilton, Vice-Chair; and members Gerald Bair, Kate Cutler and Joyce Jarding.

Chair Mahaffey called the meeting to order at 8:30 AM, and took a moment to address the Public Comment portion of the meeting. He noted that some individuals had already signed up and that additional sign-up sheets were available in the back of the meeting room. He turned the floor over to Jack Ketterer, Administrator of IRGC, for additional comments. Mr. Ketterer stated that the Commission office had received some requests to address the Commission, as well as several letters and e-mail messages, which have been provided to the Commissioners. Those speakers who signed up with the Commission office will speak first, with any additional individuals following the first group. Chair Mahaffey asked that comments be limited to between three and five minutes.

Chair Mahaffey called for a motion to approve the agenda. Commissioner Cutler moved to approve the agenda as presented. Commissioner Jarding seconded the motion, which carried unanimously.

Chair Mahaffey moved to the approval of the minutes from the October 9, 2003 Commission meeting. Commissioner Jarding moved to approve the minutes as submitted. Commissioner Cutler seconded the motion, which carried unanimously.

Chair Mahaffey moved to Announcements, and called on Mr. Ketterer. Mr. Ketterer made the following announcements regarding upcoming Commission meetings:

- December – No Meeting
- January Commission Meeting – January 15, 2004 – Stoney Creek Inn, Johnston (Submissions due by December 31, 2003)
- February – No Meeting
- March Commission Meeting – March 4, 2004 – Stoney Creek Inn, Johnston (Submissions due by February 19, 2004)
- April Commission Meeting – April 15, 2004 – Harrah's, Council Bluffs (Submissions due by April 1, 2003)

Chair Mahaffey moved to the Public Comment portion of the agenda. He called on Don Hoth, Jim Lind and Bob Fulton, representing the Black Hawk County Gaming Association. Mr. Hoth stated that the Commission would hear several comments concerning the evil of gambling, reverting back to the days when the Legislature passed

the gambling legislation. He stated that their organization did not have a problem with those individuals opposed to gambling due to religious beliefs, but did have a problem with those individuals trying to force their religious beliefs on others. Mr. Hoth noted that Black Hawk County narrowly defeated a referendum in 1994 that would have allowed slot machines at Waterloo Greyhound Park, which has since gone out of business. On October 7th, Black Hawk County approved a gambling referendum by a 66.3% favorable margin. Mr. Hoth stated that the referendum passed because it would provide 700 – 800 jobs in the community, \$70 million investment in the community and stimulate the economy. Mr. Lind distributed letters from various organizations and seventeen mayors from cities within Black Hawk County as well as surrounding counties. Mr. Hoth pointed out that a license in Black Hawk County would have very little impact on any existing facilities. He asked the Commission to lift the self-imposed moratorium.

Chair Mahaffey called on the Clay County Gaming Initiative. Harry Rasdahl stated that Clay County is the ultimate water destination for the upper Midwest, and that a casino would enhance the attractiveness of the unique and beautiful resort area. He stated that the project would be financed entirely with Iowa investors, and that the facility would be Iowa-based in order to keep all funds in Iowa to supplement the Iowa treasury. Mr. Rasdahl stated that the organization had commissioned an on-site feasibility study by Wells Gaming Research of Reno, Nevada. Initial numbers indicate a low projection of \$34 million and a high of \$57.5 million, with an annual payroll of \$8 million. Mr. Rasdahl turned the floor over to John Pavone.

Mr. Pavone stated that he has been working with the Clay County group for several months, and that their commitment to the project is overwhelming. He stated that the group feels that by the time licenses may be granted, they will be able to bring a project forward that is unique in its ability to provide economic benefit for Clay County, as well as the State of Iowa. Mr. Pavone noted that before anything can happen, the residents of Clay County would have to pass the gambling referendum on December 16th, and the Commission would have to lift the moratorium.

Chair Mahaffey called on John Bird, representing Palo Alto County Gaming Association and Palo Alto Development Corporation. Mr. Bird stated that the issue is of grave importance. He stated that this organization, after studying the current laws and history of the Commission, feels the Commission is responsible for determining the outcome of this question. Mr. Bird stated that the Legislature has determined it is in the State's best interest to allow certain types of legalized gaming. He pointed out that the same Legislation that created the Commission states that the Commission shall determine the number, location and type of excursion gambling boats licensed for operation on the rivers, lakes and reservoirs of the state. Mr. Bird stated that the only valid question to be considered is whether or not the market is saturated. He noted that the current Cummings study, as well as one done in 1998, found that the demand was unmet in the northwest quadrant of the state. Clay County views economic development as a broad set of activities including job creation and quality of life improvements. He stated that a gaming license represents the creation of jobs and a stable, service-based license. He stated that a

