

**IOWA RACING AND GAMING COMMISSION  
MINUTES  
JANUARY 15, 2004**

The Iowa Racing and Gaming Commission (IRGC) met on Thursday, January 15, 2004 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 Gerald Bair, Kate Cutler, and Joyce Jarding.

Chair Mahaffey called the meeting to order at 8:30 AM and requested a motion to approve the agenda. Jack Ketterer, Administrator of IRGC, advised that Isle of Capri Marquette was pulling the contract with Gundersen Clinic, Ltd. Commissioner Bair moved to approve the agenda as amended. Commissioner Cutler seconded the motion, which carried unanimously.

Chair Mahaffey moved to the approval of the minutes from the November 20, 2003 Commission meeting. Commissioner Hamilton moved to approve the minutes as submitted. Commissioner Cutler seconded the motion, which carried unanimously.

Chair Mahaffey called on Mr. Ketterer for announcements. Mr. Ketterer introduced Jeff Peterzalek, the new Assistant Attorney General appointed to represent the Commission and the Department of Public Safety. Mr. Peterzalek was in private practice in the Waterloo area prior to joining the office of the Attorney General.

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

- 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, 2004)
- May – No Meeting

Chair Mahaffey called on Mr. Ketterer to address the rules being presented under Notice of Intended Action. Mr. Ketterer advised that the rules would be published and a public hearing held, and would come back to the Commission for final adoption in April. He indicated the first item strengthens security, surveillance and internal control systems. The second rule is an internal designation of a coordinator to assist in the process of the Gaming Board and Board of Stewards hearings. Mr. Ketterer stated that the majority of rules were self-explanatory. Item seven pertains to the mutuel machines at the racetracks. These machines can be locked at post time or the actual start of the races, whichever occurs first. The words “whichever first occurs” were deleted as there can be delays at post time caused by a loose or injured horse or greyhound, or a malfunction in the starting gate. During that delay, if post time occurs, there can be no wagering after the

post time. Generally, the start of the race and post time are simultaneous. Items eight and nine deal with the ticket in/ticket out technology that most of the licensees are now utilizing as opposed to the coin in/coin out system. There have been questions as to how long the tickets need to be kept. The Commission is establishing a redemption period of at least 90 days. With regard to the end of the year, those tickets that are not redeemed after 90 days, may not be taken as a deduction against revenue. The licensees must account for these tickets at the end of the fiscal year. They are not allowed a deduction if they did not actually pay the ticket either under unclaimed winnings to the state or to the patron.

Hearing no discussion or comments concerning the rules presented under Notice of Intended Action, Chair Mahaffey requested a motion. Commissioner Bair moved to approve the rules as submitted under Notice of Intended Action. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-01)

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:

- Charles Vrana and Sons – Construction and Maintenance Projects
- Nebraska Furniture Mart – Furniture and Carpet Sales and Installation
- Certegy Check Services – Check Cashing Guaranty Service
- Taylor Construction Group - Team Dining Room Remodel

As there was no discussion concerning the contracts, Chair Mahaffey requested a motion. Commissioner Jarding moved to approve the contracts as submitted by Ameristar Casino. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-02)

Chair Mahaffey called on Lakeside Casino Resort (Lakeside). Kevin Preston, General Manager, presented a contract with Modern Floor Covering for carpet for the casino. Hearing no discussion concerning 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. 04-03)

Chair Mahaffey called on Rhythm City Casino. Mo Hyder, Senior Director of Finance, presented the following contracts for Commission approval:

- Cambridge Integrated Services – Claims Adjuster
- KPMG – Tax Consulting Services
- Reinhart Food Services – Food Services

As there were no questions concerning the contracts, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contracts as submitted by Rhythm City

Casino. Commissioner Bair seconded the motion, which carried unanimously. (See Order No. 04-04)

Chair Mahaffey called on Isle of Capri Bettendorf (IOC Bettendorf). Mr. Hyder presented the following contracts for Commission approval:

- Edward Don & Company – Restaurant and Kitchen Supplies
- The Incentive Shop – Customer Loyalty Program

As there was no discussion concerning the contracts, Chair Mahaffey requested a motion. Commissioner Jarding moved to approve the contracts as submitted by IOC Bettendorf. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-05)

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

- Aristocrat – Lease of 4 Slot Machines (Replacements)
- Williams Gaming, Inc. – Purchase of 12 Slot Machines (Replacements)

Hearing no discussion concerning the contracts, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contracts as submitted by IOC Marquette. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 04-06)

Chair Mahaffey called on Harrah's. Pete Weien, General Manager, presented a contract with NRT Technology Corp. for self-redemption ticket machines for the Fast Cash Program. As there were no questions concerning the contract, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contract as submitted by Harrah's. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 04-07)

Chair Mahaffey called on Bluffs Run Casino (BRC). Mr. Weien, General Manager, presented a contract with NRT Technology Corp. for self-redemption ticket machines for the Fast Cash Program. As there were no questions concerning the contract, 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. 04-08)

Chair Mahaffey called on Dubuque Greyhound Park & Casino (DGP&C). Bruce Wentworth, General Manager, presented the following contracts for Commission approval:

- Spielo Manufacturing, Inc. – Slot Machines (Replacements)
- The Lamar Companies – Outdoor Billboard Contract 304218

- The Lamar Companies – Outdoor Billboard Contract 304222
- The Lamar Companies – Outdoor Billboard Contract 304219
- The Lamar Companies – Outdoor Billboard Contract 304221
- The Lamar Companies – Outdoor Billboard Contract 304220
- The Lamar Companies – Outdoor Billboard Contract 304224
- The Lamar Companies – Outdoor Billboard Contract 304225

As there were no questions concerning the contracts, Chair Mahaffey requested a motion. Commissioner Jarding moved to approve the contracts as submitted by DGP&C. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-09)

Chair Mahaffey called on Argosy Gaming Company regarding their request to restructure an outstanding senior subordinated note. Jesus Aviles and Dale Black, General Manager and Executive Vice President/Chief Financial Officer respectively, were present to answer any questions. This move would allow the company to save a significant amount of interest on an annual basis.

Hearing no comments or questions regarding Argosy's request, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve Argosy Gaming Company's request to restructure an outstanding senior subordinated note. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-10)

Mr. Ketterer asked Mr. Black about recent events in Illinois on their tax structure. Mr. Black stated that nothing is occurring at this time. He indicated that when something does occur, there is another event that counter-balances the first event. Mr. Black indicated that an agreement had been reached regarding the sale of the Emerald license. He stated that he feels that it will take awhile for all of the issues to play out. He said Argosy is looking forward to July 2005 when the current tax structure is to sunset and return to the previous tax structure.

Mr. Ketterer stated that he had read that the increased tax structure did not raise as much tax revenue for the state as anticipated. Mr. Black stated that current indications are that it is not anywhere close to what was projected, noting that several of the operators are paying taxes at the same rate as last year or less because of steps taken to maintain profitability. In most cases, that meant decreasing revenues.

Chair Mahaffey called on Racing Association of Central Iowa/Prairie Meadows Racetrack & Casino (RACI/PMR&C) regarding their request for season approvals for the upcoming live race meets. Derron Heldt, Director of Racing for PMR&C, was present to answer questions.

Mr. Ketterer asked about the time between the first and second meets. Mr. Heldt advised that the first meet is 49 days, ending on July 4, 2004. The mixed meet begins on Friday,

July 9, 2004. Mr. Ketterer asked how many horses would have to be turned over. Mr. Heldt stated that PMR&C makes room for about 550 quarter horses. He indicated the turn around is a little tight, but PMR&C has added language to the back of the stall application. Mr. Ketterer asked how many days were between the meets in 2003. Mr. Heldt indicated there were seven. Mr. Ketterer indicated the process worked in 2003 due to the fact that there were not a lot of quarter horses that were ready to make the move to PMR&C due to the fact that several tracks hold stakes races over the 4<sup>th</sup> of July weekend.

Mr. Ketterer turned the floor over to Ken Miller from PMR&C, who advised the Commission that they hope to present information on a new wager – Pick 5, which would allow the patron to choose the races making up their Pick 5 wager, versus the track choosing the races. He indicated this would be a new wager, one that has not been tried in the industry, nor can they find any rules in any jurisdiction. Mr. Miller indicated PMR&C is working on the formula for paying out the pool in an equitable manner should a race or races have to be cancelled. They will be submitting a proposed rule change, possibly on an emergency basis.

Mr. Ketterer stated that normally the races in a Pick 4, 5 or 6 wager are designated by the track. If a race is cancelled, the track may pay out to the individuals that chose the most correct winners, or if enough races are cancelled, the track will refund the money. In the wager being proposed by PMR&C, the patron will choose which five races will comprise the bet out of the nine or ten on the card. Mr. Ketterer stated that Mr. Miller has proposed an equitable solution for paying out the wager, but it needs to be given to the tote companies to determine if the machines can be programmed. The wager would require a change in the rules, which PMR&C would like to go into effect as soon as possible. He indicated the rules would confer a benefit to the public, which is one of the prerequisites for submitting a rule on an emergency basis.

Chair Mahaffey asked if the proposed wager would be available for the upcoming season. Mr. Miller answered in the affirmative, depending upon software. He indicated that a couple of different companies are working on that aspect.

Chair Mahaffey noted that the Commission had received a summary of the 2004 Season Approval request. He requested that as the Commission considers a motion, that they keep the staff recommendations in mind. He requested a motion concerning the season approvals. Commissioner Cutler moved to approve PMR&C's Season Approval request, contingent upon compliance with 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 and approval of any schedule changes: race days, post times, or the number of races.

Commissioner Bair seconded the motion, which carried unanimously. (See Order No. 04-11).

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

- AFSCME Council 61 & Local 2051, AFL-CIO Int'l Union of Operating Engineers Local 234 – Proposed New 5-Year Collective Bargaining Agreement
- American Teletimer Corporation – Proposed New 3-Year Agreement for the Supply of Photo-finish and Timing Service System for Live Racing
- Aristocrat-Hanson Distributing Company – Potential Lease of 8 Standard MAV 400 MKVI Slot Machines (Replacements)
- Bally Gaming – Potential Purchase of 97 each S6000 Series Upright Slot Machines (Replacements)
- IGT – Potential Purchase of 82 each S2000 Series and 11 each 19-inch “I-Game” Upright Slot Machines (Replacements)
- Innovative Gaming Inc. – Potential Purchase of 21 Each Video Slot Machines (Replacements)
- Spielo Manufacturing Incorporated – Potential Purchase of 6 Each Video Slot Machines (Replacements)

Hearing no further comments concerning the contracts, Chair Mahaffey requested a motion. Commissioner Jarding moved to approve the contracts as submitted by PMR&C. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-12)

Chair Mahaffey called on Dubuque Racing Association (DRA) regarding their request for approval to make capital improvements at DGP&C, including additional gaming positions. Mr. Wentworth explained that the project before the Commission would encompass an enlarged casino area and an additional 400 slot machines. He noted that this project is the culmination of a two-year strategic planning process. He feels the project before the Commission is viable, will accommodate customers, provide benefits to all stakeholders, and will help DRA maximize distribution to all stakeholders. Mr. Wentworth stated that the project includes an enlarged casino space and construction costs of approximately \$9.2 million, with a total cost of approximately \$15 million. He indicated that DRA would finance approximately \$9.5 million, using their reserve funds to begin the construction project. Mr. Wentworth advised that two local Dubuque banks have agreed to finance the project over seven years at an attractive rate. DRA also had Will Cummings, of Cummings Associates, do a study based on their current market and what it needed to be in order for the project to be successful. Mr. Wentworth stated that during the first full year of operation, it estimated DRA would pay the City of Dubuque approximately \$2.6 million, with another \$500,000 going to charitable organizations.

Mr. Wentworth advised that if the project were approved today, DRA would move forward rapidly, becoming partially operational in March 2005, and fully operational by August 2005.

Mr. Wentworth stated that although DRA had submitted a comprehensive package to the Commission, he asked the Commission to remember that the issue before them is different than the moratorium issue. Since the imposition of the moratorium rule in September 1998, the Commission has approved existing licensees to make capital improvements and increase the number of gaming positions.

At this time, Mr. Wentworth introduced Angela Simon, President of DRA. Ms. Simon, recalling a time when a priest was arrested for running a bingo game, noted that although the thinking, the law and gaming in Iowa have changed since that time, one thing remains true today – gaming is not always driven by the profit motive. The early bingo games were driven by the same charitable motives driving DGP&C. DGP&C's slogan, "Together we give, together we grow", represents what they do. She asked the Commission to approve the project so that DGP&C might continue to give and grow. She noted that DRA is a not-for-profit association by definition, fact and deed, dedicated not to maximizing the bottom line, but to the mission of providing for community, social and economic betterment, and lessening the burden of government, as well as alleviating and meeting the unanswered needs of the community, while contributing to Iowa's growth and vitality. She expressed DRA's concern about their ability to continue to meet their mission based on the 36% tax rate. She stated that the projections in the proposal are based on the 36% tax rate. Ms. Simon also noted DRA's concern over the potential for new and increased competition, as well as new gaming facilities in northeast Iowa, which will remain until a decision is made on the moratorium issue. DGP&C is also concerned about increased competition from existing facilities that have affected their ability to hold and gain market share. It is DRA's belief that to take no action would be the equivalent of moving backwards, failing to attract new patrons, losing valued patrons, losing market share, and eventually losing long-term viability.

Ms. Simon noted that DRA has contributed millions of dollars in gaming tax revenue to the State of Iowa, as well as millions of dollars in distributions to the city and county of Dubuque. The projected expansion will mean even more funds. At the 36% tax rate, it is projected that DRA will be paying \$22.5 million in gaming taxes alone. She questioned how many other entities stand before other agencies asking to be allowed to pay more in taxes. Ms. Simon pointed out that DRA, through its grant process, has helped companies bring jobs to Dubuque, increasing the tax base, provided support for the schools, law enforcement and fire departments, as well as many other agencies.

Mr. Wentworth introduced Will Cummings, of Cummings Associates, who did a study for DRA in regard to the expansion project. He stated that all of the numbers provided in the presentation are driven by Mr. Cummings' study.

Chair Mahaffey, noting that concerns have been expressed as to how this expansion would affect present operations as well as proposed facilities, asked Mr. Cummings to explain how the study performed for DRA is different than the one performed for the Commission.

Mr. Cummings explained that while the focus of the study for DRA was different from the Commission's study, the methodology is the same. He noted that the study done for the Commission focused on growth in the new markets and facilities, but did not look at the growth potential in existing markets. Mr. Cummings indicated there are several markets with a potential for growth, and Dubuque is one of them. He noted that the Dubuque market has grown steadily over the years. Since 1997, the total gaming win for the market between the two Dubuque facilities has increased from \$62 million to \$91 million in fiscal year 2003. Wins per unit per machine have increased by approximately 50% over the same time frame. Mr. Cummings noted that the area surrounding Dubuque is a very competitive market, and that within a 2-3 hour drive, there are nine competing casinos. He stated that DGP&C has done a very good job of competing for market share, stating that nearly 50% of its business comes from residents of other states. In reviewing Players' Club data, approximately 24% of their win is coming from individuals that live closer to another casino, not just on the borders.

Mr. Cummings stated in applying the gravity model, looking at the existing distribution of the facilities and their respective size, the additional capital improvements at DGP&C bringing the total number of slots to 1,000, providing more space for the patron, he projects an increase in the gaming win of approximately \$19 million. He indicated there would be some impact on other facilities in Iowa, with the largest impact being felt by the Dubuque Diamond Jo (DDJ). He indicated the impact on the other facilities would amount to \$1 million or less, providing for a net increase in total win at Iowa casinos of approximately \$12 million. Mr. Cummings stated that while he specifically looked at the impact on existing casinos, based upon his analysis of the market as a whole, that the impact on potential new facilities in either Waterloo or Cedar Rapids would be minimal since most of the increase projected for Dubuque is coming from Wisconsin and Illinois.

Mr. Ketterer asked the percentage of patrons visiting Dubuque that are coming from outside of Iowa, or the spending that occurs from outside Dubuque. Mr. Cummings stated that the latest Players' Club data that he has reviewed, indicates that approximately 48% of the total gaming win comes from non-Iowa residents. He feels that is a conservative number.

Mr. Ketterer stated that a legislator had asked why Mr. Cummings used a gravity model versus surveys. Mr. Cummings stated that he has done surveys in certain circumstances similar to this, and conceded that they do have some uses. In most circumstances, they add very little information to the analyst's ability to make projections, as survey respondents are always highly optimistic as to what they are likely to do in the future. Therefore responses add up to two or three times more than the actual volume of attendance or wagering. Mr. Cummings stated although 30% of the population



participates in gaming, the bulk of gaming revenues come from 2-3% of the population. If a survey were conducted of approximately 600 individuals, normally considered to be a standard-size sampling, with a plus or minus error of 3%, you are only getting ten, twelve or fifteen people who are major customers of casino gaming. In that scenario, the difference between ten or twelve, the projections would be off by 20%, creating a margin of error of plus or minus 20%. Mr. Cummings noted that Iowa's nine markets perform very similarly, and indicated that he would be surprised to see any new markets perform differently than the current markets.

Commissioner Bair asked Mr. Cummings if it was safe to say, should the Commission lift the moratorium and issue additional licenses, that there would be a larger impact on the gaming revenue resulting from the increase in slots at Dubuque, or vice versa. Mr. Cummings advised that the proposal before the Commission would result in a substantial net increase in the net revenues DGP&C generates for the state. The impact on new casinos, as well as current operations, would be so minimal that it would not change his projections in his October 2003 study by more than a percent or two.

Chair Mahaffey, noting that all parties are still waiting to hear from the Iowa Supreme Court on the tax case, asked Mr. Wentworth what would happen should the decision go against the racetracks and what long-range impact the higher tax rate would have on DGP&C. He asked how the expansion project would help the facility based on a worst-case scenario. Mr. Wentworth stated that the current distribution formula is 50% to the city; 25% to charitables and DRA retains 25% for capital improvements program, which he characterized as DRA's lifeblood for success down the road. He stated that when DRA talks about maximizing profits, they are referring to all areas of the above formula.

Mr. Wentworth introduced Mayor Marty Duggan. He noted that he has served on DRA's Board of Directors in various capacities for ten years, stating that he enjoyed his time on the Grant Committee and being able to see what it meant to the non-profit organizations receiving the funds. Mayor Duggan stated that the city has leveraged the funds from DRA in order to achieve the most impact on the citizens of Dubuque. He mentioned the America's River project, which received DRA funding, noting that over 300,000 visitors have gone through the aquarium/conference center.

Mr. Wentworth called on Jerry Crawford and Bob Hardison, legal counsel for the Iowa Greyhound Association (IGA) and President of the Board of Directors of IGA respectively, who voiced the IGA's unanimous support for the project, noting that if the project is approved, it will have a direct impact on several hundred Iowa families because of the additional revenue generated for racing, purses, etc. Mr. Crawford advised that for every dollar provided for purses in Iowa, there is a direct economic development benefit to the State of \$4-5.

Mr. Wentworth called on Brian Southwood, Assistant General Manager at DGP&C, and Jim Culp with the Durrant Group, the architectural design group for the project, to present the power point presentation. He indicated that the expansion project would

increase the square footage per machine from 19 to 27, giving the facility a more customer friendly atmosphere.

Mr. Southwood advised that there would be extensive remodeling within the current facility, as well as reducing the current drive from three lanes to two. They will also change the stairs into the facility. A support building will be built to house DGP&C administrative offices on the upper level, and IRGC and DCI offices will be located on the lower level. There will also be two entrances into the facility, allowing for a secure entrance for the hard/soft rooms. There will also be a room for preparing slot machines for installation on the casino floor.

Mr. Culp stated that work will begin in March on the support building, and should be completed by late October, allowing the offices to be moved in order to begin renovating those areas for the casino expansion. As well as starting on the support building, work will also begin on the addition to the south side of the existing casino and the new facade. It is anticipated this portion of the project will be completed by December 2004, and that DGP&C can begin using the expanded portion of the casino by the end of February 2005, allowing work to begin on the casino renovation portion of the project. It is anticipated that all work will be completed by August 2005. Half of the additional machines will be added at the time the expansion portion of the project is completed.

Commissioner Bair asked when all of the slot machines would be up and running. Mr. Culp advised that it would be mid-summer 2005. They hope to have between 750 and 800 slot machines in operation by March 1, 2005.

Commissioner Bair asked how long it takes to get a casino operational – from the ground up. Mr. Culp stated that the original racetrack in Dubuque was built in ten months. He indicated that with all they are attempting to do, it would be a minimum of a year, more likely fifteen months.

Mr. Ketterer asked if the building was still sinking. Mr. Culp stated that a survey of the property was just completed, noted that the drive dropped 2½ feet and the building might have settled a ½ inch.

Commissioner Jarding noted there have been discussions concerning the decreased attendance at the tracks, and asked Mr. Wentworth if DGP&C would have a marketing plan, or if the IGA had a plan to increase attendance. Mr. Wentworth stated that the attendance increase is anticipated to be between 300,000 and 340,000, in addition to the current visits of approximately 1 million, with another million at the DDJ. He noted there are several new attractions in Dubuque, which should help broaden their marketing area. DGP&C is already marketing in the Madison and the southwest Wisconsin area in general and to a lesser degree in Illinois, but will probably be a little more aggressive in that area in the future. After reviewing Mr. Cummings' numbers, DRA members asked themselves what would happen if his projections did not come through. They feel they can make the project work even if they only achieve 47% of the projections.

Commissioner Bair asked how long ago DRA started this process. Mr. Wentworth stated that it has been approximately a two-year process. It started with Board members and employees submitting wish lists. The project was then whittled down to a workable project. Mr. Wentworth stated that DRA should be able to repay the loans within seven years.

Commissioner Bair asked what the impact would be on the project over two years if it were pushed back a couple of months. Mr. Wentworth stated that the timeline indicates DGP&C would be fully operational in August 2005. Internally, DGP&C has asked Durrant to look at the timeline so that the project moves along judiciously without the various contractors stepping on each other. They also hope to build in some bonuses for an early completion with the construction crews. If they are able to accomplish these goals, they hope to move the August date up to the beginning of their season, which they consider to be Memorial Day to Labor Day. Mr. Wentworth indicated that if DGP&C has to wait two months to start, they lose most of the summer, or the peak of their season.

Mr. Ketterer, noting that the project would have a 1-2% impact on a facility in Waterloo, asked Mr. Wentworth what the impact would be on a facility in Cedar Rapids. Mr. Wentworth stated that DRA had reviewed Mr. Cummings' figures from the Commission's study and found that he had projected a 1.4% impact on any project in Black Hawk County. They then reviewed their Players' Card database to determine how many Black Hawk County residents were actually members. The database came up with 1.45%. Mr. Wentworth indicated Linn County was in the 4% range.

Commissioner Bair asked Mr. Ketterer how long the licensing process would take should the Legislature take action on the moratorium issue by the first of March. Mr. Ketterer stated that if the Legislature takes action indicating to the Commission that they should award new licenses, the Commission staff would develop an application process to bring to the Commission, presenting a window of opportunity for the various groups to bring applications to the Commission. From the time the applications are received until the Commission would award licenses would be in the neighborhood of four to six months, with the Division of Criminal Investigation backgrounds taking up the majority of that time. From that point, the time frame would depend on the type of structure that was being built. A large boat, like Lakeside, which was built on site, would take at least a year. He noted that approximately 1½ to 2 years elapsed from the time the Commission issued a license to Lakeside until the time the facility opened.

Commissioner Bair stated that the Commission is looking at a minimum of 18 months, or the end of 2005, which would be near the end of the estimated completion of the DGP&C project. Mr. Ketterer stated that he felt 18 months would be pretty ambitious for the new projects, as he did not feel any licenses would be issued until approximately January 2005, and then it would take at least another year to get the project operational, or January 2006.

Mr. Ketterer, referring to Exhibit 4 – Spending on DGP&C Slots Declines with Distance, asked if he was correct in that spending flattens out at a 50-mile radius. Mr. Cummings stated that spending does not really flatten out, but does dip beyond 50 miles as that is when the patron starts getting closer to competing casinos. Mr. Cummings stated that is why he transformed things over the next couple of exhibits, utilizing log rhythms. He noted there is not a dramatic drop off, but patronage does become lower. Mr. Cummings reiterated that DPG&C is getting roughly 24% of their business from individuals who live closer to another casino. He indicated the numbers decline because he is taking the revenue and dividing it by the population.

Chair Mahaffey stated that there have been concerns expressed to Commission members as to the impact of the proposed DGP&C expansion in terms of the overall situation and the probable debate on the various issues that will take in the Legislature. He called for any further comments concerning the proposed expansion at DGP&C. As there were none, Chair Mahaffey called for a motion.

Commissioner Jarding moved to approve the capital improvements and additional slot machines at DGP&C as presented. She noted that increasing the number of games at the facility is not the same as the moratorium issue. Commissioner Cutler seconded the motion.

Chair Mahaffey called for any discussion on the motion. Commissioner Bair stated that the Commission does have precedent in this area as the Commission has approved expansions at other facilities in 1999 and 2000. He noted that all of the Commissioners have been contacted by individuals expressing concern over the project, but that it appears there will only be four or five months difference in beginning operations. He indicated that he did not like going against the Legislature, but noted that the moratorium is different than the issue before the Commission at this time.

Hearing no further discussion, Chair Mahaffey called for a vote on the motion. The motion carried unanimously. (See Order No. 04-13)

Following a short break, Chair Mahaffey moved to the next agenda item, a hearing on an appeal by Dick Clark and Larry Dunbar of an Administrative Law Judge's Decision. Mr. Ketterer advised the Commission that counsel for both sides have waived their right to present oral arguments, allowing the Commission to make their decision based on the information presented in the case file.

Chair Mahaffey called for a motion to go into Executive Session. Commissioner Cutler moved to go into Executive Session pursuant to Iowa Code Section 21.5(1)f for the purpose of discussing the decision to be rendered in a contested case conducted according to the provisions of chapter 17A. Commissioner Bair seconded the motion, which passed unanimously on a roll call vote. (See Order No. 04-14)

The Commission reconvened in open session following a motion by Commissioner Jarding, which was seconded by Commissioner Cutler. Chair Mahaffey called for a motion regarding the Clark/Dunbar appeal. Commissioner Hamilton moved to uphold the Administrative Law Judge's Decision in this matter. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-15)

Chair Mahaffey moved to Administrative Business. Mr. Ketterer advised that all of the riverboat renewal applications were received in the Des Moines office by December 31, 2003, and will be on the March agenda. The amount of information required in the renewal has been reduced, but the licensees still have to submit the contracts for the upcoming year. Mr. Ketterer advised that Terry Hirsch, Director of Riverboat Gambling, prepares a matrix comparing various areas of the operations, such as square footage, number of gaming positions, revenue, non-profit licensee, etc. Mr. Ketterer advised the Commissioners to contact the office if there is additional information they would like to have after reviewing the information provided by Mr. Hirsch.

Mr. Ketterer stated that he expected to receive a capital improvement and additional gaming position request for Bluffs Run Casino. They will be seeking final corporate approval from Harrah's in mid-February prior to submitting the request to the Commission. Bluffs Run currently has 1500 slot machines, and will be requesting authorization to add two or three hundred more. They will also be making some additions to the facility. Currently, the buffet is on the mezzanine level. It is his understanding that most of the slots and the buffet will be moved from the mezzanine, and BRC will turn that area into a sports bar/simulcast betting area. Mr. Ketterer stated that he expected to receive documentation from Ameristar expressing concerns or opposing the expansion.

Chair Mahaffey informed the other Commissioners that he and Mr. Ketterer would be attending a subcommittee meeting of the House State Government Committee at 1:30. Mr. Ketterer recapped the meeting he attended on Tuesday. He indicated the subcommittee is looking at using House Study Bill (HSB) 122 as a base bill, which was the Commission's technical bill from last spring. Mr. Ketterer provided the subcommittee with the two-page history of the moratorium that is on the web page, the summary of the referendum results and the comparison of what other states have done in areas where the Commission is seeking direction from the legislature. Mr. Ketterer stated that the subcommittee had asked if the Commission wanted to relinquish the authority to determine the number and location. He advised the subcommittee that issue was tied into any action they proposed on the cruising requirement and how they further define what constitutes an acceptable body of water. In his opinion, the Commission just wants to have the ground rules clarified. Mr. Ketterer stated that if the boat has to cruise and be located on a lake or reservoir, then he questioned whether some of the proposed projects would qualify. Mr. Ketterer stated that he heard there was a proposal circulating that the boats that cruise would pay a 20% tax, boats that can cruise and choose not to would pay 21%, barges 22%, the other tracks would pay 30% and DGP&C would pay 26%.

Commissioner Bair asked if HF 122 addressed any of the issues the Commission raised. Mr. Ketterer advised that HF 122 is more of a technical bill addressing lasix, and correcting outdated references or that no longer reflect current practice. Chair Mahaffey stated that the subcommittee is going to attach other proposals to HF 122. Mr. Ketterer advised that the meeting had been moved to a larger room.

Chair Mahaffey moved to Public Comment. As there was none, 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  
MARCH 4, 2004**

The Iowa Racing and Gaming Commission (IRGC) met on Thursday, March 4, 2004 in the Pioneer Room at Stoney Creek Inn, 5291 Stoney Creek Court, Johnston, Iowa. Commission members present were Mike 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 to approve the agenda. He noted that the Proposed Amended Agenda had been withdrawn by Peninsula Gaming Company. Commissioner Bair moved to approve the agenda as amended. Commissioner Cutler seconded the motion, which carried unanimously.

Chair Mahaffey moved to the approval of the minutes from the January 15, 2004 Commission meeting. Commissioner Cutler moved to approve the minutes as submitted. Commissioner Jarding seconded the motion, which carried unanimously.

Chair Mahaffey moved to announcements. Jack Ketterer, Administrator of IRGC, provided the following information concerning upcoming Commission meetings:

- April Commission Meeting – April 15, 2004 – Harrah’s, Council Bluffs  
(Submissions due by April 1, 2004)
- May – No Meeting
- June Commission Meeting – June 10, 2004 – Stoney Creek Inn, Johnston  
(Submissions due by May 26, 2004)

Chair Mahaffey moved to Administrative Business. Mr. Ketterer stated that the Commission would be accepting Requests for Proposals for the FY 2004 Horse Racing Promotion Fund, and that those proposals are due in the Commission’s Des Moines office by the close of business on April 1, 2004. He indicated that the Notice would be available on the Commission’s website. Past recipients of funds are required to submit a written accounting of how the FY 2003 funds were utilized.

Mr. Ketterer moved to the Proposed Meeting Dates for FY 2005. (Copy attached) Commissioner Hamilton moved to approve the Proposed Meeting Dates as submitted. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 04-16)

Chair Mahaffey moved to the Legislative Report under Administrative Business. Mr. Ketterer stated that the gambling bill debate was a very thorough and comprehensive process. He stated that the House State Government Subcommittee did a very good job of getting input from all aspects of the industry. The process did include discussion on the items on which the Commission had requested direction. He noted that the final version of House File (HF) 2302 did leave the moratorium on new licenses in place. HF

2302 did include the Commission's base bill, which included a number of technical changes but none that were controversial in nature. Mr. Ketterer stated, to the best of his knowledge, the Senate would assign the bill to the State Government Committee. It is his understanding that a subcommittee would be meeting sometime next week, and then a meeting of the full committee. The earliest full debate would take place is the week after next. Mr. Ketterer stated that he feels the Legislators that served on the subcommittee have some appreciation of the difficulties the Commission would have had dealing with these various issues.

Chair Mahaffey agreed with Mr. Ketterer's comments, noting that he and Commissioner Hamilton had an opportunity to appear before the subcommittee early in the deliberations. He stated that the process was fair and open. He commended Representative Raecker for his leadership. Chair Mahaffey stated that he felt legislators on both sides handled themselves well. He indicated that he was pleased to see what happened with the Gambling Treatment Program, which was a combined effort on all fronts.

Mr. Ketterer stated there were a couple of companion bills filed in the House and Senate that might be of interest. Senate Study Bill 3144 and House Study Bill 664 would repeal Code sections on the non-profits, enact the Revised Model Act and address by-laws, organizations, members, directors, liabilities, duties and responsibilities. He noted that the qualified sponsoring organizations are non-profits. He suggested they might want to take note of those two bills and how they would impact their respective organizations.

Mr. Ketterer discussed an article he had seen in the Daily Racing Form relating to a settlement with the Nevada Gaming Control Board for fixing giveaway prizes for high rollers. A Las Vegas casino agreed to pay a \$1 million fine for fixing promotional contests to favor selected high rollers at the facility. The article further stated: "It is a \$1 million message that Nevada gaming regulators will not stand for any action by any casino company allowing improprieties to affect the integrity of the games or giveaways." Mr. Ketterer stated that two senior executives and a pair of "rogue" employees were attempting to keep the high roller happy after he had lost about \$5 million at the casino. The article further stated that the Nevada Gaming Control Board chairman Dennis Neilander warned Nevada's major industry that such a violation is the worst of any kind. The rigging or fixing of any game in the Silver State "would tend to undermine the public's confidence" in the industry.

Mr. Ketterer noted that several promotions come to the Commission for approval. He voiced his hope that IRGC never sees anything of this magnitude.

Chair Mahaffey moved to the next agenda item – a report on the National Problem Gambling Awareness Week by Frank Biagioli, Iowa Gambling Treatment Program (IGTP) in the Iowa Department of Public Health. Mr. Biagioli stated that the program, which promotes and protects the health of Iowans by reducing the effects of problem gambling behavior, is participating in the National Problem Gambling Awareness Week,



March 8-14, 2004. The week will include a multi-level public awareness campaign and an outreach campaign to educate the general public and medical professionals about the warning signs of problem gambling.

There is also a new web site: [www.npgaw.org](http://www.npgaw.org), which includes fact sheets, brochures and educational resources. This site includes “The Lie-Bet” tool, a two-question survey that has been deemed valid and reliable for ruling out pathological gambling behaviors. The questions are: 1) Have you ever felt the need to bet more and more money? and 2) Have you ever had to lie to people important to you about how much you gambled? If an individual answers yes to one or both of the questions on this Lie-Bet questionnaire, further assessment is indicated. Information can also be obtained at the Gambling Treatment Program’s web site: [www.1800betsoff.org](http://www.1800betsoff.org) or by calling the help line at 1-800-238-7633. Outside Iowa, the number to call is 1-800-522-4700.

Mr. Biagioli directed the Commissioner’s attention to a sheet in the packet they received entitled Iowa Gambling Treatment Fund – Revenue, Expenditure Redirects, which shows the various amounts redirected from the Gambling Treatment Program by the Legislature from FY 1986 through FY 2004. He noted that that the program is funded by three-tenths of one percent from the lottery with another three-tenths of one percent coming from the 20% tax paid by the riverboats and pari-mutuel tracks.

Commissioner Bair asked Mr. Biagioli where he would focus the additional funds. Mr. Biagioli stated that there is a need for additional treatment centers; there are some individuals that need more than outpatient care, and they are looking at a way to provide residential treatment, as well as more public awareness as to the 1-800-Bets Off line.

Mr. Ketterer noted there were a couple of areas added in the Code language of the gambling bill that were not previously available. One was credit counseling. Mr. Biagioli stated that the financial counseling aspect was one of the reasons most individuals seek counseling. He indicated that the IGTP has not been able to fund that previously, but noted that the treatment providers do a very good job of directing people to the local financial counseling agencies.

Mr. Biagioli noted that members of the Iowa Gaming Association would be holding various events during the next week to promote the National Problem Gambling Awareness week.

Chair Mahaffey moved to the Contract Approval portion of the agenda, and called on Bluffs Run Casino (BRC). Pete Weien, General Manager, presented the following contracts for Commission approval:

- Corporate Express – Office Supplies
- US Foodservice, Inc. – Food Vendor

As there were no 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. 04-17)

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 30 Standard MKVI Slot Machines (Replacements)
- Atronic Americas, LLC – Potential Purchase of 14 E-Motion Upright Series Slot Machines (Replacements)
- Bally Gaming, Inc. – Potential Purchase of 2 S6000 Series Upright Reel Slot Machines (Replacements)
- Bally Gaming, Inc. – Potential Lease of 1 “Monte Carlo” Slot Machine (Replacement)
- IGT – Potential Lease of 4 Standalone Progressive Slot Machines, “Oman” (Replacements)
- IGT – Potential Lease of 6 Wide Area Progressive Slot Machines (Iowa Trust), “TV Hit Series” (Replacements)
- IGT – Potential Lease of 7 Standalone Progressive Slot Machines “Family Feud” (Replacements)
- IGT – Potential Lease of 4 Standalone Progressive Slot Machines “Diamond Cinema Frank Sinatra”
- IGT – Lease Renewal, 4 I-Game Plus Slant Top Games
- North Country Business Products – Maintenance Agreement, Supplies, and Service for Micros System. (Increase Value of Previously Approved RTA to \$150,000)
- Local 254, International Association of Machine & Operating Engineers – New 5-Year Collective Bargaining Agreement
- Pomeroy Computer Resources – Computer-Related Equipment, Parts and Services
- Red The Uniform Tailor – Potential Purchase of New Uniforms for Employees

Hearing no discussion 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. 04-18)

Chair Mahaffey moved to the next agenda item – Approval of the 45-Day Plan for Dubuque Greyhound Park & Casino (DGP&C). Bruce Wentworth and Brian Carpenter, General Manager and Director of Racing respectively, were present to answer any questions.

Chair Mahaffey called for any questions or comments from other Commission members or staff. Linda Vanderloo, Director of Racing/Administration, stated that the motion should include the completion of all appropriate DCI backgrounds.

Commissioner Hamilton asked about further problems with injuries to greyhounds. Mr. Wentworth stated that over the next couple of weeks, DGP&C would look at how the weather changes have affected the track surface. They are contemplating adding some sand to the mixture on the track at this time. He noted that greyhounds arrive about a month in advance of the season for unofficial and official schooling, giving them an opportunity to fine tune the track surface. Mr. Wentworth stated that he believed the number of injuries had decreased.

Hearing no further comments or questions concerning DGP&C's 45-Day Plan, Chair Mahaffey called for a motion. Commissioner Jarding moved to approve DGP&C's 45-Day Plan as submitted with the completion of all appropriate DCI backgrounds. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-19)

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

- Reliable Technology – Computer Equipment
- Lamar 304233 – Outdoor Billboards

As there were no comments or questions concerning the contracts, Chair Mahaffey requested a motion. Commissioner Bair moved to approve the contracts as submitted. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-20)

Chair Mahaffey moved to the next agenda item – Iowa West Racing Association (IWRA) – Presentation for Approval of Capital Improvements at BRC, including additional gaming positions. The following individuals were present to answer any questions: Mr. Weien, Todd Graham, Executive Director of IWRA, Jerry Mathiason, Associate Director of IWRA, and Jack Ryan, Secretary/Treasurer of IWRA.

Mr. Ryan stated that IWRA is the qualified sponsoring organization for Ameristar and Harrah's riverboats and the non-profit license holder for BRC, and voiced their support for all three of the facilities. He noted that the license was originally granted to IWRA in 1984 to operate BRC, which opened two years later. Mr. Ryan noted that the economic impact was felt immediately and led to additional gaming opportunities in the Council Bluffs area in 1995 and 1996 with the opening of Ameristar and Harveys, now Harrah's, and enhancements at BRC. The presentation today will be one more step and enhance Council Bluffs as a visitor destination.

Mr. Weien stated that the proposed improvements would transform the business and allow them to take advantage of the tremendous opportunities that exist in the Council Bluffs gaming market. He indicated that Harrah's has been working on the project almost from the time they assumed management of the facility. Mr. Weien stated they have spent the last year putting together a strategic and master development plan that would allow BRC to take advantage of growth in that part of Council Bluffs. Mr. Weien stated that the plan before the Commission today would make BRC more competitive, change the market place, generate gaming growth, promote growth in the vicinity of BRC, and be an asset to the community for many years.

Mr. Weien provided the following objectives IWRA/BRC hope to achieve with the capital improvements: improve customer service and grow their business, overcome "image" issues, improve the exterior appearance to tie into new developments in the area, and add 250 slot machines from gaming position already approved for the market by IRGC, noting there are 750 positions approved that are not being utilized. Increasing the number of machines at the track will allow BRC to capture displaced demand during peak hours. Mr. Weien stated that the two Harrah's properties are operating at over 80% slot occupancy on the weekends. Mr. Weien stated the proposed plans will enhance the functionality of the support areas to improve service and created a better relationship between the casino and the racetrack area. He noted that BRC also needs to add food and beverage outlets to better serve their customers.

Mr. Weien noted that Ameristar has 1,782 gaming positions compared to 1,500 at BRC and 1,434 at Harrah's. He pointed out that although the current facility at BRC has more square footage than Ameristar, the building has low ceilings and many pillars, complicating slot layout. Mr. Weien then compared the development costs at the three Council Bluffs facilities: Harrah's - \$121.0 Million, BRC - \$31.4 Million, and Ameristar at \$150.4 Million. He stated that the addition of positions and growth has fueled growth in the Council Bluffs market. Mr. Weien stated that in 1998, Harveys added a partial third deck and 183 units, which generated 9.8% growth in the market. In the following year, Ameristar completed the addition of a full third deck, adding 348 machines, generating growth of 6.8%. The most fundamental change in the market occurred in 2001 when Ameristar completed a \$40 million renovation project, generating growth of 7.3% in the market from 2001 to 2002. Mr. Weien stated that from the time Ameristar completed their expansion renovation, their financial performance has catapulted in revenue growth, going from \$120 million to \$152 million. He stated that BRC and Harrah's have essentially been treading water as far as revenue growth. Mr. Weien moved on to market share. He pointed out that following Ameristar's expansion project, they have been able to compete much more effectively in the Council Bluffs market, garnering a greater share of the market. Mr. Weien stated that as an operator and manager of facilities, Harrah's/IWRA needs to do something about that.

Mr. Weien showed architectural renderings of the proposed facility and discussed the various changes that will be taking place. The facility will expand by 38,000 square feet to the west. There will also be an addition on the north side, allowing BRC to put all

restaurants in one area and operate out of a centralized kitchen. There will also be significant landscaping improvements.

Commissioner Hamilton asked if the facility would have meeting rooms. Mr. Weien answered in the affirmative.

The exterior of the facility is also being updated to reflect the materials utilized by other new developments in the area.

Mr. Weien moved to the project budget. The entire project is estimated to cost \$38.6 million, with \$31 million going for hard costs: design and consulting fees; testing and inspection, permits and fees, project management, general construction and contingencies. Soft costs will account for \$7.6 million (operations/pre-opening costs, slot machines, additional surveillance, IT, uniforms, training, etc.) It is estimated the project will take approximately one year. With Commission approval, they would start the project late in the second quarter and complete the renovation by April 2005.

Mr. Weien summarized his presentation by advising that the project supports fully the mission statement of IWRA, which is to support community development, beautification and economic development. The project will create 119 new jobs with a payroll of \$900,000, not counting the 250 construction jobs on site during the construction period. The expansion project would allow BRC to capture unmet demand during peak periods, thus allowing additional revenues to be captured in the market place. It will enhance the greyhound industry by growing purses, and improving the relationship between the racing and casino components at BRC. Mr. Weien stated that the Iowa Greyhound Association supports the project, and representatives are present to address the Commission. He further stated there would be no adverse or detrimental impact on the financial viability of the other licensees operating in the market. Mr. Weien stated that approval of the project would allow BRC the same opportunity that Ameristar has capitalized on as a result of their prior expansion project in 2001. He indicated that the project has broad support from numerous city and county organizations, which are included in the project binder.

