

**IOWA RACING AND GAMING COMMISSION  
MINUTES  
JANUARY 22, 2015**

The Iowa Racing and Gaming Commission (IRGC) met on Thursday, January 22, 2015 at Stoney Creek Inn and Conference Center, in Johnston. Commission members present were Jeff Lamberti, Chair; Carl Heinrich, Vice Chair and members Dolores Mertz and Kris Kramer. Commissioner Rich Arnold participated via speaker phone.

Chair Lamberti called the meeting to order at 8:30 AM, and called on Commissioner Heinrich who expressed his appreciation for the concern and support he received from the industry at the time of his wife's death.

Chair Lamberti moved to the approval of the agenda, and noted the following revisions: Under contracts, Item 6(K)6 is removed, and Item 10C will be deferred. He requested a motion to approve the agenda as amended. Commissioner Mertz so moved. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti moved to the approval of the minutes from the November 5<sup>th</sup> and 13<sup>th</sup> Commission meetings. Hearing no discussion, he requested a motion. Commissioner Kramer moved to approve the minutes as submitted. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to announcements, and called on Brian Ohorilko, Administrator of IRGC. Mr. Ohorilko provided the following information on upcoming Commission meetings:

- February 2015 – No Meeting
- March 5, 2015 – Prairie Meadows Racetrack & Casino, Altoona, IA (Submissions due by February 19, 2015)
- April 16, 2015 – Mid America Center, Council Bluffs, IA (Submissions due by April 1, 2015)
- May 2015 – No Meeting
- June 4, 2015 – Hard Rock Hotel & Casino, Sioux City, IA (Submissions due by May 20, 2015)

Chair Lamberti moved to the rules before the Commission for final adoption. Mr. Ohorilko advised the rule packet is the same as the one noticed at the November Commission meeting. He noted the Commission did receive one public comment regarding the network risk assessment rule (Item 4). Mr. Ohorilko stated staff took the opportunity to address one of the items in the comment and modified the dates associated with the testing; that was the only change made to the rules between the November submission and this submission. Mr. Ohorilko requested the final adoption of the rules as submitted.

Hearing no comments or questions concerning the rules, Chair Lamberti requested a motion. Commissioner Mertz moved to final adopt the rules as amended. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti moved to the shelf application for approval of debt financing submitted by Pinnacle Entertainment, Inc. (Pinnacle), the parent company for Ameristar Casino Council Bluffs, Inc. (Ameristar). Doug Gross, legal counsel, noted the Commission has adopted rules which allow for debt financing to be approved on a shelf basis as long as the organization is listed on the New York Stock Exchange or has publicly traded debt securities. He stated Pinnacle meets those requirements. He advised that Pinnacle had submitted a shelf financing package for the acquisition of Ameristar; that has been completed. The shelf financing before the Commission is for \$500 million of convertible debt securities to pay down existing debt. Mr. Gross requested the Commission's approval.

Hearing no comments or questions concerning the shelf financing, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the shelf application for approval of debt financing as submitted by Pinnacle Entertainment, Inc. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to the contract portion of the agenda and called on Ameristar. Monty Terhune, General Manager, presented the following contracts for Commission approval:

- Interline Brands – Cleaning Equipment, Supplies and Services
- Cintas – Purchase New Uniforms for Casino Staff
- Scavusso's, Inc. – Food Provider

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by Ameristar. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on IOC Black Hawk County, Inc. d/b/a Isle Casino Hotel Waterloo (IOC Waterloo). Bari Richter, General Manager, presented the following contracts for Commission approval:

- Newton Manufacturing Company – Marketing Promotional Items
- Witham Auto Center – Car Dealership for Marketing Promotional Items
- Home Depot – Maintenance and Housekeeping Supplies
- Jeff Hibbs – Beef Vendor/Farmer for Food Outlets
- Sealy Corporation – Hotel Mattresses/Boxsprings
- Gang of Three, Inc. – Consulting Firm for Labor Optimization

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by IOC Waterloo. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Isle of Capri, Marquette, Inc. d/b/a Lady Luck Casino Marquette (LLCM). Don Oster, General Manager, presented a contract with CDW Direct for the purchase of network and computer equipment for an IGT ABS Slot System Upgrade.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contract as submitted by LLCM. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Diamond Jo, LLC d/b/a Diamond Jo Casino (DJ). Wendy Runde, General Manager, presented a contract with Ainsworth Gaming Technology for the purchase of ten slot machines.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contract as submitted by DJ. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Diamond Jo Worth, LLC d/b/a Diamond Jo Worth (DJW). Kim Pang, General Manager, submitted a contract with Anthem Blue Cross Blue Shield for employee medical and dental insurance premiums.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contract as submitted by DJW. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Rhythm City Casino, LLC d/b/a Rhythm City Casino (RCC). Mo Hyder, General Manager, presented the following contracts for Commission approval:

- Quick Fix Auto, L.L.C. – Purchase of Real Estate
- QC Equity Investments, L.L.C. – Purchase of Real Estate

Mr. Hyder advised infrastructure work on the land-based facility has started; sanitary and sewer lines have been extended, and they hope to start grading on the site in 45 days, weather permitting. He stated the design work is progressing, and hope to begin the bidding process in the next couple of months.

Chair Lamberti asked if there is an estimated completion date at this time. Mr. Hyder stated that construction takes approximately 12 months from the time the footings are poured. Chair Lamberti asked if the two contracts before the Commission represent all of the land that needs to be acquired. Mr. Hyder indicated that was correct at this time.

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by RCC. Commissioner Mertz seconded the motion, which carried unanimously.

Mr. Hyder introduced Randy Rathje, the new incoming President and Chief Executive Office for the Riverboat Development Authority.