gaming license in northwest Iowa would leverage resources already in existence. Mr. Bird pointed out that a previous Commission established the moratorium out of concern that many rural counties would submit several license applications similar to Clarke County Development Corporation with small bodies of water seeking economic development. Mr. Bird encouraged the Commission to lift the moratorium on additional gaming licenses. He stated that if the Commission sends the issue back to the Legislature, the small rural counties would not be equally represented as those with larger populations. He feels that if the issue remains with the Commission, it will be recognized that the issue is about more than just the state's treasury, but a positive impact on the economy of rural Iowa.

Chair Mahaffey recognized Steve Rasmussen, City Administrator for Ottumwa, representing Wapello County. He introduced several individuals representing various organizations in Ottumwa. Mr. Rasmussen made the following points for a license in Wapello County: 1) a strong regional draw in southeast Missouri that would be enhanced by the lifting of the moratorium. He noted that much of the tourism dollars are currently going to northeast Missouri, a trend that could be reversed with a gaming facility. 2) a new event center is being built with Vision Iowa dollars. Would like to be able to draw people to the various tourism events that currently take place there. 3) Budgets – A strain on the state budget usually finds its way back to local governments, causing a strain on those budgets. A gaming license would help ease the strain and return funds back to the local government. Mr. Rasmussen also encouraged the Commission to lift the moratorium.

Chair Mahaffey called on the Worth County Development Authority. Kim Miller stated that when they moved to Iowa a year ago, they immediately noticed the declining conditions of the towns in Worth County, as well as the financial struggles of the school district. She and her husband came up with the idea of a riverboat, and went door-to-door obtaining the signatures to have a referendum. Ms. Miller stated that Worth County had the highest first time vote (75%), but 50% of the registered voters went to the polls. She distributed a notebook containing 151 letters of support from businesses in Worth County, representing 96% of the businesses in Worth County. There are also letters of support from five counties: Worth, Winnebago, Mitchell, Floyd, and Cerro Gordo. The letters also request that the Commission lift the moratorium. There are also letters from schools, citizens, newspapers, and economic groups, with more letters arriving daily. Ms. Miller stated that the number of letters show that a majority of the people in Worth County and northern Iowa want the moratorium lifted. She stated that half of the money going to the non-profit organization would be distributed to five different school districts in three counties. Ms. Miller suggested that the Commission lift the moratorium today, but not issue any licenses until March, thus giving the Legislature time to provide their input on the issue.

Chair Mahaffey called on Charles Nelson, a pathological gambler. Mr. Nelson stated that severe physical and psychological problems forced him into early retirement in the early 1990's, and he sought to escape the problems by playing the slot machines at Prairie

Meadows. He spent thousands of dollars, utilizing multiple credit cards. Mr. Nelson stated that he hit bottom in 1999, became a client of the Iowa Gambling Treatment Program and graduated in Spring 2000. He continues his recovery by being active in two self-help groups in Des Moines. Mr. Nelson stated that the higher the number of casinos, the more individuals who will become gambling addicts and suffer as he has. Mr. Nelson cited a study by the National Opinion Research Center at the University of Chicago in a 1999 report to the National Gambling Impact Study Commission, which stated: "The availability of a casino within 50 miles is associated with about double the prevalence of problem and pathological gambling." He stated that gambling addiction is the collateral damage of legalized gambling in Iowa. He pointed out that pathological gamblers are judged to be irresponsible, lacking discipline over their behavior, and stigmatized. Mr. Nelson stated that one-half to one-third of a casino's revenues come from problem gamblers. He stated that the cashiers did not blink when he used three different credit cards for cash withdrawals. Mr. Nelson asked if the State of Iowa is already addicted to gambling revenues, noting that one of the criteria used to determine if an individual is a pathological gambler is "repeated unsuccessful effort to control or cut back or stop gambling." He noted that the Commission is being pressured by several groups to lift the moratorium, which cannot be concerned about the individuals who cannot gamble responsibly. Mr. Nelson pointed out that the Commission's Mission Statement contains the words "protect the public", and that it is not too late for the Commission to exercise restraint in this area.