Mr. Weien then indicated that he wanted to address some of the anticipated comments from Ameristar at the conclusion of his presentation. He stated that he was aware of active opposition to the proposed expansion at BRC, and that Ameristar representatives had contacted some or all of the Commissioners seeking denial of the project. He stated that allegations are being made that the expansion is not in the best interest of IWRA or the city of Council Bluffs. Mr. Weien made the following points:

- Both of the entities on whose behalf the objection is purportedly being raised support the request. IWRA filed the request as the licensee, and a letter of support from the Mayor of Council Bluffs has been submitted.

- Ameristar Casino has been able to take advantage of an expansion authorized by the Commission in 2001. With that expansion, Ameristar garnered a larger share of the market. In 2002, Ameristar renegotiated its sponsorship agreement with IWRA, and paid approximately \$1.3 million less to IWRA in 2003 than it would have paid under the previous agreement.
- Continued growth in the market share by Ameristar provides no funds to IWRA. Under the sponsorship agreement that became effective in 2003, Ameristar pays nothing to IWRA for any adjusted gross revenues in excess of \$150,000,000. Ameristar exceeded that amount last year, and 2004 revenues so far indicate they will exceed the 2003 level. Mr. Weien stated that if competing gaming operations are not permitted to invest additional capital in their facilities, Ameristar's share of the market will continue to grow without any additional funds paid to IWRA due to Ameristar's negotiated cap on its payments to the not-for-profit organization whose interests are being protected by objection to the BRC expansion project.
- As the licensee holder for a greyhound racetrack, IWRA has an obligation to support the greyhound industry. Based on the projections resulting from the proposed expansion, at a 20% tax rate, purses paid to the greyhound industry would increase by approximately \$600,000.
- Mr. Weien touched on BRC's contributions to the Council Bluffs community, noting that upon passage of the gambling referenda in 2002, an additional \$50,000,000 was paid to IWRA. Based on an interest rate of less than 8.2% annually, the interest on this payment would exceed the annual payments being made to IWRA by Ameristar under the new sponsorship agreement. Additionally, BRC funds any operating deficit at the Mid-American Center (MAC) up to \$75,000, contributed \$7,000,000 to the construction of the MAC, as well as land. They were the only gaming facility to support the MAC project. Mr. Weien highlighted other contributions to organizations in the Council Bluffs area.
- The construction jobs resulting from the project and the long-term growth in employment opportunities will benefit the entire community.

Mr. Weien noted that the Commission has a history of promoting fair and open competition in markets that can sustain the level of gaming requested. He asked the Commission not to use its regulatory power to favor one licensee over another. He stated that capital improvements at BRC are in the best interest of the licensee and the entire Council Bluffs community.

Chair Mahaffey called for any questions for Mr. Weien. Commissioner Bair stated there appears to be some switching of the market rather than adding to the market, noting that the market went from 7-8% growth to approximately 1% last year. Mr. Weien attributed

the decline due to the rough winter during the first quarter of 2003, a change in discretionary spending that was felt at all of the facilities, and the fact that Council Bluffs is a high frequency market.

Commissioner Bair pointed out that Nebraska is talking about adding gaming, and wondered what would happen if Nebraska proceeds. Mr. Weien stated that the Nebraska discussions are being monitored, but if Nebraska added gaming, it would not derail the plans for BRC. He pointed out that even if Nebraska approved gambling, it could take years before a facility opened.

Commissioner Bair noted that the proposed gambling bill passed by the House allows table games at the racetracks. He wondered if the Commission would be looking at another expansion to accommodate table games in another year. Mr. Weien concurred that what passed in the House last week opens the possibility of table games at the racetracks, but that it also has a ways to go before becoming law. He stated that BRC has not studied the pros or cons of adding table games at BRC. He stated that if table games are approved at racetracks, and they decide it is in their best interest to add table games, there might be some additional capacity available. Mr. Weien stated that table games are not the growth vehicle in the gaming industry.

Commissioner Bair questioned the 20% of projected costs going to soft costs. Mr. Weien stated that if this project were being done from the ground up, those costs would be significantly higher, possibly as high as 40%.

Commissioner Cutler indicated she did not have any questions.

Commissioner Jarding asked if the track area was in good shape, or if there would be work done in that area as well. Mr. Weien stated Harrah's has been very active since taking over management and has made improvements in every aspect of racing. Significant improvements have been made to the kennels, have upgraded the clubhouse and grandstand, purchased additional equipment to maintain the track, and purchased new starting boxes.

Commissioner Jarding asked if any Iowa architects were considered for the project. Mr. Weien stated that Bluffs Run does work with some Iowa architects, but the firm utilized has been working on this project since due diligence and has a good understanding of the facility and project.

Commissioner Hamilton asked for an explanation of the agreement between BRC and IWRA. She noted that some of the letters the Commissioners received stated that BRC does not contribute to IWRA, and requested that this issue also be addressed. Mr. Mathiason and Mr. Graham came forward to address these issues. Mr. Mathiason stated that IWRA is the non-profit license holder for BRC, and is also the license sponsor for the two riverboats. The relationship with the two riverboats is set up through fees based on their adjusted gross revenue (AGR). These fees are submitted to the non-profit on a

monthly basis, and then IWRA distributes the funds to the Iowa West Foundation (IWF), a 501(c)(3) organization, via a grant. IWF then distributes the funds to other non-profit organizations.

Specifically with BRC, there was a transaction in 1999 where the management of the facility changed from Alabama Iowa Management, Inc. (AIM, Inc.) to Harveys, now Harrah's. In that transaction, IWRA received approximately \$50 million, which they invested. IWRA was able to utilize the investment income to generate additional grants through IWF. Following the successful passage of the referendum in November 2002, Harrah's paid IWRA another \$50 million, which was passed through to the IWF. IWRA elected to take the funds upfront due to the Nebraska issue, economy, and other unforeseen issues that may have impacted the fees to be received from BRC. Mr. Mathiason stated that the IWF distributed between \$15 and \$16 million last year, with \$8 or \$9 million coming from the fees received from the boats. They have utilized some of the investment income to make the rest of the grant distributions. Normally, grant distributions are in the \$10 million range, depending on the investment income. Mr. Mathiason stated that since the beginning, IWRA has distributed over \$121 million to 1200 projects in 99 communities in 16 counties.

Chair Mahaffey asked if IWRA had the ability to renegotiate the agreement in the future. Mr. Mathiason stated that he did not know. Mr. Ketterer indicated that the contract called for 25 years, at which time Harrah's would have to provide 30 days notice on whether or not they wanted to renew the contract for an additional term. Chair Mahaffey asked if IWRA would receive additional funds at that time. Mr. Ketterer stated that he was not sure, but didn't think so. Chair Mahaffey stated the agreement would be the same for another term; therefore, no additional fees. Mr. Ketterer stated that the purchase price was \$164 million, with \$114 million received upfront. IWRA used \$50 million to pay off the management agreement with AIM, Inc. and placed the other \$64 million with the IWF. IWRA received another \$50 million following the passage of the referendum.

Chair Mahaffey asked if there had been any projections made as to how much money would be paid by the other facilities during the above-mentioned 25-year time frame. Mr. Mathiason indicated in the negative, reiterating that the fees with the riverboats are based on the AGR. He noted that the contracts with the riverboats came up for renewal at the same time as the referendum.

Commissioner Cutler stated that she felt it was important for the Commission members to understand that the decisions made about the contract and how it was structured were made by individuals in the community, Pottawattamie County, and they were the ones that decided this contract was in the best interest of the community.

Chair Mahaffey asked Mr. Mathiason if IWRA supported BRC's expansion request. Mr. Mathiason stated that they did; that they had signed off on the request as the license holder, and the contract with Harrah's states IWRA should attempt to help BRC be financially successful.



Chair Mahaffey asked Mr. Weien to address his comments regarding the “image” of BRC in the community. Mr. Weien stated that BRC does do a considerable number of customer surveys, as well as talking to customers on the floor. He indicated there is a tainted view of BRC – that it is a rough, dirty, not well maintained facility compared to the riverboats. He indicated that aura exists despite marketing and public relations campaigns. He feels that the issue needs to be addressed from a capital improvement standpoint.

Chair Mahaffey asked Mr. Weien to address his statement that there would be “no adverse or detrimental impact on the financial viability of other licensees operating in the market”. Mr. Weien indicated that he does not believe BRC’s expansion would cause Ameristar or Harrah’s to suffer such a significant impact that they would not be able to remain a viable, thriving business in the community.

Hearing no further questions for Mr. Weien or IWRA, Chair Mahaffey called on any other interested parties that wanted to address the project. Bob Hardison, President of the Iowa Greyhound Association (IGA), expressed the Association’s support for the proposed project at BRC. He indicated the additional revenue would translate into increased purses for the owners and breeders of Iowa. Mr. Hardison stated that the quality of the greyhounds racing at BRC is second to none in the country; and that it is very expensive to be that competitive. He noted that Iowa State University released an economic impact study indicating that the economic impact from greyhound racing is greater than the impact from slot machine revenues. Mr. Hardison noted that one of the Commission members had inquired about capital improvements at BRC. He stated that was one area where he has seen a real commitment from the current management team. The compound area has been blacktopped, making it more accessible. A blacktop sidewalk has been added to the area where the greyhounds are going to/from schooling. Mr. Hardison stated that IGA and the management team have been meeting on a quarterly basis to exchange marketing ideas for greyhound racing. He indicated that the current team is very receptive to IGA’s ideas.

David Robinette, a breeder and kennel owner from southwest Iowa, indicated that he wanted to address the funds set aside in HF 2302 for counties that do not have gaming facilities. He provided some history on his operation, noting that he moved to Iowa in 1998, starting his operation from scratch. Today he has seven employees, with a payroll of \$250,000. Mr. Robinette feels that his operation cannot continue to expand without BRC expanding its operation. He also races his greyhounds in other jurisdictions around the country. He noted that his community has had to run a tax bill to help fund education, and is looking at an election to increase the sales tax collected in the county. His point was that BRC’s expansion would reach further than just Pottawattamie County, and that a denial would be a denial not only to Pottawattamie County, but the surrounding counties.

At this time, Chair Mahaffey called on Ameristar Casino for their comments concerning BRC’s project. Troy Stremming, Vice President of Governmental Affairs; Ed Fasulo, Sr. Vice President/General Manager and Jane Bell, Director of Governmental/Community

Relations were present to answer questions following the presentation. Mr. Stremming stated that he felt Ameristar had some very good arguments as to why the Council Bluffs market would not support another 250 slot machines, but clarified a couple of points made by Mr. Weien. He stated his belief that Ameristar's agreement with IWRA is the same agreement IWRA has with Harrah's riverboat. He then pointed out that the \$100 million purchase price paid by Harrah's is exactly that – a purchase price. Mr. Stremming stated that the money was not a contribution, but a purchase price paid by Harrah's for the casino and racetrack.

Mr. Stremming acknowledged, on behalf of Ameristar, the commitment that Harrah's is willing to make in Council Bluffs and the community, and believes that kind of commitment is good for the industry and the community. He clarified that Ameristar is supportive of the exterior and interior capital improvements. Mr. Stremming noted that Ameristar has invested \$150 million in the Council Bluffs community, with the majority of it non-gaming amenities. He indicated that Ameristar would support capital improvements by anyone in the industry that would further the industry, making them a viable employer and revenue generator for the state. Mr. Stremming stated that Ameristar does not believe the Council Bluffs market can support an additional 250 slot machines without significant cannibalization of a sluggish gaming market.

Mr. Stremming stated that he had provided the Commission with Ameristar's arguments against the project. A copy of Ameristar's letter to the Commission is attached hereto, and incorporated in its entirety by this reference.

Commissioner Bair asked about the reduction in funding to IWRA. Mr. Stremming stated that Ameristar pays a percentage of their revenues to Ameristar. Ameristar is currently at \$150 million in revenues, so any decrease in their revenues would result in a decrease of funds to IWRA. Mr. Stremming stated that if no cannibalization of the market occurs, there will be no effect on the amount of funds that IWRA receives.

Hearing no further comments or questions for Mr. Stremming, Chair Mahaffey called on Mr. Weien for rebuttal and closing comments. Mr. Weien stated that market dynamics should dictate who succeeds or fails in the market. He noted that Ameristar has a strategy that is discussed during quarterly conference calls, which is to have the very best profit, most amenities per facility, the widest variety of slot machines, and operate at very efficient margins using corporate resources. Ameristar has indicated that of all their properties, the above strategies are working the best at the Council Bluffs property.

With respect to Mr. Stremming's comments concerning parity, Mr. Weien stated that he does not feel it is the regulator's duty to regulate parity, reiterating his statement that the market should determine who succeeds.

Chair Mahaffey noted that in his earlier presentation, Mr. Weien had indicated there was 80% utilization of the slot machines, and asked when that figure was relevant. Mr. Weien indicated that utilization percentage could occur on a Friday or Saturday night,

early evening hours or morning hours, during promotions or when BRC has live entertainment.

Mr. Stremming stated that market dynamics are working, but that Ameristar is doing so without adding slot machines. He noted that Harrah's has a \$30 million investment in BRC versus Ameristar's \$150 million investment. Mr. Stremming stated that he had asked Mr. Fasulo if he had ever reached 80% utilization. Mr. Fasulo stated that there was one instance in the last year when Ameristar achieved 75-80% utilization.

Mr. Weien pointed out that Ameristar does have 19% more slot machines than BRC; therefore, he is not surprised that Ameristar is not achieving the slot utilization levels that BRC is seeing. He stated that the slot utilization percentages are irrelevant to the Commission's decision.

Hearing no further discussion or questions concerning the presentation, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve BRC's request for capital improvements, including additional gaming positions. Commissioner Bair seconded the motion.

Commissioner Cutler stated her opinion that some members of the community were caught between a rock and a hard place because they want to be supportive of both Ameristar and Harrah's, and does not feel the lack of letters supporting the project indicated a lack of support for the project. She pointed out that not only does IWF give funds to the community, but the individual facilities also contribute funds, as well as time, to various organizations and charities. Commissioner Cutler stated that she had done her own walk-through visits of the facilities when she is in the area and has seen large crowds, but does not know if that means the facility is at 60% or 75%. She pointed that there are a number of positive things happening in the Council Bluffs/Omaha area at the present time that may not have been factored into the utilization numbers. She voiced her support for the project, and allowing Bluffs Run and Ameristar to compete. Commissioner Cutler encouraged both entities to give more funds to the community, and to utilize Iowa vendors.

Commissioner Hamilton stated that she was not sure what she was going to do, or how she was going to vote; that it was a tough issue.

Commissioner Cutler stated that there had been lots of lobbying, but noted that the Commission did not have any problems approving Dubuque's request as there was no one opposing the request. Chair Mahaffey and Commissioner Hamilton stated there were different circumstances and different facts.

Commissioner Hamilton asked about the gaming positions at the two Dubuque facilities. Commissioner Cutler stated that the Council Bluffs market is bigger than the Dubuque market.

Commissioner Jarding stated that America and Iowa is about accommodation, business opportunity and the right to expand; that the market will determine who succeeds. She indicated that it was not right to deny a business the opportunity to expand just because it might hurt another business.

Commissioner Bair asked if the decline in the Council Bluffs' market growth this past year was just temporary; that he would be more comfortable approving the request if the market growth would return to the 4-5% range.

Mr. Ketterer stated that the various studies do not take into account the economic situations; that they are done based on population demographics, and the distance of that population from the market area of the facility, as well as other jurisdictions and market areas. He stated that economic factors come and go, and are not a consideration when the market studies are done.

Commissioner Cutler pointed out that a number of corporations in the Council Bluffs/Omaha market are moving employees into the area; that there are new housing developments taking shape. She stated that it is hard to know what the ultimate impact will be, but typically corporations are encouraged to their very best.

Chair Mahaffey stated that he had the same concerns as Commissioner Bair concerning the market growth in Council Bluffs.

Commissioner Bair stated that although he has concerns regarding the market growth, he would come down on the side of competition.

Commissioner Jarding stated that she has been involved in the economic development in Dubuque County, and has seen significant growth, as Commissioner Cutler has seen in Council Bluffs. She noted that a number of individuals in Iowa are encouraging more jobs in Iowa, as well as better paying jobs, and feels there has been some success.

Chair Mahaffey stated that he is conflicted on this issue, as are some of the other Commissioners. He noted that he is troubled by the recent trend in the market growth.

Hearing no further discussion, Chair Mahaffey called for a vote on the motion to approve the BRC's capital expansion project, including 250 additional slot machines. The motion carried. (See Order 04-21)

Following a short break, Chair Mahaffey moved to the review of the 2003 Year-to-Date Economic Reports. Mr. Ketterer stated that the Commission receives the reports on a quarterly basis. These reports show the contributions of the riverboats and racetracks to the local economy, as well as their expenditures with Iowa vendors and sources. He noted that the percentage from Iowa vendors is at about 80%, while only 18.91% came from out-of-state sources, excluding gaming equipment and specialized necessary expenditures such as media markets and market driven expenditures.

Mr. Ketterer advised that there is a provision in HF 2302 addressing the requirement that Iowa goods and services be utilized. The provision does not change the focus of the proposed law, but focuses on those goods and services actually produced in Iowa as opposed to those that are purchased here. The current rule defines Iowa vendors, as well as what is considered an Iowa good or service.

Commissioner Hamilton noted that the "Salaries & Wages" category on the reports does not indicate how much is going to employees who live out-of-state or the same town in which the facility is located. Mr. Ketterer stated that all of the salaries and wages are considered to be paid in Iowa.

Mr. Ketterer stated that there were numerous discussions in the subcommittee meetings about the amount of money going to the non-profit corporations and qualified sponsoring organizations. While reviewing the reports, he observed that the amount given by all ten riverboats to their qualified sponsoring organizations is less than the amount the Racing Association of Central Iowa gives to Polk County.

Chair Mahaffey moved to the renewal of the Excursion Gambling Boat licenses, and called on IWRA/Ameristar Casino. Mr. Ryan, Ms. Bell and Mr. Fasulo were available to answer questions. Mr. Ryan stated, based on the fees received from Ameristar and Harrah's, IWRA had been able to distribute approximately \$9 million to the IWF. He requested the Commission's support in renewing the licenses for Ameristar and Harrah's.

Mr. Fasulo advised the Commission that Ameristar had a successful year with both revenue growth and operating margins despite a stagnant market. He noted that Ameristar lead the state in the amount of revenue generated for one month, and experienced year-over-year revenue growth of 4.4% while the competition experienced declining year-over-year growth of one-half of one percent and 1.3%. Mr. Fasulo stated that Ameristar's market share increased 2% from 2002 to 2003. He noted that admissions declined by one-half million this year. Despite that decline, Ameristar continued to reinvest in the Council Bluffs property with various capital improvements and new gaming equipment. Mr. Fasulo highlighted some of Ameristar's charitable contributions.

Hearing no further discussion on the Ameristar license renewal, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve IWRA/Ameristar's excursion gambling boat license renewal application as submitted. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 04-22)

Chair Mahaffey moved to the approval of the additional contracts submitted by Ameristar Casino. Ms. Bell submitted the following contracts for Commission approval:

- Qwest Corporation – Agreement for Installation and Servicing of Public Pay Telephones
- Midwest Gaming Supply – Sale of Used Slot Machines

- WMS Gaming, Inc. – Purchase of 32 Slot Machines (Replacements)
- Peckham Guyton Albers & Viets, Inc. – Hotel Rooms Retrofit Design Fees

Hearing no discussion concerning the contracts, Chair Mahaffey requested a motion. Commissioner Bair moved to approve the contracts as submitted by Ameristar. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-23)

Chair Mahaffey called on IWRA/Harveys Iowa Management Co., Inc. d/b/a Harrah's Council Bluffs Casino Hotel. Mr. Weien stated that when Harrah's arrived in Council Bluffs, they were determined to follow in Harveys' footsteps to help insure that Council Bluffs was a vibrant place to live and work. They have done so by being involved with various local boards, economic development, and charitable support through donations by the property and employees. Mr. Weien advised that during the last year, employees dedicated over 1400 hours to 34 local organizations; Harrah's serves on the boards of many trade and business organizations. Additionally, Harrah's paid over \$38 million in state taxes in 2003, with \$22 million of that in gaming taxes; another \$2 million for real estate taxes, \$8.8 million in payroll taxes, and another \$800,000 in state sales taxes. Mr. Weien stated that Harrah's made purchases from 448 Iowa businesses last year. Harrah's employs more than 1100, with more than 50% residing in Iowa. He pointed out that Harrah's had spent \$8.4 million renovating their hotel, \$1.5 million renovating the restaurant, and will be spending \$4.5 million this year to renovate the lounge and other capital improvements to the property. Mr. Weien stated that Harrah's had donated \$102,000 in cash or in-kind contributions to local charities and organizations.

Commissioner Cutler asked about the inter-company allocations. Mr. Weien stated the employees at the corporate and regional offices are allocated to the properties based on the pro-rata amount of business.

Hearing no further discussion concerning Harrah's license renewal application, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the excursion gambling boat license renewal application of IWRA/Harveys Iowa Management Co., Inc. d/b/a Harrah's. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 04-24)

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

- BBQ Ventures – Purchase of Hot and Cold BBQ Foods
- US Foodservice, Inc. – Food Vendor

As there was no discussion concerning the contracts, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the contracts as submitted by Harrah's. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-25)

Chair Mahaffey called on Scott County Regional Authority/Isle of Capri Bettendorf, L.C. d/b/a Isle of Capri Bettendorf (SCRA/IOCB, L.C. d/b/a IOCB). Nancy Donovan, General Manager, advised that IOCB is one of the leading properties for IOC, noting that revenue is up 6% due to changes in the Illinois law, Meskwaki Casino being closed for several months, and an increase in the IOC convention center. IOCB has given over \$4.2 million to SCRA, as well as participating in several community events.

Commissioner Hamilton asked Ms. Donovan how the proposed expansion at Meskwaki would affect the Bettendorf property. Ms. Donovan indicated there would be some impact as IOCB does get a fair amount of business from that region. Ms. Donovan stated the Bettendorf property is strong in the Illinois market, but will watch the Tama/Cedar Falls market.

Commissioner Jarding asked about the advertising contracts, which are with an out-of-state vendor. Ms. Donovan advised that the corporate office had just distributed a survey on the advertising contracts, and is in the process of evaluating the needs of the various properties. She cannot guarantee there will be any changes.

Hearing no further discussion concerning the license renewal application of SCRA/IOCB, Chair Mahaffey requested a motion. Commissioner Bair moved to approve the excursion gambling boat license renewal of SCRA/IOCB, L.C. d/b/a IOCB as submitted. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-26)

Chair Mahaffey called on Riverboat Development Authority/IOC Davenport, Inc. d/b/a Rhythm City Casino (RDA/IOCD, Inc.). Mary Ellen Chamberlin, President of RDA, distributed the RDA's promotion pamphlet for the year. She noted that RDA will be observing its 15-year anniversary this year. Ms. Chamberlin stated that RDA has distributed in excess of \$30 million. She indicated that RDA uses its funds to leverage other money coming into the community. They also work to bring various organizations together in an effort to pool resources. She requested that the Commission renew the license.

Ms. Donovan stated that the Quad Cities' area had experienced market growth of 7.2%; while revenue at Rhythm City was up 15% due to the way Isle of Capri has marketed the brand.

She stressed that customers have a choice between the two Isle properties in the vicinity – the tropical or musical theme. Ms. Donovan stated that Rhythm City had distributed over \$3 million to RDA. She advised that the skybridge linking downtown Davenport to the riverboat has been approved by the City Council and is ready for construction; noting that both Rhythm City and RDA had made significant contributions to that project. Ms. Chamberlin also advised that RDA had contributed to the baseball stadium project. She stated that the skybridge would be more than just a bridge to get from downtown to the riverboat, that it will be enclosed in glass and be 45 feet in the air. She will also be

attending an upcoming meeting to discuss making the bridge interactive site with lights, sounds, etc.

Hearing no further discussion concerning the license renewal, Chair Mahaffey requested a motion. Commissioner Jarding moved to approve the excursion gambling boat license renewal application as submitted by RDA/IOCD, Inc. d/b/a Rhythm City Casino. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-27)

Chair Mahaffey called on Clarke County Development Corporation/Southern Iowa Gaming d/b/a Lakeside Casino Resort (CCDC/SIG d/b/a LCR). Stacy Gibbs and Kevin Preston, Executive Director of CCDC and General Manager of LCR respectively, were present to answer questions.

Ms. Gibbs advised the Commission that CCDC's contract with SIG had allowed CCDC to create the Pillars program through which they have distributed funds in Clarke County, as well as five surrounding counties. CCDC has distributed approximately \$2 million to over 150 projects. Additionally, CCDC's contract with SIG has allowed them to make large strides toward completing their mission of job creation, maintenance, and the improvement of quality of life in Clarke County. Ms. Gibbs noted that CCDC is involved with several different groups looking at various projects around the county. She pointed out that Lakeside is the second largest employer in Clarke County.

Mr. Preston stated that Lakeside had total revenue in 2003 of \$67 million, up from \$60 million in 2002. They also refocused their marketing plan for 2003. Mr. Preston requested approval of the license renewal application.

As there were no questions for Ms. Gibbs or Mr. Preston, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the excursion gambling boat license renewal application of CCDC/SIG d/b/a LCR as submitted. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-28)

Chair Mahaffey called on Dubuque Racing Association/Peninsula Gaming Company, LLC d/b a Dubuque Diamond Jo (DRA/PGC, LLC d/b/a DDJ). Curt Beason, legal counsel, and Bruce Wentworth, President of DRA, were present to answer questions.

As there were no questions concerning the license renewal application, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the excursion gambling boat license renewal application of DRA/PGC, LLC d/b/a DDJ. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-29)

Chair Mahaffey called on Missouri River Historical Development, Inc./Belle of Sioux City, LP d/b/a Argosy Casino Sioux City (MRHD/BSC, LP). The following individuals were present to answer any questions: Brenda Bauer, Regional Vice President of Operations; Rich Vitali, Corporate Counsel; Jesus Aviles, General Manager; Brian



Wessels, Director of Finance; and Grant Gubbrud, Controller. Mr. Aviles advised that a new events center had opened in Sioux City. He noted that in addition to the grants distributed by MRHD, BSC had contributed \$125,000 to Siouxland Initiative, as well as \$125,000 to the events center.

Mr. Aviles stated that revenues at BSC had reached new levels in 2003. He noted they are one of the top two employers in Sioux City. He requested renewal of the excursion gambling boat license.

Mr. Ketterer asked Mr. Aviles if he had any comments on future plans. Mr. Aviles stated that BSC started a renovation program one year ago. Phase 1 was construction of a non-gaming area, turning a barge into 22,000 square feet of office space, new restaurant and party room, and the lighthouse, which has helped admissions at the facility. Because of increased admissions, BSC is reaching its limits regarding parking, and are in negotiations with MRCH and the city to increase the available parking. He stated that BSC would be bringing a project to the Commission for approval, possibly as soon as next month.

Commissioner Jarding noted that BSC's advertising contract is with an out-of-state vendor. Mr. Aviles advised that they have been working on that issue, noting that they do utilize some Iowa firms for direct-mail pieces. He pointed out that all of their contracts, except for two sole source contracts, were with Iowa vendors.

Hearing no further comments or discussion on this license renewal, Chair Mahaffey requested a motion. Commissioner Bair moved to approve the excursion gambling boat license renewal of MRHD/BSC, LP d/b/a Argosy Casino Sioux City. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 04-30)

Chair Mahaffey called on Upper Mississippi Gaming Corp./Isle of Capri Marquette, Inc. d/b/a Isle of Capri Marquette (UMGC/IOCM, Inc. d/b/a IOCM). Barron Fuller, General Manager, advised that revenues are up 10.6% for the first ten months of FY04. He attributed some of the increase to the closure of the Meskwaki facility at Tama, but also advised that their attendance is up in other markets as well. Mr. Fuller stated that IOCM had spent approximately \$600,000 on advertising in the various markets. IOCM contributed \$324,000 to UMGC, and paid \$1.3 million to the City of Marquette for renovation of the downtown area. He noted that IOCM paid \$15 million in payroll taxes, with approximately 60% being retained in Iowa. Mr. Fuller indicated they are still involved in the necessary processes to expand the hotel. He advised the Commission that IOCM just completed a half million-dollar renovation of the facility, changing to the Isle style. They have installed \$1.5 million of new slot product, with 200 slot machines being converted to ticket-in/ticket-out. Mr. Fuller stated that capital investment in the property is just under \$4 million.

Mr. Fuller advised the Commission that between the various marketing groups for the three Isle properties located in Iowa, over 40% of the money is kept in Iowa. He requested approval of the license renewal.

As there were no questions for Mr. Fuller, Chair Mahaffey requested a motion. Commissioner Jarding moved to approve the excursion gambling boat license renewal of UMGC/IOCM, Inc. d/b/a IOCM. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-31)

Chair Mahaffey moved to the additional contract submitted by IOCM. Mr. Fuller submitted a contract with Work Fitness for a health services agreement for the IOC employee health center.

As there was no discussion concerning the contract, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contract as submitted by IOCM. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 04-32)

Chair Mahaffey called on Southeast Iowa Regional Riverboat Commission/Catfish Bend Casinos, LC d/b/a Catfish Bend Casino (SIRRC/CBC, LC d/b/a CBC). Joe Massa, General Manager, advised that CBC is unique in that it actually operates out of two different counties, serves two different communities, and has over 500 local investors who own over half of CBC. He noted that southeast Iowa is experiencing tough economic times, having the highest unemployment rate. Despite that, CBC has experienced revenue growth over the past twelve months, and just completed a \$6 million investment in a new computer system and slot machines. As of February, the facility is 100% ticket-in/ticket-out. Mr. Massa stated that approximately 3% of their gaming revenue goes to SIRRC, which distributes funds in two counties and three different communities. Mr. Massa requested renewal of the riverboat license.

As there were no questions, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the excursion gambling boat license renewal of SIRRC/CBC, LC d/b/a CBC. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 04-33)

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

- Employee Benefit Systems – Third-party Administrator for Health Insurance
- Glasgow Clothiers, Ltd. – Purchase of New Uniforms
- Seabury and Smith – Premiums for Marine, Liability, Etc. Insurance

Hearing no discussion concerning the contracts, Chair Mahaffey requested a motion. Commissioner Jarding moved to approve the contracts as submitted by CBC.

Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-34)

Chair Mahaffey moved to the license renewal of Clinton County Community Development Association/Mississippi Belle II Employees Ownership Co., d/b/a Mississippi Belle II (CCFDA/MB II Employees Ownership Co., d/b/a MB II). Dan Kehl advised that MB II is the longest operating casino in the state of Iowa. He noted that employees own 51% of the operation, and 94% of their purchases are with Iowa vendors. MB II also has the distinction of being one of the few ESOP casino companies in the country.

As there were no questions or comments, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the license renewal application of CCCDA/MB II Employees Ownership Co., d/b/a MB II. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 04-35).

Mr. Ketterer advised Chair Mahaffey that there was one request for Public Comment, but requested a brief recess with the Chair prior to proceeding. Following the recess, Chair Mahaffey moved to clarify the vote on the expansion project at BRC. Chair Mahaffey stated that the record should reflect that the vote was 4-0, with Commissioner Hamilton abstaining.

Chair Mahaffey moved to Public Comment. Kim Miller, representing Worth County, stated that the counties that have passed gambling referendums are still optimistic despite the gambling bill passed by the House. She advised that all five counties are working together to gather information to distribute showing the economic benefit of additional licenses to the state. She noted that Webster County would be holding their referendum later in the month. She distributed a handout showing some of the various economic impacts, which indicated that should six additional licenses be issued, the state would receive approximately \$48 million more in tax revenues at a tax rate of 22%. Ms. Miller advised that the counties have established a letter and e-mail campaign to the senators, as well as other tactics to garner support for additional riverboat licenses.

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

MINUTES TAKEN BY:

---

JULIE D. HERRICK CPS

PROPOSED MEETING DATES  
FY 2005

July 15, 2004	Stoney Creek, Johnston
August, 2004	No Meeting
September 2, 2004	Stoney Creek, Johnston
October 14, 2004	Bettendorf
November 18, 2004	Stoney Creek, Johnston
December, 2004	No Meeting
January 13, 2005	Stoney Creek, Johnston
February, 2005	No Meeting
March 3, 2005	Stoney Creek, Johnston
April 21, 2005	Ameristar, Council Bluffs
May, 2005	No Meeting
June 9, 2005	Stoney Creek, Johnston

IRGC Commission Minutes

March 4, 2004

Page 23

DIRECT DIAL: (816) 414-7106  
FACSIMILE: (816) 414-7360

TROY A. STREMMING  
VICE PRESIDENT OF GOVERNMENTAL AFFAIRS

March 3, 2004

Iowa Racing and Gaming Commission  
717 East Court, Suite B  
Des Moines, IA 50309

Re: Request to Expand Bluffs Run

Dear Commissioners:

Ameristar Casinos, Inc. and Ameristar Casino Council Bluffs, Inc. (collectively "Ameristar") are writing to oppose the request of Iowa West Racing Association ("IWRA") and Harrah's Bluffs Run for authorization to add 250 slot machines to the existing Bluffs Run gaming facility as part of its renovation and expansion.

Ameristar firmly believes that the current slot performance at Bluffs Run does not warrant a machine expansion, as recent slot demand is on par with current slot supply. Further, Ameristar is confident that the Council Bluffs gaming market cannot support another 250 slot machines without suffering significant cannibalization at competing riverboat casinos in an already sluggish gaming market. Such cannibalization will lead to a detrimental impact on the revenue of IWRA, the not-for-profit license holder of all Council Bluffs gaming operators, and ultimately result in a detrimental impact on the community and surrounding area.

Lastly, such an increase in the number of slot machines in any gaming market in Iowa would be premature in light of the overwhelming support in the Iowa House of Representatives (73 to 26) for an unconditional moratorium on the number of gaming devices in the state, which moratorium may be enacted as the law of Iowa in a matter of days. We believe an approval of this expansion at this time would be inconsistent with the Commission's request to the Iowa Assembly that it clarify its views on gaming expansion prior to the Commission taking action.

Attached to this letter is Ameristar's Argument in Opposition to Additional Slot Machines at Bluffs Run, including historical market information and market comparisons of similar situated gaming markets.

Respectfully submitted,

Troy A. Stremming  
Vice President of Governmental Affairs

Enclosure

cc w/enc: Mr. Craig H. Neilsen  
Mr. Gordon R. Kanofsky  
Mr. Edward Fasulo  
Mr. Norman Richardson  
Ms. Jane Bell

## **Argument in Opposition to Additional Slot Machines at Bluffs Run**

### **I. The Project**

It is important to first acknowledge Harvey's BR Management Company, Inc. and its parent Harrah's Operating Company (collectively "Harrah's") for their commitment to reinvest in the Bluffs Run facility and in the community of Council Bluffs. Ameristar Casinos, Inc. and Ameristar Casino Council Bluffs, Inc. (collectively "Ameristar") applaud Harrah's proposal to renovate the existing Bluffs Run facility. Ameristar believes a new 300 seat buffet, centralized kitchen and extensive interior renovations to the existing front of house areas will give the Bluffs Run facility a fresh look.

Ameristar fully supports Iowa gaming operators re-investing in one of the state's largest revenue producing industries. Anything that we as operators can do to enhance the customer's entertainment experience, attract more customers, improve operating efficiencies and grow the market will further ensure our long-term contributions to the Iowa economy.

However, Ameristar does not believe that the Council Bluffs gaming market can currently support an additional 250 slot machines without suffering significant cannibalization in an already sluggish gaming market.

### **II. No Support for Additional Slot Machines**

#### **A. Bluffs Run's Slot Performance Does Not Currently Warrant Unit Expansion as Recent Slot Demand is on Par with Current Slot Supply.**

In previous years (1998 through 2001), Bluffs Run had more demand for their number of slot machine as their slot fair share indices (market share of slot win divided by market share of units) resulted in a premium above 100. However, for the last 2 years,

Bluffs Run supply of slot machines closely matches their share of revenue as evidenced by the fair share indices hovering just above 100. The historical analysis is as follows:

<b>Bluffs Run</b>	1998	1999	2000	2001	2002	2003
<b>Slot Fair Share</b>	117.3	116.2	115.6	110.8	103.7	<b>102.7</b>

If this logic is used to support Harrah's argument for expansion, one could conversely argue that Ameristar's recent slot fair share indices would warrant additional expansion as demand currently exceeds supply. However, to the contrary, Ameristar is not before the Commission seeking approval for additional slot machines, as we believe the sluggish gaming market in Council Bluffs will not support such an increase. The historical Ameristar analysis is as follows:

<b>Ameristar</b>	1998	1999	2000	2001	2002	2003
<b>Slot Fair Share</b>	81.6	81.5	83.3	89.3	101.8	<b>103.9</b>

As a basis for comparison, Harrah's riverboat's historical analysis is as follows:

<b>Harrah's</b>	1998	1999	2000	2001	2002	2003
<b>Slot Fair Share</b>	98.3	100.7	102.2	99.9	93.4	<b>91.9</b>

Clearly, Harrah's riverboat is under-performing, as evidenced by the fair share indices declining to just over 90. For example, at 9:00 pm on Friday, January 9, 2004, Ameristar had 60% of its slot machines in play, compared to 56% at Bluffs Run and 49% at Harrah's riverboat. Similarly, at 6:00 pm on Saturday, January 31, 2004, Ameristar had 55% of its slot machines in play, compared to 43% at Bluffs Run and 40% at Harrah's riverboat. Although slot utilization is typically high during these peak operating times at Bluffs Run and Ameristar, slot utilization is consistently lower at Harrah's riverboat. We have attached for your review competitive head counts during peak operational times on weekends from January 2, 2004 through February 1, 2004 (**Exhibit "A"**). Simply put, Harrah's argument that there is no slot machine capacity during peak operating hours on the weekends is overstated. There is more than enough capacity at Harrah's riverboat which is not being exploited.

Given the differential in tax rates between racetrack casinos and riverboat casinos that has been historically applicable, certainly Harrah’s has had a strong incentive to maximize slot revenues at Harrah’s riverboat casino. In light of this, we believe the fact that the Harrah’s riverboat could only muster approximately 92% of its slot fair share in 2003 is quite telling about the demand in the Council Bluffs market for additional slot machines.

**B. Growth in the Council Bluffs Gaming Market has been Relatively Stagnant Compared to Prior Years.**

Annual total market growth for all three Council Bluffs’ casinos combined was only 1.1% for 2003 as compared to 7.1% in 2002 and 3.2% in 2001. The complete historical data for the last five years is as follows:

	1999	2000	2001	2002	2003
<b>Ameristar</b>	16.6%	11.9%	8.4%	20.4%	4.4%
<b>Harrah’s</b>	15.5%	-3.5%	-1.8%	0.0%	-0.5%
<b>Bluff’s Run</b>	4.7%	8.0%	3.0%	.6%	-1.3%
<b>TOTAL</b>	11.9%	5.1%	3.2%	7.1%	<b>1.1%</b>

These figures clearly show that Ameristar has accounted for the only measurable growth in the market over the last 2 years. Ameristar has sparked this growth through significant capital investment at its property, including a \$15M renovation project completed in 2001. It is important to note that with the exception of a few additional slot machines added as part of that renovation, the vast majority of the renovation and expansion at Ameristar was through the addition of non-gaming amenities such as quality restaurants and entertainment venues. Even with these significant capital investments, the market growth has been relatively slow and steady which is not uncommon for a mature gaming market.

Adding 250 additional slot machines into a gaming market with this type of stagnant growth will certainly lead to cannibalization of the existing riverboat operators. A much wiser alternative would be for the Commission to approve Harrah’s request to expand its facility to make it more spacious. Such an expansion in conjunction with a new 300-seat buffet and interior renovations could serve to expand the overall gaming market without the addition of slot machines. This would be consistent with the method of operation that is proven successful for Ameristar.

**C. Bluffs Run’s Slot Unit Increase Will Impact the “Parity” Among Council Bluffs Gaming Market Participants.**



An increase of 250 slot machines at Bluffs Run would result in a 16.7% increase in Bluffs Run slot units, and a 5.8% growth in the overall number of slot units in the Council Bluffs market. Such an expansion would result in the following market shares:

	<b>Slot Units 2003</b>	<b>Proposed Expansion</b>	<b>Post Expansion</b>	
<b>Ameristar</b>	1559		1559	
<b>Harrah's</b>	1257		1257	
<b>Bluff's Run</b>	1500	+250	1750	<b>+16.7%</b>
<b>TOTAL</b>	4316		4566	<b>+5.8%</b>

	<b>Slot Unit Market Share 2003</b>	<b>Proposed Expansion</b>	<b>Post Expansion</b>
<b>Ameristar</b>	36.0%		<b>34.1%</b>
<b>Harrah's</b>	29.2%		<b>27.6%</b>
<b>Bluff's Run</b>	34.8%	+250	<b>38.3%</b>
<b>TOTAL</b>	100%		100%

Ameristar believes that a 16.7% increase in the number of slot machines at Bluffs Run will have a significant impact in the "parity" among operators in the market. Particularly, when Harrah's already controls approximately 64% of the slot units in the Council Bluffs gaming market.

**D. Bluffs Run's Slot Unit Increase Will Further Dilute the Ratio of Adults per Gaming Position in the Council Bluffs Market.**

Increase in the supply of slot machines at Bluffs Run by 250 units would dilute the ratio of adults per gaming position within the local Designated Market Area ("DMA")<sup>1</sup> from 156 adults per gaming position as of 2003 to 148 adults per gaming position post expansion.

<sup>1</sup> Source: 2003 SRDS Lifestyle Market Analyst.

If the Commission were to approve the addition of 250 slot machines at Bluffs Run, Council Bluffs will continue to widen the gap between other Iowa markets by having the most gaming positions per adult in the entire state.

	<b>Post Expansion Council Bluffs</b>	<b>Existing Des Moines</b>	<b>Existing Quad Cities</b>	<b>Existing Dubuque</b>
<b>Adults per Gaming Position</b>	148	306	161	237 <sup>2</sup>

The potential for such an extremely low adult per gaming position figure in the Council Bluffs market is further highlighted when compared to a neighboring gaming state with similar demographics. Such a significant growth in the number of slot machines at Bluffs Run would result in Council Bluffs having significantly more gaming positions per adult than comparable gaming jurisdictions in Missouri. Specifically, such an expansion in Council Bluffs would result in upwards of 25% more positions per adult than in the 2 largest Missouri gaming markets.

	<b>Post Expansion Council Bluffs</b>	<b>Existing Kansas City</b>	<b>Existing St. Louis</b>
<b>Adults per Gaming Position</b>	148	194	212

Ameristar firmly believes that there is little support to further dilute the ratio of adults per gaming position in one of the highest gaming position per adult markets in the Midwest.

**E. The Expansion Project Lacks Broad Support in the Greater Council Bluffs Community.**

Although IWRA and Harrah’s claim that a variety of organizations within the greater Council Bluffs community have provided letters endorsing this project, only two letters submitted with their proposal actually support the expansion plans at Bluffs Run. Iowa Western Community College and the American Cancer Society were supportive of the “remodeling efforts” and “expansion plans” at the casino. Additional letters from the American Red Cross, Friends of the Union Pacific Railroad Museum, the Micah House

<sup>2</sup> Note: Dubuque was previously at 279 adults per gaming position. However, in response to a change in market conditions which included additional slot machines at the Dubuque riverboat and the completion of a water park and convention center, Dubuque’s racetrack casino was recently approved for an additional 400 slot machines. The circumstances surrounding that approval are unique and not directly comparable to the Council Bluffs market and Harrah’s current application.