Chair Lamberti called on Riverside Casino & Golf Resort, LLC d/b/a Riverside Casino & Golf Resort (RCGR). Dan Franz, General Manager, presented the following contracts for Commission approval:

- Acushnet – Titleist Company – Golf Retail and Special Orders for Blue Top Ridge
- Bakemark USA, LLC – Bakery Supplies and Goods
- Kidder Benefits Consultants/Nationwide Investments – 401K Plan Consultant/Custodian
- Konami Gaming, LLC – Annual Support – Casino Accounting System; Leases
- Neesvig's Inc. – Specialty Food Purchases
- Sonifi Solutions, Inc. – FTG Programming and/or iTV Programming and Services
- Sysco Food Services of Iowa – Food Purchases
- U.S. Foods – Food Purchases

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by RCGR. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Wild Rose Clinton, LLC d/b/a Wild Rose Clinton (WRC). Travis Dvorak, General Manager, presented the following contracts for Commission approval:

- Aristocrat – Purchase 10 New Machines
- Bally Technologies – Purchase 10 New Machines
- Konami Gaming, Inc. – Purchase 10 New Machines

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by WRC. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Wild Rose Emmetsburg, LLC d/b/a Wild Rose Emmetsburg (WR Emmetsburg). Tom Timmons, Vice President of Operations for Wild Rose Entertainment, presented a contract with Konami for the purchase of slot machines and equipment.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contract as submitted by WR Emmetsburg. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Wild Rose Jefferson, L.L.C. d/b/a Wild Rose Jefferson (WR Jefferson). Mr. Timmons presented an Amended and Restated Ground Lease Agreement between Wild Rose Jefferson, L.L.C. and Jefferson Hotel Group, L.L.C. He noted Jefferson Hotel Group secured the necessary financing for the project, and requested changes to the agreement. He

advised construction is anticipated to commence on February 1<sup>st</sup>, and be completed by August 1<sup>st</sup>.

Chair Lamberti asked the anticipated opening date for the casino. Mr. Timmons indicated that would also be August 1<sup>st</sup>. He advised the roof has been finished, the front is sealed off, and floors are being poured.

Mr. Timmons also presented the following contracts for Commission approval:

- Data Business Equipment (DBE) – Cash Counting Machines
- Bally – Slot Machines ( Purchase and Lease)
- Konami Gaming, Inc. – Slot Machines (Purchase and Lease)
- Aristocrat – Slot Machines and System Software
- AGS – Slot Machines and System Software
- Edge Commercial, LLC – General Contractor for Jefferson Project
- Cummins Allison – Money Handling Equipment for Cage and Count Rooms
- GTECH – Slot Machines and System Software
- IGT – Slot Machines and System Software
- Multimedia Games – Slot Machines and System Software
- SHFL – Slot Machines and System Software
- WMS, Scientific Games Corp. – Slot Machines and System Software

Hearing no further comments or questions concerning the Ground Lease Agreement or the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the Amended and Restated Ground Lease Agreement and the contracts as submitted by WR Jefferson. Commissioner Kramer seconded the motion, which carried unanimously.

Mr. Timmons introduced Mike Couch, the general manager for the Jefferson facility. He noted that Mr. Couch previously worked at the Emmetsburg property in 2006.

Chair Lamberti called on SCE Partners, LLC d/b/a Hard Rock Hotel & Casino Sioux City (HRHCSC). Todd Moyer, General Manager, presented the following contracts for Commission approval:

1. AON Risk Services, Inc. – Insurance
2. Ainsworth Game Technology – Slot Machines
3. Avery Outdoor – Billboard Advertising
4. Braungers Food – Food Supplier
5. Grainger – Janitorial and Other Business Supplies
6. Nelson Property Management – Exterior Building Maintenance and Upkeep, including Snow Removal, etc.

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by HRHCSC. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on the Dubuque Racing Association LTD d/b/a Mystique Casino (Mystique). Tom Wiedmayer, General Manager, presented a contract with North Country Business for the point of sales migration.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contract as submitted by Mystique. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Harveys Iowa Management Co., Inc. d/b/a Harrah's Council Bluffs Casino Hotel (Harrah's). Janae Sternberg, Director of Finance, presented the following contracts for Commission approval:

- Scavuzzo's – Food Supplier
- Adv. Audio Visual d/b/a CCS Presentation – Audio/Video Equipment for Property

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by Harrah's. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Iowa West Racing Association d/b/a Horseshoe Casino-Bluffs Run Greyhound Park. Tina Eick, legal counsel, was present to address the issue of the reimbursement of the overpayment of the purse supplement for 2014. Ms. Sternberg presented a contract with Scavuzzo's, a food supplier, for Commission approval.

Chair Lamberti stated it was his understanding that all parties were in agreement with regard to the overpayment issue. Jim Quilty, legal counsel for the Iowa Greyhound Association (IGA), indicated that was correct.

Hearing no comments or questions concerning the reimbursement of the overpayment of the purse supplement or the contract, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the reimbursement of the overpaid purse supplements from the escrow fund and the contract as submitted. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on the IGA, noting there was a request regarding the escrow fund and some contracts. He indicated the Commission would handle the Application for Use of the Escrow Fund separate from the contracts. Mr. Quilty advised co-counsel, Nick Mauro, and IGA President, Bob Hardison, were also present. Mr. Quilty stated he had conferred with Ms. Eick, and they have agreed to defer this matter until the March meeting.

Chair Lamberti stated the matter would be heard at the March meeting, but would like to receive written proposals from the two parties, IWRA and IGA, by February 19<sup>th</sup>. He noted the Commission has received input from other interested parties in terms of what they believe the Commission should do with the escrow fund. Chair Lamberti stated anyone was welcome to submit their thoughts/ideas on how the escrow fund should be utilized, and should also do so by February 19<sup>th</sup>.

Chair Lamberti noted the IGA is relying pretty heavily on the receipt of the escrow funds with respect to the proposed opening and operation of the track in Dubuque. He advised the Commission has some concerns, based on the decision regarding the escrow fund, about how the IGA plans to finance those operations. He indicated the Commission would like to see some thought given to an alternative financing plan.