Chair Mahaffey called on John Zieser, Vice President of Corporate Services/General Counsel for Meredith Corporation. Mr. Zieser noted that the issue of bringing gambling to downtown Des Moines was once again raised. He noted that it was an issue about a decade ago. Meredith was opposed to the idea then, and remains opposed to it today. It is Meredith's position that any decision to issue additional licenses is a policy decision that should be determined by the Legislature. Mr. Zieser pointed out that Des Moines has experienced a renaissance since the floods of 1993, with new downtown housing, new businesses and jobs. He noted that many existing businesses have made significant contributions to various projects underway in the downtown area. He stated that downtown Des Moines has become a family-friendly area, and casino gambling does not fit with that image. Mr. Zieser stated there is much to be done yet in the revitalization of the downtown area, but that it can be accomplished without a gambling facility in downtown Des Moines.

Chair Mahaffey called on Tom Taylor, a Des Moines citizen, who stated that he likes to play the table games, and believes that additional competition would provide better comps for the players; and better pay for the casino employees. He stated that he goes to Council Bluffs, the Quad Cities, and has started going to Las Vegas and Minnesota for better comps.

Chair Mahaffey called on Tom Kirsten, representing the Heart of Iowa and Webster County, who requested that the Commission lift the moratorium on additional gambling licenses. He stated that he was in the Legislature when the expanded gambling

legislation was passed in 1993. Mr. Kirsten stated that he strongly believes it is the Commission's decision as to whether additional licenses are issued. He stated that the Ft. Dodge group is working with the Kehl family for an Iowa-owned and operated facility. He asked that the Commission lift the moratorium.

Following a short break, Chair Mahaffey called on Wayne Davies, who expressed concern about those individuals who become addicted to gambling. He stated that gambling hurts everyone, and wondered what would happen to those individuals that become addicted. He questioned where the State would be in twenty years – would it be a good, sound, stable state, or living off gamblers and their losses.

Chair Mahaffey called on Bob Farinella, General Manager at Prairie Meadows Racetrack & Casino (PMR&C). Mr. Farinella stated that the Cummings study was very clear that any additional licensees in central Iowa would cannibalize PMR&C. He noted that the facility is operated as a not-for-profit corporation, meaning that the profits are returned to the community. Mr. Farinella stated that PMR&C is providing a significant amount of the funding for the growth that is taking place in downtown Des Moines. From a business standpoint, PMR&C is interested in insuring that they can continue their strong position in the community to support various activities. From a policy standpoint, Mr. Farinella noted that the Cummings study indicated there is room to grow the market in central Iowa, and that with a change in Iowa Code to allow all games at racetrack enclosure facilities, PMR&C is in a position to handle the demand that would occur. He stated that if there is to be growth in the central Iowa market, that it happen at PMR&C.

Chair Mahaffey called on the next speaker – Steve Oxford. Mr. Oxford spoke as a patron of the various facilities. He stated that when a market has more than one facility, the variety of games is greater, better table limits, better comps and a friendlier atmosphere. Mr. Oxford pointed out that competition is good for the patron, and if it is good for the patron, more people will come to the facility. He indicated that the more people who gamble, the more taxes that will be paid to the state and local communities. He noted that last year, one Nevada-based company paid over \$27 million in taxes to the state, and the local community received over \$1 million. Mr. Oxford suggested allowing casinos to open on a free basis for jobs, and money for schools and local governments. He stated that if the market won't support all of the casinos, they would close.

Chair Mahaffey called on Ed Gallagher, representing the Cedar Valley Improvement Association. Mr. Gallagher, a lawyer from Waterloo, challenged the Commission to lift the moratorium. He noted that Black Hawk County approved gambling in the county on October 17th with over 32,000 individuals voting, 22,000 or 66% voted affirmatively. Mr. Gallagher expressed his belief that a riverboat in downtown Waterloo on the Cedar River would revitalize the downtown area. He pointed out how the current facilities have helped to invigorate the cities that currently have facilities. He stated that Waterloo has adopted a master plan called the River Renaissance. A Madison, Wisconsin consultant indicated that if Waterloo were granted a license, the facility should be located in the downtown area. If it were located elsewhere, the entertainment and development

opportunities would be siphoned away from the central city. Mr. Gallagher again urged the Commission to lift the moratorium, but continue the practice of only allowing riverboats on existing rivers, lakes and reservoirs. He noted that the Vision Iowa money, which came from gambling dollars, was largely utilized for beautification projects. He stated that the organization is looking at local ownership in order to keep more money in the local area, supporting local charities and businesses. It is estimated that 1.5 million people would visit a facility on the Cedar River.