Emergency Family Shelter and the City of Council Bluffs recognized Harrah's and Bluffs Run casinos as good corporate partners in the community, but these organizations did not state their support for the expansion project. In addition, noticeably absent from the expansion proposal are letters of support from the Board of Supervisors of Pottawattamie County and the Council Bluffs Chamber of Commerce. Ameristar does not believe that two organizational letters of support, neither of which comes from a local government body, meet the standard of support within the "broader community" as set forth in IRGC Rule 1.6(3)f.

F. **Cannibalization in the Council Bluffs Gaming Market Will Result in Fewer Funds Going to IWRA.**

Ameristar questions IWRA's and Harrah's claim that the expansion at Bluffs Run which includes the addition of 250 slot machines "would greatly enhance the entire area and **further the charitable and community interest in that entire geographic area.**" The addition of 250 slot machines in a mature gaming market that has seen little revenue growth in the most recent years will result in cannibalization of existing gaming revenues at the two riverboat casinos in Council Bluffs. Since both of the riverboat casinos in the Council Bluffs market pay their license holder, IWRA, a percentage of gross gaming revenue and Bluffs Run does not make such a payment, any reduction in revenues at Ameristar or Harrah's riverboat will have a direct negative effect on the amount of funds paid to IWRA from the licensed operators. Unfortunately, declines in revenues to IWRA have a direct detrimental impact on Council Bluffs and the surrounding community.

It seems that such a result would "fly in the face" of IRGC Rule 1.6(3)c and d, which seek the satisfaction of the Commission that the increase in the number of slot machines benefit the residents of Iowa and result in increased distributions to qualified organizations entitled to this distribution under the Iowa Code. We believe that IWRA's support of the expansion application at Bluffs Run has more to do with its contractual obligation than an objective evaluation of its own financial prospects. Specifically, the Purchase and Sale Agreement between Harrah's and IWRA provides in pertinent part: "IWRA shall use its reasonable best efforts to support any measures related to gaming reasonably requested by [Harrah's] . . ."

G. **There is Strong Legislative Support for a Moratorium on the Current Number of Slot Machines in the State of Iowa.**

House Bill 2302, which recently passed out of the Iowa House of Representatives with an overwhelming vote of 73 to 26, calls for a moratorium on the number of slot machines in the State of Iowa. Specifically, House Bill 2302 provides in pertinent part:

Commencing with the effective date of this section of this Act, the Commission shall not authorize any of the following:

- a. An increase in the number of gambling games or the number of slot machines on an excursion gambling boat.

- b. An increase in the number of gambling games from the number specified in the application for a table games license or the number of slot machines at a pari-mutuel racetrack.

HB2302 page 17, line 9-16.

House Bill 2302 will now move to the Iowa Senate for debate and action, which we understand could be only days away. In light of strong support in the Iowa House of Representatives for an unconditional moratorium on the number of licenses and gaming devices in the State of Iowa, it seems somewhat premature to grant an operator the ability to add such a significant number of slot machines prior to the conclusion of this legislative session and learning the destiny of House Bill 2302.

Further, we believe an approval of this expansion at this time would be inconsistent with the Commission's request to the Iowa Assembly that it clarify its views on gaming expansion prior to the Commission taking action.

### **III. Conclusion**

For the reasons set forth above, Ameristar strongly believes that the saturated gaming market in Council Bluffs cannot support an additional 250 slot machines without causing significant cannibalization of gaming revenues at the two riverboat casinos. More discouraging is the potential for a reduction in the revenues to IWRA that will be suffered as a result of cannibalization of existing gaming revenues. Further, this proposed expansion, which lacks support in the broader Council Bluffs community, will have a negative impact on the "parity" amongst Council Bluffs' gaming operators and result in the dilution of the ratio of adults per gaming position to one of the lowest figures in the Midwest gaming region. Lastly, any action on this matter would seem premature until the legislature clarifies its position on the expansion of gaming in Iowa.

To that end, Ameristar respectfully submits that the Commission should deny IWRA's request to add 250 slot machines at Bluffs Run.

**IOWA RACING AND GAMING COMMISSION  
MINUTES  
APRIL 15, 2004**

The Iowa Racing and Gaming Commission (IRGC) met on Thursday, April 15, 2004 at Harrah's Casino Hotel, One Harrah's Boulevard, Council Bluffs, Iowa. Commission members present were Mike 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 concerning the agenda. Jack Ketterer, Administrator for IRGC, advised that Catfish Bend Casinos, LC and Mississippi Belle II Employees Ownership Co. had withdrawn their requests seeking Commission approval to increase the number of gaming positions at their respective riverboats. Commissioner Hamilton moved to approve the agenda as amended. Commissioner Cutler seconded the motion, which carried unanimously.

Chair Mahaffey called on The Honorable Thomas Hanafan, Mayor of Council Bluffs. Mayor Hanafan introduced several members of the Iowa West Racing Association (IWRA) Board. He noted that he had several events to attend, and that IWRA was involved in each of those events. He indicated that gaming has had a big impact on the community. Mayor Hanafan noted that the Council Bluffs community and gaming facilities are watching closely what is occurring in the Nebraska legislature. He pointed out that the facilities do a very good job of following the rules and regulations and that the Commission does a good job of insuring that the facilities follow the rules and regulations.

Chair Mahaffey moved to the approval of the minutes from the March 4, 2004 Commission meeting. Commissioner Cutler moved to approve the minutes as submitted. Commissioner Hamilton seconded the motion, which carried unanimously.

Chair Mahaffey called on Mr. Ketterer for announcements. Mr. Ketterer introduced the following IRGC staff members in attendance: Gaming Representatives Karen Larsen, Max Zaragosa, Jeff Rethmeier Lynette Masker, and Judy Ball; and Licensing Assistants Julie Petersen, Gina Goos, and Linda Baxter.

With regard to upcoming Commission meetings, Mr. Ketterer advised that there is no meeting in May, and that the June and July meetings, June 10<sup>th</sup> and July 15<sup>th</sup> respectively, will be held at Stoney Creek Inn in Johnston. There is no Commission meeting in August.

Chair Mahaffey called on Mr. Ketterer to address the rules before the Commission for final adoption. Mr. Ketterer stated that the Commission had previously approved these rules under Notice of Intended Action. He noted that the Commission had not received any public comment concerning the rules. Mr. Ketterer offered a brief synopsis of the various rule changes, and recommended approval of the rules for final adoption.

Hearing no discussion concerning the proposed rules, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the rules as submitted for final adoption. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-36)

Chair Mahaffey moved to the review of the licensees' financial audits. He asked Mr. Ketterer to provide background on the agenda item and the Commission's responsibility. Mr. Ketterer stated that review of the financial statements became an annual agenda item during former Commissioner Hansen's tenure. He noted that Iowa statute does require the licensees to file a financial audit. Mr. Ketterer stated that the agenda item is an informational item for the Commission and provides the licensee with an opportunity to recap the year from a financial sense and allows the Commission to ask any questions they may have of a representative of the licensee.

Chair Mahaffey called on Ameristar Casino. Ed Fasulo, General Manager, and Todd Stewart, Vice President of Corporate Finance, were present to address any questions concerning the financial statement. Mr. Fasulo indicated that Ameristar had a good year, experienced a substantial gain in market share, and is in full compliance with all gaming regulations.

Chair Mahaffey called on Argosy Casino Sioux City. Jesus Aviles and Brian Wessels, General Manager and Director of Finance respectively, were present to answer any questions. Mr. Wessels advised that casino revenues were \$22.3 million, an increase of 9% over 2002. He attributed the increase to the opening of the new barge and new slot product on the gaming floor. Mr. Wessels indicated that Argosy gave Missouri River Historical Development (MRHD) just under \$1 million in 2003, Sioux City received \$1.6 million, and Woodbury County received approximately \$300,000. Argosy also invested approximately \$4 million in equipment and property.

Commissioner Bair asked about the line item "Due from partners" for \$16 million shown on the Balance Sheet. Mr. Wessels indicated this is the amount due from their gaming partners, Iowa Gaming Company and Argosy of Iowa, which are fully owned subsidiaries of Argosy Gaming Company.

Commissioner Bair asked about the relationship with MRHD. Mr. Wessels advised that MHRD is the nonprofit license holder.

Chair Mahaffey called on Catfish Bend Casinos (CBC). Bob Winkler, Assistant General Manager, advised that revenues were up 2.47%, about the same increase experienced in 2002. Operating expenses decreased by about 4.6%, operating income increased approximately 36%, and net income was up approximately 29%. CBC expects gaming revenue to remain consistent throughout the coming year, although gaming revenue did increase 6% during the last six months of 2003. Gaming revenues have increased 15% during the first two months of this year. He indicated attendance has increased about 11% during the first quarter of 2004. From a capital investment standpoint, CBC

invested approximately \$6 million in a new computer system, slot accounting system and converted all of the slot product to ticket in/ticket out machines. CBC is the first Iowa casino to be 100% ticket in/ticket out and 100% coinless. The conversion allows them to provide better service to their customer, as well as experience significant operating efficiencies. CBC was able to finance the \$6 million project without incurring any debt. Mr. Wessels pointed out that CBC is 100% owned by Iowa residents, and were able to increase the 2003 dividend by 25% from \$4 million to \$5 million.

Mr. Ketterer, noting that CBC experienced a 6% increase in revenues during the last six months of 2003, stated that other casinos closer to the Meskwaki Casino also benefited from that casino being closed. He indicated that CBC increase could be attributed to other factors, as revenue is up between 14-15% since the beginning of 2004.

Mr. Winkler stated that he felt CBC's market share has remained constant, but did attribute the revenue increase to their marketing efforts and promotions, CBC's efforts in reducing the unemployment rate in the area, as well as the conversion to the ticket in/ticket out slot machines, which have been very well received by the customer. He indicated that the area as a whole has experienced a rebound.

Chair Mahaffey called on Peninsula Gaming Company. Dustin Manternach, Director of Finance, advised that net revenue was up \$5 million, about 10% over the prior year. Casino revenue was up approximately \$5.3 million, which he attributed to adjusted EBITDA of \$2.8 million. The bottom line increased about \$2.2 million of net income, excluding costs from subsidiaries. Capital expenditures were \$9.5 million, which included remodeling the high-end restaurant and the port side pavilion. Mr. Manternach indicated that the America's River project is almost complete; the convention center opened in November and has already booked events that will bring in 31,000 attendees, which DDJ hopes will translate into customers for them.

Commissioner Bair noted that Peninsula is one of the few licensees to submit a consolidated financial. He indicated that the Louisiana ventures and expansion projects appear to be doing well. He pointed out that Peninsula is carrying the three large notes to cover the debt for those projects, and wondered if that would continue in the future and whether that was a concern. Mr. Manternach advised that an upcoming item on the agenda would address some of those concerns as they have submitted a refinancing agreement for approval. He noted that Peninsula would still be heavily leveraged with regard to debt, but that they are not concerned about their ability to make the necessary payments.

Mr. Ketterer asked Mr. Manternach if Peninsula had been able to determine how much of their increase was due to the Meskwaki Casino being closed from May through December, and how much was attributable to the America's River project. Mr. Manternach advised that Peninsula estimated they received approximately \$1 million of revenue from Tama, which translated into approximately \$700,000 of EBITDA. He stated that it was difficult to track what portion of the increase is due to promotions or the

America's River project, but that they are working on a process by which they can track that information.

Chair Mahaffey called on Pete Weien, General Manager for Harrah's. Mr. Weien advised that this would be his final Commission meeting, and introduced Gaye Gullo, who will be assuming the General Manager position. He turned the floor over to Janae Sternberg, Director of Finance, who advised that revenue was up \$112.5 million. Expenses were up slightly, primarily due to employee reinvestment. She advised Harrah's had given \$4.1 million to the Iowa West Racing Association (IWRA) and other non-profit organizations in the area and southwest Iowa. Ms. Sternberg pointed out that Harrah's has 1,121 employees of which 580 are Iowa residents.

Commissioner Bair asked if all of the long-term debt financing was done through the affiliates. Ms. Sternberg answered in the affirmative.

Chair Mahaffey called on Southern Iowa Gaming (SIG). Kevin Preston and Tom Timmons, General Manager and Assistant General Manager respectively, were available for questions. Mr. Timmons advised that revenues increased by 11%, with about half of that attributable to gaming revenues, which increased from \$54 million to \$60 million. He advised that SIG paid the State of Iowa just over \$11.7 million, Osceola received over \$1.2 million, Clarke County Development Corporation \$900,000 and Clarke County received just over \$300,000. Mr. Timmons advised that during the past year SIG had changed out 25% of the slot machines on the floor, added a high limit room for the higher denomination slots, installed new carpet and signage, and opened a convenience store.

Chair Mahaffey called on Mississippi Belle II (MB II). Ken Bonnet, President, advised that revenue for 2003 was off approximately \$1 million from 2002 as the property experienced a slight drop in attendance. They were able to offset most of the deficiency through a dramatic reduction in interest costs due to refinancing, as well as other costs. These reductions enabled MB II to come within \$100,000 of the previous year's profit. MB II is in the process of converting their slot machines to ticket in/ticket out, which should be completed by August or September. Mr. Bonnet stated that MB II hopes to turn the numbers around with the updated machines and additional marketing. He stated that the employee shareholders will be seeing a 26 cent return for every dollar earned, up from 21 cents last year.

Commissioner Bair asked about the significant difference in operating costs between 2002 and 2003. Mr. Bonnet stated that he thought some of the referenda costs were allocated to operating costs.

Chair Mahaffey called on Bluffs Run Casino (BRC). Ms. Sternberg advised revenues for 2003 were \$126.3 million, a one percent increase over 2002. Expenses were up two percent for 2003. Ms. Sternberg noted that \$2.7 million was spent on employee education and benefits. BRC has 745 employees, with 60% being Iowa residents. The racing portion of the facility has 51 employees, with 47 being Iowa residents.



Commissioner Bair expressed his appreciation for the comments contained in the audit on slot drop as they provided a better visual of actual dollars going in and being paid out

Hearing no further comments, Chair Mahaffey called on Iowa West Racing Association (IWRA). Todd Graham, Executive Director, advised that the revenues received from the riverboats has been holding steady. IWRA received approximately \$8.4 million at the end of 2002, and \$8.371 million at the end of 2003. Funds received by IWRA are then distributed to the Iowa West Foundation (IWF), which are then distributed to charitable organizations throughout southwest Iowa.

Mr. Ketterer noted that during 2002 IWRA had income from BRC in the amount of \$225 million, and is not showing any for 2003. Mr. Graham indicated that was the final payment due under the transaction from 1999. Mr. Ketterer asked if the payment had to do with the passage of the referendum. Mr. Graham answered in the negative. He stated that the payment was cited on page six of the notes – IWRA retained the first \$1.35 million of BRC cash flow every six months through November 2002.

As there were no further comments or questions, Chair Mahaffey called on Dubuque Racing Association. Roger Hoeger, Assistant General Manager/Controller, advised that the drop increased approximately 26%, while jackpots and fills increased 32%. Net revenues increased approximately \$4.2 million, or 16%. Expenses were up \$4.2 million, or 14%. The change in net assets was \$1.6 million; last year it was \$868,000. Distributions to charities and the City of Dubuque increased approximately \$2.2 million, or an increase of approximately 28% as a result of the decrease in the gaming tax.

As there were no comments or questions, Chair Mahaffey called on Racing Association of Central Iowa (RACI). Bob Farinella, General Manager, advised that RACI returned \$15.6 million to the community via direct lease payments to Polk County and an additional \$8 million in classifiable charitable distributions, for a total of \$23 million.

Commissioner Bair, referring to Note 7, stated that it appears 2007 is the last year in which RACI would be paying Polk County a portion of the net receipts. Mr. Farinella answered in the affirmative. He stated that the terms of the lease changed from a flat rate of \$12 million to \$15.6 million plus a “charitable contribution” of net profits in the amount of \$4.4 million for a total of \$20 million.

Commissioner Bair asked if Polk County would attempt to renegotiate the lease agreement if table games are added to the facility. Mr. Farinella stated that the current lease agreement contains language indicating that if revenues grow at Prairie Meadows Racetrack & Casino (PMR&C), Polk County will see additional funds based on that growth.

Mr. Farinella advised that the Thoroughbred season would begin on April 16 with some great stakes races; the clubhouse is sold out for both Friday and Saturday night. Tim

McCauley has been hired to announce the races. He was previously at Ruidoso Downs in New Mexico.

Mr. Ketterer asked about the change in assets for 2003 versus 2002, which appeared to be unrestricted cash. Mr. Farinella indicated that was correct, that it was money set aside for taxes should they become due. Mr. Ketterer asked if there were plans or options for those funds should the current legislative proposal on gambling become law. Mr. Farinella stated that he feels the Legislature is attempting to get all of the money.

Mr. Ketterer asked about capital improvements for the coming year. Mr. Farinella stated that capital improvement projects have already started – extended table seating to the north end of the building in the clubhouse, improved Winner's Circle, and new concession stands outside. He indicated RACI/PMR&C would continue to make improvements to the property.

Chair Mahaffey moved to the next agenda item – DRA's request for approval of revised capital improvements to the facility. Mr. Wentworth stated DRA was before the Commission to update plans approved at the January Commission meeting. They are now looking at a longer-term scenario. The previously approved plan presented operational challenges while the new plan is much simpler to implement and somewhat larger in size. The original plan called for a 27,000 square foot casino and a new administrative/support building on the west end of the facility at a cost of approximately \$15.6 million. Under the revised plan, the casino area would increase to 29,300 square feet in order to accommodate 1,000 slot machines and 16 table games, provided legislation allows for table games at racetracks. Total additional square footage will be 46,000. There will not be a need to have a separate administrative/support building under the new plan. The new facility will also have higher ceilings, which will help eliminate smoke issues. Total cost would increase to just over \$27.7 million. DRA will utilize reserve funds, depreciation and improvement funds to cover a portion of the costs. As in the original project, two local banks have agreed to provide financing of approximately \$19.5 million over a seven-year term. The renovations are still scheduled to be complete by Memorial Day 2005.

Commissioner Jarding asked about the grandstand and clubhouse. Mr. Wentworth advised that they would stay the same; but the pari-mutuel windows will be moved closer to the grandstand.

Commissioner Bair asked Mr. Ketterer about the surveillance of the table games and slot machines. Mr. Ketterer advised that no machines or table games could be put into play without adequate surveillance coverage. Commissioner Bair asked about sufficient staffing. Mr. Ketterer advised that there are two or three DCI agents assigned to the facilities.

Hearing no further discussion, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the request to revise the capital improvements as presented by DRA.

Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 04-37)

Chair Mahaffey called on Argosy Casino Sioux City regarding their request to replace the existing riverboat and increase the number of gaming positions. He requested that Mr. Ketterer provide some background on this agenda item.

Mr. Ketterer stated that this agenda item has been in the works for several years due to the limited restrictions in the size of their facility, the number of gaming positions, and Argosy's competitive position in the market. The main issue has been the parking limitations. There was no need to bring in a larger facility without having adequate parking. Discussions have centered on either increasing parking at the current location or moving the boat to a different location.

Mr. Aviles introduced several individuals in attendance in support of the project: various members of the MHRD Board of Directors; Betty Strong, President of MRHD; Brenda Baier, Vice President of Regional Operations; Rich Vitale, General Counsel for subsidiaries; Craig Berenstein, former mayor and current city council member; and Paul Eckert, City Manager.

Mr. Berenstein stated that the community and city council are supportive of Argosy's request. He pointed out that Argosy and MRHD have been excellent corporate citizens and have supported Sioux City's riverfront development. They feel the proposed expansion will have a positive and corresponding level of impact on the community.

Mr. Ketterer asked for an explanation of the parking commitment. Mr. Berenstein stated that the city has understood for a number of years that parking was a limitation to expansion. He noted that discussions had included moving the boat to other locations. Under the current proposal, the boat would remain in its current location. The city is in the process of working with the Department of Transportation, Department of Natural Resources, and city staff to locate an additional 60-80 parking spaces.

Mr. Aviles gave a brief presentation to the Commission concerning the new facility and additional gaming positions. The new vessel will allow Argosy Sioux City to address capacity constraints, capitalize on market share, utilize an existing Argosy asset and compete on a level playing field. Mr. Aviles noted that the current vessel has been in service since 1994 and has 12,000 square feet. The proposed vessel has 36,000 square feet of gaming space, is more elegant and has higher ceilings, which will help with air quality issues.

Mr. Aviles stated that the Siouxland market consists of areas in Nebraska, South Dakota, and Iowa, with a population base of 260,000 people within a 50-mile radius. There are 2,200 gaming devices within that market; however, Argosy only has 482 slot machines, or 22% of the machines in the market. This number prevents Argosy from competing on a level playing field. Mr. Aviles noted that their three main competitors make no

significant tax contributions to the State of Iowa. He pointed out that Argosy has the least number of slot machines, but is seventh in the amount of gaming revenue generated and has the third highest daily win per slot. Mr. Aviles stated that not only is Argosy looking for additional capacity, but the ability to increase their market share as well.

Mr. Aviles stated that the expansion project would cost approximately \$21 million, not including the \$6.5 million already spent for the lighthouse and barge facility. Argosy is requesting an additional 360 slot machines, for a total of 850 or a 26% fair market representation in their area. They plan to initially add 150 new machines on the larger vessel and monitor the win per unit prior to adding all of the requested additional machines.

Mr. Aviles stated this is a win-win situation for the community of Sioux City, along with other improvements in entertainment venues in the community, as well as additional revenues for the non-profit organization, state, city and county.

Commissioner Bair asked about the Native America casinos. Mr. Aviles advised that the Iowa facilities have Class III gaming – table games, bingo, poker and slot machines. Those in South Dakota just have bingo tournaments. He stated that Argosy's real competition comes from the Native American facilities. He described the South Dakota market as a niche market.

Chair Mahaffey asked what would happen with the current riverboat. Mr. Aviles stated that Argosy intends to keep it commissioned and put it up for sale.

Commissioner Bair asked about moving the new boat. Mr. Aviles stated that with the Commission's approval, they hope to begin navigation in May, with all of the renovation work being done in Sioux City.

Mr. Ketterer asked Mr. Aviles if the 60-80 additional parking spaces would be sufficient, and if not, whether there are contingency plans for additional parking spaces. Mr. Aviles stated the hope that additional parking would be available later from Iowa Department of Transportation. The current parking begins at the boat and goes south. The new parking spaces will be north and central to the boat.

Commissioner Cutler asked about additional employees. Mr. Aviles stated that he does not want to commit to a specific number until they have had an opportunity to see how the numbers are with the new facility and additional machines. He estimated they would start by adding 10% to the staff and go from there. He noted that during the construction project last year Argosy closed their restaurant. Those employees were incorporated into the team and provided cross training. Mr. Aviles advised that Argosy has not experienced any layoffs during his tenure at the facility.

Commissioner Bair asked about the number of slot machines. Mr. Aviles advised that they currently have 482, and would like to receive authorization for a total of 850, or an

additional 360. He noted that the new boat has a larger capacity; however, they will concentrate on the win per unit, and proceed with the expansion cautiously.

Commissioner Cutler asked how the new boat would improve air quality. Mr. Aviles noted that the existing boat has low ceilings. If they would install fans to circulate the air from the outside, they would bring in cold air during the winter and hot air during the summer months. The new boat has higher ceilings and Argosy has earmarked approximately \$300,000 for air quality control.

Commissioner Bair asked if the market analysis performed by Cummings Associates last fall addressed the impact of the proposed projects on Sioux City. Mr. Ketterer stated that it did not as the Commission was not aware of the proposed expansion at that time. Mr. Ketterer stated that proposed projects in the counties that have passed referenda would have little impact on Sioux City. The closest project would be Emmetsburg, which is more than 100 miles from Sioux City.

Commissioner Bair asked about the impact of Sioux City's project on the facilities in Council Bluffs. Mr. Aviles indicated that the facilities do share some of the same market, but indicated that it should be minimal. Mr. Ketterer advised that there are two other casinos between Sioux City and Council Bluffs.

Hearing no further comments or questions for Mr. Aviles, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve Argosy's request to replace the existing riverboat and increase the number of gaming positions. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 04-38)

Chair Mahaffey called on Peninsula Gaming Company, LLC. Natalie Schramm, General Manager, advised that Peninsula Gaming was requesting approval of a new financing agreement, new credit facility and name change. She noted that they had all of the necessary approvals from the other jurisdictions and, with the Commission's approval, it is anticipated they will close on the financing agreement on Friday and the new credit facility the following week. Peninsula Gaming Company is requesting to change their name to Diamond Jo, LLC (DDJ). The company will be restructured to mirror the structure of the Isle of Capri. Under the current structure, the Louisiana company is a subsidiary of the Iowa company. Under the restructuring, there will be a new parent company that both the Louisiana and Iowa companies will report to.

Under the proposed credit transaction, Peninsula anticipates they will be able to save approximately \$6 million due to a reduction in the interest rate from 12.25% to 8.75% for DDJ, and down from 13% on the Louisiana property.

Ms. Schramm presented the following contracts for Commission approval:

- Closing Memorandum and Affirmation,
- Diamond Jo, LLC/The Old Evangeline Downs Capital Corp. Purchase Agreement

- Peninsula Gaming, LLC/The Old Evangeline Downs Capital Corp. Purchase Agreement
- Loan and Security Agreement

Mr. Ketterer asked if the new structure would pose any risk to the Iowa facility. Ms. Schramm answered in the negative, indicating that the debt allocation would be done on a pro rata basis based on existing debt. The \$233 million will be divided between the two companies. The interest reduction for the Iowa facility will be approximately \$2 million.

Mr. Ketterer stated his belief that growth or additional acquisitions would be handled along the same lines – that those companies would be on the same level as DDJ and Old Evangeline Downs. Ms. Schramm indicated that was correct.

As there were no further comments or questions for Ms. Schramm, Chair Mahaffey advised that the Peninsula Gaming agenda items would be dealt with separately and requested a motion concerning the name change. Commissioner Jarding moved to approve the name change from Peninsula Gaming to Diamond Jo, LLC. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-39)

Chair Mahaffey called for a motion regarding Approval of the Offering. Commissioner Hamilton moved to approve the offering as presented. Commissioner Bair seconded the motion, which carried unanimously. (See Order No. 04-40)

Chair Mahaffey requested a motion on the contracts. Commissioner Hamilton moved to approve the above contracts as submitted by Peninsula Gaming. Commissioner Cutler seconded the motion, which carried unanimously. (See Order 04-41)

Chair Mahaffey moved to the contract approval portion of the agenda, and called on BRC. Scott Barber, Assistant General Manager, presented a contract with Data Business Equipment for the purchase of count room equipment.

Commissioner Cutler asked about the renovation of the property. Mr. Barber advised that they are still in the advanced design phase.

Hearing no further comments or questions, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contract as submitted by BRC. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 04-42)

Chair Mahaffey called on DGP&C. Mr. Wentworth presented the following contracts for Commission approval:

- Tricor – Property and Casualty Insurance
- The Durant Group – Design New Casino Area and Act as Construction Manager
- Qwest – Coin-operated Public Telephones

As there were no comments or questions, Chair Mahaffey requested a motion. Commissioner Jarding moved to approve the contracts as submitted by DGP&C. Commissioner Cutler seconded the motion, which carried unanimously. (See Order 04-43)

Chair Mahaffey called on PMR&C. Mr. Farinella presented the following contracts for Commission approval:

- AJ Allen Mechanical Contractors, Inc. – Contractor for Misc. Mechanical Projects
- Allied Construction Services, Inc. – Misc. Remodeling and Construction Projects
- Bankers Trust Company, N.A. – Potential Renewal of Revolving Line of Credit (RP)
- Daktronics Inc. – Purchase of Various Electronic Information Boards
- Eddy-Walker Equipment Company – Potential Vendor for the Purchase of a New Water Truck/Sprayer
- Graham Construction Company – Various Construction Projects at PMR&C throughout 2004 (Increase)
- IGT Iowa – Potential Purchase of 60 17-inch “I Game” Upright Slot Machines
- Karl Chevrolet – Purchases of Automobiles, Trucks, Van, Parts and Service
- Porter-Bowers Sign Company – New Marquee and Additional Signage Updates
- Road Machinery and Supplies Company – Potential Vendor for the Purchase of a New Water Truck/Sprayer
- Shive-Hattery, Inc. – Fees for Misc. Consulting Services
- Shuffle Master Gaming – Renewal Lease of 1 Shuffle Master Complete Upgrade Kit for Williams Game Box
- Williams Gaming Inc. – Potential Purchase of 12 Bluebird Video Slot Machines
- Ziegler Caterpillar – Potential Vendor for the Purchase of a New Water Truck/Sprayer

Commissioner Bair asked what constituted a related party contract, referring to the Bankers Trust Company contract. Mr. Ketterer advised that a contract is considered to be a related party if there is someone employed by the company who has a direct relationship with the licensee.

Chair Mahaffey requested that Mr. Farinella give a brief explanation as to why this contract was considered to be a related party contract. Mr. Farinella advised that a current RACI board member is employed by Bankers Trust. Mr. Farinella stated that the line of credit has been in place for a number of years, and was in place prior to the Bankers Trust employee becoming a member of the RACI Board of Directors. He stated that the board member in question does not vote on matters pertaining to Bankers Trust. Commissioner Bair then asked if an Request for Proposal had been done on the line of credit. Mr. Farinella indicated in the negative, stating that the terms provide for a very competitive rate.

Hearing no further comments or questions concerning the PMR&C contracts, Chair Mahaffey requested a motion. Commissioner Bair moved to approve the contracts as presented by PMR&C. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-44)

Chair Mahaffey called on Harrah's. Mr. Barber presented a contract with C. Rallo Contracting Co. for general construction work.

As there were no comments or questions concerning the contract, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contract as submitted by Harrah's. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 04-45)

Chair Mahaffey called on Ameristar Casino. Mr. Fasulo presented a contract with Federal Coach for the purchase of two stretch Cadillac limousines.

As there were no comments or questions, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contract as submitted by Ameristar. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 04-46)

Chair Mahaffey called on Lakeside Casino Resort. Mr. Preston presented a contract with Blue Cross/Blue Shield of Kansas City for employee health insurance.

Commissioner Bair asked if the above contract was negotiated. Mr. Preston advised that it was a corporate renewal. Commissioner Cutler asked if the insurance was self-funded or administered. Mr. Preston indicated that Blue Cross/Blue Shield administers the insurance.

Mr. Preston advised that Lakeside has not experienced any downturns in business with the reopening of the Meskwaki facility in Tama, but have seen a significant improvement in revenues.

As there were no further comments or questions, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contract as submitted by Lakeside. Commissioner Bair seconded the motion, which carried unanimously. (See Order No. 04-47)

Chair Mahaffey called on Argosy Sioux City. Mr. Aviles presented the following contracts for Commission approval, which are related to the project previously approved.

- Missouri Gaming Company – Transfer of Asset (Argosy IV) to Belle of Sioux City, LP (RP)
- Massman Construction Co. – Specialized Marine Operations Relating to Relocation of Vessel



- Holtze Construction Company – Potential General Contractor – Boat Renovation
- J.E. Dunn Construction - Potential General Contractor – Boat Renovation
- City of Sioux City – Payment to the City
- Pro Diving – Possible Diver to Use for Hull Inspections of Argosy IV
- Advanced Diving - Possible Diver to Use for Hull Inspections of Argosy IV
- Zurich N.A. – Trip Insurance for the Argosy IV to Sioux City
- North American Video – Potential Vendor for Surveillance Equipment
- International Electronic Protection, LTD. - Potential Vendor for Surveillance Equipment
- Surveillance Systems Integration - Potential Vendor for Surveillance Equipment
- Maple Valley Communications - Potential Vendor for Surveillance Equipment
- International Gaming Technology (IGT) – Anticipated Slot Machine Purchases and Replacement Parts
- Aristocrat – Anticipated Slot Machine Purchases and Replacement Parts
- Williams Gaming - Anticipated Slot Machine Purchases and Replacement Parts

He noted there are competing contracts for some of the items, but needed to submit all of the bids, as there is no Commission meeting until June.

As there were no comments or questions concerning the Argosy contracts, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contracts as submitted by Argosy Sioux City. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 04-48)

Chair Mahaffey called on MB II. Mr. Bonnet presented the following contracts for Commission approval:

- Konami Gaming, Inc. – Purchase of 15 Slot Machines w/Ticket In/Ticket Out Capability
- International Gaming Technology (IGT) – Purchase of 30 Slot Machines w/Ticket In/Ticket Out Capability

Chair Mahaffey asked the significance of the ticket in/ticket out machines. Mr. Bonnet explained that instead of coins dropping into the machine tray, the slot machine prints out a ticket for the credits, which can then be inserted into another machine or taken to the cage for payment. With this technology, the slot machine will pay out any jackpot won up to the taxable amount.

As there were no further comments or questions concerning the contracts, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contracts as submitted by MB II. Commissioner Bair seconded the motion, which carried unanimously. (See Order No. 04-49)

Chair Mahaffey moved to the approval of the distribution of the horse racing promotion fund. Linda Vanderloo, Director of Administration/Racing, stated that Notice was provided at an earlier Commission meeting, posted on the Commission's website and letters mailed to the recipients of the funds from last year. She noted there is \$4,252.81 available for distribution. Last year the funds were distributed equally between the groups requesting the funds. The Commission office did receive the required accounting from those organizations as to how the funds were utilized. Ms. Vanderloo recommended the same distribution process be followed this year, with the Iowa Quarter Horse Racing Association and Iowa Harness Horseman's Association each receiving \$1,417.60 and the Iowa Thoroughbred Owners and Breeders Association receiving \$1,417.61.

Commissioner Bair asked if the funds were available for immediate distribution, and where the funds come from. Ms. Vanderloo advised that the funds are available for distribution upon approval by the Commission. She stated that the funds come to the Commission as required by Iowa Code Section 99D.12.

As there were no further comments or questions, Chair Mahaffey requested a motion. Commissioner Bair moved to approve the distribution of the horse racing promotion fund as outlined by staff. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-50)

Chair Mahaffey moved to Administrative Business and called on Mr. Ketterer. Mr. Ketterer advised that the House would take up the Senate's version of HF 2302 this afternoon. Commissioner Bair asked Mr. Ketterer what he envisioned the timeline being should legislation pass. Mr. Ketterer stated that he felt the staff would be very busy between now and the June meeting. He indicated that staff would advise the Commissioners of the various options and alternatives.

Commissioner Bair stated that he felt the various communities seeking a license would be contacting the Commissioners, and wondered what response should be given. Chair Mahaffey stated that staff is very good at presenting options to the Commission, and will be coming up with some kind of timeline. He indicated the Commissioners are free to give whatever response they choose, but pointed out that the Commission does not know what action they will take, nor what procedures will be followed. Mr. Ketterer stated that answers to some of those issues would be provided at the June meeting.

Commissioner Bair stated his understanding that the Commission had to vote to lift the moratorium. Chair Mahaffey and Mr. Ketterer indicated that was correct. Chair Mahaffey stated that the moratorium is still in place.

Chair Mahaffey moved on to the Public Comment portion of the meeting, and called on Wes Ehrecke, Executive Director of the Iowa Gaming Association. Mr. Ehrecke distributed a letter to the Commissioners, indicating that each Legislator had also been provided a copy. The letter covers compulsive gambling behavior in Iowa, and the

results of a survey conducted by the University of Northern Iowa in conjunction with the Department of Public Health. Mr. Ehrecke noted there had been some discussion as to the bankruptcy rate in Iowa. He pointed out that Iowa is ranked 37<sup>th</sup> on the list, while Utah and Tennessee, which do not have gambling, are ranked number one and two respectively. Mr. Ehrecke also noted that Iowa is ranked 37<sup>th</sup> on the crime index.

Mr. Ehrecke stated that the Legislature included additional funding for the Iowa Gambling Treatment Program. He serves on the Iowa Gambling Treatment Program Advisory Committee, and stated that the funds will provide an opportunity to provide additional education of the treatment options available, as well as enhancing the treatment program from the providers' standpoint.

Commissioner Bair asked if the survey mentioned was a national survey. Mr. Ehrecke answered in the negative, indicating that 3600 Iowa households were contacted by phone. He advised that additional information is available on the 1 800 Bets Off website. Mr. Ehrecke noted that even though the gaming industry has expanded in Iowa over the last five years, the percentage of individuals experiencing problems has virtually remained the same.

Commissioner Bair asked about the refuting side of the discussion. Mr. Ehrecke stated that the National Gambling Impact Study Commission (NGISC), authorized by Congress, took two years to do their report, utilized three independent research firms, and came up with similar numbers. Opponents will indicate that the number of problem gamblers is much higher. These individuals also had an opportunity to present to the NGISC, which did not accept their findings.

Mr. Ehrecke stated that individuals with problems with gambling, alcohol, credit card debt, regardless of the problem, need the ability to receive assistance in overcoming those problems. If the proposed legislation is successful, it will provide additional funding for the Gambling Treatment Program, providing Iowa the opportunity to have a premier Gambling Treatment Program. Mr. Ehrecke stated that approximately 1,000 individuals called and received treatment this year, with another 3-4,000 calling the help line.

Commissioner Bair asked about the success rate for those individuals going through treatment. Mr. Ehrecke stated that the rate is difficult to determine, as it is contingent on each individual taking responsibility, and being accountable, for his or her actions. He indicated there is currently no system in place to track the success rate, but the issue is being researched. Mr. Ehrecke stated that the Harvard Medical School is working with the Iowa Department of Health to develop a tracking system.

Chair Mahaffey called for any additional Public Comment. Commissioner Bair thanked Harrah's for hosting the Commission.

IRGC Commission Minutes

April 15, 2004

Page 16

As there was no further business to come before the Commission, 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 10, 2004**

The Iowa Racing and Gaming Commission (IRGC) met on Thursday, June 10, 2004 at Stoney Creek Inn & Conference Center, 5291 Stoney Creek Court, Johnston, Iowa. Commission members present were Mike Mahaffey, Chair; Diane Hamilton, Vice Chair; and members Gerald Bair, Kate Cutler and Joyce Jarding.

Chair Mahaffey called the meeting to order at 8:00 AM in the Pioneer Room for the purpose of conducting a hearing on the appeal of an Administrative Law Judge's (ALJ's) Decision regarding the issuance of a contract kennel owner's license to Lynnell Haynes. Jeff Peterzalek, Assistant Attorney General was present to represent the Commission's Board of Stewards, Werner Hellmer was present to represent Lynnell Haynes, and Julie Burger, Assistant Attorney General, Conflict Counsel, was present to represent the Commission.

Chair Mahaffey asked Jack Ketterer, Administrator of the IRGC, if the hearing required a closed session. Mr. Ketterer answered in the negative, advising that each side could present oral arguments. He pointed out that the Commissioners had the ALJ's Decision, the Appeal filed by the Board of Stewards, and the briefs filed by legal counsel for both parties. Mr. Ketterer stated that the Commission could hear oral arguments from both parties, and then go into Executive Session for the purpose of deliberation.

Chair Mahaffey called on Mr. Peterzalek to present the Board of Steward's position. Mr. Peterzalek stated that the case started with Mrs. Haynes filing an application for a contract kennel owner's license December 27, 2002. Stewards Jeff Rethmeier and Richard Woodsmall reviewed the application. In February 2003, the Stewards entered a Decision to deny Mrs. Haynes a contract kennel owner's license based on several issues. The first being the potential involvement of her husband, Jason Haynes, in the day-to-day operations of the kennel for which she was applying for the license. Mr. Haynes had a civil judgment entered against him in a Wisconsin civil case for \$100,000 in actual damages and \$2 million in punitive damages as a result of a jury finding that he had been involved in a conspiracy to contaminate the meat of a competitor in the meat rendering business. During this process, the kennel and its assets were transferred entirely to Mrs. Haynes. As part of the application review process, Mrs. Haynes was interviewed by Division of Criminal Investigation (DCI) Special Agent Robert Winchell. In the interview, Mrs. Haynes indicated that Mr. Haynes would continue to be involved in the day-to-day operations, and that the change from 50/50 ownership, and even those assets owned entirely by Mr. Haynes, transferred to her was more or less a change on paper. The second issue was also connected to the Wisconsin case. At the time the Stewards were considering Mrs. Haynes' application, there were two separate lawsuits filed in

Jackson County, Iowa, challenging the transfer of the kennel and its assets from Mr. Haynes to Mrs. Haynes, as well as from Mr. & Mrs. Haynes to third parties. Mrs. Haynes and the kennel in which she was claiming ownership were both named in the lawsuits. The Stewards included these facts in their decision because they had no way to make a final determination during the license process or in the future as to who would be the owner of the kennel. Had the Plaintiffs been successful, the creditors would have been able to take ownership of the kennel and its assets. The Stewards also noted that Mrs. Haynes had failed to list a license suspension from Wisconsin incurred by Mr. Haynes, which is a specific question on the license application. Finally, the Stewards expressed concern as to Mrs. Haynes' experience/qualifications as she had not been solely licensed as a contract kennel owner/operator previously in Iowa. Following the Steward's Decision denying her a license, Mrs. Haynes appealed the Decision, and a hearing was eventually held in February 2004 before an ALJ to consider Mrs. Haynes' appeal. The ALJ issued a Decision in March of this year, which made the following points:

- At the time of Mrs. Haynes' interview with the DCI, Mr. Haynes was still eligible for a license; therefore, her statement that Mr. Haynes would still be involved in the operation could not be held against her.
- The ALJ found that the lawsuits challenging the ownership of the kennel and its assets were sufficient for the Steward's to deny Mrs. Haynes' license application; however, the ALJ goes on to state that since the cases were subsequently settled, even though they were not settled until December 2003, the issue became moot, and the Steward's original Decision was arbitrary, capricious, an abuse of discretion and fundamentally flawed.

Mr. Peterzalek stated that the above conclusion is wrong for various reasons. He further noted that it was troubling in that the ALJ correctly determined that Mrs. Haynes was not credible and that the change in the kennel ownership was done in an attempt to avoid the judgments issued against Mr. Haynes in Wisconsin.

Mr. Peterzalek stated that he felt the most important issue in the case is that when a Board of Stewards makes a licensing decision, which is ultimately reviewed for its correctness, he questioned whether the Commission should review the information the Stewards did consider or should have considered, or does the review include new information, and new evidence throughout the appeal process – evidence that was not even in existence at the time the Board of Stewards issued their original decision to deny Mrs. Haynes' license application.

Mr. Peterzalek then moved to a review of the rules and process involved in this matter. He stated that the Commission's Administrative Rules require that the Stewards shall make decisions whether to approve applications for occupational licenses in accordance with the rules and statutes (Administrative Rule 4.6), which are then subject to review by the Commission. Commission rules, should there be a dispute over the licensing

decision, authorize the initial review to be conducted by an ALJ, who issues a proposed Decision, which can then be reviewed by the full Commission. Mr. Peterzalek stated that the burden of proof is on Mrs. Haynes to show that the Stewards' Decision was arbitrary, capricious and an abuse of discretion. Those terms indicate that the decision was based on irrationality, unreasonable and clearly against the evidence in the case. The ALJ's Decision indicated that the original decision of the Stewards was faulty in those ways even though the ALJ also stated that the Stewards had sufficient reason to deny Mrs. Haynes' license application when it was originally considered back in February 2003. Mr. Peterzalek stated that the ALJ's determination that the Stewards were justified in denying Mrs. Haynes' license application, but doing so was unreasonable and irrational is wrong and inconsistent, but also makes no sense. He stated that upon determining that the Stewards were correct and had sufficient reason to deny Mrs. Haynes' application, the ALJ should have ended his decision, which would have affirmed the Board of Stewards' decision, and would have allowed Mrs. Haynes, if there was new information to present, to file a new license application and have the new information considered in conjunction with the license investigatory process.