Chair Lamberti moved to the contracts. Mr. Quilty submitted the following contracts for Commission approval:

- Dubuque Racing Association - Services Contract for Track and Facility Maintenance, Utilities, Security, EMT, etc.
- Earlham Savings Bank – Letter of Credit to Fund Start-up and First Month of Operation
- Dubuque Racing Association – IGA’s Lease of the Pari-Mutuel and Offices within Mystique Casino
- City of Dubuque – IGA’s Lease of the Racing and Kennel Compound Adjacent/Connected to the Mystique Casino
- Goldfinch Entertainment, LLC – Consulting Services Regarding Start-up and Operations of Live and Simulcast Wagering
- Mediacom – Consulting Services Regarding Start-up and Operations of Live and Simulcast Wagering

Mr. Quilty advised the Goldfinch Entertainment services contract is a one-year contract, not a five-year contract. He stated the contract will expire on December 31, 2015.

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted and amended. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to the next agenda item, a Petition for a Declaratory Order, filed by the Iowa Thoroughbred Breeders and Owners Association (ITBOA), regarding the proper calculation of “net purse moneys” as set out in Iowa Code 99D.22(1)c. He advised the Commission would hear from the petitioner first, for approximately 10 minutes; and then would hear from the intervening party, also for 10 minutes, followed by a brief rebuttal period for the petitioner. Chair Lamberti stated upon receiving all of the information, the Commission will render a decision. He called on the ITBOA.

Gary Dickey, legal counsel for the ITBOA, stated they are asking the Commission to enter a declaratory order clarifying the methodology of calculating the Iowa-bred supplements set out in

Iowa Code Section 99D.22(1)c. He advised the ITBOA and the intervener agree on what the code requires except for the actual accounting calculation. The code states that no less than 20% of net purse moneys shall be designated for an Iowa-bred supplement to pay for breeders' awards. The use of the words "net purse moneys" implies there is a gross purse moneys, with deductions removed, and then take 20% of that amount for a set-aside for Iowa-bred awards. Mr. Dickey stated he thought the parties agreed on what the gross purse money would be – advanced deposit wagering, gambling revenues and actual betting revenues. The only deductions set forth in the code or administrative rules for thoroughbreds, which receive 76% of gross revenue, are a 10% deduction that is sent to a designated organization for promotion and marketing of thoroughbreds. There are no other deductions or set-aside identified in the rule. Mr. Dickey stated that is what the ITBOA feels is the net purse money. He advised it is the ITBOA's position that 20% of the net purse moneys should be set aside for the Iowa-bred supplements. They feel it is clear in the text, and the intent behind the 2011 amendment.

Mr. Dickey stated the manner in which the 20% has been calculated by Prairie Meadows Racetrack & Casino is instead of taking 20% of the net purse; they are dividing the net purse by 120%, so the effect is that 86.67% is retained for open races, and 16.67% is set aside for the supplement. As that has been the practice for the past couple of years, the ITBOA is not receiving the 20% supplement that was intended by the law. Mr. Dickey stated the calculation process is significant; in 2014 the difference between the 20% and 16.67% was approximately \$460,000. He stated the ITBOA's interpretation is consistent with the law for two reasons. The first being the plain text implies that 20% of the net purse moneys go to the supplement and the other 80% is retained for open races. He expressed their opinion that any reasonable user of the English language would follow their methodology. Mr. Dickey stated he is not aware of any other area in the law or accounting practice where it is appropriate to divide by 120% to arrive at a calculation. Secondly, the ITBOA's methodology would be consistent with the legislative intent, and as set forth in the 2011 amendments; the purpose of the amendment was to enhance and foster the growth of the horse breeding industry in Iowa. He believes the Legislature made it clear with the amendment of Chapter 99D in 2011 that they wanted more Iowa growth in the horse economy, not less. Mr. Dickey stated the ITBOA is asking the Commission to clarify by order the calculation; that PMR&C is not to divide by 120%, simply multiply by 20%. He stated the ITBOA is not asking the Commission to make the order retroactive, or make it effective for the 2015 race season, but are willing to have it take effect January 1, 2016.

Chair Lamberti stated it was his understanding that the calculation being used has been pretty consistent for many years. He questioned why the ITBOA is before the Commission at this time seeking a change, noting the legislative change in 2012; what prompted this action at this time. Mr. Dickey stated he would let the interveners provide the history. It is his understanding the agreement the interveners refer to is the "Rasmussen Rule", which is where the methodology for dividing by 120% originated.

Mr. Dickey stated that from the ITBOA's perspective, there has never been an acquiescence to that methodology, and have continued to question the percentage and why they weren't receiving the full 20% for several years. After failing to receive a satisfactory response, the ITBOA decided to file the Petition for a Declaratory Order to resolve the matter.

Chair Lamberti called on the Iowa Horsemen's Benevolent and Protective Association (IHBPA). Tom Levis, legal counsel, stated the IHBPA represents all of the thoroughbreds in Iowa. He advised the IHBPA has 1,200 members, with one-third of those also belonging to the ITBOA. It is the IHBPA's belief that objecting to the ITBOA's position is consistent with Iowa law, important to all thoroughbred interests in Iowa, and important to racing in Iowa.