Chair Mahaffey called on Stacy Gibbs, Executive Director of the Clarke County Development Corporation (CCDC), the non-profit license holder for Lakeside Casino Resort. She stated that Lakeside Casino Resort has been a tremendous success for Clarke County and south central Iowa, drawing over one million visitors to the area per year. CCDC created the Pillars program, which has granted over \$1.9 million to various organizations, while the city and county governments have utilized their funds to improve roads, water and sewer lines, as well as other services. Gaming revenues have provided a lifeline during recent budget cuts handed down to local governments due to state budget cuts. Ms. Gibbs noted that the Cummings study showed that additional facilities were feasible, but pointed out that if they are located in the area of existing facilities, those facilities would have an adverse effect on the existing facilities. She stated that the Commission made the right decision in 1997 when they granted a license to CCDC, and is confident that they will make the right decision now by not putting existing facilities in jeopardy.

Chair Mahaffey called on Shirley Phillips, representing Sac County Development. She stated that Sac County, in northwest Iowa, would be holding a referendum in January 2004. Ms. Phillips indicated the area is underserved by existing facilities and is looking for economic growth. The county is home to Black Hawk Lake, a 956-acre lake with two adjoining bodies of water, making it ideal for riverboat gambling. Ms. Phillips stated the region already draws over a quarter-million visitors from a wide area each year. She pointed out that tourism is a \$4.3 billion industry in Iowa. Every dollar spent on tourism generates a \$34 return. Ms. Phillips advised that residents of the area currently drive anywhere from 75 to 130 miles in order to gamble. She urged the Commission to lift the moratorium.

Chair Mahaffey called on Lana Ross, representing the Iowa Conference of the United Methodist Church. She advised that her comments would be a combination of her own thoughts, as well as those of Leonard Hadley, former CEO of Maytag. Ms. Ross stated that an editorial written by the Des Moines Register suggested that additional gaming venues could provide additional state taxes, but overlooked several points. She noted that Chair Mahaffey had served on Governor Vilsack's 2010 Strategic Planning Council. During the Council's 15 months of work and recommendations to the Governor's Office, never did it include gambling as good or an economic development tool in isolation or state-wide. Ms. Ross stated that gambling is not economic development because it is not new money being brought into the state. She noted that Economics 101 is clear that wealth creation only comes when the value of output exceeds the value of input. Over

90% of dollars lost come from within 50 miles of the facility. Ms. Ross stated the following facts:

- Gambling revenues represent losses by gamblers, money which is diverted from other economic uses.
- Claims of creating payroll and local operating expenses and purchases being additives to a community are overstated, as displacement of existing business activities does not get counted. The jobs are shifted from existing businesses to the new casino.
- The Legislature may choose to adjust the tax rate on the existing facilities, but it would be hypocritical to encourage additional facilities as gambling is an inefficient method to raise tax revenue and is a regressive tax with the greatest impact on the biggest losers. A study done at Iowa State University shows that the average income of gamblers is one-third less than non-gamblers. Ms Ross stated that with the exception of the Omaha/Council Bluffs market, a high percentage of the \$1 billion lost at Iowa's gambling establishments during the past year came from Iowans.
- Academic studies show that 90% of the players will lose half of the money in an amount per household that is set aside for entertainment. Ten percent will lose the other half, or \$500 million, possibly yielding an average loss per household of \$10,000 per year every year. Ms. Ross pointed out that the new Iowa Values Development Fund is the same size as the \$500 million economic shrinkage taken out of the local economies by local gamblers.

Ms. Ross noted that the Iowa Gambling Treatment Program is inadequately funded even before it is tapped for other uses. Ms. Ross concluded her remarks by requesting the Commission to keep the moratorium in place.

Chair Mahaffey called on Mark Walter, representing the insurance industry. Mr. Walter stated that he was in total agreement with Ms. Ross' comments. He stated that the gambling industry wants people to believe they are the goose that laid the golden egg. Mr. Walter indicated the casinos are trying to promote themselves as family-friendly since they have the day care centers. In his opinion, the parents are abdicating their parental responsibilities when they leave their children at those facilities. He noted that mortgage rates, loan rates, and insurance rates are all based on credit rating, which is damaged by gambling. Insurance fraud is also an issue with gamblers, as those losing are more tempted to recoup the money by any possible means. Mr. Walter urged the Commission to leave the moratorium in place.