Mr. Peterzalek advised that there are some significant problems with the course of action the ALJ took that could cause problems in the future should his Decision be affirmed. The first problem is that it takes the licensing decision completely out of the hands of the Stewards and puts them in the hands of ALJs and the Commission. It allows applicants to continue to add evidence, which may not have been available at the time of the original decision, and ultimately results in the ALJ, and possibly the Commission, deciding a matter based on incomplete evidence and evidence that the Stewards did not have a chance to consider. Additionally, there is no incentive for individuals to file a new or amended application to present new evidence. Upon denial of a license, they can simply appeal the decision, and keep adding new evidence that was not available at the time of the original licensure hearing, and present that to the ALJ, and possibly to the Commission, and still end up with a decision that has no relationship at all to the original consideration that the Stewards gave to the case. It is a similar situation to the first problem in that it makes the Board of Stewards superfluous in the licensing process, which is the opposite of what the Commission's rules indicate they should be doing. Mr. Peterzalek stated that the Commission has two viable options in order to appropriately resolve this matter. He indicated that the most legally sound is for the Commission to determine that the Stewards had sufficient reason, as the ALJ also stated, at the time of their decision to deny the license; thereby reaffirming the Board of Stewards. Mr. Peterzalek advocates this position, and it complies with the Commission's statutes and rules, and complies with the evidence presented in the case. The other option is to remand the matter back to the Board of Stewards, giving them the opportunity to review all of the evidence from December 2002 to the present, and issue a new licensing decision based upon that information. Mr. Peterzalek stated that even if the Commission determines that the Board of Stewards should not have reached the conclusion they did, the Stewards would still have to review the material due to the amount of time that has elapsed and the things that have occurred in that time frame, there is insufficient current

information to make that sort of a valid licensing decision. There needs to be some sort of an investigatory process and another decision made.

Ms. Burger asked if the evidence concerning the dismissal of the lawsuits in Jackson County was received without objection. Mr. Peterzalek stated that the information with respect to the lawsuits was determined to not be particularly relevant to the case as they were after the fact, and that was the basis for the objection. He stated that the documents were received into evidence, subject to his objection that they were not relevant to the matters at hand. Ms. Burger asked if due process impact upon the applicant's ability to put in whatever evidence deemed relevant and have the ALJ consider that evidence. Mr. Peterzalek stated that the ALJ can consider the evidence as presented as the hearing is essentially a de novo hearing; however, it is a hearing based upon the initial Stewards' decision, not a far-ranging decision where the appellant can present anything that happens to come up from that point in time. The hearing is an intermediate review process. He noted that in many cases, the agency makes a decision which then proceeds to a contested case hearing. The Commission's rules allow the Stewards to conduct that process, and that decision can be appealed to the ALJ for a hearing, which is to be within the parameters of the information considered by the Stewards.

Chair Mahaffey clarified that the hearing before the ALJ is de novo. Mr. Peterzalek answered in the affirmative. Chair Mahaffey asked for a definition of de novo. Mr. Peterzalek stated that the term literally means to "start anew". The parties start from the beginning and present all of the information related to the case, which was done in this case. The hearing encompassed matters prior to December 2002, which involved Mr. Haynes' involvement in Wisconsin up to the time the Stewards' made their decision, and subsequent to the Stewards' decision. There was evidence entered with respect to the dismissal of the Jackson County lawsuits as well as subsequent matters involving Mr. and Mrs. Haynes.

Commissioner Bair asked if the record is made at the Board of Stewards' hearing or if it is made at the ALJ hearing. Mr. Peterzalek stated that the whole record is being made at the ALJ level, and includes everything done at the Board of Stewards' level, including their decision and the DCI interview. Everything done at the Board of Stewards' level is transmitted to the ALJ and becomes a part of the record; however, does not become a part of the record officially until it is considered by the ALJ.

Chair Mahaffey asked if exhibits could be entered at the ALJ hearing. Mr. Peterzalek answered in the affirmative.

Commissioner Bair asked what the normal course of action would be if there was only a single issue which then changed before the appeal was filed with the ALJ. Mr. Peterzalek stated that if the ALJ felt that there were new issues or evidence that came up after the fact, the result should have been to remand the issue back to the Board of Stewards to consider the additional information or any other information that might have come up during that period of time; not that the decision is now arbitrary and capricious



and that it is being reversed. The matter could have been remanded for additional consideration by the Board of Stewards. Mr. Peterzalek confirmed that there is a manner in which the Board of Stewards would be able to consider additional information if there is a change in the situation, whether that is by a formal remand or a meeting between the various parties.

Commissioner Bair confirmed his understanding that there is a way for the Board of Stewards to review additional information. Mr. Peterzalek answered in the affirmative, indicating that had the parties been able to reach an agreement, a proposed settlement would have been presented. Commissioner Bair asked if that has occurred in other instances. Mr. Peterzalek advised that it happens all the time.

Chair Mahaffey quoted the following from the ALJ's Decision: "The crux of the Stewards' decision to deny this application is the fact that the Appellant's husband was ineligible to participate in racing and gaming. As such, to have an ineligible person intimately involved in the running of the Haynes Kennels, Inc., made the Appellant legally unqualified to hold an occupational license. ... The Stewards' decision is fundamentally flawed in that at the time the application was filed Mr. Haynes was eligible. Mr. Haynes ineligibility came about simultaneously with the Appellant's denial of her license. The Appellant was not given an opportunity to amend her application in light of her husband's ineligibility." He asked Mr. Peterzalek to address that portion of the decision.

Mr. Peterzalek stated that Mr. Haynes' license was coming up for expiration in December of 2002, which was the same time frame that Mrs. Haynes filed her license application for a sole contract kennel owner. He stated that the Stewards were reviewing contemporaneously Mr. Haynes' license renewal application and Mrs. Haynes' new application for a contract kennel owner's license.

Chair Mahaffey asked if Mrs. Haynes had held a contract kennel owners license previously. Mr. Peterzalek clarified that she had not solely been licensed before. Chair Mahaffey stated that she and Mr. Haynes had been licensed together. Mr. Peterzalek stated that they had been different occupations in which they had been licensed together. He reiterated that it was during this time frame that the assets of the kennel, as well as the kennel itself, had been transferred from a 50/50 ownership to Mrs. Haynes as a sole owner.

Mr. Peterzalek stated that the decisions regarding the licenses for both Mr. & Mrs. Haynes were issued on February 7, 2003. Mr. Peterzalek noted that the ALJ expressed concern that the decisions were the same and issued at the same time. Mr. Peterzalek stated that he advised the ALJ that Mr. Haynes' license was up for review, and that there were serious problems with Mr. Haynes' license, which Mrs. Haynes was aware of – as indicated by the ALJ's Decision. Mrs. Haynes indicated in her testimony to the DCI that he was going to continue to be involved in the day-to-day operations.

Chair Mahaffey asked about Mrs. Haynes' opportunity to amend her license application. Mr. Peterzalek stated that Mrs. Haynes could have amended her application up to the point where the Stewards entered their Decision. Once the Stewards' decision was issued on February 7, 2003, then the opportunity would have been provided to her to file a new application, including the new information, which would have been anew by the Board of Stewards. Mr. Peterzalek stated that if the process had been done through the Appellant process, the new information would have been considered via a settlement situation. He noted there were no circumstances from February 7, 2003 up to the present that would have precluded Mrs. Haynes from filing a new application, which is how the Stewards' feel the situation at hand should have been handled.

Chair Mahaffey called for additional questions. Mr. Peterzalek requested a few minutes to offer rebuttal following oral arguments by Mr. Hellmer.

Mr. Hellmer, noting that the ALJ's Decision was not perfect, stated that it did in fact hit on the very issue that the Stewards' decision was fundamentally flawed in denying Mrs. Haynes an occupational license. He stated that the crux of the issue is that during his cross-examination of Richard Woodsmall and Jeff Rethmeier, the Stewards at Bluffs Run Casino, Mr. Woodsmall clearly stated that if it were not for Mr. Haynes and the National By-Products matter, and regardless of other issues, Mrs. Haynes probably would have been granted a license. Mr. Hellmer further stated that when the Stewards issued their decision on February 7, 2003, they relied on one DCI interview of Mrs. Haynes, with the purpose of the interview being to determine Mr. Haynes' role in the corporation and future role in the greyhound business. Mr. Hellmer stated that at the time of the interview, Mrs. Haynes was not aware that Mr. Haynes' license was not going to be renewed. He stated that Mrs. Haynes was never asked what Mr. Haynes' role in the kennel operation would be should his license not be renewed.

Mr. Hellmer also expressed alarm over the Ruling of the Board of Stewards. He also noted that a transcript of the ALJ hearing, approximately 121 pages long, was prepared, but was not available until after the ALJ issued his decision. Mr. Hellmer stated that the whole issue is not whether Mrs. Haynes knew about Mr. Haynes' license suspension in 1995, her qualifications to be a licensed kennel owner in her own right, or whether there were issues surrounding the transfer of the business from joint ownership to Mrs. Haynes as a sole owner. Mr. Hellmer stated that he provided the material on the Jackson County lawsuits for administrative informational purposes.

Mr. Hellmer stated that in order to understand the issues, it is necessary to get the "flavor" of the ruling, and in order to do that it is necessary to look at the opinion issued by the Board of Stewards and the evidence considered. He made the following points:

- He found the Ruling to be disconcerting. Mr. Hellmer stated that it was apparent from the outset that the Ruling was not written by Mr. Rethmeier or Mr. Woodsmall, and is clearly reflected by the record. He pointed out instances where the testimony provided was entirely different than what was stated in the

ruling. Mr. Hellmer voiced his belief that the Ruling was done by committee. He noted that the Commissioners had the ALJ's Ruling, as well as the Briefs submitted by Mr. Peterzalek and himself. He stated that his Brief clarifies everything that he wanted to clarify, but did want to point out a couple of issues, one of those being that when first called in to testify, Mr. Woodsmall and Mr. Rethmeier were present. Mr. Hellmer indicated that he did not voice any objection as he had no reason to question their integrity. Mr. Hellmer stated that the case is not about Mrs. Haynes, but about Mr. Haynes – an entirely different matter. Mr. Hellmer stated that he asked several questions concerning the wording of the opinion. He was advised that there was some input from the Attorney General's Office and Racing and Gaming. He stated that several areas set forth in the ruling are legal conclusions; something that he did not feel the Stewards would arrive at.

- Mr. Hellmer stated that the February 7, 2003 Decision issued by the Board of Stewards was crucial to the case. He also noted that much of the paperwork included in the record was never the topic of any questions asked of Mrs. Haynes. Mr. Hellmer stated that she was only asked one set of questions by SA Winchell, who was sent to interview Mrs. Haynes by the Director of Racing and Gaming, and that was to determine Mr. Haynes' involvement in the corporation and his future involvement in the day-to-day operations. Mr. Hellmer stated that Mrs. Haynes provided the requested information to SA Winchell, and also testified in the ALJ Hearing. Mr. Hellmer noted that the ALJ had the evidence before him, and the Stewards had the various prior agreements entered into between Haynes Kennel and Lynnell Haynes in order to determine what role Mrs. Haynes played, if any, in the operation of the kennel and whether or not she was qualified to be sole kennel owner license holder. Mr. Hellmer stated that SA Winchell did not know, nor did he ask, Mrs. Haynes about any other licenses. He pointed out that she does hold a contract kennel license in Alabama; thereby nullifying the argument that she did not have the experience to be a contract kennel operator. The ALJ and Stewards looked at the various administrative holdings, which were all signed by Mr. Haynes, and the fact that they had not had much contact with Mrs. Haynes; and therefore, she probably would not be qualified. Mr. Hellmer stated that Bluffs Run Casino personnel indicated they dealt with Mr. Haynes 100% of the time, and Dubuque Greyhound Park & Casino personnel indicated they dealt with Mr. Haynes 75% of the time, and Mrs. Haynes 25% of the time. He stated that there was insufficient evidence to indicate that Mrs. Haynes could not run a kennel.
- Mr. Hellmer noted that during questioning of Mr. Woodsmall by Attorney General Peterzalek during the hearing concerning Mrs. Haynes' experience as a contract kennel owner, Mr. Woodsmall stated: "You know, I think, that honestly speaking, that if the items surrounding Jason Haynes had not come up, and Lynn had, had applied for a contract kennel owner's license with us, that there was a

very good possibility that she would have been granted a license...” He noted that Mr. Rethmeier concurred with Mr. Woodsmall’s statement.

- Mr. Hellmer stated that he questioned Mr. Woodsmall about the suspension of Mr. Haynes’ license in Wisconsin or the failure to pay a fine that was not included on Mrs. Haynes’ application. Mr. Woodsmall testified that in and of itself would not have been justification to deny a license; that it probably would have resulted in a \$25 or \$50 fine. Mr. Hellmer stated that he and his client were puzzled by the fact that the ALJ fined Mrs. Haynes \$250 for the “falsification” of the record. He noted that Mr. Rethmeier again concurred with Mr. Woodsmall’s statements.
- Mr. Hellmer stated that another crucial point is the thought on transfers – one of the issues used to deny Mrs. Haynes a license. He referred to Page 3 of the Steward’s License Denial, which refers to the petitions filed in Jackson County surrounding the ownership transfer in which the Stewards indicate the pending case should be a basis for license denial. Mr. Hellmer contends this portion of the Ruling was not put together by the Racing Stewards. He stated that the fundamental problem was that Mrs. Haynes was never asked about the allegations in Jackson County. Mr. Hellmer stated that the Stewards’ record contains a Petition from the lawsuit, which is not evidence, nor was the Petition followed up on. Mr. Hellmer quoted the following from the Notice of License Denial: “Although commission rules do not specifically address pending civil court cases, the Board compares the dilemma of this portion of the case, to an individual who has pending criminal charges ...” Mr. Hellmer pointed out that there were no criminal charges. He stated that “they” tried to bootstrap the argument, and that it was not the Racing Stewards; that a lawyer put that portion of the ruling together. Mr. Hellmer stated that Mrs. Haynes could have been asked about the ownership transfer; but they relied on the documents and this conclusion.
- Mr. Hellmer stated one of the most egregious parts of the opinion that is unfounded is on Page 4 of the ruling: “... The Board finds that Mrs. Haynes has never solely operated a kennel at a racetrack in Iowa and that she is unqualified to solely operate the Haynes Kennel, Inc. ..” He stated that the foregoing statement had to come from the ghostwriter. In reviewing the testimony of Mr. Woodsmall and Mr. Rethmeier, they never really pursued that angle in light of the testimony previously read. There is nothing in the record to indicate that Mrs. Haynes was not qualified to operate the kennel.

Mr. Hellmer stated the above issues were the areas he was talking about. He stated that the ALJ’s Decision should be upheld, not for the reason that he felt the Board’s finding was arbitrary and capricious, and the lawsuit is now moot. He stated that the crux of the matter boils down to whether Mrs. Haynes was going to be an alter ego substituting for Mr. Haynes. Mrs. Haynes testified that was not the case, and that the reason the assets

were transferred because she owned 50% of the operation, and the dogs needed to be sold as the kennel did not have a license, and they could not afford to feed. Mr. Hellmer noted that the term “fraudulent transfer” had been used. He stated that it is difficult to fraudulently transfer anything today due to the paper trail.

Mr. Hellmer stated that the crux of the problem is aside from the fact that Mrs. Haynes is married to Mr. Haynes and his problems with National By-Products, she probably would have been granted a license. This is what they feel the ALJ was saying, and that everything else has no bearing on the case.

Mr. Hellmer stated that the question had been asked as to why this was not resolved in a different manner. Mr. Hellmer stated that there was an attempt to resolve the matter, but the terms were unacceptable to Mrs. Haynes, leaving her with no alternative but to appeal. He noted that she could have dropped the matter, and reapplied for a new license, but was unsure as her legal representative how to advise her as to the ramifications of the previous Findings of Fact issued by the Board of Stewards, any one of which may have been used for grounds for future license denial. Mr. Hellmer stated that Mrs. Haynes has not been accused of anything, or charged with anything. He noted that the ALJ pointed out that Mrs. Haynes has been involved in her own greyhound meat business for quite some time, is involved in all aspects of greyhound racing, and the greyhound industry. Mr. Hellmer stated that to deny Mrs. Haynes a license based upon a premature investigation concluded, based upon the evidence at the time, that Mr. Haynes was going to continue to be a part of the operation is not born out. He advised the Commission that Mr. Haynes was subsequently fired from all corporate activities, and that all of the cases have been resolved.

Mr. Hellmer reiterated previous statements that except for the fact that Mrs. Haynes is married to Mr. Haynes, testimony leans toward the fact that she would have been granted a license. He asked that the Commission accept the ALJ’s Decision, despite the ALJ’s rulings, as the Commission can not settle what the crux of the problem was – consideration of the Jackson County lawsuits when Mr. Haynes was still eligible to participate in greyhound racing. Mr. Hellmer stated that Mrs. Haynes is without a remedy, and legal fees are mounting. He stated that Mrs. Haynes is qualified, and asked the Commission to abide by the ALJ’s Decision and grant a license. He pointed out that the Commission has the ability to suspend or revoke a license, and the Stewards can summarily revoke a license if criminal actions are involved.

Commissioner Cutler asked when Mrs. Haynes was given sole ownership of the kennels. Mrs. Haynes advised that it was in April 2002. Commissioner Cutler noted that did not appear to be the date of record in the Secretary of State’s office. Mr. Hellmer stated there was a mix-up in the law office and the papers did not get filed. Commissioner Cutler asked if the paperwork was in the Secretary of State’s office now. Mrs. Haynes stated that she filed it, the Secretary of State’s office lost the paperwork. She then refiled it, utilizing certified return receipts, and that the paperwork should be on file now.

Commissioner Cutler asked the date of the \$2.1 million judgment handed down by Wisconsin. Mr. Hellmer stated that the ruling came down on December 12, 2002.

Chair Mahaffey referred to Page 4 of the Steward's Decision, the same paragraph from which Mr. Hellmer quoted earlier, and read: "... The Board finds that the participation of Mrs. Haynes as a substitute kennel owner for Mr. Haynes would be detrimental to the integrity of racing and gaming in the state of Iowa and injurious to the welfare of the citizens of Iowa. The Commission cannot allow Mrs. Haynes to operate the kennel with knowledge that Mr. Haynes would be part of the daily operations of said kennel." He asked about the testimony relating to the participation that Mr. Haynes would continue to have in the kennel if Mrs. Haynes were the sole license holder. Mr. Hellmer stated that Mrs. Haynes, unaware that Mr. Haynes' license was going to be suspended, testified that he would continue to be involved in the day-to-day operations. He noted that she was never asked what would happen should Mr. Haynes' license be suspended. Mr. Hellmer stated everyone in the racing industry is aware of the spousal rule.

Commissioner Hamilton asked for the definition and job duties of a contract kennel owner. Karyl Jones, Director of Occupational Licensing for IRGC, stated in order to hold a contract kennel owner's license, the company would have to hold a kennel contract with one of the greyhound tracks. Commissioner Hamilton again asked for clarification as to the job duties. Mrs. Jones deferred to Bruce Wentworth, General Manager at DGP&C.

Mr. Wentworth advised the Commission that a kennel owner/operator is in charge of making sure that the kennel has a well-rounded set of Grade A and D greyhounds that are ready to race, and putting them into the appropriate rotation in order to have an adequate number of starts in order to make money. The kennel owner/operator also has to manage the stock that he has – making sure that the greyhounds he has in the kennel are competitive at the track where they are located. Commissioner Hamilton asked if Mrs. Haynes would have the ability to hire someone to perform those duties if she could not. Mr. Hellmer answered in the affirmative, pointing out that she was never asked any of the above questions. All of the questioning was based on the information contained in the corporate papers.

Commissioner Hamilton asked how long the Haynes' had had the kennel operation. Mrs. Haynes advised that they started the farm in 1997, but had the racing kennel prior to that. Commissioner Cutler asked how long they had worked together. Mrs. Haynes stated that they started the racing kennel in Pueblo, Colorado in 1995.

Assistant Attorney General Burger advised the Commission that the preceding information is not part of the record; that the Commission can only rely upon the record submitted to the ALJ.

Chair Mahaffey called on Assistant Attorney Peterzalek for his rebuttal. Mr. Peterzalek stated that he was pleased to hear that Mr. Hellmer also had some issues with the ALJ's Decision. Mr. Peterzalek made the following points regarding Mr. Hellmer's argument:

- If Mrs. Haynes was not married to Mr. Haynes, none of this would have happened. Mr. Peterzalek stated that no one had any argument with that statement, noting that if they weren't married, Mr. Haynes had not been sued, and all of the assets transferred to Mrs. Haynes as a result of the lawsuit, this case would not have occurred. He noted that everything culminated in December when the Wisconsin judgment was handed down, Mr. Haynes filed his license renewal application, and Mrs. Haynes filed for her sole contract kennel license.
- Mr. Peterzalek stated that the Wisconsin matter does not just deal with Mr. Haynes' business in Wisconsin, but also involves the lawsuits filed in Jackson County specifically naming Mrs. Haynes and the kennel that she owned. This point was addressed in the Stewards' ruling denying Mrs. Haynes' license. Mr. Hellmer noted that part of the Steward's decision made an analogy to criminal proceedings. Mr. Peterzalek urged the Commission to read the entire paragraph as it was an analogy. He stated that if an individual has a criminal charge pending, your license can be suspended pending the outcome of the criminal charges. Mr. Peterzalek stated that there was a civil case pending that challenged the ownership of the kennel and its assets, and using the above analogy, it would be prudent to wait for the outcome as the Haynes' may not have ended up owning the kennel.

Mr. Peterzalek concluded his rebuttal by noting that Mr. Hellmer urged the Commission to affirm the ALJ's Decision, and let everyone move on. He stated that he strongly disagreed with that statement. He indicated that the ruling does set a precedent in the industry as to how the license applications are handled. Mr. Peterzalek stated that an appropriate procedure is in place – if there is an issue that arises or if the ALJ determines there was an issue that was not addressed, then the case is remanded back to the Board of Stewards for consideration. After the Stewards have reviewed the matter, it can go back to the ALJ, and ultimately the Commission.

As there were no additional questions for Mr. Peterzalek, Chair Mahaffey called for a motion. Commissioner Bair moved to go into Executive Session. Commissioner Cutler seconded the motion, which carried unanimously on a roll call vote. Chair Mahaffey advised that the Commission would be going into Executive Session pursuant to Administrative Code Section 21.5(1)f for the purpose of discussing the decision to be rendered in a contested case conducted according to the provisions of Chapter 17A.

Following a brief Executive Session, Chair Mahaffey reconvened the meeting in open session and called for a motion. Commissioner Jarding moved to uphold the Decision of the ALJ. Commissioner Hamilton seconded the motion.

Commissioner Bair stated that this is a difficult case as questions were raised on both sides, and that remedies were available to both parties involved in the case.

Commissioner Jarding stated that the Commission's decision does not take anything away from the Board of Stewards' responsibilities or their duties.

Hearing no further discussion, Chair Mahaffey called for a vote on the above motion to uphold the Decision of the ALJ. The motion carried 4-1 on a voice vote, with Commissioner Cutler voting no. (See Order No. 04-51)

Chair Mahaffey reconvened the meeting in the Northwoods Conference Center at 9:30 AM, and made the following comments concerning the Public Comment portion of the agenda:

- That there was a signup sheet in the back of the room.
- That one person from each organization address the Commission, and that comments be kept to approximately three minutes.
- His expectation that the Public Comment portion of the meeting would be conducted in an open, honest, candid and civil manner.

Chair Mahaffey called for a moment of silence in honor of and respect for former President Ronald Reagan.

Chair Mahaffey called on John Pavone, who advised those in attendance that Betty Strong, President of the Missouri River Historical Development, Inc., the non-profit license holder for Argosy Casino Sioux City, had passed away on Saturday, June 5<sup>th</sup>. He noted that Mrs. Strong was instrumental in organizing one of the first non-profit groups in Iowa, and was very active in the Sioux City Community.

Chair Mahaffey called for a motion to approve the agenda. Commissioner Hamilton so moved. Commissioner Cutler seconded the motion, which carried unanimously.

Chair Mahaffey moved to the approval of the minutes from the April 15, 2004 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 introduced Lauren Marriott and Brian Ohorilko, IRGC Gaming Representatives, at Prairie Meadows Racetrack & Casino. He then provided the following information on upcoming Commission meetings:

- July Commission Meeting – July 15, 2004, Stoney Creek Inn, Johnston (Submissions due by June 30, 2004)
- August – No Commission Meeting



- September Commission Meeting – September 2, 2004, Stoney Creek Inn, Johnston (Submissions due by August 19, 2004)
- October Commission Meeting – October 14, 2004, Isle of Capri Bettendorf, Bettendorf (Submissions due by September 30, 2004)

Chair Mahaffey moved to Public Comment, and called on Dr. Michael Hartwig, Vice President of the Iowa Family Policy Center, who encouraged the Commission to not issue any new licenses for the following reasons: completion of the socioeconomic study; approximately 60% of Iowans do not feel additional gambling opportunities are necessary; common sense; the Commission's Mission Statement – "Protect the public and assure them of the integrity of racetrack and riverboat gambling operations and their participants."; and the integrity of the Commission. He suggested the Commission work to expedite the Request for Proposal on the study. Dr. Hartwig presented the Commission with 400 signatures collected over the last week.

Chair Mahaffey then called on Kim Hiscox, representing the Christian Coalition of Iowa. She expressed their opposition to the issuance of new licenses until the socioeconomic study is completed. She noted that gambling was originally approved to help with education, but that has not been the case.

Chair Mahaffey called on James Crean, Director of Economic Development for Webster County. Mr. Crean advised that Webster County has recruited a quality company and has done a lot of legwork. It is Webster County's hope that a facility would provide 350 new jobs and allow them to expand their trade market area. Mr. Crean noted a facility would allow Webster County to increase their tax base.

Chair Mahaffey called on Representative Helen Miller from Fort Dodge. Representative Miller voiced her support in the lifting of the moratorium. She advised that the number of individuals who voted in the referenda was greater than in a general election. She indicated that individuals showed up to vote on this issue due to the creation of jobs. She stated that the issue is not so much that the State is encouraging individuals to experience problems in their homes, but that Webster County residents are experiencing problems in their homes due to the lack of jobs. She requested the Commission to allow the various communities the opportunity to take advantage of the fact that gambling is already in the state.

Chair Mahaffey called on Representative Mary Gaskill from Ottumwa. Representative Gaskill advised that the Legislature was aware of the number of gambling referenda that had been passed, that all areas of the state are looking for economic development, and had the information provided by the Commission. She stated the purpose of the Legislation that was passed was to allow the Commission to use their own good judgment to make the decision on whether or not to allow more gambling. Representative Gaskill expressed her hope that the Commission would lift the moratorium, and that all of the communities who have passed referenda would be considered. She stated that the Legislature did not feel the number of licenses should be limited by anything except the

normal selection criteria. Representative Gaskill noted that the economic development generated would further leverage the funding from Vision Iowa for various projects around the state.

Chair Mahaffey then called on Steve Siegel, representing the Wapello County Board of Supervisors, and Chair of the River Hills Riverboat Commission. Mr. Siegel advised that River Hills has interviewed four operators, and will be making their selection soon. He indicated half of the project would be locally owned. The association has established by-laws and adopted a regional approach to the distribution of revenues to the ten counties in the immediate area. Mr. Siegel noted that area is already a regional shopping center, which they feel will be helpful. He noted that six communities have approved gaming referenda and stated that all six should get a license. Mr. Siegel urged the Commission to lift the moratorium.

Chair Mahaffey called on Ed Gallagher, President of the Cedar Valley Gaming Association in Waterloo. Mr. Gallagher stated that the organization had started working on their project almost a year ago in the hopes that the Commission would lift the moratorium. He advised that they have developed a solid plan, selected a casino operator and have hired an experienced project manager (Gary Hoyer of Ft. Madison). It is estimated this project will bring 600 jobs to downtown Waterloo and the necessary economic growth to revitalize the area. This facility will also be locally owned and the money would remain in Black Hawk County. Mr. Gallagher expressed the hope that the moratorium would be lifted, noting that the voters of Black Hawk County had voted overwhelmingly to allow gaming in the county.

Chair Mahaffey called on Stacy Gibbs, Executive Director of the Clarke County Development Corporation. Ms. Gibbs stated that Clarke County is not opposed to the expansion of gambling, but is opposed to any expansion that would have a negative impact on existing facilities. She noted that Governor Vilsack had indicated in June that he felt the Commission would lift the moratorium, but did not want to rob Peter to pay Paul, which is what would occur should a license be granted to Polk County or any of the counties surrounding the Clarke County area. Ms. Gibbs stated that if the tracks are allowed to add additional slot machines, the riverboats should be allowed the same opportunity in order to level the playing field.

Chair Mahaffey called on Annette Renaud, representing the Franklin County Development Association. Ms. Renaud indicated the Association would be the non-profit license holder should a license be granted in Franklin County. She noted that the recurring message has been the economic development and jobs. She stated that in rural Iowa, jobs are either on a factory line or in a clerical position with no chance for advancement. She urged the Commission to lift the moratorium. Ms. Renaud stated that she felt the purpose of the socioeconomic study was to improve the programs established to help those individuals with gaming problems. She presented additional signatures collected in support of lifting the moratorium. Ms. Renaud presented the Commission with a plate of cookies from a local bakery.

Chair Mahaffey called on Don Hoth, representing the Black Hawk County Gaming Association. Mr. Hoth requested the Commission lift the moratorium. He stated that Black Hawk had joined the other five counties in working through the legislative process to gain passage of a gambling bill. Mr. Hoth stated that the Commission does have a clear legislative directive, and added the Governor made it very clear that gambling should be expanded in Iowa.

Mr. Hoth turned the floor over to Ron Welper, Mayor Pro Tem of Waterloo. Mr. Welper echoed Mr. Hoth's request that the moratorium be lifted. He indicated that two-thirds of the citizens of Black Hawk County voted in favor of gambling as they have had an opportunity to see the economic development in the communities with a gambling facility. He noted that there is never enough money for the charitable organizations, and that Black Hawk County has one of the highest property tax rates in the state. Mr. Welper stated that Black Hawk County is not looking for a handout, but a hand up.

Chair Mahaffey called on Senator Bill Dotzler, representing Senate District 11, which includes Black Hawk County, and served as the ranking member of the Senate Economic Development committee, and has also been involved with the Vision Iowa/ Iowa Values Program. Senator Dotzler noted that the Commission has asked the Legislature to provide a clear message as to the future of gaming in the state, which he feels the Legislature accomplished via the bill, as well as some of the amendments that were attempted in the formation of the gambling bill in both chambers. Senator Dotzler stated that both chambers of the Legislature were asked whether or not they wanted to hold off on the issuance of additional licenses until the socioeconomic impact study was completed. Both chambers said no to waiting, as well as no to a moratorium. He noted that 31 Senators out of a possible 49 voted against the moratorium. Senator Dotzler expressed his hope that the Commission would lift the moratorium and allow the process to move forward quickly as a large portion of the State's budget is predicated on gaming revenues. He noted that the Vision Iowa and Community Attraction Grant programs are totally funded by gambling revenues.

Chair Mahaffey called on Kim Miller, representing Worth County Development Authority (WCDA). Ms. Miller advised the Commission that WCDA has signed an agreement with Peninsula Gaming, with 5.7% going to the non-profit organization. She noted that several speakers had addressed the negative side of gambling. She pledged that the WCDA would work hard to identify problem gamblers and help them get the treatment or help they need. She also talked about the economic benefits for Worth County. Ms. Miller noted that children represent 23% of the residents of Worth County. Should a license be granted to Worth County, the WCDA Articles of Incorporation call for \$1 million to go to the schools. One-half of the non-profit money is earmarked for education. Ms. Miller distributed t-shirts to each of the Commission members, emphasizing they were under \$2.99 as they had been worn and washed.

Wallace Sulentis, representing National Cattle Congress (NCC) of Waterloo, stated that NCC is interested in getting a gaming license for the closed Waterloo Greyhound Park.

The NCC believes that the advantages far outweigh the disadvantages of gambling in Iowa. He encouraged the Commission to lift the moratorium.

Chair Mahaffey called on John Pavone. He stated that the gambling bill is a good bill as it doubles the funding to the Gamblers Treatment Fund, creates the County Endowment Fund, which sets aside funds for Iowa counties without a gaming facility, allows for additional economic benefit to the state, and includes a self-ban provision. Mr. Pavone noted that the Commission knows most of the proposed operators in the counties that have passed gambling referenda. Mr. Pavone encouraged the Commission to lift the moratorium.

Chair Mahaffey called on Senator Jack Kibbie, who addressed the Legislative process. He noted that the Commission asked for three things: the definition of a water source, the cruising requirement and expansion. He noted that the Commission received just over half of the answers requested. Senator Kibbie stated that the Legislature is not a front for the gaming industry, but are charged with representing their constituents. He indicated the bill is an example of what could be accomplished in the State if individuals work in a bi-partisan way. Senator Kibbie requested that the Commission lift the moratorium. He pointed out that the bill, as passed and fully implemented, has the ability to bring more money to the General Fund of the State of Iowa than all LLC corporations in the state – in excess of \$200 million. Senator Kibbie indicated that various polls have indicated the number one issue in the state is jobs.

Chair Mahaffey called on Representative Marcie Frevert from District 8. Representative Frevert stated that she wanted to clarify legislative intent. She noted that an amendment calling for a hard moratorium was defeated. Immediately following the defeat, Amendment 8578, which called for no activity and no lifting of the moratorium until the completion of the socioeconomic study, was introduced. It was also defeated. Representative Frevert requested that the Commission lift the moratorium and do so quickly.

Chair Mahaffey called on Steve Heldt from Palo Alto County. Mr. Heldt noted that the Commission had asked for, and received, direction from the Legislature. He stated that the support for a casino on Five Island Lake has increased. He stated that the anniversary of Palo Alto's referenda is approaching, and pointed out that 49% of the voters went to the polls, with 71% voting yes. Mr. Heldt stated that two different studies have shown northwest Iowa to be underserved by the gaming industry. He advised that the non-profit organization is in place, and they have an experienced company committed to the project. Mr. Heldt requested that the Commission lift the moratorium and allow the communities to start the expansion process.

Chair Mahaffey called on Lana Ross, representing the Iowa Conference of the United Methodist Church. She requested that the Commission exercise patience and wait for the completion of the socioeconomic study. She expressed concern about gambling and the families that have suffered due to gambling. Ms. Ross stated that it is important that the

Commission have all of the information available when they make their decision. She noted that various studies have indicated there are underserved areas by the gambling industry; but there are also underserved areas in other issues that are more important than gambling. Ms. Ross stated that the socioeconomic study will measure the social impact of gambling on Iowa, which has not been done in the past. She also addressed the area of the Commission receiving direction from the Legislature, pointing out that the bill did not contain any language keeping the moratorium in place, nor is there any language indicating the Commission is to issue a specific number of licenses. She noted that the legislation did increase the funding for the Iowa Gambling Treatment Program; however, there is no assurance that the Legislature will not rob the fund for other programs as it has in the past. Ms. Ross also raised the issue of whether or not gambling is true economic development, noting that many studies have been done to look at the future of the state, and none of them ever discussed gambling as a means of economic development.

As there was no further Public Comment, Chair Mahaffey moved to Rules for a discussion and possible Notice of Intended Action concerning Administrative Rule 491-1.6 (moratorium rule). Chair Mahaffey read a statement, approved by all Commission members, prior the beginning of any discussion. (Copy attached) He called on Mr. Ketterer to provide a brief background on the moratorium on the issuance of new licenses.

Mr. Ketterer stated that the moratorium rule is an administrative rule, and that the first step in the process of amending or changing an administrative rule in state government is to file a Notice of Intended Action. With this particular agenda item, the Commission is deciding whether to vote to file a Notice of Intended Action, thereby indicating they are rescinding the rule limiting any new riverboat or racetrack licenses. He noted that this is the first step in a process that can take approximately 100 days to complete.

Commissioner Cutler moved to rescind Administrative Rule 491-1.6. Commissioner Jarding seconded the motion. Chair Mahaffey called for any discussion.

Commissioner Bair stated that he enjoyed the various communications he received on this particular issue indicating how Iowans feel. He also found the comments on "legislative intent" to be very interesting. Commissioner Bair stated that the Commission received a straight forward message and should move forward on this issue, but wondered about how to move forward.

Commissioner Cutler stated that she would vote in favor of lifting the moratorium. She noted that she is from southwest Iowa and has seen the positive impact of gaming dollars in the area. Commissioner Cutler stated that the Commission needs to be cognizant of those individuals with gambling problems, but does not feel that is sufficient reason to not lift the moratorium.

Commissioner Jarding stated that she felt the moratorium should be lifted based on the information received from the Legislature.

Commissioner Hamilton stated that she too is in favor of lifting the moratorium, and referenced the lack of economic development in the small towns. She indicated that the expansion would provide an opportunity for the smaller communities to develop their towns and have funding for various projects.

Chair Mahaffey indicated that he was going to vote against lifting the moratorium, and had previously explained his reasons. He referenced a recent conversation with a colleague who indicated that he had changed his own mind on the need for additional gaming facilities. Although originally in favor of additional facilities, the colleague has come to the conclusion there are a sufficient number in Iowa. Chair Mahaffey noted that Illinois, a larger state than Iowa, has a limit of ten gaming licenses, while Iowa has 13 plus three Native American casinos. He indicated that Iowa is in a race to see if Iowa can equal Nevada and Mississippi in terms of per capita access to gaming, but is not sure why Iowa would choose to be more like those states. Chair Mahaffey stated that it is unfortunate that the rural communities feel the only way to achieve economic development is to bring gaming to their community. He stated his belief that not all communities would receive a license and urged them to continue to find other ways to bring economic developments to their communities/counties. He noted that the various problems facing rural and urban communities will continue to exist. Chair Mahaffey wondered why the problems continued to exist if gaming was the answer. Chair Mahaffey stated his belief that it is incumbent on the Commission to wait for the economic impact study that candidly discusses the good and bad of gambling. He stated that if the Commission votes to lift the moratorium he would continue to press to have the study completed prior to any vote on the expansion of gambling in Iowa. Chair Mahaffey stated that he hoped Iowa is more than just a gambling boat or prison in each rural county.

Commissioner Bair called for the question. The motion carried 4-1 on a roll call vote, with Chair Mahaffey voting no. (See Order No. 04-52)

Chair Mahaffey called on Mr. Ketterer to cover the application process. He noted there are six counties that have presently passed a referendum, with the possibility of as many as three applications from Black Hawk County. Secondly, Mr. Ketterer advised that the rule change will be filed as a Notice of Intended Action and published in the Administrative Rules Bulletin for three weeks followed by a public hearing at the Commission's main office on July 27, 2004, providing an opportunity for the public to make comments pertaining to the rule change. He urged that any comments on the proposed rule change also be submitted in written form so that they can be relayed to the Commission members and the Legislative Rules Review Committee. This proposed rule change will be back on the Commission's September 2<sup>nd</sup> agenda for Final Adoption. Following another publication in the Administrative Rules Bulletin, the rule change would become effective November 3, 2004. The Commission would be able to issue new licenses on or after that date. The third item to take into consideration is the socioeconomic impact study. The Legislature instructed the Legislative Council to engage the study by an independent entity, with the report due by July 1, 2005. Mr.

Ketterer stated that the report, along with other information, documents and studies, should be considered by the Commission in determining the number of licenses to be issued. However, waiting a full year to start the process would be unfair to the counties that have already approved referendums. He suggested that the Commission should request the Legislative Council to expedite completion of the study to make the report available no later than December 31, 2004. As a final comment, Mr. Ketterer addressed the DCI background investigations of the applicants. He noted that the investigative forms, which are somewhat extensive, must be completed and submitted with the applications for all key members of the applicant. The estimated time of completion for three to four applicants is three to four months; for six to eight applicants, the investigations would take six to eight months to complete. This information is based on conversations with DCI Director Gene Meyer and past experience. Mr. Ketterer stated that he had relayed the above information to the Commission members in meetings with each of them. By relaying this information to the individuals in attendance at the meeting, their expectations would align with the Commissioner's expectations.

Mr. Ketterer stated that a discussion on the application process would be appropriate. He stated that the Commission can not accept any applications until the rule change has been final adopted, with the first opportunity to do so being at the September 2<sup>nd</sup> Commission meeting. He noted there are issues which could delay the final adoption past the September 2<sup>nd</sup> meeting.

Commissioner Cutler asked if the Commission needed to make a motion to request that the study be expedited so that it is available by December 31, 2004. Mr. Ketterer stated he had discussed this issue with some legislators and advised that directing staff to prepare a letter for the Chair's signature was sufficient. Chair Mahaffey concurred with Mr. Ketterer's comments, noting that he had also discussed this matter with some legislators.

Mr. Ketterer stated that due to the length of time required to complete the DCI backgrounds and rules process, it is very unlikely that the Commission could issue a license prior to December 31. He indicated that if the study could be completed within the next six months it would not delay the process.

Commissioner Bair expressed his opinion that the earlier completion date for the socioeconomic study would be better, but did not want to do anything that would diminish the integrity of the study as it will play an important role in the Commission's decision.

Commissioner Hamilton asked if the Commission could accept applications prior to reviewing the report but not issue any licenses until after reviewing the report. Mr. Ketterer answered in the affirmative. She noted that the DCI backgrounds would not be completed prior to that time. Commissioner Cutler stated that the Commission has to have the background applications completed prior to issuing any licenses.

Commissioner Jarding stated that she felt time should be allowed for any other counties choosing to hold a referendum.

Chair Mahaffey asked Mr. Ketterer what steps the Commission needed to take. Mr. Ketterer stated that, for purposes of discussion, the soonest that applications could be due is September 10<sup>th</sup>, which is 90 days out and with the caveat that the Commission final adopts rescinding the moratorium rule at the next meeting on September 2<sup>nd</sup>. If that is delayed, then the application due date is delayed. Mr. Ketterer stated that if the Commission is concerned about subsequent referenda in additional counties that they wished to consider with the group of applicants, he suggested the Commission could indicate that those counties would need to have their referenda passed and application ready by September 10<sup>th</sup>, or move the application due date back to November 10<sup>th</sup>, allowing any additional referenda to be held in conjunction with the general election. This would push the process back six to eight months from November rather than September.

Commissioner Cutler pointed out once the application is received in the Commission office, they become public record. Mr. Ketterer indicated that was correct, and advised that no amendments to the applications would be allowed once they have been received by the Commission. One of the areas considered by previous Commissions is the ancillary economic developments that are put forth in the application, or commitments made outside of the casino.

Mr. Ketterer indicated that he did not feel a vote needed to be taken, but that direction would have to be provided to staff.