Mr. Levis stated the formula for calculating the supplement for the Iowa-breds has been in existence for approximately 25 years. He advised the formula is called the "Rasmussen formula" because it was developed by Jim Rasmussen representing PMR&C, Dick Clark representing the IHBPA, and Gary Lucas representing the ITBOA. Mr. Levis stated it was their intent to have a sum of money set aside to give a financial leg up to the Iowa-bred horses. He noted that 2010 was a contentious year among the horse breeders; there was controversy over the contracts, when and who was going to race, etc. After lengthy negotiations between all the parties, everyone agreed they did not want to go through that process again, and approached the legislature to get some of the agreements codified in 2011. The IHBPA decided to codify the supplement as a means of protecting the ITBOA; the language used in Iowa Code 99D.22 is the language they felt was consistent with the Rasmussen formula. Mr. Levis stated no one present would state it was their intent in 2011 to move away from the Rasmussen formula; the purpose of codifying the supplement was to protect the interests of the ITBOA. Mr. Levis stated the IHBPA thinks it is bad for the industry and horse racing to use any calculation other than the Rasmussen formula. Mr. Levis noted that Mr. Dickey used the term "net purse money", he stated it is not really 20% of the net purse money; it is 20% of the net purse moneys distributed to the winners. He indicated the only way to calculate the supplement is divide the revenue by 120% after determining what the value of the purses are that are being distributed. Mr. Levis pointed out that of the 11% statutorily required to go to purses the thoroughbreds receive 76%, the quarter horses receive 15.25% and the Standardbreds receive 8.75%. Using the Rasmussen formula, the purse supplement is approximately \$2.3 million and the purses are \$11.7 million. Using the ITBOA formula, the supplements would be \$2.8 million and the purses would be \$11.2 million. The difference between the two calculations is \$468,000. Mr. Levis stated that if the Commission adopts the ITBOA's position, the supplements would increase by approximately \$500,000 but the purses would drop by a corresponding amount. Mr. Levis stated that if ITBOA members race and win, making them eligible for the supplement, they will receive a larger supplement but receive a lower purse. Mr. Levis stated the calculation is a wash for the ITOBA members; it does not do them any good. The ITBOA calculation would cause harm to the non-Iowa-bred horses, as they would receive approximately \$500,000 less in purse money. Mr. Levis pointed out that gambling revenue is decreasing which leads to a decrease in the purses, and decreasing the purses by another \$500,000 would be a dramatic decrease for the thoroughbreds racing at PMR&C. Mr. Levis stated the IHBPA needs to look out for the interests of all thoroughbred owners and the racing industry in Iowa.

Mr. Levis called on Brian Wessels, Chief Financial Officer at PMR&C, who addressed how PMR&C is calculating the purse supplement. Mr. Wessels distributed a handout. The first sheet depicts the traditional calculation; and the other document distributed is the ancillary purse agreements negotiated with the horsemen for the race meets in 2004, 2005, 2006, 2007, 2008, 2009, and 2010 through 2014. Mr. Wessels stated the calculation has not changed significantly

since 2008. Using 2004 as an example, total purses were \$15 million, which was divided by 1.2% to arrive at the net purse amount of \$12.5 million, and the supplement was 20% of the net purse amount, or \$2.5 million. He noted during the years set out above PMR&C had two meets – a thoroughbred and a mixed meet. Mr. Wessels stated that beginning with the 2006 agreement, PMR&C started setting out how they calculated the net purse amount. The supplement was paid to Iowa-breds placing in first through fourth place, but was capped at a maximum of \$50,000. He stated that during the period of 2010 through 2014, it is PMR&C's belief that the formula they have been using was codified by the legislature. Mr. Wessels stated they have consistently applied the formula from when it was contained in the ancillary agreements to when it was applied to the Code. He indicated the parties agree on the calculations at the top of the page for purse amounts for 2014 which are based on the adjusted gross receipts for 2013, which is gaming revenue. Mr. Wessels described how PMR&C reaches the amount for the total annual purses, which will be \$19,088, 397 for 2014. That amount is then divided as a percentage to each of the breeds. He noted administration and marketing are allocated 290,144, or 2% of the total annual purses. The Code does not define net purses; PMR&C's definition is purses paid at the track for both Iowa and non-Iowa horses entered in the race. The supplement is a bonus to Iowa-bred horses finishing in the first four places. Mr. Wessels stated that to calculate net purses, PMR&C takes the total annual purse, minus the administration and the supplement to reach net purses, which is then multiplied by 20% to reach the supplement amount.

Hearing no questions for Mr. Wessels, Mr. Levis called on Leroy Gessmann, President of the IBPHA, who stated slots arrived at PMR&C in 1995; and it was the following year when Messrs. Rasmussen, Clark and Lucas came up with the formula. With regard to the history of the legislation, Mr. Gessmann stated the various horsemen's groups would appear before the Commission with their disagreement as to what percent each breed would receive, the race days, and whether the Standardbreds should race at PMR&C. One year when the groups could not reach any consensus, Jack Ketterer, former Administrator of IRGC, told everyone how it was going to be. After that, the horsemen's group decided they needed to come up with a plan. Upon reaching an agreement, one of the final issues was getting the purse level and percentages set after determining Standardbreds would no longer race at PMR&C, and getting the 67 race days for thoroughbreds and 23 days for quarter horses codified. Mr. Gessmann stated the idea behind getting the 67 days codified was to make sure the status quo was maintained as the number of race days had been reduced in previous years. Mr. Gessmann advised that Deb Leech, from the ITBOA, suggested adding the manner in which the purse supplement was calculated to the law, and that was the intent. Mr. Gessmann stated that when everyone went to the Legislature and lobbied the Legislators, everyone indicated they were trying to maintain the status quo, they were not asking for additional percentages or additional days. They also asked to have the sunset clause removed.

As there were no questions for Mr. Gessmann, Chair Lamberti called on Mr. Dickey for the ITBOA's rebuttal comments. Mr. Dickey stated the ITBOA has a different view of the history of the supplement, and called on Sharon Vail, past President and current Secretary/Treasurer of the ITBOA. Ms. Vail indicated they are not trying to be vindictive; they just want the term "net purse moneys" clarified. She stated the Iowa members have questioned the leadership over the years as to why they are not receiving the 20%, and requested the leadership do something about

it. Ms. Vail noted that she has had meetings with Mr. Ohorilko and Mr. Ketterer on this issue. She concurred with the intent when the formula was crafted 25 years ago; however, there is a new generation, and things change. Ms. Vail stated the ITBOA has 500 Iowa members; out of that, 46% of the horses racing at PMR&C are Iowa-breds. It is the ITBOA's goal to take care of the Iowa people. Ms. Vail stated they are not asking for retroactive funds; they just want the term clarified so they can pass it on to their members.

Mr. Dickey stated that what is intended in the Code language is clear: it is the net purse moneys of the distribution set forth in Iowa Code 99D.5, which is the purse structure – 76% for the thoroughbreds, 15.25% for the quarter horses and 8.75% for the Standardbreds. It is not the net purse monies actually distributed by the formula at the track. That is not how the Code is worded.