Chair Mahaffey called on Wes Ehrecke, Executive Director of the Iowa Gaming Association. Mr. Ehrecke stated that he wanted to clarify some of the facts and information presented by previous speakers. He indicated that some people are prone to compulsive behaviors – over-eating, shopping, alcohol or gambling. He stressed the importance of individuals being able to get the proper help in assisting in their recovery. Mr. Ehrecke noted that the prevalence of compulsive gambling is consistent: 1.2% lifetime as stated in the National Gambling Impact Study and 1.6% as stated in a Harvard

Medical School. He stated there are good programs in place to help the compulsive gambler, but indicated they could be better as far as the funding of the Gamblers Treatment Fund. Mr. Ehrecke stated that a vast majority of individuals can visit a casino without becoming addicted. He stressed that the state needs premier entertainment venues in order to have quality of work and life, and provide individuals a choice as to where they spend their discretionary funds. He also noted that Iowa continues to rank between 37 and 41 in the number of bankruptcies per household, while Utah and Tennessee continue to rank 1 and 2. These states have the lottery, but no land-based casinos, showing that the majority of bankruptcies are not related to gambling.

Chair Mahaffey recognized Chuck Hurley, President of the Iowa Family Public Policy Center (Center). He noted that a study conducted on the Center's behalf last spring showed that 74% of Iowans felt there were enough gambling venues in the state; while a more recent Des Moines Register poll indicates 69% feel there are sufficient gambling opportunities. He encouraged the Commission to continue in their role of representing the entire state. Mr. Hurley indicated the Center had contacted numerous CEOs around the state, with many of them indicating that additional gaming venues are not a public policy. He called for a true economic impact study to be done prior to the Commission or Legislature making any decision on whether or not additional gaming licenses should be granted. He noted that two Illinois professors have done such a study for Illinois, which over the years has shown that the true economic impact is 2-1 against gambling.

Chair Mahaffey thanked those who addressed the Commission, as well as those who took the time to submit written comments to the Commission, for their input on this matter. He called for any preliminary comments from the Commissioners.

Commissioner Bair requested background information on how the Commission got to this point, noting that the rule does not set forth any time limit for the moratorium.

Chair Mahaffey advised that the Commission did not request the current round of referenda or any applications for new licenses. In January of this year, the Governor created a Task Force to discuss the Iowa Supreme Court Decision that would equalize the tax rate between the riverboats and racetracks, which would result in a \$35-\$40 million revenue loss to the State of Iowa. The Iowa Gaming Association submitted a proposal for additional gaming licenses for consideration by the task force. A state legislator picked up on the proposal and submitted a bill along those lines. Chair Mahaffey noted that the bill did not go anywhere in the Legislature. Chair Mahaffey noted that the Commission is a regulatory Commission, and will be voicing their opinions today. He reiterated that the Commission did not initiate this process. He advised that the moratorium issue started with the passage of a bill by both houses of the Legislature. Governor Branstad ultimately vetoed the bill, not because of the moratorium but due to other language contained in the bill. At that time, the Commission members decided to adopt the moratorium, with the knowledge that the Governor and Legislature were in favor of such a move. Chair Mahaffey noted that the moratorium was instituted for several reasons, one of which was the question of what constituted an excursion, and how

many excursion boats on inland water did the Legislature and people of Iowa want. The moratorium has been in place since September 1998, and remains in effect at this time.

Chair Mahaffey noted that several comments had been made indicating that the law states that the Commission shall issue licenses. He read the following from Iowa Code Section 99F.7: "If the commission is satisfied that this chapter and its rules adopted under this chapter applicable to licensees have been or will be complied with, the commission shall issue a license ...". He indicated there are various opinions with regard to this statement among the current Commissioners; however, at the time the moratorium was established, there was a consensus among the Commission members serving at that time, the Legislature and the Governor that a moratorium should be put in place.

Chair Mahaffey called for any further comments. Hearing none, he requested a motion. Commissioner Hamilton moved to leave the moratorium in effect, with the stipulation that the Commission *may* be willing to reconsider this position if the legislature provides the Commission with additional guidance and direction in the areas of the cruising requirement, defining lakes and reservoirs for the purpose of accommodating excursion boats, a maximum number of excursion boats and how the Gamblers Treatment Program will be funded. Commissioner Jarding seconded the motion.

Commissioner Cutler stated that she had a question about the word "may", and requested that it be clarified so that everyone is clear on where the Commission is going with this motion. She asked if the Commission is going to act on this matter if they receive direction from the Legislature, or would they then decide whether or not the matter would come back before the Commission.

Chair Mahaffey stated that given the motion, which is to take no action lifting the moratorium at this time but would be willing to reconsider the position should the Legislature provide direction addressing some of the issues set out in the motion, that the matter would come back before the Commission. As to whether or not the Commission would take action, Chair Mahaffey stated that the present Commission does not have the ability to bind future Commissions.