Following a break, Chair Mahaffey moved to the next set of rules before the Commission under Notice of Intended Action. Mr. Ketterer advised that these rule changes (Copy attached) were necessary because of Code changes due to HF 2302. He enumerated the various changes as follows, noting that some of the changes were perfunctory, with some having substantive changes: Items 1, 2 and 3 – all due to changes in the Code; Item 4 – Code revision on national organizations; Items 5, 6, and 7 – consolidated as they appeared in different areas of the rules into Item 8; Items 9, 10 and 11 are self-explanatory; Item 12 – Code change; Item 13 – requires security at the racetrack for the animal drug testing area; Item 14 – video taping has been replaced by recording; Item 15 – addresses language in the Code that requires licensees to make available, when the technology becomes available, that a person can voluntarily bar themselves from cash or credit devices. This section requires that the contract between the facility and financial institution must provide that the bank will notify the licensee of when the technology becomes available. Item 16 – due to a Code change; Item 17 – sets forth when taxes and fees are due in the Commission office; Item 18 – self-explanatory; Items 19 and 20 – Code requirements (Item 20 requires the licensee to be responsible for the conduct of non-licensed individuals in non-public areas as there is no longer a fee-free pass.); Items 21, 22 and 23 – definitions required by the Code to exactly define “gaming floor” and “wagering area”, for the purpose of establishing areas that were accessible to underage



patrons. Item 23 establishes a definition for a barge, excursion gambling boat, excursion boat and moored barge. Item 24 is the excursion requirement that was revised due to Code. The Commission reduced the required number of cruises for boats that continue to cruise to one excursion during the excursion season instead of the minimum of 100. The cruise length was reduced to one hour. Mr. Ketterer noted that some vessels may elect to cruise on special occasions or events. The Commission did not feel it was fair to penalize those vessels electing to cruise to still make 100 cruises.

Item 25 – clarifies that the actual date of a conviction is the date the sentence or judgment is entered for purposes of evaluating occupational license applications; Item 26 – the interim identification badge to replace the fee free pass; Items 27, 28 and 29 – self-explanatory; Item 30 – video recording; Item 31 – self-explanatory; Item 32 – video recording; Item 33 – rescinded, required the presence of the IRGC veterinarian at the post mortem exam of a horse; Item 34 - rescinds the requirement for a list of the trainer's employees; Item 35 – requires a trainer or trainer designee witness the administration of furosemide (lasix); Item 36 – self-explanatory; Item 37 – video recording; Items 38 and 39 – pertains to the IRGC vet being present at a post mortem examination, enlists the trainer's employee; Item 40 – requires a jockey agent to honor a first call given to a trainer or trainer's assistant trainer (current practice); Item 41 – pertains to the injection of furosemide; Section 42 – change required by Code, racetrack enclosure that do not have table games, video games simulating table games of chance are not allowed; Item 43 – rule updated to reflect current status and revise the modification procedure for movement of slot machines throughout the state.

Mr. Ketterer recommended that the Commission accept the rules as submitted under Notice of Intended Action. Hearing no comments or questions concerning the proposed rule changes, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the rules as submitted under Notice of Intended Action. Commissioner Bair seconded the motion, which carried unanimously. (See Order No. 04-53)

Chair Mahaffey moved to the regulatory fees for Fiscal Year (FY) 2005. Mr. Ketterer advised that the regulatory fees were formerly called admission fees, which just applied to the riverboats so this agenda item does not represent much of a change from previous years. There is one new line item, a vacancy factor, representing some DCI positions that they have not filled thereby creating a credit of \$315,000 toward DCI's regulatory costs. The regulatory fee for the excursion boats for Fiscal Year 2005 will be \$11,262 per week beginning July 8, 2004.

With regard to the racetrack enclosure licensees, there was a fifty cent admission fee charged for every person that entered a racetrack enclosure. HF 2302 eliminated the admission fee, but similar language was enacted for a regulatory fee for the racetracks. The regulatory fee is the amount appropriated to the Commission for regulating pari-mutuel racetracks, credited by the fees received for occupational licenses, the DCI's costs for two individuals at each facility, increasing to three with the addition of table games. Mr. Ketterer stated that reaching the regulatory fee for the racetracks was not as easy as

the riverboats as there is a different number of personnel at each of the track facilities; therefore, there is a different fee for each of the facilities. The regulatory fees will be as follows: Bluffs Run Casino - \$18,443 per week; DGP&C - \$13,906 per week, and Prairie Meadows Racetrack & Casino (PMR&C) - \$23,373 per week. These payments will also begin on July 8, 2004.

Mr. Ketterer advised that management at all of the facilities had seen the respective schedules, and the Commission has not received any comment.

Commissioner Bair asked about the variations in the costs of drug testing at the three facilities. Mr. Ketterer explained that the costs for horse racing drug testing are about three times that of greyhound racing. The difference between BRC and DGP&C is attributable to the difference in the number of races run at the facilities.

As there were no further questions or comments concerning the regulatory fee schedules for FY 2005, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the Regulatory Fee Schedules for FY 2005 for the riverboats and racetrack enclosures as submitted. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 04-54)

Chair Mahaffey moved to the Contract Approval portion of the agenda, and called on Harrah's. Gaye Gullo, General Manager, presented the following contracts for Commission approval:

- Aristocrat – Slot Machine Purchases (Replacements) and Parts
- Easybar Beverage Controls – Beverage Equipment
- Fastek International – Purchase and Installation of Digital Recorder System for Hotel Surveillance System
- Hockenbergh – Food and Beverage Equipment
- LAK Advertising – Direct Mail Services
- Omaha Steaks – Meat Supplier

Hearing no comments or questions concerning the contracts, Chair Mahaffey requested a motion. Commissioner Jarding moved to approve the contracts as submitted by Harrah's. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-55)

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

- Miller Pizza Company, Inc. – Leasing Space for the Leasee to Sell Pizza
- Sook's LLC – Leasing Space from Clay Street Development Company

Commissioner Hamilton asked about the contract with Miller Pizza Company, Inc. Mr. Preston advised that the company will have a kiosk in the pavilion and will make two trips a week to provide the pizza.

Hearing no comments or questions concerning the contracts, Chair Mahaffey requested a motion. Commissioner Bair moved to approve the contracts as submitted by Lakeside. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-56)

Chair Mahaffey called on Argosy Casino Sioux City. Brian Wessels, Director of Finance, presented the following contracts for Commission approval:

- City of Sioux City – Sign Display Rights for Tyson Center
- VSR Lock Inc. – Slot Bases and Carousels for New Boat
- Design Plan – Design Services for Renovation and Relocation to Sioux City
- Sarah’s Stitches – Recovering Slot Stools
- Atronic Casino Technology – Anticipated Slot Purchases for New Vessel

Hearing no comments or questions concerning the contracts, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contracts as submitted by Argosy Casino Sioux City. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 04-57)

Chair Mahaffey called on Isle of Capri Bettendorf (IOCB). Nancy Donovan, General Manager, presented the following contracts for Commission approval:

- Aristocrat Technologies, Inc. – Slot Machine Components & Leases (Increase)
- Giesecke and Devrient – Purchase of Bank Note Processing System
- NRT Technology Corporation – Purchase of Slot Ticket Jackpot Redemption System
- Spielo USA – Purchase of Slot Machines

Hearing no further discussion concerning the contracts submitted by IOCB, Chair Mahaffey requested a motion. Commissioner Hamilton moved to approve the contracts as submitted by IOCB. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-58)

Chair Mahaffey called on Rhythm City Casino. Mo Hyder, Director of Finance, presented the following contracts for Commission approval:

- AC Coin & Slot Service – Purchase Casino Seating
- Aristocrat Technologies, Inc. – Slot Machine Components and Leases (Increase)

- Atronic Americas LLC – Slot Machine Components & Leases (Increase)
- NRT Technology Corporation – Purchase of Slot Ticket Jackpot Redemption System
- Spielo USA, Inc. – Purchase Slot Machines (Replacements) (Increase)
- VSR Lock, Inc. – Purchase of Slot Stands

Hearing no further comments or questions, Chair Mahaffey requested a motion. Commissioner Cutler moved to approve the contracts as submitted by Rhythm City. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 04-59)

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

- Hawkins Construction Company – Hotel Rooms Retrofit – Model Rooms
- Fleetwood Fine Furniture – Casegoods for Hotel Retrofit
- Graphic Encounter Inc. – Artwork for Guest Rooms and Corridors
- Minibar Systems – In-Room Amenities Dispensing System
- Phillips Commercial Sales – Flat Screen Televisions with Smart Plug Module
- Masland Carpeting - Suite and Guest Room Carpeting
- Koroseal West – Guest Room and Suite Wallcovering
- VSR Lock, Inc. – Gaming Supplies and Equipment
- Midwest Game Supply – Sale of Used Slot Machines
- Walk On Tours Inc. – Entertainment Headliner Contract

Commissioner Cutler moved to approve the contracts as submitted by Ameristar Casino.

Commissioner Jarding commented on the number of contracts for the hotel room retrofit that were with out-of-state companies. Ms. Bell stated that many were sole source due to copyrights, or the product quality required by Ameristar. Commissioner Jarding encouraged Ameristar to continue to “think Iowa”. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 04-60)

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

- Konami Gaming, Inc. – Purchase of 31 Slot Machines w/Ticket In-Ticket Out Technology (Replacements)
- IGT - Purchase of 190 Slot Machines w/Ticket In-Ticket Out Technology (Replacements)
- Atronic Americas, LLC – Purchase of 24 Slot Machines w/Ticket In-Ticket Out Technology (Replacements)
- Aristocrat Technologies – Purchase of 25 Slot Machines w/Ticket In-Ticket Out Technology (Replacements)

Hearing no comments or questions concerning the contracts, Chair Mahaffey requested a motion. Commissioner Bair moved to approve the contracts as submitted by MB II. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-61).

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

- Lamar Advertising – Outdoor Display Advertising
- Roberts Communication Network – Simulcast Uplink Services

Commissioner Jarding asked about the billboard contract being with an out-of-state company. Mr. Barber advised that the majority of billboards are now owned by national companies. He further noted that there are only three vendors that provide simulcasting services.

Hearing no further comments or questions, Chair Mahaffey requested a motion. Commissioner Jarding moved to approve the contracts as submitted by BRC. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 04-62).

Chair Mahaffey called on DGP&C. Mr. Wentworth presented the following contracts for Commission approval:

- IKON Office Solutions – Copy Machine Lease
- American Trust & Savings Bank – Construction Loan for Expansion Project (RP)
- City of Dubuque – Property Lease (RP)

Mr. Wentworth also advised the Commission that DGP&C would be having a groundbreaking ceremony on the construction project in one week, and work would begin on the parking lot very soon.

Hearing no comments or questions concerning the contracts, Chair Mahaffey requested a motion. Commissioner Jarding moved to approve the contracts as submitted by DGP&C. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-63).

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

- Aristocrat Technologies, Inc. – Purchase of Slot Game Parts and Service (Increase)
- Aristocrat Technologies, Inc. – Player Tracking System Hardware and Software for Slot Games (Increase)

- Combined Systems Technology – Computer-related Products and Services (Increase)
- Data Business Equipment – Supplies and Equipment for the Hard and Soft Count Rooms (Increase)
- IGT Iowa – Potential Lease of 6 “Terminator” Slot Games (Replacements)
- IGT Iowa – Potential Lease of 6 “Wheel of Fortune” Slot Games (Replacements)
- MSI Systems Integrators – Purchase of Computer Hardware, Software and Related Services
- Pomeroy Computer Resources – Purchase of Computer Hardware, Software and Related Services (Increase)

Hearing no comments or 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. 04-64)

Chair Mahaffey called on the Racing Association of Central Iowa (RACI) regarding their request for approval of the racetrack enclosure initial table games license application for the period ending December 31, 2004 and an additional 500 slot machines. Mr. Farinella gave a presentation “Development of Prairie Meadows: Growing the Central Iowa Gaming Market”. A copy of the presentation is available in the Commission’s Des Moines office.

Mr. Farinella stated that RACI has established a task force to work with Polk County for the development of the property. He gave the following overview:

- Pre-construction Phase: To occur yet this year, do some minor construction within the current facility to allow the addition of 24 table games.
- At the same time as the above is occurring, RACI would be expanding the overall facility to the north. Estimating construction would be complete by April 2006.
- Two other components of the project would be a parking garage and a hotel. These are considered essential to meet the increased demand and provide amenities to the facility. The timing of these two components has not been fully determined at this time.

Chair Mahaffey asked if any of the proposed projects included any improvements to the track itself or the paddock area. Mr. Farinella advised that the RACI Board has approved \$1 million to satisfy health and safety issues in the jockey quarters and walking ring area. Once an agreement as to the design has been reached with the jockeys and valets, RACI will go to Polk County for approval, and, if necessary, bring any contracts before the Commission for approval.

Chair Mahaffey called for any questions concerning RACI’s presentation. Commissioner Cutler asked if Polk County had approved the proposed project. Mr. Farinella advised that RACI is currently working with Polk County on the major construction issues. He

indicated that the implementation of the table games is basically a cosmetic upgrade; that there have been conversations on that issue as well and RACI is expecting approval next week.

Commissioner Cutler asked if RACI expected approval on the proposed project from Polk County in the following week. Mr. Farinella stated that RACI had submitted the required formal request on the cosmetic upgrades needed to get the table game process started. He noted that some of the supervisors are in Washington, DC, but felt they would take it up at their next meeting. Michael O'Meara, Polk County Attorney, advised that the individual supervisors have given their approval; there is just no formal vote. They have indicated they would support the proposal when it comes before them in the next two weeks.

Commissioner Bair asked if landlord approvals were a matter of formality. Mr. Ketterer advised that all approvals are usually secured prior to a proposal being presented to the Commission.

Commissioner Hamilton stated that she felt the Commission should wait. Commissioner Cutler concurred with Commissioner Hamilton, stating that she would be more comfortable taking action after RACI has received approval from Polk County.

Mr. Farinella reminded the Commissioners that the only piece before them today was the piece that would allow PM&C to add 24 table games to the existing facility.

Commissioner Bair asked what harm there would be in allowing the first piece to proceed. Mr. Ketterer advised that Section 1 of the application shows \$130,000 of itemized costs and indicates that Polk County approval is required; and Section 2 of the construction schedule shows that Polk County approval is contemplated for June/July 2004. He noted that the Commission could consider this piece at the July meeting, giving RACI time to secure Polk County's approval, and there would be no setback in the construction schedule.

Mr. Farinella stated that if RACI were able to secure Polk County approval the following week, it would give them a one month jump on the projected construction schedule, allowing RACI to begin operating table games in early December versus January.

Commissioner Cutler asked Mr. Farinella if there was a reason the Polk County Supervisors didn't address this issue at their May meeting. Mr. Farinella stated that the project had just received approval from the RACI Board on the conceptual plan, which was immediately put into writing and submitted to Polk County.

Chair Mahaffey called for a motion concerning RACI's request for approval of the racetrack enclosure initial table game license application. Commissioner Cutler expressed her preference to wait until July when all of the necessary approvals were in place. Other Commission members concurred.

Chair Mahaffey moved to RACI's request for approval to add 500 additional slot machines. Commissioner Hamilton stated that she had the same problems with this request as the previous agenda item. Commissioner Cutler agreed.

Chair Mahaffey stated that the request represents a 33-34% increase in the number of slot machines at PMR&C. He feels the Commission needs additional information. Chair Mahaffey stated that with the exception of Mr. Farinella's previous comments concerning improvements at the track, he does not see anything in the proposal that improves the racing facility or addresses concerns raised in the past. He indicated that he would like to see some of those issues addressed. Mr. Farinella stated that he could address some of those issues now. He advised that PMR&C has one of the best dirt tracks in the country, and a low injury rate. As far as the addition of a turf track, Mr. Farinella stated that the horsemen and RACI Board are in agreement that it is not feasible at this time. Chair Mahaffey asked if that decision was made prior to RACI deciding to request additional machines. Mr. Farinella indicated that the decision was made in 2003. During the most recent contract negotiations with the horsemen, they requested that health and safety concerns regarding the jockeys quarters, walking ring and paddock area be addressed, which the RACI board has done.

Chair Mahaffey called for a motion on RACI's request to add 500 additional slot machines. The Commission indicated a preference to wait until Polk County votes on this issue.

Chair Mahaffey moved to Administrative Business. Mr. Ketterer advised that the Notice was being provided for those entities interested in applying for the Greyhound Promotion Fund for FY 2005. Applications for the fund are due in the Commission's Des Moines office by 4:30 PM on June 28, 2004. The money will be awarded at the July Commission meeting.

Commissioner Bair returned to the application process and timing issue surrounding the application process for the communities seeking to file an application with the Commission. Mr. Ketterer advised that the application would be available in the Des Moines office in 1-2 weeks. He noted that the counties that have already passed a referenda could proceed with pulling their information together regardless of the date the Commission establishes for the filing of applications. He again pointed out that September would be the soonest the Commission could begin to accept applications, with another 7-8 months beyond that before the process would be complete. Mr. Ketterer stated that he was not sure how the Commission wanted to proceed for those counties that have not yet held their referenda as he feels they should be required to submit their application at the same time. If no application was submitted, they would have to be considered after the first group of applicants. Mr. Ketterer indicated that the Commission needs to determine the number of licenses they are going to issue



Commissioner Jarding expressed her preference to go with the November 10<sup>th</sup> date, which is closer to the requested completion date for the socioeconomic study and it would also give other communities a chance to hold their own referenda vote.

Commissioner Cutler also indicated her preference for the November date. She indicated that referenda could be held in conjunction with general election votes. She felt this date would be fair for everyone involved.

Hearing no further discussion on the matter, Chair Mahaffey requested a motion. Commissioner Cutler moved to establish November 10, 2004 as the date that all applications for new riverboat gambling facilities be filed with IRGC, provided the rule is final adopted. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 04-65)

Chair Mahaffey stated that all applications are due in the Commission's Des Moines office by 4:30 PM, November 10, 2004, provided the Commission takes the necessary steps to final adopt the rules presented under Notice of Intended Action at today's meeting.

As there was no further business to come before the Commission, 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  
JULY 15, 2004**

The Iowa Racing and Gaming Commission (IRGC) met on Thursday, July 15, 2004 at Stoney Creek Inn and Conference Center, 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 Gerald Bair was absent.

Chair Mahaffey called the meeting to order at 8:30 AM, and requested a motion to approve the agenda. He noted there was an amendment to the agenda, with items 1-5 remaining the same, a new item 6, with subsequent items renumbered accordingly. Commissioner Jarding moved to approve the agenda as amended. Commissioner Cutler seconded the motion, which carried unanimously. Chair Mahaffey stated that individuals wishing to address the Commission concerning the new agenda item six would be allowed to do so during that agenda item rather than Public Comment.

Chair Mahaffey moved to approval of the minutes from the June 10, 2004 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 concerning future Commission meetings:

- August – No Commission Meeting
- September Commission Meeting – September 2, 2004, Stoney Creek Inn, Johnston (Submissions due by August 19, 2004)
- October Commission Meeting – October 14, 2004, Isle of Capri Bettendorf, Bettendorf (Submissions due by September 30, 2004)
- November Commission Meeting – November 18, 2004, Stoney Creek Inn, Johnston (Submissions due by November 3, 2004)
- December – No Meeting

Chair Mahaffey moved to the election of the Chair and Vice Chair for Fiscal Year 2005. He stated that it has been a pleasure to serve as Chair for the last two years, noting the Commission has a rule prohibiting an individual from serving as chair for more than two consecutive one-year terms. He thanked Commission staff for their work on behalf of the Commission, and for making his job easier. He also thanked the other Commissioners for permitting him to serve as Chair. He noted that they do not always agree, nor is it likely they will do so in the coming months. Chair Mahaffey stated that the Commission is facing a challenging, and possibly difficult, time, but feels that if they continue to deliberate and make decisions with civility and respect for one another, everything will be fine.

Chair Mahaffey also thanked the individuals who contacted him following last month's Commission meeting to indicate their support for his stance against expanded gambling. He noted that there are numerous individuals who share those feelings.

Chair Mahaffey called for a nomination for Chair. Commissioner Cutler nominated Diane Hamilton to serve as Chair for FY 2005. Commissioner Jarding seconded the motion. Hearing no further nominations, Chair Mahaffey called for the vote. The motion carried on a 3-0 vote. Commissioner Hamilton abstained. (See Order No. 04-66)

Chair Mahaffey called for a nomination for Vice Chair for FY 2005. Commissioner Jarding nominated Kate Cutler to serve as Vice Chair for the upcoming fiscal year. Commissioner Hamilton seconded the motion. Hearing no further motions, Chair Mahaffey called for the vote. The motion carried 3-0, with Commissioner Cutler abstaining. (See Order No. 04-67)

Mr. Mahaffey turned the gavel over to Chair Hamilton. Mr. Ketterer expressed appreciation for the manner in which Mr. Mahaffey handled the position of chair, maintaining the spirit of openness the Commission has always strived for, and his availability. Mr. Ketterer presented Mr. Mahaffey with a plaque thanking him for his service as chair and the gavel he used during his tenure as Chair.

Chair Hamilton stated that the Commission is in for a very interesting year, and asked that everyone be patient with the Commission and the Commission would be patient with them.

Chair Hamilton called on Wes Ehrecke, Executive Director of the Iowa Gaming Association, concerning Responsible Gaming Education Week. Mr. Ehrecke thanked Commissioner Mahaffey for his service to the Commission and congratulated Chair Hamilton on her election to the position.

Mr. Ehrecke stated that Responsible Gaming Education Week is August 2-6, 2004, and provides an opportunity to heighten the awareness of what occurs on a daily basis within the casinos with regard to this issue. He noted the facilities host various speakers and bring in the local treatment providers to work with the employees and review signage concerning problem gambling. The licensees also look for additional opportunities to help promote responsible gaming. One of the areas that will be touted this year is the Voluntary Trespass Program, which bans access to credit that the industry has put forth. Mr. Ehrecke distributed copies of the Responsible Gaming Quarterly report, which contains various research, developments and "best practices" within the industry. He noted that Iowa has the Uniform Standards, and the facilities are looking into a Code of Conduct. Mr. Ehrecke also referenced a study performed by the Harvard Medical School and Massachusetts Council on Problem Gambling called "First Steps to Change", which would be helpful to individuals to learn how to gamble responsibly, or help them to determine if they have a problem. He indicated that the information would be tailored for use by the local treatment providers, the 1-800-Betts-Off number and the facilities.

Mr. Ehrecke commended the Commission on their efforts on not only maintaining, but increasing the funding for the Gambling Treatment Program. He noted that the Commission increased the funding to \$5 million, which should help Iowa develop a premier program.

Chair Hamilton moved to the next agenda item – a request to change the excursion gambling boat application deadline from November 10, 2004 to December 31, 2004. Jerry Crawford, Polk County Development Counsel for Ameristar, stated that Ameristar is requesting the Commission amend the deadline for receiving gaming license applications from November 10, 2004 to December 31, 2004. He pointed out that doing so would not have any impact on any eventual decision regarding a second license within Polk County. He stated that the Polk County Board of Supervisors would not have any leeway in setting the referenda as the Commission's next meeting is in September, which is after the petition date for getting an issue on the general election ballot in November, thus depriving local individuals from setting the vote when they feel it would be best to hold the referenda concerning gaming in the community. Mr. Crawford advised that Ameristar would prefer, under ordinary circumstances, to be on the general election ballot as the pass rate is higher on general election ballots than on special election ballots. He noted there is the possibility of two or three controversial referenda issues being on the ballot in Polk County, including the city-county merger, a voluntary telephone tax increase, and the new Polk County jail. Mr. Crawford stated that each issue in and of itself is very complicated and difficult to pass. He noted that it would be very difficult in a presidential election year to communicate effectively about whether or not Des Moines would be better served by having a second gaming facility. Mr. Crawford advised that the individuals pursuing the new jail facility are considering removing their issue from the general election ballot as they do not feel they can adequately communicate the need for the facility to the voters. Mr. Crawford indicated that the developer is aware that if a special election is held to allow a second license, it is more than likely the County would ask them to pay the costs of the special election so there would be no impact to the local taxpayers. He stated that should the Commission decide to extend the application deadline, there is no need for it to cause delays in the rest of the process. Mr. Crawford pointed out that it is not likely the Commission will be granting any new licenses in 2004, nor is it likely the study required by the Legislature will not be available until December 31. He noted that there was a possibility that background information could have been submitted earlier, but felt staff would find a way for those communities that did not want to be delayed any longer to proceed with the process.

Jeff Riese, Executive Director of the Polk-Des Moines Taxpayer Association, stated that the purpose of the Association is to study government financial records for Des Moines and the suburbs. The Association also looks at issues affecting governmental bodies and the processes utilized to arrive at decisions. Mr. Reis stated the Association has several concerns with the request: 1) an issue of such importance needs to come before the population during a general election, which draws a larger voter turnout than special elections; and 2) the cost of a special election, which can run from \$100,000 to \$180,000. He referenced the recent budget pressures of the state, Polk County and Des Moines.

Gayle Burnett, speaking on behalf of Franklin County as a prospective licensee, stated that the process of whether to grant new licenses has been long and drawn out, and feels the Commission took much into consideration when establishing an application deadline at the last meeting. Ms. Burnett requested that the Commission stay with the original date.

Mr. Ketterer advised the Commission that the office received e-mail letters on the website on this issue from DuWayne "DJ" Wessels, Ross Christensen, Don Hoth and Gary Bertch from Black Hawk County and John Pavone on behalf of Worth County Development Authority/Worth County, Webster County Development Corporation/Webster County, River Hills Riverboat Commission/ Wapello County, Black Hawk County Development Authority/Black Hawk County, and Gary Kirke/Wild Rose Entertainment in Des Moines. They all requested that the Commission not further delay the process.

Chair Hamilton called for comments from the Commission members. Commissioner Jarding stated that if the Commission did change the application deadline, it would be the last time, noting that there was significant discussion prior to the decision at the June meeting.

Commissioner Mahaffey stated that he did not support the request; that the November 10 deadline is appropriate, and that the Commission has received input from other counties interested in the process indicating that they do not support the requested change. He noted that the Commission will continue to be faced with decisions such as this, and feels the Commission should stay the course unless there are compelling reasons to change that decision. Commissioner Mahaffey stated that it is better to decide issues such as this when there are more, rather than less, people voting. He feels if the issue passes during a general election vote, it will add more credibility to the outcome rather than passage during a special election. Commissioner Mahaffey stated that he did not feel the requested change would be good for the process, nor basic policy.

Commissioner Cutler stated that the November date was an arbitrary date. She stated that it is important the Commission consider all requests that come forward, which does not mean that Des Moines would be granted a license, only that everyone has an opportunity to come to the Commission, and provides a level playing field. Commissioner Cutler stated that she did not feel changing the application deadline would slow down the process. Additionally, she noted that as long as Ameristar pays for the special election, there will not be an impact on the local taxpayers.

Chair Hamilton expressed concern about additional counties deciding to hold referenda and submitting an application. Hearing no further comments, Chair Hamilton called for a motion.

Commissioner Cutler moved to grant the request to change the deadline for excursion gambling boat applications from November 10, 2004 to December 31, 2004. Commissioner Jarding seconded the motion.

Commissioner Mahaffey stated his belief that should the Commission pass the previous motion, they would be setting a bad precedent and that the Commission will regret having made this decision regarding the process.

The motion failed on a 3-1 vote, with Commissioner Cutler being the only "yes" vote. (See Order No. 04-68)

Chair Hamilton moved to the approval of the distribution of the Dog Promotion Fund. Linda Vanderloo, Director of Racing/Administration, advised the Commission that the Iowa Greyhound Association (IGA) had submitted a proposal to receive the funds, as well as an accounting of how they spent the funds received last year. She noted that they have been the only recipient of the fund from the beginning, and recommended their approval again this year, contingent upon the following conditions:

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. This evaluation should be provided in an annual audit of the Escrow Account(s) by an independent audit company. The audit should cover activity from January 1, 2004 through December 31, 2004, and be submitted to the Iowa Racing and Gaming Commission by April 1, 2005.
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 Commission. 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 Commission.
6. Investment funds shall not be withdrawn from the account(s) until the Commission 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 Commission by November 1, 2004.

Chair Hamilton called on Mr. Crawford for his comments concerning this agenda item.

Mr. Crawford stated that he wanted to use this annual consideration as an opportunity to make a few comments. He noted that the IGA has had a long positive relationship with Dubuque Greyhound Park & Casino (DGP&C); and that the relationship with Bluffs Run Casino (BRC) has improved markedly as they have worked together to promote greyhound racing. Mr. Crawford stated that from 1996 through 2004 purses have almost doubled. During that same time frame, the number of breeders has more than doubled, the number of litters has more than tripled, and in 2003, there was over \$41 million in economic impact to the State of Iowa.

Mr. Ketterer noted that in their submission, the IGA stated that there are only a finite number of greyhounds that can participate at Iowa's two racetracks. In order to expand the industry in Iowa, there needs to be quality greyhounds that participate successfully at greyhound tracks in other states. He suggested that it would be good if the IGA could somehow track the number of wins or stakes wins that are achieved by Iowa-breds at other tracks around the country. Mr. Ketterer stated that the greyhound industry does not have a mechanism to track that type of information at this time.

Chair Hamilton called for a motion. Commissioner Mahaffey moved to approve the distribution of the Dog Promotion Fund to the Iowa Greyhound Association contingent upon the recommendations listed above. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-69)

Chair Hamilton moved to the next agenda item – Argosy Casino's request for approval of refinancing their revolving line of credit and term loan. Jesus Aviles, General Manager, introduced Mark Monson, Chair of the Grant Review Committee for the Missouri River Historical Development (MRHD) since 1989, who has been elected President of MRHD.

Mr. Monson stated that he has been active in MRHD and the development of the various projects. He indicated that he can not fill the shoes of Betty Strong, the former President of MRHD, but does intend to carry out her dreams of a better Woodbury County. He noted that since 1989 MRHD has granted over \$3.5 million for large and small projects, and have built the \$4.5 million Sioux City Lewis and Clark Interpretive Center, which has become an educational and tourism icon in Siouxland. Mr. Monson noted that the 2002 referendum passed just short of 75% approval from the Woodbury County voters. He stated that MRHD looks forward to many years of continued improvement in the quality of life for the residents of Woodbury County.

Mr. Aviles introduced Dale Black, Chief Financial Officer and Senior Vice President of Finance, who was present to answer any questions concerning the refinancing of the revolving credit facility and term loan. Mr. Black stated that Argosy is extending the term of the current credit facility into a new facility for approximately three years with a more favorable interest rate. The collateral for the loan would be the same as the existing credit facility.

As there were no questions, Chair Hamilton called for a motion. Commissioner Cutler moved to approve Argosy's request to refinance the \$400 million revolving credit facility and \$275 million term loan B. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 04-70)

Chair Hamilton called on Ameristar Casino/IWRA concerning their request for approval of an expansion request and renovation, including 250 additional gaming positions.

Todd Graham, Executive Director of IWRA, advised the Commission that IWRA is proud of the positive economic impact the three gaming facilities have had on the Council Bluffs community. He noted that IWRA was before the Commission in March during the license renewal process for Ameristar and Harrah's. Mr. Graham stated that IWRA is supportive of Ameristar's request before the Commission.

Troy Stremming, Vice President of Governmental Affairs, Ed Fasulo, General Manager, Jane Bell, Director of Governmental & Community Affairs, and Kerry Heinrich, Public Relations Manager, were available to answer any questions on the material submitted and go through the presentation with the Commission. Mr. Stremming, addressing the fact that he was opposed to Harrah's expansion request at BRC earlier this year, noted that it is tough to make predictions about the future.

Mr. Stremming stated that Ameristar's review of the current Council Bluffs gaming market and recent legislative changes removing the cruising requirements for riverboats in Iowa would allow them to expand their gaming facility. Mr. Stremming presented a slide presentation concerning the proposed expansion and renovation. He noted that, with Commission approval, Ameristar would invest \$26 million. The gaming improvements would start with the expansion of the casino floor by approximately 10,000 square feet and the addition of 250 gaming positions to the floor and a poker room. Non-gaming improvements include the total renovation of the 160-room hotel tower, total renovation and expansion of the Veranda buffet, a deli and overlook bar on the gaming floor.

Mr. Stremming noted that Ameristar currently has 660 gaming positions on the first floor of their facility. It is their intent to add 135 new gaming positions for a total of 803 on the first level. There are 712 positions on the second level, which will be increased to 798. The third deck will be expanded to hold 612 units, and is also where most of the expansion and reconfiguration takes place. This will give Ameristar a total of 2,213 slot machines. The poker room, deli and overlook bar will be on this level.

Mr. Stremming advised that when he appeared before the Commission in March, Ameristar's revenue growth was 4.4% over calendar year 2003, and Harrah's and BRC had no revenue growth. He noted that during the first six months of 2004, Ameristar has experienced revenue growth of approximately 15%, and Harrah's and BRC have also experienced positive revenue growth.



Chair Hamilton noted that in March during Harrah's request to expand at BRC, Mr. Stremming stated "The Council Bluffs gaming market can not afford another 250 slot machines without suffering significant damage at competing riverboats in an already sluggish gaming market."

Mr. Stremming stated there have been several changes in the market, one of the most important being the turn around in the Bluffs market. He reiterated that Ameristar's revenue growth is up approximately 15% during the first six months of 2004 from 2003 and that Harrah's and BRC have also experienced positive revenue growth. Another positive is the announcement of a Bass Pro Shop coming into the area in close proximity to the Ameristar property.

Commissioner Cutler stated that she is excited about this project, noting that the growth in Council Bluffs and the southwest Iowa area has been extraordinary.

Chair Hamilton called on Gaye Gullo, General Manager of Harrah's and BRC. Ms. Gullo expressed Harrah's full support for the project.

Hearing no further discussion, Chair Hamilton called for a motion. Commissioner Cutler moved to approve Ameristar's expansion and renovation request, including 250 additional gaming positions. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 04-71).

Chair Hamilton moved to the contracts submitted by Ameristar Casino. Ms. Bell presented the following contracts for Commission approval:

- Hawkins Construction Company – Full Hotel Retrofit
- William Morris Agency – Clint Black Concert

Chair Hamilton called for a motion concerning the contracts. Commissioner Mahaffey moved to approve the contracts as submitted by Ameristar. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-72)

Following a short break, Chair Hamilton moved to the contract approval portion of the agenda and called on Rhythm City Casino. Mo Hyder, Director of Finance, presented the following contracts for Commission approval:

- Tri-City Equipment – Purchase of Kitchen Equipment for Buffet Remodel
- Ryan Companies – Buffet Remodel
- Hornbuckle Heating – Buffet Remodel

Mr. Hyder explained that the contracts are in conjunction with Rhythm City's expansion and continuing effort to brand and theme the property. Hearing no discussion concerning the contracts, Chair Hamilton called for a motion. Commissioner Cutler moved to

approve the contracts as submitted by Rhythm City Casino. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 04-73)

Chair Hamilton called on Mississippi Belle II (MB II). Dan Kehl, representing MB II, presented the following contracts for Commission approval:

- Dubuque Bank & Trust – Increase Limit on Line of Credit Loan
- Frank Baxter General Contractor, Inc. – Management Fee for Design and Pre-Construction Phase of Land-based Casino Complex

Chair Hamilton requested a motion. Commissioner Cutler moved to approve the contracts as submitted by MB II. Commissioner Jarding seconded the motion.

Mr. Ketterer asked Mr. Kehl for an explanation of the second contract. Mr. Kehl stated that MB II anticipates redoing the facility in Clinton once the new rules are in place. MB II will be back in front of the Commission with the project at that time.

Hearing no further discussion, Chair Hamilton called for a vote on the motion. The motion carried unanimously. (See Order No. 04-74)

Chair Hamilton called on Harrah's. Ms. Gullo presented a contract with Bluejay Lawn and Landscape, LLC for snow removal, mowing and other exterior landscaping. She explained that this is an ongoing relationship. The company's headquarters are in Panora, Iowa, and they have recently opened an office in Omaha in order to expand their business in western Iowa.

Hearing no further discussion, 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. 04-75)

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

- Atronic, Inc. – Purchase of Replacement Slot Machines
- Innovative Gaming, Inc. – Purchase of Replacement Slot Machines

Hearing no discussion concerning the contracts, Chair Hamilton requested a motion. Commissioner Jarding moved to approve the contracts as submitted by CBC. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-76)

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

- Fastek – Digital Camera, Monitors, Etc.

- Harkers – Food Vendor
- Hewlett Packard – Computer Hardware and Software
- Lane & Waterman – Legal Services
- Zurich – North America – Workman’s Comp Claims; Jones Act Claims; Patron Claims

As there was no discussion concerning the contracts, Chair Hamilton called for a motion. Commissioner Cutler moved to approve the contracts as submitted by DDJ. Commissioner Mahaffey seconded the motion, which carried unanimously. (See Order No. 04-77)

Chair Hamilton called on Argosy Casino Sioux City (Argosy). Mr. Aviles presented the following contracts for Commission approval:

- JE Dunn Construction Company – General Contractor – Boat Renovation
- The Media & Marketing Group, Inc. – Marketing – Creative Work and Media Buys

Hearing no discussion concerning the contracts, Chair Hamilton called for a motion. Commissioner Cutler moved to approve the contracts as submitted by Argosy. Commissioner Mahaffey seconded the motion, which carried unanimously. (See Order No. 04-78)

Chair Hamilton called on BRC. Mike Rich, Assistant General Manager, presented the following contracts for Commission approval:

- Bluejay Lawn & Landscape, LLC – Snow Removal, Mowing & Other Exterior Landscaping
- LAK Advertising – Direct Mail Services
- The Printer, Inc. – Printing of Direct Mail Material

Commissioner Jarding clarified that BRC has a different company design the direct mail pieces, and another print them. Mr. Rich indicated that was correct, but that they are looking to change the out-of-state printer.

Hearing no further discussion, Chair Hamilton called for a motion. Commissioner Jarding moved to approve the contracts as submitted by BRC. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-79)

Chair Hamilton called on Dubuque Greyhound Park & Casino (DGP&C). Bruce Wentworth, General Manager, presented the following contracts for Commission approval:

- Dubuque Casino Hotel – Parking Lot Agreement

- City of Dubuque – Release of Property and Rights of First Refusal (RP)

Mr. Wentworth stated that the Commission's approval of the above contracts would facilitate the construction of a 111-room hotel on DGP&C's property. He stated that the City Council has approved the contracts for the lease and parking agreement. Mr. Wentworth advised that Brad Bierman from Dubuque Casino Hotel, LLC (DCH) was present, as well as Bob Pace, one of the consultants that worked with DCH, from the Central Group. Mr. Pace gave an overview of the project. DCH has begun franchise discussions with Hilton Garden Inn. The group is also looking to compliment the hotel with a nationally-franchised restaurant and lounge. The hotel will include smaller meeting rooms, with larger groups having the ability to utilize the Park View Room and banquet facilities at DGP&C.

Hearing no further discussion concerning the contracts, Chair Hamilton called for a motion. Commissioner Jarding moved to approve the contracts as submitted by DGP&C. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-80)

Chair Hamilton called on the Racing Association of Central Iowa/Prairie Meadows Racetrack & Casino (RACI/PMR&C) regarding their request for approval of the season approvals for the harness meet. Derron Heldt, Director of Racing, was present to answer any questions concerning the materials previously submitted.

Mr. Ketterer clarified that PMR&C did not export the signal for the harness meet last season but were going to do so this year. Mr. Heldt indicated that was correct. Mr. Ketterer asked about the reasoning behind the decision. Mr. Heldt explained that after announcing last year that they would not be exporting the signal, PMR&C received several requests for the signal.

Hearing no further comments or questions concerning the harness meet season approvals for PMR&C, Chair Hamilton requested a motion. Commissioner Mahaffey moved to approve the request for season approvals for the harness meet at PMR&C, contingent upon the staff recommendations, which are as follows:

- 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, which carried unanimously. (See Order No. 04-81)

Chair Hamilton moved to RACI's Revised License Application for Table Games at PMR&C. Bob Farinella, General Manager, noted that there was a request for additional information from Polk County at the June meeting, which has been provided. PMR&C formally withdrew its request for an additional 500 slot machines, and replaced the request for 60 table games with a request for 33 table games.

Commissioner Mahaffey stated that everything appeared to be in order, and moved to approve RACI/PMR&C's Revised License Application for Table Games. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-82)

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

- AJ Allen Mechanical Contractors Inc. – Contractors for HVAC Mechanical Projects, Phases 4 & 5
- Aristocrat Technologies, Inc. – Potential Purchase of Xceed Slot Game Upgrade Kits
- Audiovisual Inc. – Audio-visual Equipment, Parts and Services (Increase)
- Baker Electric – Potential Contractor for Installation of an Uninterruptible Power Supply System
- Deloitte & Touche – Services Provided by External Auditing Company
- Des Moines Asphalt & Paving – Asphalt Application and Patching of Parking Lots (Increase)
- Ernst & Young LLP – Potential Provider of a Strategic Development Study
- Great Western Bank – General Banking
- Grimes Asphalt & Paving – Potential Contractor for Concrete or Asphalt Services
- Hanser & Associates – Potential Purchase of Public Relations Consultation Services
- Mather and Company – Purchase of Insurance for Jockeys
- Nuckolls Concrete Services – Potential Contractor for Concrete or Asphalt Services
- The Innovative Group – Potential Provider of a Strategic Development Study
- 3 Custom Publishing – Various Printing Services
- White Sand Consulting – Potential Provider of a Strategic Development Study

Hearing no discussion concerning the contracts, Chair Hamilton called for 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. 04-83)

Chair Hamilton moved to a hearing for PMR&C on a violation of Administrative Rule 491-12.3 (Internal Controls). Mr. Ketterer advised that the hearing has been resolved with a Stipulated Agreement. Mr. Ketterer explained that an employee of PMR&C's Marketing Department distributed \$760 of pari-mutuel vouchers without obtaining

payment for them. This occurrence was not initially caught through accounting procedures or the mutuel department. PMR&C did eventually discover the discrepancy two weeks later and self-reported to the Commission at that time. Iowa law does not allow licensees to extend credit. The Commission has proposed, and PMR&C has accepted, an administrative penalty of \$10,000. Mr. Ketterer recommended approval.

Chair Hamilton called for a motion. Commissioner Mahaffey moved to accept the Stipulated Agreement as presented in this matter. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-84)

Chair Hamilton moved to the hearing for James Schulthess, an appeal of an Administrative Law Judge Decision. Mr. Ketterer explained that Mr. Schulthess had requested a continuation as he is waiting to receive some evidence that he would like to present to the Commission. He stated that Commission staff does not object to the continuation.

Chair Hamilton moved to Administrative Business. Hearing none, she called for any Public Comment. As there were no public comments, Chair Hamilton called for a motion to adjourn. Commissioner Cutler so moved. Commissioner Mahaffey seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

---

JULIE D. HERRICK CPS

**IOWA RACING AND GAMING COMMISSION  
MINUTES  
SEPTEMBER 2, 2004**

The Iowa Racing and Gaming Commission (IRGC) met on Thursday, September 2, 2004 at Stoney Creek Inn and Conference Center, 5291 Stoney Creek Court, Johnston, Iowa. Commission members present were Diane Hamilton, Chair; Kate Cutler, Vice Chair; and members Joyce Jarding and Gerald Bair. Commissioner Mike Mahaffey was absent.