With respect to the discussion about codifying the status quo, Mr. Dickey advised the ITBOA submitted Exhibit 1, which is a signed agreement by all of the leaders of the interest holders about what the legislation should like. The agreement states that 20% of the monies allocated should be distributed for the Iowa-bred supplement. Mr. Dickey stated the ITBOA was not a signatory to the agreement. He noted that this is a situation where the ITBOA had always said the supplement was calculated incorrectly; however, it was not an issue they wanted to litigate. Mr. Dickey stated the ITBOA is asking the Commission to intervene. Mr. Dickey also stated in terms of policy that it is relevant, the ITBOA feels their petition is good policy; if an Iowa-bred and a non-Iowa-bred horse run the same race and the Iowa-bred wins, under both situations the Iowa-bred horse would win more money which is consistent with legislative intent. He stated the clear language of the Code supports their interpretation and asked the Commission to adopt the Declaratory Order clarifying that 20% is the supplement, not 16.67%.

Hearing no questions for Mr. Dickey, Chair Lamberti indicated the Commission would consider the matter submitted, and requested a motion. Commissioner Kramer moved to go into Executive Session pursuant to, but not limited to, Iowa Code Sections 21.5(1)c and f for the purpose of discussing strategy with counsel and discussing the decision to be rendered in a case conducted according to the provisions of chapter 17A. Commissioner Heinrich seconded the motion, which carried unanimously on a roll call vote.

Following Executive Session and a brief recess, Chair Lamberti reconvened the meeting in open session, noting the Commission had gone into Executive Session to consider their decision regarding the Petition for Declaratory Order and the question presented was whether under Iowa Code Section 99D.22(3) is net purse money calculated by adding the gross purse money from (1) pari-mutuel wagering, (2) Advanced Deposit Wagering, and (3) gambling game revenues less the statutory distributions to organizations designated in sections 99D.7(5)(c)(2) and (3).

Chair Lamberti moved to answer the question presented in the Petition in the affirmative and stay the decision until November 1, 2015, and further direct legal counsel to prepare an order consistent with the motion. Commissioner Mertz seconded the motion. Chair Lamberti opened the floor for discussion.

Chair Lamberti stated the Commission believes it is a close question and that the statutory language is not as clear or well-written as everyone would like, and leaves a question regarding intent. He advised when the Commission looks to render a decision they must first review the statutory language; and regardless of history, he believes the language is not crafted in a manner that would support the historical determination of how the net purse money and supplements are determined. Chair Lamberti stated the weight of the evidence is that the Code as written is consistent with the Commission answering the question presented in the affirmative; however, by staying the decision until November 1, 2015 the parties will have an opportunity to appeal the decision and take whatever actions they feel are appropriate. Chair Lamberti stated he hoped all parties could agree to not take any action that would disrupt the 2015 meet, which he does not believe would be in anyone's best interests.

Chair Lamberti called for any further comments from Commission members. Hearing none, he called for the vote. The motion carried unanimously.

Chair Lamberti called on PMR&C. He stated the Commission would consider each item individually. Gary Palmer and Derron Heldt, General Manager and Director of Racing respectively, were present to address the agenda items.

With regard to the race dates for the 2015 meet, Chair Lamberti stated it was his understanding that an agreement had been reached. Before addressing the race dates, Mr. Palmer introduced Robert Myers, the new Chairman of the Board; noting he has served on PMR&C's board for five years.

With regard to the race dates, Mr. Palmer stated they have met with the IHBPA and come to an agreement; the parties have signed a five-year ancillary contract. Chair Lamberti asked if the agreement had been distributed to the Commission members. Mr. Ohorilko answered in the affirmative, but advised the calendar distributed was just for the thoroughbred meet. He advised the Commission also needs to approve the quarter horse race dates, but believes those to be unchanged from what was submitted in the license renewal.

Mr. Palmer advised the 45-day season approval contains a quarter horse meet race calendar. The submission before the Commission would replace the thoroughbred calendar in the 45-day season approval.

Chair Lamberti stated the motion would be to approve the race dates for the thoroughbred meet, and that the quarter horse race dates are included in the 45-day season approval. Mr. Ohorilko stated the Commission should approve the thoroughbred calendar as modified and submitted and the quarter horse dates as submitted with the renewal application.

Chair Lamberti moved to approve the thoroughbred calendar as submitted, as well as the quarter horse race dates as submitted with the license renewal application. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti advised that all of the particulars have not yet been determined, but the Commission intends to move up the decision making process with regard to race dates in the future. He noted it is a yearly occurrence with the situation coming close to the Commission having to impose dates, and then an agreement is reached. The current process is creating disruption for PMR&C and everyone involved. The race dates should be out well before this time.

Chair Lamberti moved to the 45-day plan. Hearing no comments or discussion concerning the plan, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the season approval as submitted contingent upon:

- The immediate written notification of any change in racing official positions.
- The completion of necessary IRGC licensing and DCI background checks of officials
- Providing staff with an updated racing calendars to correspond with the dates approved by the Commission.

Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to the contracts submitted by PMR&C. Mr. Palmer submitted the following contracts for Commission approval:

- Care Ambulance – Ambulance and Emergency Medical Services
- FTDGD (Maclyn) – Website Design and Development, Integrated Marketing (RP)
- Kone, Inc. – Elevator and Escalator Maintenance
- Martin Brothers Distributing – Food, Equipment and Supplies
- The Printer, Inc. – Printing Services
- True North Companies – Insurance Brokerage Services (RP)

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by PMR&C. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti moved to the hearing for Grand Falls Casino & Golf Resort, LLC d/b/a Grand Falls Casino & Golf Resort (GFCGR). Mr. Ohorilko advised staff and GFCGR have entered into a Stipulated Agreement regarding the violation of Iowa Code 99F.9(5), the underage gambling statute. He stated a minor entered the gaming floor on December 14<sup>th</sup> unchallenged, remained on the floor for 30 minutes and gambled. Those three criteria triggered the referral to the Commission. Mr. Ohorilko noted that GFCGR did self-report the incident and acknowledges the facts in the Stipulation. They have agreed to an administrative penalty of \$20,000, which is consistent with past precedent.