Commissioner Bair stated that he was impressed by the various presentations. As the former director of the Revenue and Finance Department, he stated that he always looks at the revenue figures first, noting that there is between \$20-25 million to be generated in tax revenues for the state. He further noted that between 65-75% of the people in the state have indicated that they do not want more gambling venues in the state. Commissioner Bair noted that there are many downsides to the issue as well, stressing the importance of the various issues on which the Commission has requested clarification from the Legislature. He stated that until those issues are resolved, he is in favor of leaving the moratorium in place.

Commissioner Cutler stated her belief that this matter is such a far-reaching public policy that the Legislature needs to address it, but is troubled by the fact that those in attendance

are not aware of the Commissioners' individual viewpoints. She indicated that the Commissioners do not have enough guidance to make a decision at this point. Commissioner Cutler noted the differing public opinions, pointing out that her husband is an ordained United Methodist minister, a son that works at Meredith Publishing, and lives in southwestern Iowa where gaming has had a positive economic impact. She encouraged individuals to contact their state legislator to make their opinion known on this matter.

Commissioner Jarding stated that this is the perfect time for the Legislature to address the various concerns of the Commission. She pointed out that gaming has been around for some time, and some of the laws and regulations are not as effective as they might be. In her opinion, if there is going to be gaming in Iowa, it should be the best that it can be. Commissioner Jarding stressed the importance of reviewing laws from time to time. She congratulated the various communities on the support generated on this particular issue.

Commissioner Hamilton, noting that she is from a small town in northwest Iowa, listed several projects needing funds, thus making her more cognizant of why some of the smaller venues are coming to the Commission seeking licenses. She expressed concern for those individuals with a gambling addiction, stating that the State needs to work harder on that particular issue. She stated that in the future she would consider being in favor of lifting the moratorium.

Chair Mahaffey noted that all of the Commissioners bring different life experiences to the table. As a part-time County Attorney for Poweshiek County, he has prosecuted individuals for embezzlement and theft; and as a private attorney has worked with clients on family, business, personal and financial matters due to gambling. He stated that it is important for everyone to understand that there are problems associated with gambling, noting that every embezzlement case in Poweshiek County in the last five or six years has been directly or indirectly tied to gambling. Chair Mahaffey stated that whenever there is talk about the public good derived from gaming, there also needs to be a discussion about what happens when people have an opportunity to gamble. He noted that he had heard from many of his colleagues who indicated there are sufficient gaming venues in Iowa at the present time. Chair Mahaffey stated that he has not received that many calls supporting the lifting of the moratorium. He stated that he feels the moratorium is the correct public policy at this time. He further stated that he has received calls from legislators representing the counties that have passed referendums in support of lifting the moratorium, but has also received calls from other legislators indicating that the moratorium should remain in place. Chair Mahaffey stated that Governor Vilsack had also called and indicated that he felt the moratorium should remain in place. He indicated that he was going to support the motion before the Commission.

Commissioner Bair called for the vote. The motion carried unanimously. (See Order No. 03-105)

Following a short break, Chair Mahaffey called on Catfish Bend Casinos, L.C. concerning the Second Amended and Substituted Operating Agreement. Joe Massa and Gary Hoyer, General Manager and Legal Counsel respectively, were present to answer any questions. Mr. Massa noted that the ownership structure of Catfish Bend Casinos is unique within the state of Iowa. Mr. Hoyer noted that the agreement before the Commission is very complex and is based upon 50% local ownership, dating back to when Catfish Bend was organized in southeast Iowa. There are approximately 500 local owners in that area. He summarized the changes for the Commissioners.

Hearing no discussion concerning the Second Amended and Substituted Operating Agreement, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the Second Amended and Substituted Operating Agreement as submitted by Catfish Bend Casinos, L.C. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-106)

Chair Mahaffey moved to the Contract Approval portion of the agenda, and called on Ameristar Casino. Jane Bell, Director of Government Affairs, presented the following contracts for Commission approval:

- NEC Business Network Solutions – Telephone Switching Equipment
- SBC Datacom – Computer Network Equipment
- Inter-American Data – Hotel Reservation Software Enhancement

Hearing no discussion concerning the contracts, Chair Mahaffey called for a motion. Commissioner Jarding moved to approve the contracts as submitted by Ameristar Casino. Commissioner Bair seconded the motion, which carried unanimously. (See Order No. 03-107)

Chair Mahaffey called Harrah's Casino. Pete Weien, General Manager, presented the following contracts for Commission approval:

- Autovalet – Automated Uniform Dispensing Equipment
- IGT – Purchase 300 Slot Machines (Replacements)

Commissioner Bair asked what would happen with the 300 slot machines being replaced. Mr. Weien advised that they would be resold to a licensed distributor if the opportunity arises.