Chair Hamilton called the meeting to order at 8:30 AM, and requested a motion to approve the agenda. Jack Ketterer, Administrator of IRGC, advised Chair Hamilton of the following amendments to the agenda:

- Move Public Comment prior to Agenda Item 4 – Rules – Final Adopt
- Item 7F was withdrawn.(Dubuque Diamond Jo Contract)
- Under 7I, Items 10 and 13 have been withdrawn (Prairie Meadows Racetrack & Casino)
- A request for a continuance was received on Item 10 (Deanna Kane Hearing)

Hearing no further amendments to the agenda, Chair Hamilton requested a motion. Commissioner Cutler moved to approve the agenda as amended. Commissioner Jarding seconded the motion, which carried unanimously.

Chair Hamilton moved to the approval of the minutes from the July 15, 2004 Commission meeting. Hearing no discussion concerning the minutes, Chair Hamilton requested a motion. Commissioner Jarding moved to approve the minutes as submitted. Commissioner Cutler seconded the motion, which carried unanimously.

Chair Hamilton called on Mr. Ketterer for announcements. Mr. Ketterer provided the following information concerning upcoming Commission meetings:

- October 14, 2004 at Isle of Capri Bettendorf;
- November 18, 2004 and January 13, 2005 at Stoney Creek Inn; and
- No meeting in December or February

Mr. Ketterer advised that the Commission would be reviewing the license renewal applications for the racetracks and racetrack enclosure facilities at the October Commission meeting. He also noted that the Commission would be laying out the process for the applications received for the riverboat licenses at the November meeting. He indicated there would more than likely be some additional meetings to the regularly scheduled meetings, probably in the spring.

Chair Hamilton moved to Public Comment, and called on Lana Ross, representing the United Methodist Church Conference. She turned in numerous postcards and a petition from individuals around the state opposed to the expansion of gambling. The postcards and petition request that the Commissioners wait for the completion of the socioeconomic study authorized by the Legislature prior to issuing any new licenses. Ms. Ross urged the Commissioners to use caution and care in making their decisions on this issue. She also urged the Commissioners to make sure they avail themselves of all of the information available to them before issuing any new licenses.

Chair Hamilton moved to the rules being submitted for final adoption. Mr. Ketterer advised that these rules were previously before the Commission under Notice of Intended Action at the June Commission meeting, and includes the amendment to the rule rescinding the moratorium on new licenses being issued. Since the June meeting, and the last meeting in July, there was a Public Hearing on these rules at the Commission's office on July 27<sup>th</sup> where Commission staff received input from several individuals. The comments were forwarded to the Commission members, as well as the Legislative Rules Review Committee (LRRC). The LRRC met on August 10<sup>th</sup>, and did not pose any questions concerning the moratorium. Mr. Ketterer recommended final adoption of the rules as submitted.

Commissioner Bair asked if the Legislators posed any questions on the rules or their interpretation. Mr. Ketterer answered in the negative. The only question was whether or not the Commission had indicated that no licenses would be issued until the socioeconomic study had been completed. Mr. Ketterer stated the Commission had not, but did want to consider the study along with other information, which was one of the reasons the Commission asked that it be completed by December 31<sup>st</sup>. Mr. Ketterer indicated that he had heard the study would not be done by December 31<sup>st</sup>, but should be done prior to July 1. He indicated that he had heard March.

Commissioner Bair asked if the question was posed because at one time the statute contained language requiring the Commission to wait for the study to be completed. Mr. Ketterer stated that Senator Kibbie from Emmetsburg raised the question because of the language, which did fail to make it into the final legislation.

Hearing no further discussion concerning the rules before the Commission for final adoption, Chair Hamilton called for a motion. Commissioner Bair moved to approve the final adoption of the rules as submitted. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-85)

Commissioner Bair complimented staff on their good job on the rules.

Chair Hamilton moved to the Commissioner's comments as to what they are looking for in the excursion gambling boat applications, outside of the criteria already established, that will be submitted by the various communities.



Mr. Ketterer noted that none of the current Commission members have been through the licensing process. He indicated that some of the Commission members had indicated they did not want to be specific, and let the communities show their own creativity and ingenuity.

Chair Hamilton called on Commissioner Bair. He stated that he liked the idea of ingenuity on the part of the communities submitting their proposals. Commissioner Bair stated that he would be paying attention to Section 5 on economic and demographic information. He is interested in seeing the impact on the community.

Commissioner Jarding stated that she had done considerable thinking about what would be important in determining the number of licenses, and concurs with Commissioner Bair's comments on the economic development. She is also interested in what else is happening in the county to promote tourism besides the casino, and what percentage of the gamblers will be from outside the state. She noted that many communities indicate the funds will be utilized to lower tax rates. She would like to see some specific numbers. She also wonders who would pay for the infrastructure costs that will occur with the arrival of a casino boat. Commissioner Jarding also expressed concern about management agreements, and the amount of funds that could be leaving the state. She would like to see the term "good jobs" defined, the number of jobs created, the salary of specific classifications and benefits, and whether or not the jobs are full time positions. Commissioner Jarding stated that some communities had indicated the funds would be utilized to fund education. She questions utilizing gaming dollars to fund education and feels that Iowans should be willing to pay for education for their children.

Commissioner Cutler concurred with the comments made by the other Commission members. She indicated that she is interested in the distribution to the non-profit, job creation and ancillary services to the community. She also requested information concerning the use of Iowa vendors.

Chair Hamilton stated that she felt all important areas had been covered. She expressed interest in the distance between existing facilities and the proposed facility so that money is not just being shifted from one casino to another as that would not provide much benefit to the state, or either casino. Chair Hamilton also stated that she was interested in seeing the benefit to the community/county, particularly the smaller communities. She also stated that she would be looking at the population within a 60-mile radius of the facility.

Chair Hamilton moved to the review of licensee's financial audits for Isle of Capri, and called on Isle of Capri Bettendorf. Mo Hyder, Senior Director of Finance for the Quad City facilities, stated that the Iowa properties continue to be the bright spot for Isle of Capri. IOC Bettendorf saw a 5% increase in overall revenues and increase of approximately 8% in overall net income. IOC Bettendorf spent approximately \$2 million on capital expenditures.

Commissioner Bair referred to the Detailed Schedule of Operations, and requested an explanation of "Other Expenses" as they accounted for between 11 -14% of the total operations. This was the third largest operating expense.

Mr. Hyder stated that there could be a variety of items included, ranging from professional services, some service type items, etc., but could not be specific.

Commissioner Bair stated that he did not go back and review the financial statements previously filed with the Commission, but requested that in the future a breakdown be provided.

Chair Hamilton asked for an explanation regarding the substantial drop in adjusted gross income for the weeks ending May 11<sup>th</sup> and December 14<sup>th</sup>. With regard to the December date, Mr. Hyder attributed the decline to a seasonal decline, or weather. He did not have any thoughts on the May 11<sup>th</sup> date.

Mr. Ketterer asked Mr. Hyder to provide Commissioner Bair a list of the top four or five categories in the "Other Expenses" category. Mr. Hyder answered in the affirmative.

Chair Hamilton called on Mr. Hyder to discuss the Rhythm City audit. Commissioner Bair stated that his question concerning "Other Expenses" applied to all three facilities, and did not have any questions concerning the audit.

Mr. Ketterer stated that the adjusted gross revenues were up at Rhythm City, and that the management fees had doubled. He requested an explanation. Mr. Hyder stated that the management fee is based on a percentage of net revenues. He stated that gross receipts at Davenport were up 17%, and net revenues increased 15%. He stated there is a specific formula utilized to determine the management fee. Commissioner Bair clarified that it was based on net revenues. He then asked if the management fee was paid to the parent company or just where. Mr. Hyder indicated the parent company.

Mr. Ketterer asked why depreciation was so much larger this year than previously. Mr. Hyder stated that Rhythm City is pursuing the possibility of a hotel in the Davenport area. He pointed out they currently own the Blackhawk Hotel, and IOC has accelerated the depreciation on the Blackhawk as part of the negotiations in order to avoid a loss on the Blackhawk transaction. He noted that the increased depreciation had been footnoted in the audit.

Chair Hamilton called on IOC Marquette. Barron Fuller, General Manager, stated that IOC Marquette experienced record revenue and EBITA, and spent approximately \$3.5 million on capital expenditures, including slot technology and casino interior renovation. They are hoping to have some answers on the proposed hotel expansion within the next week.

Commissioner Bair noted that IOC Marquette's long term debt remained at the same level as the previous year. Mr. Fuller indicated that he did not have an answer, but would investigate and get a response to the Commission. Commissioner Bair asked for the information within the next thirty days.

Hearing no further comments on the financial audits, Chair Hamilton moved to the contract approval portion of the agenda and called on Harrah's. Mike Rich, Assistant General Manager, presented the following contracts for Commission approval:

- Aristocrat Technologies, Inc. – Slot Machines and Repair Parts (Replacements) (Increase)
- Coca-Cola – Beverage Purchases
- Concert Security Services – Provides Concert Production Services and Labor
- Cummins – Currency Counting Equipment and Maintenance of Equipment
- Metro Wine & Liquor – Beverages Purchases

Hearing no comments on the contracts, Chair Hamilton requested a motion. Commissioner Jarding moved to approve the contracts as submitted by Harrah's. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-86)

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

- Spielo Manufacturing Inc. – Trial of 8 Spielo Slot Machines for 90 Days
- The Agency Group Ltd – Doors of the 21<sup>st</sup> Century Concert at Star Arena

Ms. Bell stated that the machines in the Spielo contract are actually leased, and will be purchased if Ameristar is satisfied with the performance.

There was a brief discussion concerning the concert contract. Hearing no further comments or questions concerning the contracts, Chair Hamilton requested a motion. Commissioner Cutler moved to approve the contracts as submitted by Ameristar. Commissioner Bair seconded the motion, which carried unanimously. (See Order No. 04-87)

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

- Kehl Management, Inc. – Consulting Services for Casino Project Development (RP)
- Washington County Citizens for Good Jobs Commission – Funding for Referenda Campaign

Commissioner Cutler asked for details on the consulting contract. Mr. Massa explained that CBC has entered into a consulting agreement with Kehl Management Group, as they are in the process of developing two different projects (new license applications) and feel the expertise of the Kehl group would be beneficial.

Commissioner Bair asked if the second contract had to do with the recent vote in Washington County. Mr. Massa answered in the affirmative. Commissioner Bair asked if the amount of the contract was the maximum. Mr. Massa indicated it was their best guess. Commissioner Cutler asked if CBC expected to be reimbursed that amount. Mr. Massa again answered in the affirmative.

Hearing no further comments or questions concerning the contracts, Chair Hamilton requested a motion. Commissioner Jarding moved to approve the contracts as submitted by CBC. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-88)

Mr. Massa noted that a referendum was held in Washington County on Tuesday, August 31. He noted that CBC is unique in its ownership structure in that it has local ownership involved, and are proposing the same structure for the proposed facility in Washington County. CBC will have 50% ownership, with the other 50% being held by local residents. Mr. Massa introduced Tim Putney, chair of the not-for-profit organization in Washington County.

Mr. Putney stated that Washington County feels the proposed casino is an opportunity to expand the economic base in the county. He noted CBC has entered into an agreement to pay the non-profit organization more than what is required by statute. Mr. Putney stated that the referenda passed with a 52.2% approval rating, with ten of the twelve precincts passing the measure. Mr. Putney introduced Bill Polk, the mayor of Riverside, the Washington County community where the facility would be located.

Mayor Poch advised that Riverside is located between Iowa City and Kalona on the Avenue of the Saints. He noted that Riverside's claim to fame is that it is the future birthplace of Captain James T. Kirk. Mayor Polk stated that Riverside is excited to have the opportunity to work with CBC. Tourists traveling to Kalona pass through Riverside.

Commissioner Bair noted that the referenda passed with 52.2%. He wondered about the total number of votes cast. Mr. Ketterer advised that the vote has not yet been canvassed, but staff has made a request for the results to be sent to the office. Those results will be sent to the Commissioners upon receipt and posted on the Commission's website.

Chair Hamilton called on Mississippi Belle II (MB II). Ken Bonnet, General Manager, presented a contract with Konami Gaming for the purchase of 19 replacement slot machines with ticket-in/ticket-out technology. He indicated this will complete the change over to this technology.

Hearing no comments or questions concerning the contract, Chair Hamilton requested a motion. Commissioner Jarding moved to approve the contract as submitted. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-89)

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

- Atronics – Purchase 8 Slot Machines (Replacements)
- Aristocrat Technologies – Purchase 22 Slot Machines (Replacements)
- WMS Gaming, Inc. – Purchase 30 Slot Machines (Replacements)
- IGT – Purchase of 79 Slot Machines (Replacements)

Hearing no comments or questions concerning the contracts, Chair Hamilton requested a motion. Commissioner Bair moved to approve the contracts as submitted by Lakeside Casino. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-90)

Mr. Preston turned the floor over to Jerry Crawford, license application counsel for Herbst Gaming. Mr. Crawford stated that Herbst Gaming is a small, but quickly growing, family-owned company. He stated that Osceola would benefit financially and through additional development from this transaction. Mr. Crawford introduced Sean Higgins, corporate legal counsel for Herbst Gaming. Mr. Higgins has been with Herbst for eleven years, and has emerged as a leader in the industry in Nevada. Mr. Higgins has been appointed by the Governor of Nevada to the Governor's Commission on Gaming in Nevada and serves on the Board of Directors for Nevada's Council on Problem Gaming.

Mr. Higgins stated that Herbst is excited about expanding outside Nevada, noting that they had purchased the St. Joseph and LaGrange, Missouri facilities from Grace Entertainment as well. He advised that Herbst operates four casinos in Nevada, similar in scope and size to the Osceola facility. These facilities operate under the "Terribles" brand name. Mr. Higgins stated that the Herbst family started in the service station business, operating approximately 90 stations under the Terrible Herbst brand name. He noted that the Herbst family operates one of the largest slot routes in Nevada, with over 9,000 games in their casinos and slot route throughout the state. He commended Grace Entertainment for having the foresight to locate facilities in areas overlooked by others, but stated Herbst feels there are large untapped opportunities at the Grace facilities they have purchased, and that with the right capital investments, improvements, additional machines, food venues and amenities these facilities will move to the next level. Mr. Higgins stated that Herbst has reached an agreement with the City of Osceola, Water Works Board, and the Clarke County Development Board regarding the assignment of the various agreements with Grace Entertainment/Southern Iowa Gaming Company to Herbst Gaming. He anticipates the license application will be submitted no later than a week from today.

Chair Hamilton called on Bluffs Run Casino (BRC). Mr. Rich presented the following contracts for Commission approval:

- Aristocrat Technologies, Inc. – Purchase of 49 Incremental Slot Machines
- C Rallo Contracting Co., Inc. – Remodel of Bluffs Run
- IGT – Slot Machine Conversions, Repairs and Daily Fees
- Omaha Steaks – Meat Supplier
- VSR Lock, Inc. – Slot Machine Base Replacements
- Waldinger – New AC Units

Hearing no comments concerning the contracts, Chair Hamilton 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. 04-91)

Chair Hamilton called on Dubuque Greyhound Park & Casino (DGP&C). Bruce Wentworth, General Manager, presented the following contracts for Commission approval:

- Giese Sheet Metal Company – Membrane Roofing System
- IPC, Inc. – Precast Beams
- McMullen & Pitz – Deep Foundation
- McClain Excavating – Parking Lot and Enclosed Walkway
- David Bear – Steel Girders
- JP Cullen – Building Shell

Mr. Wentworth advised that all of the contracts relate to the current expansion project.

Commissioner Bair asked who was serving as the general contractor for the project. Mr. Wentworth stated that Durrant Group was serving in that capacity, noting that Durrant has been involved with the facility since its inception in 1985.

Hearing no further comments or questions concerning the contracts, Chair Hamilton requested a motion. Commissioner Cutler moved to approve the contracts as submitted. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 04-92)

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

- Atlantic City Coin and Slot Service – Lease Renewal: 3 each “Bewitched” Slot Games
- Audiovisual, Inc. – Audiovisual Equipment, Parts and Services (Increase)
- Bally Gaming – Lease Renewal; 1 “Playboy” Slot Game

- Belin Lamson McCormick Zumbach Flynn – Corporate Legal Counsel Services (Increase)
- City of Des Moines – Agreement for the Sharing of Gaming Revenue
- Delta Dental Plan of Iowa – Dental Insurance for Employees
- Durkan Patterned Carpet – Specialty Carpet for Facility
- Electrical Engineering and Equipment – Electrical Equipment, Parts and Supplies
- Farmers Supply Store – Groundskeeping Equipment, Parts, Service and Supplies
- IGT Iowa – Lease Renewal; 1 “25,000 Pyramid” Slot Game
- IKON Office Solutions – Copier Leasing, Maintenance and Supplies
- MSI Systems Integrators – Computer Hardware, Software and Related Services (Increase)
- Shive-Hattery – Miscellaneous Consulting Services (Increase)
- Slot Tickets – Slot Tickets
- Tech Results – Wager Finance Reporting and Total Promo Computer Software Maintenance
- Wellmark Blue Cross Blue Shield of Iowa – Potential Provider of Employee Medical Insurance
- Ziegler Caterpillar – Purchase or Rental of Heavy Equipment, Parts and Service

Commissioner Cutler asked how many employees were covered by the dental and health insurance. Mr. Farinella stated that approximately 900 of the 1100 employees are covered under the plans. Commissioner Cutler asked if the employees paid part of the premiums or if PMR&C paid all of the premiums. Mr. Farinella advised that PMR&C pays the entire dental premium, but the employee pays part of the medical premium. Commissioner Cutler asked if the withdrawal of the John Deere Health Plan contract was an indication that PMR&C had decided on an insurance provider. Mr. Farinella indicated that PMR&C has decided to go with Wellmark Blue Cross Blue Shield.

Mr. Ketterer addressed the contract with the City of Des Moines for the sharing of gaming revenue. He stated that it was important to note that this is a legal and legitimate distribution of gaming revenue to a municipality, but the Commission is not endorsing the terms of the agreement. He stated that the Commission has no position at this time as to whether or not there would be a casino in the Des Moines metropolitan area.

Hearing no further comments or questions, Chair Hamilton called for a motion. Commissioner Bair moved to approve the contracts as submitted by PMR&C. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-93)

Chair Hamilton moved to the hearing for Bluffs Run Casino on a violation of Iowa Code Section 99F.9 (Wagering – Age Restriction). Mr. Ketterer advised the Commission that a Stipulated Agreement has been reached on this issue. He noted that a minor gained access to the casino without being asked to present identification, and proceeded to gamble during the time that he was in the casino; thus meeting the threshold of those

violations for coming before the Commission. The Stipulated Agreement calls for a \$10,000 fine for the violation. Mr. Ketterer requested approval of the Stipulated Agreement.

Commissioner Jarding asked how the penalty amount is determined. Mr. Ketterer advised the penalty is on a scale, and does increase if more than one violation occurs in a calendar year. He noted that the threshold fine is \$10,000, and is applicable if three elements are present. Those are no identification requested when the individual enters the casino, they are in the casino more than thirty minutes, and that while they are in the casino, the individual either gambles or consumes alcohol. Mr. Ketterer noted that if an agreement is not reached, the licensee has the ability to proceed to a hearing. He further stated that when some but not all of the elements are present, there could be some disciplinary action at the casino level by state Gaming Representatives, who have the ability to suspend occupational licenses and issue fines up to \$1,000.

Hearing no further comments or questions concerning the Stipulated Agreement with BRC, Chair Hamilton requested a motion. Commissioner Bair moved to approve the Stipulated Agreement as presented. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-94)

Chair Hamilton moved to Administrative Business, and called on Mr. Ketterer. He stated that he had covered everything during the announcement portion of the agenda. He reiterated that the renewals for the racetrack enclosure licensees would be reviewed at the October Commission meeting in Bettendorf.

Commissioner Bair noted that the Commissioners had shared their thoughts as to what they would be looking for in the new applications that will be submitted. He noted that some of the individuals and/or groups involved may have questions over the next couple of months. He wondered if the Commission wanted to establish a process to share those questions with the Commissioners. Mr. Ketterer stated that as the November 10<sup>th</sup> application date looms closer, and in order to insure the fairness and integrity of the process, that all contacts be made through the staff versus the individual Commissioners. He assured that all information would be forwarded to the Commissioners.

Chair Hamilton called on Jesus Aviles, General Manager, of the Argosy Casino Sioux City, regarding the new boat. Mr. Aviles advised that the new boat has arrived, and was opened to the public on Tuesday. He stated that the new vessel has three times the space as the old boat, and is a great addition to Sioux City and the riverfront. Mr. Aviles stated the grand opening celebration would take place September 9-12. He thanked Commission staff, Department of Natural Resources and Coast Guard who worked hand in hand to accelerate the process necessary in order to get the boat opened.

Following a short break, Commissioner Hamilton moved to the appeal of an Administrative Law Judge (ALJ) Decision filed by James Schulthess.



Commissioner Bair clarified that Mr. Schulthess is representing himself.

Mr. Schulthess stated that he has trained greyhounds for approximately thirty-three years, and has trained more first team, second team, and honorable mention greyhounds than any other trainer. Several of the greyhounds he has trained have won awards and/or championships.

Mr. Schulthess stated that he was charged with driving under the influence (DUI) in February 2003, and reported it to the Stewards. He indicated that he was ten days short of having gone a year without having a drink. Mr. Schulthess stated that he was working alone on March 12, 2004. He stated that the Statement of Facts contained in the Respondent's Brief contained inaccurate statements, namely: that he was so intoxicated he could not weigh his dogs in. He distributed copies of the race results from the races for that day, noting that he did not have a very good day, and that the 15<sup>th</sup> race was called as a "no race" by the Stewards. In all his time at BRC and other facilities, he can only recall two "no races" that were charged to him in twenty-six years. He noted that 99.9% of the time "pilot error" is involved. Following the "no race", Mr. Schulthess went to a pay phone to call a support person, but did not have his list of names. He noted that schooling takes place after the races.

Mr. Schulthess noted that he had been under daily surveillance for six months, but lost it at this time, went to the casino and consumed three or four drinks as fast as he was served. He advised that he had signed an agreement consenting to a probationary license. He stated that he will be turning 58, and training greyhounds is all he has ever done. He feels that the five-year revocation of his license is a life sentence. He pointed out that the revocation will be recognized by all states. Mr. Schulthess requested that the revocation order be modified in such a way that would allow him to race in other states. He made the statement that in any other state where he has participated in racing, he would not have had his license suspended, let alone revoked, for a DUI. Mr. Schulthess stated that he had turned down two jobs in other states because of this situation.

Mr. Schulthess stated that on March 12<sup>th</sup>, he weighed in and picked up all of his dogs, and made all of his last turnouts. He stated that in all his years of racing and drinking, he never took a drink until after the last turnout. He has never had a dog injured due to his negligence.

Mr. Schulthess stated that the greyhound was not scratched from the race on March 12<sup>th</sup> because he was too drunk to weigh it in, but because it was underweight. He indicated that he asked someone else to weigh his dogs in for the schooling because he knew that he would be watched. Mr. Schulthess stated that trainers are required to weigh in their own dogs for races, but not for schooling.

Mr. Schulthess referenced a time when Gaming Representative Richard Woodsmall cancelled the races last winter because he determined the track to be unsafe. The trainers did not agree with the decision, costing the trainers and owners several thousand dollars.

Commissioner Cutler asked Mr. Schulthess if he had any other information to present. Mr. Schulthess indicated that he has several unsolicited letters attesting to his abilities as a trainer and his character, and presented these to Chair Hamilton. He again requested that the order somehow be modified to allow him to participate in racing in other states. Chair Hamilton advised Mr. Schulthess that he would have a chance to rebut any comments made by Assistant Attorney General Jeff Peterzalek, representing the Gaming Representatives.

Mr. Peterzalek advised that this case started in February, 2003 when Mr. Schulthess was driving in an intoxicated state, causing an accident in which another individual sustained serious injuries. At that time, Mr. Schulthess was charged with various offenses, including a felony charge, which under IRGC rules, requires the automatic suspension of his license. Mr. Schulthess eventually was able to plead the matter down to non-felony charges, to which he plead guilty. Mr. Schulthess served some jail time. In September 2003, after providing assurances that he had rehabilitated himself and through the efforts of Jerry Crawford, legal counsel at that time, Mr. Schulthess was offered a probationary license. The terms of the license were set out point-by-point, and included a signature line for Mr. Schulthess, thereby indicating his agreement with the terms of the probationary license. Mr. Peterzalek stated that within six months of signing the probationary license agreement, Mr. Schulthess, by his own admission during the ALJ hearing, was intoxicated. The Stewards were contacted because another individual was attempting to weigh in his dogs; however, by the time the Stewards arrived, Mr. Schulthess was in the paddock area showing signs of intoxication. Mr. Schulthess refused to take the breath test, and was eventually sent home via cab.

Mr. Peterzalek stated that IRGC rules provide, and in fact require, that Mr. Schulthess' license be revoked due to the violations relating to his probationary license. The actions taken against Mr. Schulthess' license is exactly what he agreed would happen if he violated the terms of his probation. Mr. Peterzalek stated that the punishment may seem harsh, but it is what the rules provide for in order to insure the safety of the greyhounds, patrons, and the employees working with Mr. Schulthess. He noted that Mr. Schulthess had indicated he was working alone that particular day, and fortunately nothing bad happened. However, this situation started because he was intoxicated, and another person was injured. Mr. Peterzalek stated that Mr. Schulthess and his witness testified during the hearing that he does have a substance abuse problem.

Mr. Peterzalek stated that all of the above reasons provide the basis of not only why the Stewards and ALJ's decisions should be affirmed, but also form the basis of why Mr. Schulthess can not hold a license in the State of Iowa at this time. Mr. Peterzalek stated that neither he nor the Racing and Gaming Commission have any personal animosity towards Mr. Schulthess; however, in light of Mr. Schulthess' request for another break, felt he would be remiss in not pointing out that Mr. Schulthess had probably received his biggest break when the individual injured during the accident in early 2003 was not killed. Mr. Schulthess received additional breaks when he was able to plead down the felony charges and enter into an agreement for a probationary license. Mr. Peterzalek

stated that Mr. Schulthess failed to take advantage of any of the breaks offered either because of his substance abuse problem or poor judgment.

Mr. Peterzalek noted that Mr. Schulthess had indicated that this decision would have a profound effect on his life. Mr. Peterzalek agreed that was an accurate statement; but advised that there are non-racing positions for which Mr. Schulthess would be highly qualified to hold, and sought after, in kennel operations not only in Iowa but other jurisdictions.

Mr. Peterzalek requested that the decisions rendered by the Board of Stewards and Administrative Law Judge be upheld.

Chair Hamilton asked for clarification on Mr. Schulthess' statement that a violation of this nature would not have resulted in either a license suspension or revocation in other states. Mr. Peterzalek stated that he felt a violation of a probationary license in any state would have a profound effect on the individual's ability to be licensed, up to and including revocation. He did not see how something of this nature would not have an effect on an individual's license. He felt that Mr. Schulthess was indicating that just being picked up for an OWI/DUI would not have an affect on his ability to be licensed. Mr. Peterzalek stated that he did not agree with the statement, noting that all of the states have conditions relating to being charged with other criminal offenses, and feels there would be some sanction in any of the states he is familiar with.

Commissioner Cutler asked if the reason Mr. Schulthess would not be able work in other states is because the license revocation would be recognized by the other states. Mr. Peterzalek stated that all disciplinary actions must be disclosed on any license application, but they are also maintained in a database.

Commissioner Bair asked for clarification on Mr. Peterzalek's comment as to other employment opportunities available to Mr. Schulthess. Mr. Peterzalek stated that Mr. Schulthess could work in a kennel operation, and do training on the kennel premises, but could not be licensed as a trainer at any racing facilities in Iowa. Commissioner Bair stated that this is more of a licensing matter. Mr. Peterzalek concurred.

Commissioner Jarding asked if there would be a difference in pay, or prestige. Mr. Peterzalek concurred there would be less prestige as a trainer at a kennel operation versus a racetrack, but could not comment on the economic impact to Mr. Schulthess.

Commissioner Bair asked if there was a factual dispute concerning the weighing in of the dogs, his being sent home, and Mr. Schulthess' statement that he did not drink until after the final turnout. Mr. Peterzalek indicated he was not sure there was a factual dispute as there was testimony and evidence presented during the hearing that this situation did not occur within a brief window of time, but over a lengthy period of time by various individuals.

Commissioner Cutler asked for clarification on the length of the revocation. Mr. Peterzalek stated that the Commission's rules provide for a five-year revocation. Commissioner Cutler asked if there was any discretion allowed on the length of the revocation. Mr. Peterzalek indicated there was not. Commissioner Cutler asked if Mr. Schulthess could apply for a license at the end of that time frame. Mr. Peterzalek indicated that he could apply in Iowa or any other state of his choice.

Commissioner Bair again asked about the length of the suspension. Mr. Ketterer advised that license suspensions could be for a shorter length of time, but revocations are for five years.

Chair Hamilton called on Mr. Schulthess for his rebuttal. Mr. Schulthess, addressing the comment that he was too intoxicated to weigh in his dogs, stated that from after the races until the one schooler he had that evening, he stated that he was present and it wasn't that he couldn't have presented the dog for weigh in, it was that he got caught. He reiterated his earlier statements that he did present his dogs for weigh in for the races and picked up the results of the races. With regard to the statements regarding safety, he again noted that in thirty plus years of racing, nothing has ever happened to any of his dogs because of the training provided to his employees. He reiterated that he was the only person working in his kennel that particular day.

Commissioner Bair asked Mr. Schulthess about his sobriety state. Mr. Schulthess indicated that he is sober – sometimes more than others. He indicated that he goes to meetings, chops wood or calls people to help him.

At this time, Chair Hamilton called for a motion to go into Executive Session for the purpose of deliberating. Commissioner Jarding moved to go into Executive Session pursuant to Iowa Code Section 21.5(1)f for the purpose of discussing the decision to be rendered in a contested case conducted according to the provisions of chapter 17A. Commissioner Cutler seconded the motion, which carried unanimously on a roll call vote. (See Order N. 04-95)

Following the conclusion of the Executive Session, Chair Hamilton called for a motion concerning the appeal filed by James Schulthess. Commissioner Bair moved to uphold the Decision rendered by the Administrative Law Judge. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-96)

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

MINUTES TAKEN BY:

---

JULIE D HERRICK CPS

**IOWA RACING AND GAMING COMMISSION  
MINUTES  
OCTOBER 14, 2004**

The Iowa Racing and Gaming Commission (IRGC) met on Thursday, October 14, 2004 at Isle of Capri Bettendorf, 1777 Isle Parkway, Bettendorf, Iowa. Commission members present were Diane Hamilton, Chair; Kate Cutler, Vice Chair; and members Joyce Jarding, Mike Mahaffey and Gerald Bair.

Chair Hamilton called the meeting to order at 8:30 AM. She advised that if anyone desired to address the Commission during Public Comment, a sign-up sheet was located in the back of the room. Chair Hamilton requested that those individuals also read the rules set forth on the agenda.

Chair Hamilton moved to the approval of the agenda as amended. She requested a motion to approve the agenda as amended. Commissioner Bair so moved. Commissioner Cutler seconded the motion, which carried unanimously.

Chair Hamilton moved to the approval of the minutes from the September 2, 2004 Commission meeting. Commissioner Jarding moved to approve the minutes as submitted. Commissioner Cutler seconded the motion, which carried unanimously. Commissioner Bair thanked the Isle of Capri Bettendorf (IOCB) and Isle of Capri Marquette (IOCM) for submitting the information requested during the review of their respective financial audits during the September meeting.

Chair Hamilton called on Jack Ketterer, Administrator of IRGC, for announcements. Mr. Ketterer advised that the applications for excursion gambling boat licenses are due in the Commission's office by close of business (4:30 PM) on November 10, 2004. He indicated that the office would remain open until 6:30 PM as substantial media interest is anticipated. Once the applications are filed with the Commission, they are public information except for the Division of Criminal Investigation background information and the security/surveillance information. Mr. Ketterer pointed out that November 11<sup>th</sup> is a state holiday, however, the IRGC office would be open from 8:00 AM to 11:00 AM but phones would not be answered.

With regard to future meetings, Mr. Ketterer advised that the regular Commission meeting is scheduled for November 18, 2004 at Stoney Creek Inn, at which time the Commission will announce the licensing process and schedule of any additional meetings that will take place over the next six months.

With regard to upcoming meetings, Mr. Ketterer advised that there will be no meetings in December and February. Additionally, Stoney Creek Inn will also be the location for the Commission meetings to be held on January 13, 2005 and March 3, 2005. The

Commission will take up the renewal of the licenses for the existing riverboat licensees at the March Commission meeting. Mr. Ketterer advised that it is not likely there will be any additional meetings scheduled until March, but reiterated those meetings would be announced at the November Commission meeting.

Mr. Ketterer introduced the following IRGC staff in attendance: Stu Hoover, Betty Clark and Debbie Douglas from the IOCB office, Shirley Stokes from Rhythm City in Davenport, and Kathy Howard from Catfish Bend Casino in Burlington. The following IRGC staff were unable to attend: Todd Ollendick and Michelle Perino from the Mississippi Belle II office, and Karen Johnson from the IOCB office.

Chair Hamilton moved to the next agenda item – final adoption of rules. Mr. Ketterer stated that the only rule that was not final adopted with the group noticed for Notice of Intended Action in June was the rule defining a barge. House File 2302 amended the definition of an “excursion gambling boat” in Section 99F.1 to include a moored barge or an excursion boat on which lawful gambling is authorized and licensed as provided in this chapter. The Legislature defined a moored barge as “a barge or vessel that is not self-propelled”. Mr. Ketterer explained that an “excursion gambling boat” is defined as a self-propelled floating vessel. He noted there was a requirement for a “floating” barge or vessel, but was deleted in an amendment by the Legislature. In order to provide some clarification on the word “floating”, the Commission wanted to define “barge”.

Mr. Ketterer stated that issue came up in August with respect to the occupancy of Argosy’s new boat in Sioux City. When the riverboats located on the Mississippi and Missouri Rivers were required to cruise, they were subject to an inspection by the Coast Guard certifying the vessels ability to cruise. Argosy was looking to decertify the boat as it was no longer going to cruise. Mr. Ketterer stated that everyone is interested in the public safety and welfare when individuals visit the riverboats and casinos. However, due to the new legislation, many of the licensees no longer desire to cruise and no longer desire to have the encumbrances of the Coast Guard’s Certificate of Inspection and are looking to decertify, or will be. Mr. Ketterer advised that the Coast Guard is pursuing removing itself from having jurisdiction or certifying permanently moored vessels. He stated that the majority of the riverboat casinos throughout the country are moored barges. If the Coast Guard is successful, the inspection duties would fall to the Department of Natural Resources (DNR), which feels ill-equipped and does not have the expertise, time or money to take on these inspections. Mr. Ketterer indicated that he thought the DNR, in the last session of the Legislature, was seeking to remove itself from the commercial inspections that currently are under their jurisdiction for much smaller watercrafts and boats.

Mr. Ketterer stated that the Commission sought advice from legal counsel, Assistant Attorney General Jeff Peterzalek as to what the Commission could legally do to clarify the definition, but there was insufficient time to get all of the information to the Commissioners prior to the September Commission meeting; and therefore, elected to postpone the final adoption of this particular rule until the October meeting. The

Commission has not changed the substance of the rule submitted under Notice of Intended Action in June, but added some clarification. The previous definition read as follows: “A barge means any man-made stationary structure where the entire gaming floor was at all times located within a body of water allowed under Iowa Code 99F.7, subsection 1 as approved by the commission.”

The amended definition states: “Barge” means a man-made stationary structure approved by the commission, where the entire gaming floor is at all times located within a body of water as defined under Iowa Code 99F.7, subsection 1, and which facility is subject to land based building codes rather than maritime to Iowa Department of Natural Resources inspection laws and regulations.

Mr. Ketterer stated that the Commission feels the amended definition makes more sense for these buildings. He reiterated that the DNR has indicated they are not well-equipped to provide the inspections and do not have any problems with the proposed definition. He explained that should a situation arise while a vessel is cruising, the emphasis is getting everyone up to the top deck in order to vacate the vessel, while in a land-based situation, the emphasis is on getting everyone evacuated from the building. Mr. Ketterer stated that with a moored barge he feels the emphasis would be evacuating a building. He stated that the broader scope of the rules is that the Commission is trying to make the facilities safe and look out for the safety and welfare of the patrons occupying the facility, and what is best for all concerned.

Commissioner Cutler noted that the original rule referred to a facility located “on a body of water” while the new rule uses “within a body of water”. She wondered if that made any change to the rule. Mr. Ketterer indicated that it did not; it just provides the operator with an option. He indicated that the words “on or” could be inserted following the word “located”.

Hearing no further discussion concerning the rule, Chair Hamilton called for a motion. Commissioner Bair moved to approve the final adoption of the rule defining “moored barge” as amended. Commissioner Mahaffey seconded the motion.

Commissioner Bair asked if there was significant outside input in this rule. Mr. Ketterer stated that Terry Hirsch, Director of Riverboat Gambling, had several meetings with the Coast Guard, Argosy, and DNR in trying to resolve the issue in Sioux City. In an effort to assure that the Commission was on sound ground legally, Jeff Peterzalek, Assistant Attorney General, was also asked to review the proposals.

As there was no further comment, Chair Hamilton called for the vote. The motion carried unanimously. (See Order No. 04-97)

Chair Hamilton called on Mississippi Belle II (MB II). Ken Bonnet, President, stated they were seeking approval of a concept in three areas:

- Location within 1,000 feet of a high water mark;
- Replicating Iowa's riverboat history
- Moored Barge definition

Mr. Bonnet stated that Mississippi Belle II has received a letter from the City of Clinton indicating that their property is located within the 100 year floodplain/high water mark for the Mississippi River.

With regard to the second point, Mr. Bonnet pointed out that Clinton was developed very early as a logging center, and then moved on to a railroad center. He stated that Clinton has always been known for its large number of wealthy lumber barons. Mr. Bonnet indicated that lumber still plays a major part in Clinton. He stated that the exterior of the building will represent a sawmill, the buildings will have tin roofs, wooden columns, wooden walkways and several water features in an attempt to create a river wharf environment. Mr. Bonnet stated that the casino floor would be built to appear to be sitting on a log raft.

Regarding the moored barge definition, Mr. Bonnet stated that the casino floor would be over the water, and that the customer would see the water feature from the perimeter of the casino floor.

Commissioner Bair asked about the proposed timeline for the project should the Commission approve the concept. Mr. Bonnet stated that construction would start in the spring. He indicated there is a possibility that some earthmoving could take place over the winter months, depending on the weather. Commissioner Bair asked about a completion date. Mr. Bonnet advised that it would be the end of next year.

Mr. Ketterer asked when the balance of the project would be brought before the Commission for approval. Mr. Bonnet indicated it would probably be January. Mr. Ketterer clarified that the other aspects of relocation, contracts and any other issues would be brought before the Commission at that time. Mr. Bonnet indicated that would be correct as they have not done any bidding as MB II wanted to be sure the concept would be approved before proceeding with all of the other details.

Mr. Ketterer noted that the Commission has received documents regarding the high water mark and how it relates to the 100-year flood plain. He advised that the Legislature did not define the term "high water mark", but the Corps of Engineers has indicated that using a 100-year high water mark is the most expedient and reasonable when there is not a specific definition. With regard to how the facility will replicate Iowa's riverboat history, Mr. Ketterer asked Mr. Bonnet to provide further information.

Mr. Bonnet stated that the whole casino floor will have water underneath it; it will be located on a large pond. He reiterated that from the perimeter of the casino floor, the patrons will be able to see a "stream".



Commissioner Cutler asked how deep the “pond” would be. Mr. Bonnet advised that the depth has not been determined at this point. Commissioner Cutler asked about patrons falling off the raft. Mr. Bonnet indicated that individuals would be able to stand up in the water should that occur.

Chair Hamilton asked Mr. Bonnet to restate the three points MB II is asking the Commission to approve. Mr. Bonnet stated:

- Location within 1,000 feet of a high water mark
- Replication of Iowa’s riverboat history
- Moored barge definition

Commissioner Bair asked if this would be the Commission’s first action on the rule just adopted regarding the definition of a moored barge. Mr. Ketterer answered in the affirmative.

Hearing no further discussion, Chair Hamilton called for a motion. Commissioner Bair moved to approve the concept of the proposal by MB II. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-98)

Mr. Bonnet introduced Neil Narter, the new general manager for MB II Employees Ownership Co. He noted that Mr. Narter has an extensive background in the gaming industry.

Chair Hamilton called on Wes Ehrecke, President of the Iowa Gaming Association (Association), who addressed the Commission regarding the new state-wide self-exclusion program and gaming tax revenue allocations. Mr. Ehrecke stated that HF 2302, passed by the Legislature this spring, required the licensed casinos to establish a voluntary state-wide self-exclusion program. He advised that the Association has been working with the facilities to develop the logistics, and provided the Commissioners with a copy of the form that would be utilized by the facilities. Mr. Ehrecke noted that currently each facility has its own voluntary self-exclusion form. When an individual requests to be voluntarily excluded from a facility, they will first be offered the state-wide form. The form includes the various provisions set forth in HF 2302, including the forfeiture of any winnings, slot credits or chips at time of discovery, which would be forwarded to the Iowa Gambling Treatment Program. Mr. Ehrecke stated that the plan is to initiate the form on November 1<sup>st</sup> when the Commission’s other rules relating to the gaming legislation go into effect on November 3<sup>rd</sup>. He stated the Association and facilities are in the final testing stages to make sure the information can be disseminated in a user-friendly manner while maintaining the confidentiality and security process. Mr. Ehrecke advised that in addition to going to the casino to complete the form, the Association is working with the treatment providers so that the director at each facility would be authorized to work with an individual to complete the form, notarize it, and send the form and a photo to the casino, which would then disseminate the information to all of the properties.

Chair Hamilton clarified that an individual would not necessarily have to complete this form at the casino. Mr. Ehrecke advised that the form could also be completed at one of the treatment centers. Chair Hamilton clarified that the form needed to be completed at either the casino or a treatment center; that an individual could not get a form and present it to another individual and request that they complete the form. Mr. Ehrecke stated that in working through the process, it was determined that either the casino or one of the treatment providers was the logical location for the distribution of this form. A meeting with the treatment provider directors is scheduled to discuss logistics, start date, etc. Mr. Ehrecke stated that the treatment providers would be sending the completed forms back to the casinos for dissemination.

Commissioner Cutler asked if the treatment providers were going to make sure that the paragraph concerning indemnification and holding the casinos harmless is thoroughly explained to the individuals. Mr. Ehrecke stated that the intent is that when the individual is completing the form, the person overseeing the process would go through the form step-by-step.

Mr. Ketterer asked Mr. Ehrecke to provide additional information, noting that this form would apply throughout the state, and that the facilities can still have their own self-exclusion policy as well should the individual desire to only exclude themselves from that particular facility. He also asked for an explanation as to the procedure for those individuals who have already completed the self-exclusion form at a facility.

Mr. Ehrecke advised that each facility currently has their own self-exclusion form and policies. It is the intent that when an individual requests to trespass themselves from a facility, that the state-wide form would be offered first. If the individual declines the state-wide form, they would then be offered the facility's own form. With regard to those individuals that have already signed a self-exclusion form, they would have to go to the facility and complete a state-wide form in order to be eligible for the state-wide program. He noted that the Association has received numerous calls since the program was covered in a story in The Des Moines Register.