Sharon Haselhoff, General Manager, apologized for the incident, noting the facility takes underage gambling very seriously. She noted the facility did not ID the guest. She advised the facility has done a significant amount of retraining with their employees, reminding them of the

importance of their jobs. There are 127 employees in the security, table games and food and beverage areas. They have been retrained on ID checking and intox training since this incident.

Hearing no comments or questions concerning the Stipulated Agreement, Chair Lamberti moved to approve the Stipulated Agreement with an administrative penalty of \$20,000. Commissioner Kramer seconded the motion, which carried unanimously.

Ms. Haselhoff advised the facility has set the golf rates for 2015: weekday rates are \$55.00 and weekend rates will be \$65.00, which includes 18 holes of golf, the driving range and cart rental. She distributed an article that appeared in Golf Course Architecture regarding the course, the Kehl family and Rees Jones' golf course designs. Ms. Haselhoff stated they are anxious to get the golf course open.

As there was no Public Comment, Chair Lamberti moved to Administrative Business and the regulatory fees for the Iowa Greyhound Association and Dubuque Racing Association. Mr. Ohorilko stated the regulatory fees before the Commission are the result of the Iowa Greyhound Association license that was approved at the November meeting. The regulatory fees have been recalculated for the two entities impacted by the license. He advised the parties have been made aware of the fees, and staff has not received any feedback. Mr. Ohorilko requested approval of the modified regulatory fees.

Hearing no comments or questions concerning the regulatory fees, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the regulatory fees for the Iowa Greyhound Association and Dubuque Racing Association as presented. Commissioner Heinrich seconded the motion, which carried unanimously.

As there was no further business to come before the Commission, Chair Lamberti requested a motion to adjourn. Commissioner Kramer so moved. Commissioner Heinrich seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

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JULIE D. HERRICK

**IOWA RACING AND GAMING COMMISSION  
MINUTES  
MARCH 5, 2015**

The Iowa Racing and Gaming Commission (IRGC) met on Thursday, March 5, 2015 at Prairie Meadows Racetrack and Casino, Altoona, Iowa. Commission members present were Jeff, Lamberti, Chair; Carl Heinrich, Vice Chair; and members Kris Kramer and Dolores Mertz. Commissioner Arnold participated via conference phone.

Chair Lamberti called the meeting to order at 8:30 AM and requested a motion to approve the agenda. Commissioner Mertz moved to approve the agenda as presented. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti moved to the approval of the minutes from the January 22, 2015 Commission meeting. Commissioner Heinrich moved to approve the minutes as submitted. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Brian Ohorilko, IRGC Administrator, for announcements. Mr. Ohorilko provided the following information regarding upcoming Commission meetings:

- April 16, 2015 – Mid America Center, Council Bluffs, IA (Submissions due by April 1, 2015)
- May 2015 – No Meeting
- June 4, 2015 – Hard Rock Hotel & Casino, Sioux City, IA (Submissions due by May 20, 2015)

Chair Lamberti called on Eric Preuss, Program Manager for the Iowa Gambling Treatment and Prevention Program in the Iowa Department of Public Health (IDPH), who advised March is National Problem Gambling Awareness Month. Through the National Council on Problem Gambling, this is a collaborative effort across the country. The theme this year is “Have the Conversation” with the goal of educating the public and healthcare professionals about the warning signs of problem gambling and promote the availability of help and hope both locally and nationally. He advised there are local and state-wide activities planned in partnership with the Iowa Lottery, Iowa Gaming Association and National Council on Problem Gambling.

Mr. Preuss stated the majority of Iowans gamble because it is fun, and don't experience any problems; however, approximately 16% of adult Iowans are classified as adverse gamblers as they exhibit one or more symptoms of problem gambling. He stated between eight and twelve million people in the United States meet the criteria for gambling problems, but only a fraction seek help as they don't know why they developed the problem, what a gambling disorder is or where to seek help. Mr. Preuss stated problem gambling does not discriminate based on age, gender, religion, social status or education, can happen to anyone, and may develop with any form of gambling activity. Groups at high risk of developing a gambling problem are seniors, adolescents, college students, athletes and veterans. Mr. Preuss advised the IDPH funds ten gambling treatment programs covering all 99 counties; these programs provide services to over

600 Iowans each year. One of the programs funded is the 1-800 BETS OFF phone line, which is on pace to receive over 5,000 calls this year. IDPH also funds eleven problem gambling prevention programs, which provide services to over 79,000 Iowans each year. Mr. Preuss stated IDPH is funded through an appropriation from the General Fund, and has been flat funded at \$3.1 million for the past couple of years.

Chair Lamberti called on the Iowa Gaming Association for a year-end report on the County Endowment Program. Wes Ehrecke, President of the Iowa Gaming Association, advised the gaming industry does collaborate with the treatment providers, who will be invited to the various casinos during the month to set up tables to interact with patrons. Gary Palmer, General Manager of Prairie Meadows Racetrack & Casino, Inc. d/b/a Prairie Meadows Racetrack & Casino (PMR&C) advised their facility uses Prelude Behavioral Services (formerly MECCA), which provides literature to the facility to make available to patrons. He advised that all of the facilities take problem gambling very seriously and will be participating in various activities throughout the month.

Mr. Ehrecke distributed copies of the “Building Iowa’s Communities through Philanthropy” book, which provides information on the County Endowment Program established by the Legislature in 2006. This program provides gaming tax revenue to the 85 non-gaming casino counties. Each county has a county foundation that determines how the funds will be distributed, which is reflected in the report. The report also contains a report on the casino non-profit entities’ distribution of their funds.