Commissioner Jarding asked about the automated uniform dispensing equipment. Mr. Weien advised that the uniforms would have a barcode. The unit will be able to track when the dirty uniforms are turned in, and dispense new uniforms. This should help stem the loss of uniforms. Commissioner Jarding asked if any jobs would be lost. Mr. Weien answered in the negative.

Hearing no further questions, Chair Mahaffey called for a motion. Commissioner Cutler moved to approve the contracts as submitted by Harrah's. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-108)

Chair Mahaffey called on Isle of Capri Bettendorf (IOCB). Nancy Donovan, General Manager, presented a contract with Kahler & Company for retail items for special events.

As there were no comments or questions, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the contract as submitted by IOCB. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-109)

Chair Mahaffey called on Mississippi Belle II (MB II). Ken Bonnet, President, submitted the following contracts for Commission approval:

- Konami Gaming Inc. – Purchase 35 Slot Machines w/Ticket In/Ticket Out Capability (Replacements)
- Innovative Gaming – Purchase 10 Slot Machines w/Ticket In/Ticket Out Capability (Replacements)
- IGT – Purchase 25 Slot Machines w/Ticket In/Ticket Out Capability (Replacements)

Hearing no comments or questions concerning the contract, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the contracts as submitted by MB II. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-110)

Chair Mahaffey called on Dubuque Diamond Jo (DDJ). Natalie Schramm, General Manager, presented a contract with Foothill Capital Corporation concerning the fourth amendment to the current loan agreement. Foothill Capital Corporation is a subsidiary of Wells Fargo.

As there were no comments or questions, Chair Mahaffey requested a motion. Commissioner Jarding moved to approve the contract as submitted by DDJ. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-111)

Chair Mahaffey called on Lakeside Casino Resort. Kevin Preston, General Manager, presented the following contracts for Commission approval:

- Alliant Energy – Gas and Electric Services
- American State Bank – Letter of Credit (RP)
- Aristocrat Technologies – Purchase 24 Slot Machines and Additional Software (Replacements)
- Ken Baker – Lobbyist (RP)

- Blecker Entertainment – Entertainment Bookings
- Clarke County Development Corporation – Contribution to Fund Lakeside Community Fund (RP)
- Cummins Allison Corp. – Purchase of Money Handling Equipment
- Farnar Bocken Company – Tobacco, Sundry, and Selected Food Products
- Golden Eagle Distributing – Beer for Resale
- Holmes Murphy – Property/Casualty/Liability and Workers Comp Insurance
- Koch Brothers – Office Supplies
- Loffredo Fresh Produce Co – Produce for Kitchen
- Massachusetts Mutual Life Insurance – Employee 401K Plan
- NDC Check Service – Patron Check Processing Guarantee for Lakeside
- Pepsi Cola – Soda Beverages
- Pingel & Templer, P.C. – Legal Counsel
- Martin Brothers Distributing – Food & Supplies for Kitchen
- Sysco Food Service of Iowa – Food, Supplies and Equipment for Kitchen
- McDaniel Marketing – Advertising and Marketing Expenses (RP)
- Clay Street Development Co. – Purchase of a Convenience Store (RP)

Commissioner Hamilton asked if NDC Check Service had any offices located in Iowa. Mr. Preston advised they only have out-of-state offices; that this is a corporate program. She then asked about the purchase of the convenience store. Mr. Preston advised that when Southern Iowa Gaming (SIG) purchased the property, there was a convenience store at the entrance that had been closed for two years. The store will be renovated and opened.

As there were no further comments or questions, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contracts as submitted by Lakeside. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-112)

Chair Mahaffey called on Prairie Meadows Racetrack & Casino (PMR&C). Bob Farinella, General Manager, presented the following contracts for Commission approval:

- Aristocrat-Hanson Distributing Co. – Potential Purchase of 20 Each Standard MAV 500 MKVI Slot Machines (Replacements)
- Combined Systems Technology, Inc. – Computer-related Products and Services (Increase)
- Hallett Materials – Dirt, Salt and Silt Materials for Racetrack Maintenance
- IGT – Potential Purchase of 12 Each IGT S2000 Slot Machines, Including Printers (Replacements)
- Karl Chevrolet, Inc. – Purchases of Automobiles, Trucks, Vans, Parts and Services