Mr. Ketterer wondered if those individuals already in the program would be notified of the new program, or just as they come to the facility on a voluntary basis. Mr. Ehrecke stated that the quick answer is "as they come in voluntarily", but as more people become aware of the program, it may precipitate discussions with the facilities to establish uniform guidelines for these individuals.

Commissioner Bair asked if this program would apply to facilities in neighboring states. Mr. Ehrecke advised that the issue has not been addressed; that the focus has been on getting our own state-wide self-exclusion program in operation. He noted there are a couple of properties that do have facilities in other jurisdictions. When an individual signs that facility's own self-exclusion form, it applies to all of their properties.

Mr. Ketterer, noting that the Des Moines office or Commission members could receive calls seeking information on this program, asked where the calls should be directed. Mr. Ehrecke stated that they should be directed to their local treatment provider, the security department at the closest casino, or the Association.

Commissioner Bair suggested naming an individual in the office to be the source for any calls to be directed. Mr. Ketterer advised that anyone in the office would be able to offer assistance. He also indicated the Commissioners could direct the individual to a treatment provider. Mr. Ketterer stated that the office would forward a list of the treatment providers to the Commission members.

Commissioner Cutler asked where the original documents would be kept. Mr. Ehrecke advised that a process would be established so that the documents would be archived in a centralized database, allowing the facilities to update and download the information. The files will be password protected. Commissioner Cutler asked if there would be notes attached to the files covering the discussion with the individual as she can foresee problems where the individual could come back and state they weren't aware of what they were signing, etc. These notes would be helpful in the event the individual attempted to file a lawsuit. Mr. Ehrecke stated that the Association and facilities had not anticipated that the records would contain any information other than the form, signature, required notary and picture. Commissioner Cutler stated that this is an issue for the legal representatives of the facilities. He noted that the various facilities are hearing these questions and will take this matter under advisement.

Mr. Ehrecke moved to the gaming revenue allocations, noting that the Association receives many inquires on this particular issue. He distributed the most recent collateral pieces regarding this matter to the Commission, showing that revenues go to the Rebuild Iowa Infrastructure Fund, Environment First Fund, General Fund, Vision Iowa, Endowment for Healthy Iowans, Gambler's Treatment, School Infrastructure and Local City & County Taxes.

Further, Mr. Ehrecke advised that their packet of information also contained the latest Responsible Gaming Quarterly publication, which features one of Iowa's facilities on the front page with regard to Responsible Gaming Education Week. Additionally, there is an article on Page 4 on the state-wide exclusion program. He also referred the Commissioners to a brochure from the National Center for Responsible Gaming on their annual conference to be held in December in Las Vegas.

Commissioner Bair asked if Iowa was the first in the nation to establish a state-wide self-exclusion program. Mr. Ehrecke answered in the negative, but indicated that he thought Iowa would be the first to archive and disseminate the information as proposed.

Chair Hamilton moved to the contract approval portion of the agenda, and called on the Isle of Capri Marquette (IOCM). Barron Fuller, General Manager of IOCM, presented the following contracts for Commission approval:

- Giese Sheet Metal – Upgrade of Heating and Cooling Units in Showroom and Skywalk
- AVVA Light Corporation – Purchase of Signage for the Casino Floor

Following a brief discussion concerning the contract with AVVA Light Corporation, Chair Hamilton called for a motion. Commissioner Jarding moved to approve the contracts as submitted by IOCM. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-99)

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

- Kehl Management, Inc. – Development Agreement – Amending Consulting Services Agreement Approved 9/2/04 (RP)
- Washington County Citizens for Good Jobs – Referenda Campaign (Increase from \$300,000 to \$450,000)

Commissioner Bair, noting that the Commission had discussed the amount of the Washington County contract at the September meeting, asked if the figure before the Commission today is the final figure. Mr. Massa answered in the affirmative. Commissioner Bair asked how many votes were cast in favor of the measure. Mr. Massa stated that he thought it was somewhere between 3,500 and 3,700.

Hearing no further discussion, Chair Hamilton called for a motion. Commissioner Bair moved to approve the contracts as submitted by CBC. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-100)

Chair Hamilton called on Harrah's. Mike Rich, Assistant General Manager, presented the following contracts for Commission approval:

- Doll Distributing – Beverage Vendor (Additional)
- V&R Joint Venture – Lease Agreement for Offsite Warehouse

As there were no questions or comments concerning Harrah's contracts, Chair Hamilton called for a motion. Commissioner Cutler moved to approve the contracts as submitted by Harrah's. Commissioner Mahaffey seconded the motion, which carried unanimously. (See Order No. 04-101)

Mr. Ketterer advised that during the Legislative Rules Review Committee held on Tuesday concerning the rules that were final adopted at the September Commission meeting, he received some questions from Senator McKinley regarding Iowa vendors for the second time. He was inquiring about the competitive nature. Mr. Ketterer advised that the facilities utilize Iowa vendors, with the allowable exceptions being that the product was not available in Iowa, Iowa bid was not the low bid, or if the vendor could not produce the item in question in sufficient volume or time frame requested by the

licensee. Senator McKinley advised Mr. Ketterer that he had a constituent who was not allowed to bid on a project for a facility. Mr. Ketterer stated that he did not know which facility Senator McKinley was referring to, but reminded the facilities that if an Iowa vendor desired to bid on a project, they should be allowed to do so. He asked Senator McKinley to contact him on this issue, and expects that he will do so.

Mr. Ketterer stated that just because some of the licensees in Iowa are national companies, and do have national clients that may supply all of their locations and facilities, that does not provide them an exception to this particular state law. Iowa facilities are still required to solicit Iowa vendors to see if they can meet the RFP requirements.

Chair Hamilton moved to the next agenda item – Iowa West Racing Association d/b/a Bluffs Run Casino (IWRA/BRC) and Iowa Greyhound Association (IGA) requesting approval of a revised purse structure and supplement payments for 2003 and amending the Purse Supplement Agreement for 2004 and 2005 as previously approved. Lorraine May and Jerry Crawford, legal counsel for BRC and IGA respectively, were available to answer questions. Ms. May stated that there were two items before the Commission, and that the parties had reached an agreement regarding both. The first item stems from the change in the tax structure retroactive to 2003 with the resolution of the tax litigation. As a result of the change in the tax structure, there were additional payments of just under \$75 million that were due. A listing of the specific checks to be issued was provided as well as the method used to reach those amounts. Checks for amounts less than a dollar will not be issued.

Ms. May noted that the second issue arises from the same event, but will prevent the above situation. In this scenario, IWRA/BRC will increase the point values paid to \$120 for regular points and \$160 for Iowa-bred winners to be supplemented by eight (8) percent of the “adjusted gross receipts”, less gaming taxes, of BRC in 2004 and 8.25% of the “adjusted gross receipts”, less gaming taxes, of BRC in 2005. If the aforementioned percentages of “adjusted gross receipts” at BRC, less gaming taxes, are insufficient to fund these points, the deficit will be taken from the escrow account.

Hearing no discussion concerning the requests from IWRA/BRC and IGA, Chair Hamilton requested a motion. Commissioner Cutler moved to approve the request to revise the purse structure and supplement payments for 2003 and amend the purse supplement agreement for 2004 and 2005 as submitted by IWRA/BRC and IGA. Commissioner Jarding seconded the motion, carried unanimously. (See Order No. 04-102)

Chair Hamilton called on Dubuque Racing Association (DRA) and IGA regarding the request for approval of the third arbitration panel member. Steve Krumpke and Bruce Wentworth, legal counsel and general manager of Dubuque Greyhound Park & Casino (DGP&C) respectively, were available for questions. Mr. Krumpke advised that DRA had selected Mark McCormick as their choice for the third arbitrator, and provided a brief

summary of Mr. McCormick's qualifications. He stated that Mr. McCormick has served on several bodies concerning legislative and judicial ethics as well as several others pertaining to Iowa policy.

Mr. Krumpe then addressed IGA's selection of Commissioner Mahaffey, noting that there was a discussion on this very issue last year, and stated that the Commission voted unanimously last year to not have a Commissioner serve as an arbitrator, continuing a policy that a sitting member has not been selected as an arbitrator. He noted that the issues, conflicts and due process are the same as last year. Mr. Krumpe stated that DRA is already in an awkward position by speaking against the selection of a Commission member to serve as an arbitrator. He stated that he was not suggesting that Commissioner Mahaffey was unqualified to serve as an arbitrator, but feels that once the precedence has been established that a Commissioner can serve as an arbitrator, both sides will nominate a Commissioner to serve as the third arbitrator. Mr. Krumpe feels this will create a division among the Commission members as they have to vote on who will serve as the arbitrator, which could lead to problems in the internal operations of the Commission. He indicated there are inherent conflicts, namely if a Commissioner serves as an arbitrator, they will more than likely cast the deciding vote. Additionally, when the dissatisfied party appeals to the IRGC, the Commission would have to decide whether to reject a decision reached by another member and creates the potential for a deadlock. Mr. Krumpe also raised the issue of whether or not the Commissioner would be compensated for his services as the other arbitrators are, thereby having a Commissioner receiving substantial compensation from a licensee, and then continuing to make decisions throughout the year affecting that licensee and others. He questioned whether the Commissioner would be able to devote the necessary time and effort for the arbitration process if there is no compensation.

Mr. Crawford stated that his recollection of last year's vote is different than presented by Mr. Krumpe, noting that three members voted and two abstained. He feels it would be a mistake to make too much of this issue, but indicated there are two realities that need to be focused on:

- 1) DRA and IGA have reached an informal agreement every year except one, and do not feel this year will be any different. Mr. Crawford noted that the parties are already in discussions. The issue of a multi-year agreement has been raised. He referenced the strong, positive history of the parties, and Mr. Wentworth's commitment to the industry. Mr. Crawford stated that he would be surprised if the parties brought an arbitrated decision versus an informal resolution to the Commission for approval.
- 2) Mr. Crawford stipulated to Mr. McCormick's impeccable qualifications.

Mr. Crawford referenced Iowa Code Section 99F.6(4)(b), which specifically provides that a member of the Commission or the entire Commission may be chosen as the arbitrator for one of the arbitrators. He stated that although DRA feels the nomination of a Commissioner creates an awkward position, it is not up to them to establish policy in

this area; it is up to the Iowa General Assembly. Mr. Crawford indicated that DRA feels strongly enough on this issue, they could suggest a change to the General Assembly.

Mr. Crawford stated there are positive aspects to having a Commissioner or the Commission serve as the third arbitrator:

- It is more efficient. Any Commissioner could sit as the third arbitrator and start the process with a greater base of knowledge than someone who has never been involved with the industry.
- If a Commissioner serves, they will retain and bring back to the Commission, any knowledge gained during the arbitration process to be utilized in future matters brought before the Commission.
- As to whether or not the Commission member serving as an arbitrator can vote on an arbitrated decision, Mr. Crawford stated that the Commission's Administrative Rules state that if the rules are silent on an issue, then Robert's Rules of Order will be followed. Robert's Rules of Order states that absent some personal benefit, a member can not be barred from voting.

Mr. Crawford closed his comments by stating that IGA feels the benefits of a Commissioner serving as an arbitrator far outweigh any disadvantages sited, which they believe are being presented to the wrong body. He encouraged the Commission to select Commissioner Mahaffey to serve as the third arbitrator.

Mr. Krumpke responded briefly, referring to page 5 of the minutes from the October 2003 Commission meeting: "Chair Mahaffey requested a motion regarding the third arbitration panel member for DPG&C. Commissioner Jarding moved to name Roger Stetson as the third arbitration panel member. Commissioner Bair seconded the motion, which carried unanimously." He stated that statute does not direct the Commission to appoint a Commissioner as a member, but allows it as a possibility at the Commission's discretion. Historically, the Commission has voted to not have a sitting member serve as the third arbitration panel member, and presented several compelling reasons why it is not a good idea.

Chair Hamilton called for any comments from Commission members. Commissioner Bair asked Mr. Ketterer whether or not any Commissioners have served as the third arbitrator. Mr. Ketterer stated that he did not believe that any Commissioner has ever been the third arbitrator while serving on the Commission. He noted that former Commissioners have served after leaving the Commission. Chair Hamilton clarified that no Commissioner served as an arbitrator while serving on the Commission. Mr. Ketterer stated that was correct.

Commissioner Jarding stated that her feelings have not changed from last year; that it could be a conflict, creating difficult issues to work through should a Commissioner serve as the third arbitrator. She stated that even though it may be legal; she feels there could be the perception of a conflict.

Chair Hamilton stated that she did not understand why the Commission even voted to approve the arbitration decision as it is a final decision. She does not recall the Commission ever voting against an arbitrated decision; and therefore, is inclined to allow Commissioner Mahaffey to serve as the third arbitrator. Chair Hamilton stated that she concurred with Mr. Crawford's statement that it would be beneficial for the Commission.

Commissioner Cutler stated that she felt that even though it may not be an actual conflict of interest, there is the perception of conflict and would prefer to remove the Commission from that. She agrees with Mr. Krumpe's arguments against a Commissioner serving as the third arbitrator.

Commissioner Bair stated that he respects Mr. McCormick, but stated that as long as the Chair and Commissioner Mahaffey do not have a problem with a Commissioner serving as the third arbitrator, he feels the knowledge gained from the process would be beneficial. Commissioner Bair moved to nominate Commissioner Mahaffey to serve as the third arbitrator for DRA/IGA.

Chair Hamilton asked if the Chair has the ability to second a motion. Jeff Peterzalek, Assistant Attorney General, answered in the negative.

Commissioner Mahaffey stated that he would second the motion. He stated that when Mr. Crawford contacted him about serving as the third arbitrator, he considered his decision during the discussion. Commissioner Mahaffey stated that he understood some of the concerns raised by DRA, but feels there may be some benefit to having a Commissioner serve on the arbitration panel. He expressed his hope that the parties would reach an agreement on their own.

Chair Hamilton called for a vote on the motion. The motion carried on a 3-2 vote, with Commissioners Cutler and Jarding voting nay. (See Order No. 04-103)

Chair Hamilton moved to the renewal of the racetrack licenses and granting of race dates and racetrack enclosure gambling license, and called on Iowa West Racing Association/Bluffs Run Casino (IWRA/BRC). Jerry Mathiasen, Associate Director of IWRA, advised the Commission of the death of one of the long-standing IWRA board members. He noted that this is the 20<sup>th</sup> anniversary of the Commission approving a license for BRC, the first having been granted on August 28, 1984. Mr. Mathiasen stated that the area surrounding BRC is experiencing growth in entertainment and economic development, anchored by BRC, Ameristar and Harrah's. He encouraged the Commission to support BRC's racetrack license renewal application for the racetrack and racetrack enclosure licenses, and their request for race dates. Mr. Mathiasen introduced Gaye Gullo, General Manager for BRC.

Ms. Gullo requested the Commission approve the license renewal request for BRC for 2005, and racing dates of January 1 – December 31, 2005, with 15 performances per race utilizing the same schedule as this year. She requested an amendment to the schedule on



Super Bowl Sunday, February 6, 2005, to adjust the starting time from 4:00 PM to 1:00 PM to avoid a conflict with the game. Ms. Gullo noted that the purse supplement agreement with IGA is in place. IWRA/BRC requested the continuation of year-round simulcasting. She introduced Rory DeSantiago, Director of Racing, and Mr. Rich, who were available to answer any questions that might be forthcoming.

Commissioner Jarding commented on the fact that there were 121 fewer employees in 2004 than 2003. Ms. Gullo stated that the ticket in/ticket out machines has eliminated the necessity for BRC to backfill positions through attrition. BRC has maintained the soft count area, but has eliminated the hard count area and slot attendants as there are not as many hoppers to fill. She noted that as BRC moves toward an expanded facility in the future that will include table games, she expects that BRC will be hiring upwards of 200 additional employees. Ms. Gullo advised that many of their open positions are hard to fill, particularly in the food and beverage areas, which account for 35-40 of the reduced number of employees. They are attempting to fill those positions.

Commissioner Cutler asked how many races were in a performance. Ms. Gullo advised there were 15.

Commissioner Bair, returning to the employee issue, noted that the number of new hires for the current reporting quarter is listed as 185, resulting in a turnover rate of 40% based on the number of employees. He wondered if that was correct. Ms. Gullo stated that the turnover rate at BRC is approximately 30% on an annual basis.

Commissioner Bair asked about the contract with Omaha Steaks for \$500,000. Ms. Gullo stated that she was working with Omaha Steaks to get them established as an Iowa vendor. She referenced an e-mail from the company indicating that an Iowa office would be up and running in the near future. Ms. Gullo feels that this will be completed by the end of the year.

Commissioner Bair noted that the Contract Submission Summary Form lists the contract with Harrah's Entertainment in the amount of \$3.7 million as an Iowa transaction. He questioned whether it was really an Iowa transaction. Ms. Gullo stated that she would need to clarify the issue, but would get back to the Commission by the end of the week.

Ms. Gullo presented the following contracts for Commission approval:

- Metro Wine Spirits & Tobacco, Inc. – Liquor Vendor (Additional)
- Translucent Technologies d/b/a Slot Tickets – Fast Cash Ticket Supplier

Hearing no further questions or comments concerning BRC's license renewal request, Chair Hamilton requested a motion covering BRC's request seeking renewal of the racetrack license and requested race dates, racetrack enclosure gambling license and the contracts included in the submission, and the additional contracts. Commissioner

Mahaffey so moved. Commissioner Cuter seconded the motion, which carried unanimously. (See Order No. 04-104)

Following a short break, Chair Hamilton moved to the racetrack license renewal and granting of race dates, racetrack enclosure license renewal, including the contracts contained in the license renewal, and the additional contracts for DRA/DGP&C. Mr. Wentworth stated that DGP& C is seeking race dates commencing on April 30, 2005 and ending on October 30, 2005 with six performances per week for a total of 162 performances. They requested the continuation of year-round simulcasting.

The following additional contracts were submitted by DGP&C for Commission approval:

- Wasker, Dorr, Wimmer & Marcouiller, PC – Lobbying Services
- A & G Electric – Parking Lot Lighting and Other Electrical Work
- International Association of Machinists – Labor Agreement for the Mutuel Department
- Mediacom – Digital Music for the Casino

Mr. Ketterer requested a construction update. Mr. Wentworth advised the deep foundation work is nearly completed. The architect is indicating the project is approximately nine days behind, but feels confident those days can be made up during the next phase which has been bid. Mr. Wentworth noted that three of the four bids have been let. The balance of the contracts for the project will be submitted for consideration at the November meeting. He indicated that the hotel contractor has moved a construction trailer onto the site, and will begin driving their piles in the near future. The third bid package, which is for the shell, contains a requirement that the shell be enclosed by January 1 in order for interior work to begin. Mr. Wentworth indicated that concrete is currently being poured, and steel should start going up in the near future. The construction manager still feels it is feasible to meet the Memorial Day deadline.

Mr. Ketterer asked how much later the hotel would open than the remodeled racetrack facility. Mr. Wentworth stated that they are looking at July. He stated that the principals of the hotel group are involved with construction within their company and have the ability to put the resources and people to the job to meet that deadline. Mr. Wentworth indicated that the lawyers for Hooligans are working on the legal description of the property in order to remove that area from the racetrack's legal description.

Commissioner Bair asked about the \$1 million for greyhound and capital improvements. Mr. Wentworth advised that the greyhound improvements are minimal, noting that DGP&C has just now added another handicap section in the grandstand area. The casino project itself is a \$27 million project, with the construction phase accounting for about \$19 million and the remainder going for new equipment, casino fixtures and furnishings.

Commissioner Bair noted that one of the areas of the license renewal requested the licensee to measure the success of the racing program. He indicated that DRA/DGP&C's

response contained a lot of generalities, but not a lot of statistics. He quoted the following from the application:

- “The number and quality of greyhounds has increased along with a higher percentage of Iowa-breds.”
- “Another way is looking at the success of the kennels. Many of the Kennel Owners can afford buying updated equipment like dog trucks and trailers. They can also increase the number of employees ...”

Commissioner Bair asked Mr. Wentworth if he had any statistics to support the statements. Mr. Wentworth indicated that it was possible to present that information. He stated that in his annual report to the DRA Board of Directors at the end of the year he normally recaps how all of the kennels have performed. He advised that the season will be completed by the next Commission meeting, and would bring the information at that time. With regard to the quality of the greyhounds, Mr. Wentworth stated that when the season ends at DGP&C, the dogs go south to Florida, and are very competitive in that jurisdiction. He noted that when the track opened in 1985, it was considered a puppy track – young greyhounds would come in and get used to the racing surface and move on to other tracks. That scenario has changed over time due to the purses that DGP&C pays. The dogs arriving at the track now are not just puppies. DGP&C holds an Iowa Breeders Pup Classic race, which had 34 greyhounds entered – most of which were Grade A.

Commissioner Bair referenced the dollars per point paid by BRC, and noted that DGP&C is not as high. Mr. Wentworth stated that part of the difference can be attributed to the fact that DGP&C is not in the same category as BRC. They are paying 80% of after tax revenue to the greyhounds, or approximately \$3 million. Commissioner Bair noted that BRC is paying \$120 and \$160 per point. Mr. Wentworth stated that if DGP&C could do \$130 - \$140 million per year, they could probably pay that in points as well. Revenue projections indicate casino revenue will increase from approximately \$43 million to \$60 million with the addition of table games, which should allow them to increase the point payments.

Commissioner Cutler asked if the contract with Medicaom was actually for \$2,500. Mr. Wentworth answered in the affirmative, noting that it is a three year contract for music services.

Hearing no further comments or questions concerning DGP&C’s racetrack license renewal and race dates, racetrack enclosure license renewal and contracts, and the additional contracts, Chair Hamilton called for a motion. Commissioner Cutler so moved. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 04-105)

Chair Hamilton called on Racing Association of Central Iowa/Prairie Meadows Racetrack & Casino (RACI/PMR&C) regarding the renewal of their pari-mutuel license and granting of race dates, renewal of the racetrack enclosure gambling license and

contracts contained therein, and the additional contracts. Bob Farinella, General Manager, presented the following information concerning the three meets presented in the racetrack license renewal:

- Application for race dates at PMR&C for 2005. The thoroughbred meet will begin on April 21, 2005 and run through July 4, 2005, with four (4) performances per week, for a total of 47 performances. Evening performances and post times requested are Thursday, Friday and Saturday at 6:30 PM, with a matinee performance requested for Tuesday at 3:30 PM. Additional performances and post times requested are: Sunday, May 29 at 1:30 PM, Monday, May 30 at 3:30 PM, Sunday, July 3 at 3:30 PM, and Monday, July 4 at 3:30 PM. PMR&C has requested the continuation of year-round simulcasting.
- The Mixed Thoroughbred and Quarter Horse Meet would commence on July 8, 2005, and run through September 17, 2005 with four (4) and five (5) performances per week, for a total of 48 performances. Evening performances and post times requested are Thursday, Friday and Saturday at 6:30 PM, with matinee performances requested for Sunday at 1:30 PM and Tuesday at 3:30 PM. Additional performances and post times requested are: Monday, September 5 at 3:30 PM.
- The Harness Meet would commence on September 24, 2005 and run through October 22, 2005 with four (4) performances per week, for a total of 17 performances. Evening performances and post times requested are Thursday, Friday and Saturday at 6:30 PM, with a matinee performance being requested for Tuesday at 3:30 PM. No additional performances or deviations from the above schedule have been requested.

Mr. Farinella also presented the following contracts for Commission approval:

- Data Business Equipment – Software Upgrade for Ticket Redemption Machines
- Fair-Play Trans-Lux Company
- Gaming Partners International USA – Potential Purchase of Gaming Equipment and Supplies including Layouts, Chips, Tables, Chairs, Dice, etc. (Increase)
- Graham Construction Company – Various Construction Projects at Prairie Meadows (Increase)
- IGT Iowa – Potential Purchase of 61 Slot Games and Printers (Replacements)
- IGT Iowa – Potential Lease of 6 I-Game Plus Slant Top Games (Replacements)
- Shuffle Master – Table Gaming Equipment – Lease, Parts and Service
- U.S. Playing Card Company – Potential 2-year Agreement for Playing Cards

Commissioner Mahaffey asked Mr. Farinella to provide some highlights of the proposed changes. Mr. Farinella stated that the race meet would remain significantly the same, with one less day of racing at PMR&C for the calendar year. PMR&C is reviewing the

overall facility improvement and will be coming before the Commission in subsequent months for approval of changes to the facility and potential expansion of said facility. He noted that the construction project for the implementation of table games is well under way, and anticipate opening both the casino games and poker room on December 15, 2004. Mr. Farinella stated that the dealer training school has been open since August 5<sup>th</sup>. He anticipates there will be about 170 new employees as part of the implementation of table games.

Mr. Ketterer advised Mr. Farinella that he had spoken with the Commissioners regarding the meetings that were held on the new paddock, walking ring, and renovation of the jockey's room, and explained that those items will not be coming before the Commission as PMR&C hopes to include them in the entire capital improvement plan that will be presented to the Commission in November 2004. Those items would be ready for the 2006 racing season.

Mr. Ketterer stated that another meeting with PMR&C management and a horsemen representative was held regarding the proposed five-day/week racing schedule proposed for August and the concerns expressed by the State Veterinarians this year and in previous years. He felt everyone concurred that they did not want to create a situation that would put the welfare of the horses and riders at risk. The discussions also included the fact that the season approval for the mixed meet would be presented for approval at the January meeting. Mr. Ketterer noted that several options to the five-day race week were discussed: racing a week longer, reducing the race meet by four or five days in order to finish within the desired time frame, or maybe start the race meet one week earlier. Mr. Ketterer requested that PMR&C resolve the five-day race week prior to submitting the season approval request in January.

Mr. Farinella stated that PMR&C is concerned about equine safety and the safety of the riders; however, from the racetrack perspective, it is their job to provide an opportunity for horsemen to run and provide a sufficient number of days so that the horsemen feel they have been provided a sufficient number of opportunities to race. Within the framework there is a window of "good weather opportunity", which is sometime from mid-to late April with those meets completed by early September. Mr. Farinella stated that when you take the horsemen's desire to have a number of opportunities to race and the "window of opportunity" to incorporate those race opportunities into a calendar, there will be some five-day race weeks. He noted that PMR&C has had five-day race weeks almost every year in which they have raced more than 60 days per year. Mr. Farinella advised that PMR&C is interested in insuring that the fields are full-size. Statistics over the years show that the number of starts per race has been at, or above, the national average per race. From a safety standpoint, PMR&C's record is as good, if not better, than other racetracks in the country. Mr. Farinella stated that as the operator and licensee, it is PMR&C's responsibility to allow opportunities for the horsemen to run; however, he conceded there could be issues with horses that may be racing back too soon in order to fill races. He indicated this is where the State Veterinarians have a heavy responsibility to insure that the horses are fit to run. Mr. Farinella summed up his

comments in the following manner: From an operator's standpoint, if PMR&C provides the opportunity for the horsemen to run; the horsemen, trainers, and state vets have to insure that the horse has been inspected and is eligible to run. He stated that PMR&C's conundrum as an operator is that if PMR&C can not fill races, and consistently have only three or four horses in a race; then PMR&C would have to advise the horsemen that running 96-100 days per year with the anticipated inventory would not be a viable option as they can not fill races at an adequate level. Mr. Farinella stated this has not been an issue up to this point from a statistical standpoint. He also noted that racetracks are generally very private about breakdowns occurring at their track; thus, there is not a public statistic enabling PMR&C to compare its safety record with other racetracks.

Mr. Farinella stated that PMR&C, as the operator, is caught in the middle. He noted the Commission's concern for the equine safety, but stated that the state vets are in place. PMR&C maintains the racetrack and property in a manner to emphasize that safety. Mr. Farinella stated that PMR&C could look at the number of days; however, the horsemen are still seeking a certain number of racing days and opportunities. He indicated there are statistics available at the track showing that the number of starts per race has been good, but there are no statistics to show that those breakdowns that do occur at PMR&C are unfavorable compared to the breakdowns that occur at other racetracks. He stated PMR&C would appreciate additional discussion on this matter.

Commissioner Mahaffey asked Mr. Ketterer what the concerns were that the state vets had voiced to him. Mr. Ketterer stated that PMR&C's racing office is trying to fill races. When the veterinarians do pre-race inspections every morning, they are seeing trainers who are feeling pressured to enter horses that they might not otherwise enter in order to fill races; and feel that if they don't, then next year they won't get the same number of stalls as the current year because they have not entered their horses to run as often. Mr. Ketterer noted that PMR&C has had approximately 200-240 empty stalls toward the end of their second meet in August/September. In order to adequately support a five-day race meet, requires anywhere from 1,500 to 2,000 horses. Mr. Ketterer stated that he does not feel PMR&C has sufficient inventory to do so.

Commissioner Mahaffey voiced his understanding that there is a shortage of horses across the country. Mr. Ketterer indicated that was correct.

Mr. Ketterer went on to explain that the state vets' number one concern is for the welfare of the horses and riders; but they also have a desire to see the meet go well and for the track and horsemen to be successful. He indicated the situation is not always black and white for the vets; there may be some horses about which they have some concerns, but allow them to go ahead and race. The horse may require more time to warm-up in order to alleviate body soreness. If the vets end up scratching a horse or two from a race, then there are short fields, creating a less than ideal wagering situation for the public. Mr. Ketterer stated that PMR&C has raced five-day weeks about half of the time over the last ten years, and four days per week the other half. Mr. Ketterer pointed out that the fifth day is on Sunday. In 2001, PMR&C requested Sunday racing as opposed to Tuesdays.

The Commission Chair at that time questioned the wisdom of exchanging wagering and mutuel handle in exchange for increased live attendance from the local patrons. The Commission granted PMR&C's request to have Sunday racing; however, halfway through the meet, PMR&C came back to the Commission seeking permission to drop the Sunday races and resume Tuesday racing. Mr. Ketterer noted that deciding on which days to race is a management decision, but pointed out that Sunday racing has not been very successful at PMR&C.

Chair Hamilton stated that the Commission had received a letter from the Iowa Thoroughbred Breeders and Owners Association addressing the fact that PMR&C does not keep the start time consistent from year to year, or meet to meet, presenting a problem for the patron in knowing what time the races start. Mr. Farinella stated that PMR&C's start times are consistent with market demand. When determining the start times, PMR&C evaluates when patrons show up for races, how much is being wagered, and how many patrons show up on time. He stated that start times within a season have been consistent. PMR&C has been consistent with the 3:15 PM start time this year and last. He stated that it is necessary for PMR&C to have the flexibility to start the show when they feel they can draw the most attendance.

Mr. Ketterer asked Mr. Farinella if PMR&C would have the 40-stall limit next year, and whether it would be enforced. Mr. Farinella stated the issue would be discussed with the horsemen, but felt that the 40-stall limit was something the horsemen would like to see continued. Mr. Ketterer noted that another issue was that one horseman who had 70 or 80 horses, was able to enter two horses in each race, and was one of the reasons that some of the horsemen pulled out early. He stated that the agreement between PMR&C and the horsemen specifically states there will be a 40-stall limit. Mr. Farinella stated that PMR&C has enforced the 40-stall limit, and the horseman has been charged for the extra stalls.

Chair Hamilton asked if there were empty stalls after the horseman took his extra horses out. Mr. Farinella advised that there are always horsemen who leave at the conclusion of the second meet. He stated that it is hard to say that horsemen left carte blanche because another horseman had more than 40 horses. Mr. Farinella pointed out that part of the reason horsemen leave is to move on to the next track, noting that Hoosier Park and Remington are getting ready to start their race meets.

Chair Hamilton called for any questions or comments concerning the application or contracts. She noted that the motion needed to stipulate that the import and export contracts should continue to be reviewed and approved by staff to insure regulatory compliance. She called for a motion.

Commissioner Bair stated that in listening to Mr. Ketterer's comments concerning the 4/5-day race schedule, he felt that he would like to have some guidance on this issue. He wondered if he was looking to send a message, or would like to have additional discussions. Chair Hamilton stated that she felt PMR&C was coming back to the

Commission in January with finalized race dates. Mr. Ketterer stated that it would be the staff's recommendation that they look for a resolution concerning the 5-day race week – explore other alternatives. Commissioner Mahaffey stated that he understands the state vet's concerns, as well as the points made by Mr. Farinella.

Mr. Ketterer stated that it is up to PMR&C; however, if horses are leaving at the end of the meet, which supports Mr. Farinella's comments about business declining after the first of September and there is an insufficient inventory of horses to run at those times, then PMR&C has more than provided sufficient opportunities for the horsemen to run. He stated that he personally had a conversation with a horsemen's organization in late June as there was an agreement to add an extra race or two to make up for one or two fewer days during the first meet. The individual felt PMR&C was falling behind in meeting that obligation. Mr. Ketterer advised the individual that there were empty stalls, and that the track can't make the trainers enter the horses, they can only offer the opportunity to race.

Mr. Farinella stated that as PMR&C discussed the number of race dates for the 2005 season, they kept in mind that this is the third year in their agreement with the horsemen, and that next year they would like to end the race meet somewhat earlier than in the past due to the horse-related projects that will be included in the forthcoming construction project. He indicated that as an operator, PMR&C is trying to move the "window of opportunity" down to provide the number of racing opportunities. Mr. Farinella noted there are five weeks of 5-day races. He pointed out that one of the Sundays would be a quarter horse showcase race day, meaning there would only be four Sundays of mixed meet races, while others would be in conjunction with a holiday – allowing for more people to attend the races. When those special days are backed out of the schedule, there are only 2 or 3 extra days of five-day race weeks.

Mr. Farinella stated that while establishing the number of race days is the operator's responsibility, they do work with the horsemen to insure that they have a consensus on the number of race days being offered. The horsemen are interested in how many times they can race. Mr. Farinella stated that PMR&C has agreed to run 747 thoroughbred races and 191 quarter horse opportunities provided there is sufficient inventory to do so. He pointed out there are several jurisdictions voting on casinos in November, and at this point in time, there is no way to predict passage, the impact on purses and movement of horses around the country. The consensus between PMR&C and the horsemen at this time is to let the schedule proceed as presented. As the year proceeds, and there are short fields due to the state vets scratching horses, which they should be doing in the event a horse is sore, it will provide firm statistics that can be utilized in preparing the request for race dates for 2006. Mr. Farinella stated there are several issues that need to be looked at:

- Various areas that PMR&C needs to observe,
- Statistical information on breakdowns that is not available,



- Sunday racing – one is before a holiday, and another is a quarter horse show day, leaving 2 or 3 extra days of Sunday racing.

Mr. Ketterer stated that the 5-day race weeks are primarily in August when they are already losing horses, and horses are starting to get sore. He pointed out that horsemen have 365 opportunities a year to race, just not in Iowa. Mr. Farinella stated that he concurred with that statement.

Commissioner Bair asked about the completion date of the construction project. Mr. Farinella asked for clarification. Commissioner Bair indicated the overall facility project. Mr. Farinella stated that it will be necessary to obtain conceptual approval from the Commission. He indicated that they have been working with Polk County to develop the concept, and have a recommendation from the consultant, White Sand in Las Vegas, NV. White Sand has prepared a report, providing a recommendation on the best way to develop the facility. Polk County and RACI are in the process of reviewing the report. Mr. Farinella stated that it is possible RACI will be before the Commission in November with a conceptual plan. It is anticipated the project would be completed by the beginning of the fourth quarter in 2006, with the jockey's quarter, walking ring and paddock being completed prior to the commencement of the 2006 race season.

Hearing no further discussion, Chair Hamilton called for a motion. Commissioner Bair moved to approve the application for race dates, renewal of the racetrack and racetrack enclosure licenses, including the contracts submitted therein, and the additional contracts, with the proviso that PMR&C come back on the issue of the 5-day race week, and the continuation of review and approval of the export/import contracts by staff. Commissioner Jarding seconded the motion.

Commissioner Mahaffey stated that he did not want to send a mixed signal, or wrong signal, to PMR&C. He stated that he does have some concerns about the 5-day race week, and is not confident enough at this time to state that PMR&C can not have the 5-day race week. He asked if there is any way that PMR&C could look at a 4-day race week.

Commissioner Cutler stated that she has the same concerns, and understands racing on Sunday when there is a holiday on Monday, but still feels the state vet's opinions need to be taken into account, then there are still concerns about the welfare of the horses.

Commissioner Bair pointed out that PMR&C is attempting to work with the horsemen to get as many dates as possible. He feels that even with the motion on the table, it is his opinion that if the Commission feels they would not accept a 5-day race week, it is important to tell PMR&C now to provide them with an opportunity to finalize the race dates prior to January. He noted that the motion can be changed, but personally doesn't want to do so.

Chair Hamilton asked the Commission members if they wanted to amend the motion, or vote on the motion as it stands. Commissioner Bair stated that if there are three Commissioners that are going to vote no, then the motion should be amended.

Commissioner Mahaffey stated that his concerns were related to the concerns expressed by the state veterinarians to Mr. Ketterer. He wondered what would happen if the Commission allows the 5-day race week, and the state veterinarians continue to express concerns. Mr. Ketterer advised that the state veterinarians have been relaying concerns for ten years.

Commissioner Jarding asked if the Commission has worked with PMR&C on this issue if the concerns have been coming for ten years. Mr. Farinella stated that he had not heard from the state veterinarians before at this particular level of interest. He reiterated that PMR&C does not have any information concerning the frequency of break downs at other tracks for comparison purposes. At this point, there is no way of knowing what the inventory of horses will be next year. Mr. Farinella stated that the state veterinarians have the responsibility and authority to prevent horses from running if they are not fit to run, and PMR&C would expect them to do so. He stated that they should not worry about PMR&C filling the races, because if they don't scratch the horses, and continue to allow them to run and nothing happens, great; however, they continue to express concerns. As the operator, and the vets scratch the horses and races can't be filled, PMR&C would be in a better position to show the horsemen that if the inventory stays relatively the same, it would be difficult to race the 96 days as there is an insufficient number of horses. Mr. Farinella stated that he has not received any statistical information from the state veterinarians to show that their starts per race are sub par to the extent that they wouldn't want to schedule a race opportunity. He reiterated that PMR&C and the horsemen have agreed to the number of days presented, and are cognizant of the concerns. They share those concerns to the extent that if an animal is not fit to race, they would encourage the state veterinarians not to be swayed by PMR&C's attempts to fill a race. Mr. Farinella stated that as PMR&C proceeds through the race meet in 2005 with the extra days, they will be in a better position to review the dates for the 2006 meet, as well as any additional racinos that may further exacerbate inventory availability.

Commissioner Jarding asked if the state veterinarians are included in the meetings with the horsemen. Mr. Farinella stated that PMR&C meets with the horsemen every two weeks, including a state representative. He noted that the 5-day race week has not been a significant issue during those meetings in the past; but has become a significant issue as PMR&C nears the end of the second race meet. Mr. Farinella stated that PMR&C has met with the vets and are cognizant of their position.

Commissioner Bair asked if PMR&C has the flexibility should the Commission approve the 5-day race week and issues arise, to operate based on the number of horses, or if they would have to come back to the Commission. Mr. Ketterer stated that the Commission has the authority to grant racing dates. Should PMR&C elect to change their racing dates, it would be necessary for them to seek approval from the Commission. He noted

that during a 9- or 10-race card over the summer, sometimes PMR&C had to offer as many as 30 races in order to get 10 that would attract a sufficient number of entries. Mr. Ketterer advised that it is the Racing Office at the track that cards the day's races, but as far as racing dates and times, the State determines those as it is necessary to provide stewards, veterinarians, and other appropriate staff for the meets. Mr. Farinella stated that PMR&C has to establish the race schedule, purse schedule, tentative racing dates in order to print the condition book, etc.

Commissioner Mahaffey stated that from the previous dialogue, it appears the die is cast by the time the next season starts. Mr. Ketterer indicated that was correct, that PMR&C would be in a difficult situation to try to change the meet from what was sent out. He noted they did that three years ago with respect to the Sunday race day, and then reverted to Tuesdays. There are a lot of people that are affected when changes are made.

Chair Hamilton called for the vote on the motion made by Commissioner Bair and seconded by Commissioner Jarding – approval of the application for race dates (5-day), renewal of the racetrack and racetrack enclosure gambling license and contracts included therein, and the additional contracts. The motion failed on a 2-3 vote, with Chair Hamilton and Commissioners Cutler and Mahaffey voting no. (See Order No. 04-106)

Commissioner Mahaffey stated that the only reason he voted nay was because of the issue with the horses, everything else in the application was fine. He stated that he would like to have some more information on this issue, and is appreciative of the concerns of the state veterinarians, but also doesn't want to hinder PMR&C. Keeping that in mind, Commissioner Mahaffey moved to accept the application of race dates, the additional contracts and everything included in the first motion, except that the 5-day race week would be deferred for additional discussion and directed PMR&C to take a 4-day race week into consideration. Commissioner Cutler seconded the motion.

Chair Hamilton called for further discussion. Commissioner Bair asked if the motion was saying no 5-day race weeks. Commissioner Mahaffey answered in the negative, that he was deferring the matter as he would like to think about the matter some more, and see a 4-day race week proposal.

Commissioner Cutler asked if it would be possible to get additional information prior to the next Commission meeting from the state veterinarians and horsemen.

Mr. Farinella stated that PMR&C would also be interested in seeing any additional information provided by the state veterinarians. He advised that with the weather window and the number of racing opportunities PMR&C wishes to provide the horsemen, should the Commission firmly rule they can only run four days per week, PMR&C would incur additional expenses in order to add another week of racing on to the total length of time for the race meet, including staff expenses, or could decide to only run 92 days instead of 96 and set the racing schedule accordingly. Mr. Farinella stated that the horsemen would have some issues with that decision.

Commissioner Mahaffey asked Mr. Farinella whether the various issues and negative impacts would still be problem if the Commissioner were to make a final decision at the November Commission meeting. Mr. Farinella stated that he would much rather come back at the November meeting and address the issues surrounding the additional five days and any additional information the state may have. He reiterated that one is a quarter horse only racing date and another is a holiday race date. Mr. Farinella stated that they are really only talking about three additional days of racing, which provides some flexibility if they have to make some adjustments. Commissioner Mahaffey advised that was what the Commission was asking.

Commissioner Bair asked if it was possible to hear from the state veterinarians on this issue at the next meeting. Commissioner Cutler concurred with the request, thus allowing the Commissioners the opportunity to ask questions of veterinarians directly.

Chair Hamilton confirmed there was a second to Commissioner Mahaffey's motion. Mr. Farinella asked for clarification of the motion. Commissioner Mahaffey stated that the motion is basically to approve everything requested – license renewal, additional contracts, etc. He stated that it is not a rejection of the 5-day race week, just a deferral in order to allow additional consideration of that issue at the November meeting as well as a 4-day race week. He stated that he is not prepared to say which way he will vote in November, but feels a decision should be made at that time. Commissioner Cutler reiterated her second of the motion.

Mr. Farinella asked if there would be additional information available prior to the next Commission meeting. Commissioner Cutler questioned whether there was communication between the state veterinarians and PMR&C personnel. Mr. Farinella stated they do talk to the veterinarians and understand their concerns. He suggested that if the injury rate at PMR&C is similar or less than at other racetracks around the country, then maybe there is no need for so much alarm, noting that injuries do occur. He indicated that tracks are interested in preventing excessive injuries due to animals that should be scratched not being scratched from a race.

Mr. Ketterer advised that the injury issue is not the main issue. Commissioner Mahaffey concurred, and indicated that he is more concerned about what the state veterinarians are relaying to staff regarding pressures the trainers are feeling about the need to fill races. He stated that he is not looking for a chart setting forth the injury rate at PMR&C. He noted that the Commission had not addressed the fact that the trainers feel pressured to enter horses in order to fill races.