Chair Lamberti called on Caesar’s Entertainment Corporation, Inc. (Caesar’s) for an update on their bankruptcy proceedings. Lorraine May, legal counsel, advised Caesar’s and related debtors, including the two Harvey’s properties in Council Bluffs, filed voluntary Petitions with the Bankruptcy Court for the Northern District of Illinois. On the same date, the Bankruptcy Court entered orders authorizing the debtors to continue to use cash collateral and their bank accounts, to continue their customer programs, and pay their employee wages and benefits, insurance obligations, and taxes and fees. Ms. May advised the company has sufficient cash on hand to continue to meet its ongoing obligations. She stated the company has transitioned smoothly into bankruptcy and their operations are ongoing. She further stated the case is intended to right-size the company’s balance sheet and is not intended to be operational. Prior to commencing the bankruptcy case, Caesar’s entered into a Restructuring Support Agreement with certain senior creditors; and continues to pursue the restructuring contemplated in the agreement. They filed a Chapter 11 plan and related disclosure statement on March 2<sup>nd</sup>. Ms. May advised Caesar’s has not requested a hearing on the approval of their disclosure statement. She stated the Bankruptcy Court continues to hold hearings on a regular basis; additional hearings are scheduled for March 25<sup>th</sup> and April 29<sup>th</sup>. She advised they will continue to provide updates over the upcoming months.

Chair Lamberti moved to the license renewals for the excursion gambling boats and gambling structures. He advised the Commission has requested information regarding how the non-profit boards are structured, number of members, term limits, how many elected officials, etc. The Commission believes one of their obligations is to make sure the non-profit entities are following

good governance procedures. Chair Lamberti stated the Commission has no reason to believe they are not; and after reviewing the information, will make some recommendations as to what they would like to see regarding the aforementioned items based on national recommendations.

Chair Lamberti called on Iowa West Racing Association (IWRA)/Ameristar Casino Council Bluffs, Inc. d/b/a Ameristar Casino Council Bluffs (Ameristar). Pete Tulipana, Executive Director of IWRA, stated they have an excellent relationship with Ameristar and Harrah's and is impressed with the amount of cooperation received from both entities. He noted the facilities provided IWRA with approximately \$7 million last year, which has a significant impact on the quality of life in southwest Iowa. An example is the announcement of a new \$14 million YMCA; the funding campaign started with a \$3.5 million gift from the Iowa West Foundation; and the balance of the funds were raised by donations from southwest Iowa and the metropolitan Omaha area. Mr. Tulipana stated both facilities are major employers and draw thousands of visitors to the area which impacts the area's economy. He requested approval of the license renewal applications for Ameristar and Harrah's.

Troy Stremming, Senior Vice President of Government Relations for Pinnacle Entertainment, the parent company for Ameristar, stated they also enjoy the relationship they have with IWRA. He advised 2014 was a great year for the property, and are hopeful 2015 will be better. Mr. Stremming advised they are looking at gaming and non-gaming enhancements for the property and will share those as they come to fruition. He requested renewal of the license.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Heinrich moved to renew the license to conduct gambling games to IWRA and renew the license to operate Ameristar as an excursion gambling boat that will not cruise. Commissioner Kramer seconded the motion, which carried unanimously.

Bo Guidry, General Manager for Harvey's Iowa Management Company, Inc. d/b/a Harrah's Council Bluffs Casino and Hotel (Harrah's), stated they also enjoy a great relationship with IWRA, and look forward to continuing their relationship for many years to come. He requested approval of their license renewal application.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Heinrich moved to renew the license to conduct gambling games to IWRA and renew the license to operate Harrah's as a gambling structure. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Washington County Riverboat Foundation, Inc. (WCRF)/Riverside Casino and Golf Resort, LLC d/b/a Riverside Casino & Golf Resort (RCGR). Dan Franz, General Manager, advised resort revenue overall was flat; gaming revenue was down about 1% while the majority of the facilities were down 2%. He advised they spent a significant amount in promotional funds to maintain the gaming revenue. Costs were up 0.3%. Mr. Franz advised the numbers are similar to 2013. He stated they have contributed over \$227 million in taxes to the State of Iowa, Washington County, and the City of Riverside since commencing operations. Outside of the required non-profit contribution, the facility has distributed funds to 448

organizations in 114 different cities. Employment is approximately 700 employees, but will increase to 750 when the golf course opens. He noted the employee volunteer program continues to grow toward the goal of 10,000 volunteer hours per year. Mr. Franz stated the facility has a great relationship with WCRF, which does great work throughout eastern Iowa. He submitted a contract with Konami Gaming, LLC for a SYNKBOX replacement for Commission approval. Mr. Franz introduced the new president of WCRF, Mike Driscoll.

Mr. Driscoll advised WCRF awarded \$3.6 million in grants to 142 different non-profit organizations; 66% to non-profits in Washington County and 34% to non-profits outside the county. He stated they are a large supporter of the local school districts, providing technology and facilities. He noted they had provided funds for a veteran's memorial park in Keota, which raised \$50,000 toward the project; as well as a new convention center in Washington County. The Lake Darling State Park was reopened in 2014, and over the last several years WCRF has partnered with the lake and provided grants for a new lodge, trails, lake improvements and guest cabins. Mr. Driscoll stated WCRF has a strong relationship with the casino, and recently voted to renew their operating agreement with RCGR. He advised they are looking forward to 2015, with a new round of grants in May. He requested approval of the license renewal application.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Kramer moved to renew the license to conduct gambling games to WCRF and renew the license to operate RCGR as a gambling structure, and approve the contract as submitted. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Black Hawk County Gaming Association (BHCGA)/IOC Black Hawk County, Inc. d/b/a Isle Casino & Hotel Waterloo (IOC Waterloo). Tim Hurley, Chairman of BHCGA, thanked the Commission for their hard work over the past year. He advised they also have a great partnership with their partner, IOC Waterloo, which has lived up to all of their commitments and are an asset to the community. In the past year, BHCGA has distributed just over \$2.5 million to 35 projects in 20 different municipalities in Black Hawk County and the six surrounding counties. The funds went to fund cardiac monitors for fire departments, computers for police departments, museums and libraries, and \$25,000 to the Iowa Mercy Mission of Dental Clinic, new fire and rescue equipment for emergency responders, materials for a new program in the Cedar Falls area dealing with education and character development, and renovation of buildings in numerous communities. Since its inception, BHCGA has distributed over \$31 million to 323 projects with 87% of them completed. Mr. Hurley stated BHCGA funds most applications at approximately one-third of the project, meaning an additional \$62-65 million has been leveraged through private, federal, municipal or community funds for a \$109 million impact in the last seven years. He advised one area of emphasis has been downtown Waterloo's Riverfront Renaissance, and the Cedar Valley Sportsplex, to which BHCGA donated \$8 million, celebrated its first full year of operation. The facility is operated by the City of Waterloo and is operating in the black. Mr. Hurley stated their relationship with IOC Waterloo has never been stronger, and reported the operating agreement between the two entities has been extended through March 31, 2018. He stated BHCGA's goal is to help the Cedar Valley prosper, and the promises made to the Commission are being fulfilled. He requested approval of their license renewal.