- Konami Gaming Inc. – Potential Purchase of 10 Each, Advantage Series Stepper Reel Slot Machines, Including Software, Printers, License Fee, Freight, Cargo Insurance, and Tax
- Konami Gaming Inc. – Potential Purchase of 4 Each ReNeA Series Reel/VideoHybrid Slot Games, Including Software, Printers, License Fee, Freight, Cargo Insurance and Tax (Replacements)
- KVI-Marsh – Broker for Insurance at Prairie Meadows (Increase)
- Midland Computer of Des Moines – Computer-related Equipment, Parts and Service
- Midland Computer of Des Moines – Computer-related Equipment, Parts and Service
- Zena's Gifts and Decorating – Various Items for Gifts, Awards, Consignment and Resale (Increase) (RP)

As there were no comments are questions concerning the contracts, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the contracts as submitted by PMR&C. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-113)

Commissioner Jarding pointed out that a majority of the contracts presented for approval today were for Iowa products, which is one of the areas stressed by the Commission.

Chair Mahaffey called on Iowa West Racing Association/Bluffs Run Casino (IWRA/BRC) to address the season approvals for the 2004 live meet. Pete Weien, General Manager at BRC, advised that there were two modifications from what was submitted. As part of BRC's agreement with the Iowa Greyhound Association, they will be running 15 races instead of 13 races per performance, and have an updated performance bond.

Commissioner Jarding asked about the number of performances. Mr. Weien advised that the number of performances will be consistent with the number approved at the October meeting, but BRC has added two more races per performance.

Hearing no further discussion or questions, Chair Mahaffey called for a motion. Commissioner Jarding moved to approve BRC's season approvals as amended. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 03-114)

Chair Mahaffey moved to the additional contracts submitted by BRC. Mr. Weien presented the following contracts for Commission approval:

- Carpenter Paper – Paper Products
- IGT – Replacement Slot Machines
- Micros Systems Inc. – Point-of-Sale System

- Pegler Sysco – Food, Beverage and Paper Products

As there were no questions for Mr. Weien on the contracts, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contracts as submitted by BRC. Commissioner Bair seconded the motion, which carried unanimously. (See Order No. 03-115)

Chair Mahaffey moved to the approval of the arbitration decision between IWRA and the Iowa Greyhound Association (IGA). Mr. Weien advised the Commission that the parties had reached an agreement concerning purse supplements for two years without going to arbitration. Mr. Weien stated that he was in possession of a signed copy that could be submitted. Mr. Ketterer confirmed that the signed copy is the same as what was previously submitted to the Commission. Mr. Weien answered in the affirmative. Jerry Crawford, legal counsel for the IGA, indicated agreement with Mr. Weien's comments.

Commissioner Bair commended the parties for reaching an agreement. Mr. Weien noted there are times that appearance would indicate that IWRA/BRC/IGA are adversaries, but advised that they really do work together.

Commissioner Cutler asked how the marketing meeting went. Mr. Weien turned the floor over to Mr. Crawford. Mr. Crawford advised that the first meeting went well, but the parties are facing many challenges. He stated that he is not aware of any location where racing, whether it's horses or greyhounds, competes successfully with slot machines. He believes the Legislature approved slots at the tracks because they were already suffering from other forms of gaming. Mr. Crawford stated that it is not realistic to think that the racing facilities can pack the clubhouse facilities like they did at the beginning. Mr. Crawford indicated that he was encouraged by the discussions at the meeting.

Hearing no further discussion concerning the agreement between IWRA and IGA, Chair Mahaffey called for a motion. Commissioner Cutler moved to approve the purse supplement agreement between IWRA and IGA as submitted. Commissioner Bair seconded the motion, which carried unanimously. (See Order No. 03-116)

Chair Mahaffey moved to the arbitration decision between the Dubuque Racing Association (DRA) and IGA. Bruce Wentworth, General Manager of DRA, advised that they too had reached a purse supplement agreement with the IGA without going to arbitration. The length of their contract will be for one year, and resembles previous non-arbitration agreements. He stated that a signed copy was not available, but would be substantially in the same form as submitted to the Commission.

Hearing no comments or questions concerning the agreement between DRA and IGA, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the purse supplement agreement between DRA and IGA. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 03-117)

Chair Mahaffey moved to Administrative Business. As there was none, Chair Mahaffey requested a motion to adjourn. Commissioner Cutler so moved. Commissioner Bair seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

JULIE D. HERRICK CPS