Commissioner Cutler stated that if this has been an issue for ten years, the Commission has a responsibility to review the issue and hear from all sides. She stated that if PMR&C is not getting the same sense of concern that staff has received, then PMR&C staff that is in contact with the state veterinarians should attend the November meeting.

Commissioner Bair stated that the Commission needed to establish some type of guidelines, whether that is injuries or number of horses that fall off. He questioned how the Commission would measure the issues surrounding the 5-day race week versus the 4-day race week. Do they just take the state veterinarians word?

Commissioner Mahaffey answered in the negative. He stated that part of the concern he is hearing is that there is a concern about being able to maintain a healthy horse population, which is a problem across the country. Commissioner Mahaffey stated that the question is whether the 5-day race week versus the 4-day race week is something that should be reviewed for the safety of the horses since they are unable to speak for themselves.

Commissioner Bair reiterated that there still needs to be some measurements to help set some guidelines. He suggested that Mr. Ketterer or staff could establish five or six guidelines to show what the Commission is looking for, rather than speaking from emotions or what the Commission feels is best for the horses.

Commissioner Mahaffey stated that he is not speaking from emotions. He indicated that the Commission needs to look at this issue based on the fact that the horses can not speak for themselves and that the state veterinarians have expressed concerns being felt by the trainers at PMR&C. Commissioner Mahaffey indicated that if these issues can be addressed in context with the 5-day versus 4-day race week, then that is what should occur.

Chair Hamilton requested statements from past and present veterinarians on this issue, with a decision to be forthcoming at the November Commission meeting. Commissioner Jarding asked if the Commission would be receiving any input from the horsemen. Chair Hamilton asked that some of the horsemen or representatives of each breed also attend the meeting since it will be in Des Moines. She stated that the Commission would hear from all parties prior to making their decision.

As there was no further discussion concerning the motion, Chair Hamilton called for a vote. The motion carried on a 4-1 vote, Commissioner Jarding voting nay. (See Order No. 04-107) Chair Hamilton stated that the Commission would take up the issue of the 5-day race week versus the 4-day race week at the November meeting.

Chair Hamilton moved to Administrative Business. Mr. Ketterer asked if there were any questions concerning the November 10<sup>th</sup> deadline for the new excursion gambling boat license applications. There were none.

Commissioner Bair asked for any updates concerning the socio-economic study required by the legislation passed in the spring. Mr. Ketterer stated that he has not received any communication from the Legislature. He stated that he did know that Per Mar was awarded the contract. Commissioner Bair requested that Mr. Ketterer share any

information that he might receive concerning the study. Mr. Ketterer indicated he would do so.

Chair Hamilton moved to Public Comment. She called on Bill Poch, Mayor of Riverside, who wanted to provide the Commission with an update. It was determined that Mr. Poch had already left the meeting. Chair Hamilton called for a motion to adjourn. Commissioner Mahaffey so moved. Commissioner Cutler seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

---

JULIE D. HERRICK CPS

**IOWA RACING AND GAMING COMMISSION  
MINUTES  
NOVEMBER 17-18, 2004**

The Iowa Racing and Gaming Commission (IRGC) convened on Wednesday, November 17, 2004 at the Hilton Garden Inn, 8600 Northpark Drive, Johnston, Iowa. Commission members present were Diane Hamilton, Chair; Kate Cutler, Vice Chair; and members Gerald Bair and Joyce Jarding. Commissioner Mike Mahaffey was absent.

Chair Hamilton called the meeting to order at 4:00 PM and requested a motion with regard to the agenda. Commissioner Cutler moved to approve the agenda as presented. Commissioner Bair seconded the motion, which carried unanimously.

Chair Hamilton then called for a motion to go into Executive Session. Commissioner Bair moved to go into Executive Session for the purpose of receiving DCI background investigation reports and performing personnel evaluations pursuant to Iowa Code Section 21.5(1)g and i. Commissioner Cutler seconded the motion, which carried unanimously on a roll call vote. (See Order No. 04-108)

Commissioner Jarding moved to leave Executive Session. Commissioner Cutler seconded the motion, which carried unanimously on a roll call vote. (See Order No. 04-109)

The meeting was recessed until 8:30 AM on November 18, 2004, and reconvened at Stoney Creek Inn & Conference Center, 5291 Stoney Creek Court, Johnston, Iowa. Commission members present were Diane Hamilton, Chair; Kate Cutler, Vice Chair; and members Gerald Bair, Joyce Jarding and Mike Mahaffey.

Chair Hamilton called the meeting to order at 8:30 AM, and called for a motion regarding the minutes. Commissioner Cutler moved to approve the minutes as presented. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 04-110)

Chair Hamilton called on Jack Ketterer, Administrator of the IRGC, for announcements. Mr. Ketterer advised that there would be no meetings in December 2004 or February 2005. He stated that the January and March meetings would be held at Stoney Creek Inn, noting that the March meeting is when the Commission typically renews the licenses for the existing riverboat licensees.

Mr. Ketterer then moved to the licensing timeline for the new excursion gambling boat applications, and distributed a copy of the proposed timeline. The first two items on the timeline reflect the regularly scheduled Commission meetings for January and March. He noted that on March 22-23, the applicants will make presentations before the Commission. There will be ten presentations with each presentation being 45 minutes long. The presentation will allow the applicants to "show and tell" the Commissioners

about their project with no interruptions. These presentations will start in the evening of March 22<sup>nd</sup> and continue throughout the day on March 23<sup>rd</sup>.

From April 5-7, 2005, the Commissioners will visit the proposed sites. He advised that the trip will be made via motor coach, with the Commissioners spending approximately 45 minutes at each proposed location. On April 21<sup>st</sup>, the Commission will hold its regularly scheduled meeting at Ameristar in Council Bluffs.

Mr. Ketterer stated that the dates for the May meetings have not yet been determined, but expected that the first meeting would be held the first or second week at which time the Commission would receive public input on the applications, as well as ask their own questions of the applicants. Mr. Ketterer stated that by this point in the process, the Commissioners will have heard the presentations, read the applications, visited the proposed sites, and have heard the results of the Division of Criminal Investigation (DCI) background investigations. This will be the Commissioner's opportunity to have any issues or discrepancies clarified. Mr. Ketterer stated that toward the end of the meeting, the Commission will be determining the number of licenses to be issued, which may be a specific number, a maximum number to be issued, or a range of numbers within which they will issue the licenses. Mr. Ketterer anticipates that a decision on the licenses will occur during the second or third week in May. Should problems develop with the schedule, the Commission's next regularly scheduled meeting is June 9<sup>th</sup> at Stoney Creek and could issue decisions on the licenses at that time.

Mr. Ketterer stated that the above timeline is as it is known at this time, and is subject to change. He noted that it is the Commission's desire to keep this process very "transparent". Every Commission meeting is open to the public, except for the DCI background investigation reports. He further advised that all documents and information filed with the Commission are available to the public.

Mr. Ketterer stated that through the presentations, review of the applications, site visits, background investigation reports from the DCI, public input and the ability to question the applicants, each applicant will have more than a fair opportunity to present facts and information so that the Commissioners are familiar with each project prior to determining the number of licenses that will be issued and voting.

Mr. Ketterer reminded the applicants and their representatives to not call or contact the Commissioners directly. He stated that he was not questioning anyone's integrity, but was attempting to avoid the perception that some kind of influence was gained. He feels it is imperative that this process remain free of that perception. Mr. Ketterer stated that if the applicants have information they feel the Commissioners should be aware of or have any questions, they should contact staff. He requested that all questions concerning the timeline be held until the break.



Chair Hamilton 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:

- O'Connor & Thomas – Legal Services
- A & G Electric – Casino Expansion Phase 3 Electrical
- Ahearn Plumbing and Heating – Casino Expansion Phase 3 Plumbing
- Commercial Flooring – Casino Expansion Phase 3 Carpet
- Conlon Construction – Casino Expansion Phase 3 Interior General Construction
- Dubuque Glass Co. – Casino Expansion Phase 3 Aluminum Entrances and Glazing
- Five Seasons Painting – Casino Expansion Phase 3 Painting and Wall Covering
- Giese Sheet Metal – Casino Expansion Phase 3 HVAC
- Larson Tile Co. – Casino Expansion Phase 3 Floor and Wall Tile
- McClain Excavating – Casino Expansion Phase 3 Site Work
- McNamer Construction Systems – Casino Expansion Phase 3 Metal Studs and Gypsum Board Framing System
- Midwest Auto Fire Sprinkler – Casino Expansion Phase 3 Sprinkler System
- Shawver Well Company – Casino Expansion Phase 3 Geothermal Well
- Sullivan Bros. – Casino Expansion Phase 3 Ceiling
- Williams Gaming – Purchase of Additional Slot Machines and Parts
- Atronic Americas, LLC – Purchase of Additional Slot Machines and Parts

Mr. Wentworth advised that a majority of the contracts pertained to the casino expansion project.

Chair Hamilton asked if the expansion project was progressing as expected. Mr. Wentworth advised that the project was being bid in four phases: 1) site work/foundation, which is completed; 2) structural steel, (hope to have building enclosed by January 1<sup>st</sup>); 3) exterior build out; and 4) renovation of existing space. The project is approximately six days behind schedule at this time, but crews are working half days on Saturdays; but are still aiming to have the project completed by Memorial Day. He noted that the Hilton Garden Inn has moved their opening date from July to August.

Hearing no comments concerning the contracts, Chair Hamilton requested a motion. Commissioner Bair moved to approve the contracts as submitted by DGP&C. Commissioner Mahaffey seconded the motion, which carried unanimously. (See Order No. 04-111)

Chair Hamilton called on Isle of Capri Marquette (IOCM). Barron Fuller, General Manager, presented a contract with NRT Technology Group for the purchase of three ticket redemption kiosks.

Hearing no comments or questions concerning the contract, Chair Hamilton requested a motion. Commission Cutler moved to approve the contract as submitted by IOCM. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 04-112)

Chair Hamilton called on Argosy's Belle of Sioux City (BSC). Jesus Aviles, General Manager, presented the following contracts for Commission approval:

- American Valet – Valet Parking for Belle Customers
- Bally Gaming & Systems – Anticipated Purchases of Slot Machines and Related Parts (Replacements) (Increase)
- Certegy Check Services – Check Guarantee Services (Increase)
- Interior Construction Services – Construction Supervision
- Sysco of Iowa – Food Products for Restaurant (Increase)

Hearing no comments or questions concerning the contracts, Chair Hamilton requested a motion. Commissioner Cutler moved to approve the contracts as submitted by BSC. Commissioner Bair seconded the motion, which carried unanimously. (See Order No. 04-113)

Chair Hamilton called on Harrah's. Mike Rich, Assistant General Manager, presented the following contracts for Commission approval:

- Atronic Americas, LLC – Purchase Slot Machines and Parts (Replacement) (Increase)
- E-GADS! – Purchase Slot Signage to Match Existing Themed Signage
- Gaming Partners Int'l USA, Inc. – Purchase Gaming Equipment & Supplies
- Omaha Steaks – Meat Supplier (Increase)
- Rotella's Italian Bakery – Breads & Other Baked Goods Supplier
- Show Productions d/b/a Audio Visions – Audio Production for Indoor/Outdoor Concerts
- Theatrical Media Services – Provides Stage, Roof, and Lighting for Indoor/Outdoor Concerts
- The Printer, Inc. – Printing of Direct Mail Material (Increase)

Mr. Rich advised the Commission that Omaha Steaks has opened an office in Council Bluffs. Commissioner Cutler asked if there was a physical office. Mr. Rich answered in the affirmative and provided the address.

Hearing no further comments or questions, Chair Hamilton requested 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. 04-114)

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

- Farmers and Merchants Bank – Surcharge Fees for ATM Transactions
- City of Fort Madison – Lease Agreement for Docking of Vessel
- Hoyer Law Firm – Legal Services
- Konami Gaming, Inc. – Technical Support and Machines Parts
- Lee County Bank and Trust – Surcharge Fees for ATM Transactions
- Reinhart Food Service – Purchase of Food Product and Supplies (Increase)

Mr. Massa advised that all of the contracts were with Iowa vendors.

Hearing no comments or questions concerning the contracts, Chair Hamilton requested a motion. Commissioner Jarding moved to approve the contracts as submitted by CBC. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-115)

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

- Alliant Energy – Gas & Electric Service
- Holmes Murphy – Property/Casualty/Liability and Workers Comp Insurance
- IGT – New Slot Leases (Replacing Owned Machines)
- Massachusetts Mutual Life Insurance – 401K Employee Plan
- McDaniel Marketing – Advertising and Marketing Expenses (RP)
- Sysco Food Service of Iowa – Food, Supplies and Equipment for Kitchen
- Whitfield & Eddy, PLC – Legal Counsel

Chair Hamilton noted that all of the above contracts were with Iowa vendors. Hearing no comments or questions concerning the contracts, Chair Hamilton requested a motion. Commissioner Bair moved to approve the contracts as submitted by Lakeside. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-116)

Chair Hamilton moved to the next agenda item – Clarke County Development Corporation/Herbst Gaming, Inc. regarding their license application for the acquisition of Lakeside Casino Resort. Jerry Crawford, legal counsel for Herbst Gaming, advised that the application process had been a very positive one, and expressed appreciation for IRGC and DCI staff. He stated that the background investigation process has become much more efficient, and that staff was knowledgeable and prepared.

Mr. Crawford stated that the Herbst brothers, Troy, Tim and Ed, were unable to attend this meeting, but would be in attendance at the January meeting due to a prior obligation. He stated that he had an opportunity to visit all of the Herbst facilities in Las Vegas, NV.

Mr. Crawford stated that the Herbst theme will fit, and that the quality of service and array of recreational opportunities are well suited to Osceola. He noted that Kevin Preston and the Grace group have done a good job with the facility, but that with the infusion of new capital and a new approach, the Commission will see even better results in the future.

Mr. Crawford advised the Commission that the City of Osceola, Clarke County Development Corporation, and the Osceola Water Board will receive additional revenue, and will also benefit from a development standpoint as well, due to the manner in which the agreements were reached. The agreements put a premium on expansion of opportunities throughout the entire area. Mr. Crawford expressed his belief that the entire community will benefit as a result of the agreements reached between Herbst and the above entities.

Mr. Crawford advised that Sean Higgins, General Counsel; Mark Sterbens, Director of Casino Operations; and Mary Beth Higgins, Chief Financial Officer (CFO), for Herbst were present. Mr. Higgins echoed Mr. Crawford's comments regarding IRGC and DCI staff. He stated that Mr. Sterbens would be in charge of casino operations in Nevada and Iowa, and the Missouri operations, should they get a license. Mr. Higgins noted that Ms. Higgins is his sister, and is the CFO for all of Herbst's operations.

Mr. Higgins stated that Herbst is excited about the opportunities in Osceola. He concurred with Mr. Crawford's statements concerning Mr. Preston and the Grace company, however Herbst feels there are opportunities to improve the facility; and increase the returns/investment in the facility in the gaming area as well as in other areas. Mr. Higgins stated that during the first quarter of operations, Herbst anticipates purchasing 550 gaming devices, adding a net 100 new devices to the floor, and that all machines would have the ticket-in/ticket-out technology. The machines will be multi-denominational/multi-game. They also anticipate renovating the steak house by adding some color and wood paneling to provide a lodge atmosphere. Herbst also plans to renovate the buffet – again by adding color in order to provide a brighter atmosphere. In the casino area, new carpeting and wall coverings are planned, and a new bar area will be added. Additionally, a new porte-cochere to enter the facility is planned.

Mr. Higgins stated that the Herbst family and Herbst Gaming are long-term owners, and expect to be involved in the gaming industry in Iowa for a long time. He noted that the Herbst family is not a seller of businesses. Mr. Higgins noted that there are currently over 80 developable acres at the Osceola site. He advised that Herbst currently operates the No. 2 RV Park in the country at their own Lakeside Casino in Nevada. He noted there is currently an RV park at the Osceola site, and Herbst feels there is an opportunity to increase the number of spaces and upgrade those facilities. They also feel there is a strong possibility in the future of adding an additional 60 rooms to the hotel. Mr. Higgins noted that Lakeside's location on West Lake also provides additional opportunities to develop in and around the lake, separate and apart from the gaming core.

Mr. Higgins advised the Commission that Herbst Gaming would be retaining the current management staff at Lakeside. Herbst management has met with them several times, and is impressed with their knowledge of the market, and that Herbst management will be in Osceola on a regular basis. He stated that Herbst is excited to be able to join the partnership with the City of Osceola, Clarke County Development Corporation, IRGC and the State of Iowa.

Mr. Higgins indicated that he would answer any questions. Mr. Ketterer asked when Herbst, if their application was approved, would expect to close the transaction and take over the operations at Lakeside. Mr. Higgins stated that Herbst's agreement with the Grace Companies calls for a simultaneous closing on the Iowa property with the two Missouri properties; however, he has had several conversations with Bruce Schmitter and Larry Seckington regarding a non-simultaneous closure. He has also spoken with Howard Grace, William Grace's son, along those same lines. All parties feel there may be an opportunity to close on the Iowa property prior to licensure in Missouri. Herbst is not sure when they will be able to present to Missouri as there is no scheduled meeting in December. They hope to be on the January agenda. If Herbst and Grace are able to reach an agreement with regard to a non-simultaneous closure, it could be as early as January 1; however, if that is not the case, then it would be upon receiving licensure approval from Missouri. Mr. Ketterer stated that what he was hearing was that Herbst's licensure request would be from the date of closing, whatever that might be. Mr. Higgins indicated that was correct. He expects that Herbst will know by December 1 whether or not they will be able to proceed with a non-simultaneous closure.

Chair Hamilton called for any further questions. Commissioner Cutler explained that the reason the Commission did not have any questions for Mr. Higgins was due to the excellent job the DCI did in their presentation to the Commission the previous afternoon. Mr. Higgins stated that the DCI agents that traveled to Nevada were easy to work with and were very professional.

Mr. Higgins stated that the Herbst brothers, Ed, Troy and Tim, were apologetic for not being able to attend this meeting, and look forward to meeting the Commissioners at the January meeting.

Hearing no further comments or questions concerning Herbst's license application, Chair Hamilton called for a motion. Commissioner Bair moved to approve the license application of Clarke County Development Corporation/HGI – Lakeside, d/b/a Lakeside Casino Resort. Commissioner Cutler seconded the motion.

Mr. Ketterer stated that the date of licensure would be from the date of closing until March 31, 2006. He stated that there was no reason to grant the license, and then turn around and have them go through the license renewal process. He indicated there was no need to incorporate this information into the motion.

The motion carried unanimously. (See Order No. 04-117)

Chair Hamilton called on Iowa West Racing Association (IWRA). Todd Graham, Executive Director, provided some history concerning IWRA and the gaming industry in Council Bluffs. He noted that Bernie Goss, a top economist in the country and Creighton University professor, referred to Council Bluffs as being “hot” due to the entertainment and tourism opportunities.

Mr. Graham stated that he was representing the IWRA Board of Directors with regard to further enhancements at BRC. He noted that they were before the Commission in March seeking approval for an expansion at BRC. He indicated the capital improvements presented at that time have changed dramatically, and called on Gaye Gullo, General Manager, to discuss the changes.

Ms. Gullo stated that in March the Commission approved a \$38.6 million expansion project, which included 28,000 square feet of expanded gaming space and major renovations to the BRC as it currently exists. Since that time, many changes have occurred from both a legislative and market standpoint. New legislation allowing table games at the racetracks provided a substantial opportunity to improve BRC’s performance. Additionally, the new Bass Pro Shop, which will be located in the same area as BRC and is expected to bring approximately two million visitors, provides another opportunity to grow the market. Ms. Gullo stated that BRC is seeing market growth of approximately 7%. She stated that as Harrah’s looks at its capital investments in BRC, this market and Iowa, one of the crucial areas for them is the stable regulatory and tax environment in Iowa.

At this time, Ms. Gullo presented the plans for the new Horseshoe Casino and Bluffs Run Greyhound Park. She advised that the investment in the project has changed from \$38 million to \$85 million, which Harrah’s feels will be beneficial to the community, employee base, and Iowa’s economy. Harrah’s will be adding approximately 100,000 square feet to the existing facility with approximately 64,000 of that being for new casino space. Additionally, there will be a new 400-seat buffet, and a 140-seat Jack Binion steak house. There will also be an entertainment center, a 300-seat bar, and additional break out space for VIP events and meetings.

Ms. Gullo advised that a 20-table poker room will be added to the facility, allowing Harrah’s to capitalize on their World Series of Poker franchise, and will be located in the renovated area. The facility will hold approximately 1900 slot machines and video poker and 36 table games.

Ms. Gullo then addressed changes to the back of the house: the old buffet located upstairs adjacent to the racetrack will be changed into an employee cafeteria. They will also have the ability to add additional office space. Additionally, renovations will be made to the current track facility next year. This year capital funds, \$400,000, were spent on new boilers, air handling devices, and a new heating system. Next year the concession stands will be upgraded, paint, and install new carpet in order to provide a seamless transition

from the track to the casino. Ms. Gullo turned the floor over to Tom Hanafan, Mayor of Council Bluffs.

Mayor Hanafan stated that the upgrade to the facilities is needed due to changes taking place in the area, which is becoming the entertainment corridor for Council Bluffs. He indicated that the expanded facility will create new jobs, additional taxes for the city, and feels the changes will also be beneficial to the greyhound side of the operation.

Mr. Ketterer stated that one item that would be beneficial to BRC, and the entire area, would be the widening of I-29/I-80 to accommodate three lanes of traffic, and noted that the interchange makes it difficult to access BRC. He asked if there was any word from the Department of Transportation (DOT) as to a timeline for the project. Mayor Hanafan stated that the study has been completed. The plans call for a \$500 million improvement to the I-29/I-80 corridor. He indicated that three intersections would be demolished and reconstructed. It is hoped that Congress will pass a new highway bill, which would include this project. He noted that the city is currently working on the South Omaha Bridge to facilitate the movement of traffic during construction. He stated that Council Bluffs will be redoing 24<sup>th</sup> Street to make it six lanes. Mayor Hanafan noted that the DOT has been very supportive.

Ms. Gullo stated that the proposed project would create 300 construction jobs and 300 permanent jobs. Harrah's estimates they will pay an estimated incremental amount of \$50 million in taxes over a five-year period, and approximately \$1.7 million to Council Bluffs in incremental taxes over five years. Ms. Gullo requested Commission approval of the project as presented to the Commission. She advised that individual contracts relating to the project would be submitted for Commission approval.

Chair Hamilton asked about the increase in the number of slot machines, and whether Harrah's had already asked for Commission approval regarding the increase. Ms. Gullo stated that Harrah's had asked for the approval of 250 slot machines, and have already installed 149 by removing some soft count areas, etc. that were not necessary. She advised that there would be an incremental increase of approximately 100 slot machines.

Commissioner Bair, referring to the project timeline, asked if they were looking at completion in March 2006. Ms. Gullo indicated that was correct. Commissioner Bair asked the completion date of the original project. Ms. Gullo indicated that she thought it was November/December 2004.

Hearing no further comments or questions, Chair Hamilton requested a motion concerning the capital improvement project at BRC. Commissioner Cutler moved to approve the capital improvement plan as presented by BRC. Commissioner Jarding seconded the motion, which carried unanimously. (See Order No. 04-118)

Chair Hamilton then called on IWRA regarding the season approvals for the upcoming 2005 live race meet. Lorraine May, legal counsel, noted that the Commission approved a

\$5 per point increase to the purse supplement agreement at the October meeting. She noted that the request set forth the various department heads and requested approval of the 45-day season approval request.

Hearing no questions or comments concerning the submission, Chair Hamilton requested a motion. Commission Jarding moved to approve BRC's season approval request as submitted, subject to the completion of all appropriate DCI background investigations. Commissioner Mahaffey seconded the motion, which carried unanimously. (See Order No. 04-119)

Chair Hamilton called on BRC regarding the contracts submitted for Commission approval. Mr. Rich, General Manger of Bluffs Run, presented the following contracts for Commission approval:

- Atronic Americas, LLC – Purchase Additional Slot Machines (Replacements)
- The Printer, Inc. – Printing of Direct Mail Material (Increase)
- C Rallo Contracting Co., Inc. – Remodel of Bluffs Run

Hearing no discussion concerning the contracts, Chair Hamilton requested a motion. Commissioner Mahaffey moved to approve the contracts as submitted by BRC. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-120)

Following a short break, Chair Hamilton called on IWRA regarding the dissolution of Iowa Wescorp Association (Wescorp) and the approval of the Amended and Restated Excursion Boat Sponsorship and Operating Agreement with Ameristar Council Bluffs, Inc. and the Second Amendment to the Amended and Restated Excursion Boat Sponsorship and Operating Agreement with Harveys Iowa Management, Inc. and Approval of the By-Laws of IWRA.

Mr. Graham stated that the Commission had previously been provided with a summary setting forth the reason for the request. At this time, he distributed a new organizational chart for IWRA. Mr. Graham explained that since its inception, IWRA has had a non-profit parent management company called the Westcorp. The main charitable public purpose for this organization was to serve as the sponsor for the West Pottawattamie County Fair, also known as Westfair. However, due to liability issues presented by the growth of the fair, Wescorp decided to discontinue sponsoring the fair, but remained as the IWRA's parent company and the vehicle through which the community nominating process was implemented.

Due to concerns raised by IWRA's auditors, and on the advice of legal counsel, the IWRA boards decided to dissolve Wescorp but designated the individual board members of Wescorp as the individual members of IWRA and preserved the community nominating process for the election of such individual members. The individual members are now referred to as a Council of Members. This change required that the



sponsorship and operating agreements between IWRA and Ameristar Council Bluffs, Inc. and Harveys Iowa Management Company be amended. These changes have been approved by the IWRA boards as well as Ameristar and Harrah's. Mr. Graham advised that the changes will have no impact on the non-profit tax status of IWRA as a licensee and sponsor or on the sponsorship fees.

Hearing no discussion concerning this agenda item, Chair Hamilton requested a motion. Commissioner Cutler moved to approve the Amended and Restated Sponsorship Excursion Boat Sponsorship and Operating Agreement with Ameristar Casino Council Bluffs, Inc.; the Second Amendment to the Amended and Restated Excursion Boat Sponsorship and Operating Agreement with Harveys Iowa Management, Inc. and the amended By-Laws of IWRA due to the dissolution of Wescorp. Commissioner Bair seconded the motion, which carried unanimously. (See Order No. 04-121)

Chair Hamilton called on the Iowa Horsemen's Benevolent & Protective Association, Inc. (IHBPA). Leroy Gessman, President of IHBPA, stated that they were before the Commission today to provide an industry update. He turned the floor over to Scott Pope. Mr. Pope noted that the Commissioners had been given a packet of materials for their perusal. Mr. Pope stated that the industry feels it is important to keep the Commission apprised of where they are at as an industry, noting that the horse racing industry was the catalyst behind gambling in Iowa. Mr. Pope noted that the horse industry in Iowa is driven by the success or failure of Prairie Meadows Racetrack & Casino (PMR&C); that the purse structure and number of race days dictate the industry's success. Mr. Pope stated that there have been some peaks and valleys during the past ten years, most of them tied to historical events – either economic or political – that have had a big influence on where the industry has been and where it is going.

At this time, Mr. Pope referred to a graph detailing the number of Iowa thoroughbred foals born each year. He noted that in 1989 Iowa produced approximately 285 thoroughbred foals. When PMR&C came out of bankruptcy, the industry sought relief through the introduction of slot machines at the tracks, which were approved. At that point, the purse structure started to grow, as did the industry. In 2000, Iowa produced approximately 600 thoroughbred foals, and just over that number in 2001. In 2001, PMR&C announced that purses for quarter horses and thoroughbreds would be reduced by 25% due to Polk County's need to fund the Iowa Events Center, precipitating a decline in the number of foals born in 2002 and 2003. Mr. Pope stated that when breeders determine what stallion to breed mares to, the subsequent racehorses produced by that breeding are three or four years down the line. In 2003, the Supreme Court issued their Decision regarding the gambling tax rate at the racetracks. The tax was escalating, reducing the funds available for purses, causing a further decline in the industry. The Iowa Legislature changed the gambling tax structure at the racetracks, providing hope to the breeders that the future of the industry in Iowa was brighter. The number of thoroughbred foals born in 2004 increased over 2003, and Mr. Pope anticipates that number will continue to increase.

The next chart pertains to the number of stallions in the state. Mr. Pope noted that while the stallion owners have reduced the number of stallions, they have improved the quality of stallions. He stated that the stallion owners have done an excellent job of marketing themselves to breeders in the surrounding states thereby insulating themselves from the downturn in purse amounts and racing dates. He noted that mares are shipped into Iowa from around the country for breeding purposes. Mr. Pope stated that he expects this aspect of the industry to continue to prosper.

Mr. Pope stated that another important aspect of the industry is the quality of the horses produced. He stated that a goal of the IHBPA is to continue to improve the quality of the Iowa-bred horses so that they can compete in other racing jurisdictions, not just at PMR&C. The number of thoroughbreds competing in open races, and winning, is growing due to a supplement program that allows Iowa-breds finishing in the top five to win additional money. Mr. Pope stated that Iowa-breds are competing at every level of competition at PMR&C. The number of states in which Iowa-breds have competed, and won, continues to grow. Mr. Pope stated that the industry is achieving the quality for which it has been striving, partly due to the limited number of racing days in Iowa. He stated that in order for an owner to be successful, it is necessary for them to race more than six months a year, necessitating the ability to compete for purse money in other jurisdictions.

Mr. Pope advised that Iowa Thoroughbred Breeders and Owners Association (ITBOA) holds an annual yearling sale. In 1999, the average price for a yearling was \$4,800; however in 2001, when purse money declined, as well as other factors, the quality and demand for Iowa-breds declined, resulting in an average price of \$2,292 for 2003. This year, due to some stability being achieved through the Legislature, the average price was \$6,915, reflecting the quality and stability of the industry in Iowa. He also referenced an article that appeared in the Des Moines Register.

Mr. Pope stated that the industry is concerned about their future as it pertains to the RACI board. He noted that the Board did approve the addition of another horse member to the Board the day before. Mr. Pope stated that it is important to have diversity on the Board, and that horsemen are a big part of the business at PMR&C. He noted that the horsemen have never sought control of the Board, but feels it is important that they be a part of the decision-making process. He stated in many states, the boards at many facilities are comprised of at least 50% of individuals involved in the industry. He pointed out that in some states, an individual wouldn't be appointed to the Board without having a vested interest in the industry; however, in Iowa, there has been a concerted effort to eliminate the horse industry's presence and influence on the Board over the years. Mr. Pope stated that the industry is working to improve its relationship with RACI management. He stated that the various horsemen association work well together most of the time, and are striving for the same thing – the success of PMR&C which results in success for the horse industry.

Commissioner Mahaffey asked about the demographics of the horse industry, and what is being done to attract younger individuals to the sport, and how that is being played out at PMR&C. Mr. Pope stated that he feels the Marketing Department at PMR&C does a good job in attempting to attract younger people. He noted that the majority of business at PMR&C is from the "golden circle", although there are some players that come from other areas of the state. Mr. Pope stated that the racing program at Canterbury Park in Minneapolis, which has been very successful with a card room, is growing, as is their pari-mutuel handle. Canterbury's market is three million people versus 350,000 for PMR&C.

Mr. Pope stated that during the summer months he serves as the racing analyst at PMR&C, and saw a huge increase in the number of young people. He indicated that the challenge is in getting those individuals to place a wager, noting that racing is a complicated game when it comes to learning to handicap a race. Mr. Pope stated that the industry is working with the Marketing Department to help individuals better understand the racing industry. He noted there are many people who come out to watch the races but are intimidated by the wagering process; however, he feels things are improving.

Commissioner Bair, referencing the map of the United States showing where Iowa-breds have competed and/or won, asked if there were any historical numbers showing whether these numbers were increasing or decreasing. Mr. Pope stated that all of the highlighted states have pari-mutuel racing, while Nevada, Utah, Missouri and Wisconsin do not have pari-mutuel racing. He feels there will be an increase in the number of Iowa-breds racing in other jurisdictions. Mr. Pope noted that the fall meet in Keeneland in Kentucky, where the best horses in the world compete, started right after PMR&C's meet ended. He stated that approximately a dozen horses from PMR&C shipped to Keeneland to compete. He noted that three Iowa-breds competed in open races at Keeneland this fall. Mr. Pope stated that as more breeders and owners realize that their horses can compete, and win, the number of Iowa-breds competing in other jurisdictions will continue to increase. He reiterated his earlier statement that finances dictate that the owners race their horses more than six months a year in order to survive financially.

Commissioner Bair stated that he was hearing there were no numbers to show whether the number of horses competing in other jurisdiction were going up or down. Mr. Pope stated that part of the success is that individuals from other states purchase Iowa-breds at the yearling sales and take them back to their home state. He noted there are some Iowa-breds that may never race in Iowa. Mr. Pope noted that Iowa's climate makes it difficult to prepare a horse to race as the process takes approximately 90 days. Based on the dates of the meets at PMR&C, owners would need to start training their horses in January, which would be difficult. Many owners send their horses south for training, and possibly get some racing in. Mr. Pope stated that many owners send their horses to Oaklawn, which has an early spring meet that ends just prior to the first meet at PMR&C. Mr. Pope stated there may be some states in which Iowa-breds have raced but he is unable to verify his information so did not include them.

As there were no further questions for Mr. Pope, Chair Hamilton called on the Iowa Harness Horsemen's Association. Laverne Schroeder, Lobbyist, stated that a packet of material was provided to the Commissioners in their meeting packets. He directed their attention to the third page which addresses the amount of purse money received by each breed from 1998 through 2005. The highlighted number represents the multiplier of the purses received by the quarter horses and standard breds in order to match the purse amount received by the thoroughbreds. In the last Legislative session, 11% was committed to purses. Mr. Schroeder asked the Commission to implement the minimum purse section contained in the Iowa Code, and establish the minimum purse at 16% for each breed. Each breed would then be able to negotiate a share of the rest of the funds. Based on the 11% scenario contained in legislation, this program could be implemented with no group receiving less money than they currently receive.

Mr. Schroeder referenced information at the bottom of the third page showing the number of foals born each year by breed. He noted that the numbers for 2004 are not complete, but indicated there have been 236 foals for the harness industry and 536 for the thoroughbreds.

Mr. Schroeder pointed out that the highest purse paid during a harness meet is \$6,000. He directed the Commission's attention to a graph depicting the average daily purse distribution at PMR&C. The average daily purse distribution breaks down as follows: Thoroughbreds - \$175,000/day; Mixed Meet - \$110,000/day and Harness Meet - \$30,000/day.

Mr. Schroeder advised the Commission that in 2000 when PMR&C held the Festival of Racing, purses paid out in that one week of racing exceeded the total amount paid out to the quarter horse or standard bred groups for their entire racing program for the year. He again asked the Commission to implement a minimum purse program which would guarantee the quarter horse and standard bred groups a minimum purse of \$3 million, which would still leave \$16 million for purses for the thoroughbreds.

Commissioner Mahaffey asked if a representative from PMR&C was available to comment. Bob Farinella, General Manager, stated the purse structure is subject to negotiation, and that PMR&C is currently in the second year of the current purse agreements. Mr. Ketterer noted that previously the amount of money left over for Polk County has played a big part in the negotiation of purse agreements with the different horsemen associations. He noted that the current agreements expire in 2005, but stated that PMR&C is required to comply with the 11% as it became law on July 1. Mr. Ketterer stated that the current agreements call for \$15 million but the current law requiring 11% would supersede those agreements. He stated that when PMR&C starts negotiating the new agreements, the amount would not be an issue as it has been set by Code, but the parties will have to decide how the funds will be divided between the different breeds. Mr. Ketterer stated that would be the opportune time for the different representatives to negotiate what that division would be, and then come before the Commission if there is some dissatisfaction with the outcome.

Chair Hamilton called on Mr. Farinella regarding PMR&C's amended racing schedule. Mr. Farinella noted there was extensive discussion at the October Commission meeting regarding PMR&C's request for 5-day race weeks in August 2005. He advised that PMR&C's management team met with IRGC staff, IRGC veterinary staff, and horsemen representatives to determine the best way to work through the issues surrounding the request from an operational standpoint. Mr. Farinella stated that the race meet was extended by one week, moving those five days to the end of September. Mr. Farinella stated that he felt this change complied with everyone's requests.

Hearing no discussion concerning PMR&C's amended race schedule, Chair Hamilton requested a motion. Commissioner Bair moved to approve the amended race schedule for the 2005 Mixed Meet as submitted by PMR&C. Commissioner Mahaffey seconded the motion, which carried unanimously. (See Order No. 04-122)

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

- American Express – Corporate Credit Cards
- American Express – Corporate Credit Cards
- Belin, Lamson, McCormick, Zumbach, Flynn – Corporate Legal Counsel Services (Increase)
- Cash Systems Inc. – 3-Year Contract for Casino Guest Credit Card and Check Cashing System
- Combined Systems Technology – Computer Related Products and Services
- Daktronics Inc. – Potential Purchase of Electronic Information Boards (Increase)
- Des Moines Register – Corporate Advertising, Subscriptions and Help Wanted Advertising (Increase)
- Fair-Play Trans-Lux Company – Potential Purchase of Electronic Information Boards (Increase)
- Global Spectrum LP – Potential Contract for 3-Year Lease of a Skybox at Wells Fargo Arena
- Graham Construction Company – Various Construction Projects at Prairie Meadows throughout 2005/2006 (Increase)
- IGT-Iowa – Potential Lease of 5 Slot Machines (Replacements)
- Iowa Des Moines Supply – Equipment and Supplies for the Facilities and Food & Beverage Departments
- Liquor Control of Iowa – Equipment and Supplies for the Facilities and Food and Beverage Departments
- Shiver-Hattery Inc. – Design and Consulting Services Relating to a Potential Casino Expansion

Mr. Ketterer asked Mr. Farinella about the contract with Cash Systems, Inc. (CSI), noting that one paragraph addresses voluntary exclusion. He pointed out that a provision in HF 2302 stated that when cash advance or ATM machines had the technology to implement

voluntary exclusion which would allow an individual to ban themselves from utilizing cash advance or ATM machines, then that technology should be used. Mr. Ketterer indicated it is his understanding from the language contained in the contract that CSI has that ability. He stated that if that is the case, the Commission would be reviewing some of the other licensee's contracts with cash advance vendors to determine if they can provide that service technologically and why not in the event that they can not, especially if CSI is able to do so.

Mr. Farinella stated that he could not specifically answer the question, he indicated that was some of the criteria PMR&C insisted on during negotiations with CSI. He stated that the systems offering that type of service have their own closed-loop system outside of the normal banking network. The issue was the banking network being able to exclude individuals from their accounts for other types of transactions. Mr. Farinella stated that he felt certain CSI had the ability to exclude these transactions.

Mr. Ketterer stated staff and Jeff Peterzalek, Attorney General for IRGC, had reviewed some of the operating procedures. Mr. Peterzalek stated that the contract presented sets forth eleven or more strict procedures PMR&C employees are required to follow in processing these cards. He asked if the initiation of the transaction is done off or on the gaming floor with someone from PMR&C. Mr. Farinella advised that all cash advance machines are located off the gaming floor. Mr. Peterzalek then asked if the procedures regarding verification and initialing were done at the cash cage. Mr. Farinella answered in the affirmative.

Mr. Peterzalek stated that Paragraph 2E states that CSI has the ability to charge back transactions if all of the specified procedures are not followed in the event a charge is dishonored. He indicated that aspect raises the question as to whether PMR&C would be loaning the patron funds for gambling if the transaction were denied. Mr. Farinella stated that he could not answer the question, however, under normal circumstances all of the criteria have to be carried out by check cashing or the facility accepts the responsibility for the bad debt – which is one of the reasons the facilities utilize the check cashing companies. Mr. Peterzalek pointed out that the check cashing guarantee is somewhat different than the cash advance system; and the language pertaining to those two systems are substantially different as far as how the guarantee is effectuated and the circumstances under which charge backs might occur.

Mr. Farinella asked for clarification as to the paragraphs Mr. Peterzalek was referencing in order to obtain the requested information. Mr. Peterzalek indicated Paragraph 2E, while the requirements and procedures are set forth in 2C. Mr. Farinella indicated that he would provide the information by the end of the day.

Commissioner Cutler asked Mr. Peterzalek if he was suggesting that the Commission should not approve the contract with CSI. Mr. Peterzalek indicated that the Commission should wait to receive the requested information before approving the contract. He felt

that waiting would be beneficial to both the Commission and PMR&C in order to make sure issues do not arise with the contract in the future.

Chair Hamilton called for any further comments. Commissioner Bair noted that the contract has a start date of December 13, 2004. Mr. Farinella stated that he felt PMR&C could provide the requested information to resolve the issues yet today or within a few days. Commissioner Bair suggested approval of the CSI contract, subject to the issues with the CSI contract being resolved to the satisfaction of Assistant Attorney General Peterzalek.

Commissioner Bair asked Mr. Farinella about PMR&C's contract for a three-year lease of a skybox at the new event center. Mr. Farinella stated that PMR&C is a participant in the community in supporting the Iowa Events Center, and agreed to sponsor a skybox early on in the discussions surrounding the project.

Chair Hamilton called for a motion. Commissioner Bair moved to approve the contracts as submitted by PMR&C, with the CSI contract approved subject to the issues surrounding the contract being resolved to the satisfaction of Assistant Attorney General Peterzalek. Commissioner Cutler seconded the motion, which carried unanimously. (See Order No. 04-123) Commissioner Bair requested that the Commissioners be advised when the matter is resolved.

Mr. Farinella advised that the table games at PMR&C will open on December 15<sup>th</sup>.

Chair Hamilton called on Mr. Ketterer for Administrative Business. Mr. Ketterer requested that the Commissioners provide him with any dates, by early next week, in May 2005 that will not work for the proposed Commission meetings.

Chair Hamilton moved to Public Comment, and called on Maggie Moss. Ms. Moss stated that she was addressing the Commission at the request of Scott Pope and the horsemen. She noted that she had been a member of the RACI Board, representing the Des Moines Partnership. She stated that she is a horse owner and a lawyer. Ms. Moss noted there have been several articles indicating that charities are suffering due to the high purses being paid by PMR&C. She offered to open up her books with regard to the horses to show how much she pays to the community and/or state.

Ms. Moss stated that she is concerned that history does not repeat itself in Iowa. She advised that her concern goes back to the late 1990's when various groups thought they could take control of PMR&C. She stated that she is very concerned about the different factions wanting to develop different pieces of PMR&C without a united voice, which should be for the unity and best interests of why PMR&C was created initially – economics, charity, horsemen and the community. She noted there is no united voice, and as she was not reappointed to the Board, there is only one horse person on the Board. She stated that PMR&C is still a racing facility. Referencing Mr. Pope's earlier

comments as to Board membership around the country, Ms. Moss stated that in most cases 75-80% of the boards are horse owners.

Ms. Moss concluded her remarks by stating that she is concerned about PMR&C continuing to operate within the boundaries of the laws of IRGC; and that the RACI Board and the differing factions, because of the large amount of money, remember why PMR&C was established.

Hearing no further comments, Chair Hamilton called for a motion to adjourn. Commissioner Mahaffey so moved. Commissioner Cutler seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

---

JULIE D. HERRICK