Bari Richter, General Manager of IOC Waterloo, requested the renewal of their license. She advised the facility is very proud of the reinvestment made in the facility, and their Farmers Pick Buffet, which allows them to purchase products directly from farmers. They intend to search out additional farmers to work with this year. Ms. Richter requested renewal of their license.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Kramer moved to renew the license to conduct gambling games to BHC GA and renew the license to operate IOC Waterloo as a gambling structure. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Worth County Development Authority (WCDA)/Diamond Jo Worth, LLC d/b/a Diamond Jo Worth (DJW). Kim Pang, General Manager, introduced Deb Hanson, Chief Financial Officer for WCDA. Ms. Hanson advised 91 Worth County seniors received a scholarship in the amount of \$7,835.13 to the college of their choice. She stated they have a great partnership with DJW, and requested renewal of their license.

Mr. Pang advised they have 430 employees, 289 from Iowa and approximately 140 from Minnesota. He stated WCDA works with non-profits in northern Iowa and southern Minnesota. He expressed appreciation for WCDA's work in the local communities. He requested approval of their license renewal, and the following contracts:

- MultiMedia Games – Purchase of Slot Machines and Tournament Package
- Rapids Foodservice – Purchase of Food and Beverage Equipment

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Mertz moved to renew the license to conduct gambling games to WCDA and renew the license to operate DJW as a gambling structure, and the contracts as submitted. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Scott County Regional Authority (SCRA)/Isle of Capri Bettendorf, L.C. d/b/a Isle Casino Hotel Bettendorf (IOCB). Nancy Ballenger, General Manager of IOCB, introduced Heather Brummel, the new President of SCRA. Ms. Brummel advised that since 1991, SCRA has awarded approximately \$72 million in grants benefiting the residents of Scott County, with grants being awarded twice a year. She gave a brief synopsis of the grant distribution process. Ms. Brummel stated SCRA awarded \$2.9 million to 114 organizations in 2014. She highlighted two recent grants: one was to purchase a fuel efficient food truck for the River Bend Food Bank, which delivers fresh produce and other food items to approximately 1,000 individuals per week in Scott County. The other grant was to the Davenport Community Schools, which launched a Creative Arts Academy last fall, partially housed in downtown Davenport. The school offers experiences in visual arts and music performances to over 50 sixth-grade students, who also receive instruction in core curriculum classes with an arts-integrated approach. An additional 50 high school juniors and seniors are taking electives presented by many downtown arts partners. Funds were used to secure classrooms, technology, furniture, and art equipment.

Ms. Ballenger advised IOCB started their \$8.4 million renovation of the South Tower in February; all guest rooms and public areas are being refreshed. The renovations should be completed by late June or early July. She advised IOCB and SCRA have reached a mutually acceptable agreement to move the facility from the boat to a land-based facility. Ms. Ballenger noted there are a few more details to work out and finalize, but she hopes to be in front of their Board of Directors shortly and come before the Commission within the next month to present the project to the Commission. She requested approval of the license renewal.

Ms. Ballenger submitted the following contracts for Commission approval:

- CDW Direct – Computer Equipment and Supplies
- Bally Gaming – Purchase of Slot Machines and Parts
- Oracle-Micros – Upgrade to Current Micros Point of Sales Terminals, including All Hardware

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Mertz moved to renew the license to conduct gambling games to SCRA and renew the license to operate IOCB as an excursion boat that will not cruise and the contracts as submitted. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Riverboat Development Authority (RDA)/Rhythm City Casino, LLC d/b/a Rhythm City Casino (RC). Mo Hyder, General Manager, noted 2014 was an exciting year for the property, starting with the acquisition of the property and transitioning under the new leadership. He stated the property's economic impact was approximately \$31 million, with \$13 million being paid to the State in gaming taxes along with general contributions.

With regard to the new project, Mr. Hyder advised there is a lot of excitement. He noted the design work has been shared with all of the employees. He stated work has continued on the site utilities. The work on the road necessary to gain access to the site is expected to commence in the coming week and be completed sometime in May, which would allow for paving to start. The bid process for the design has started. Mr. Hyder stated they hope to have the new facility open in early summer 2016. He introduced Randy Rathje, President and Chief Executive Officer of RDA.

Mr. Rathje, noting the RDA's relationship with the Kehl family is less than 12 months old, stated they have gotten off to a positive start, and are very excited about the future. Over the last two grant cycles, RDA has distributed over \$1.7 million to approximately 90 non-profit agencies. This brings their total distributions since 1991 to almost \$58 million. Mr. Rathje stated they are looking forward to the construction of the land-based facility, which has created a positive vibe in the community and also created a significant amount of commercial and retail development interest. He requested the approval of the license renewal application.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Heinrich moved to renew the license to conduct gambling games to RDA and renew the license to operate

RC as an excursion boat that will not cruise. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Dubuque Racing Association (DRA)/Diamond Jo, LLC d/b/a Diamond Jo Casino (DJ). Wendy Runde, General Manager, stated DJ takes the “Buy Iowa” program very seriously, and advised 98.6% of purchases in 2014 were with Iowa vendors. They paid \$14 million in payroll taxes and benefits, \$9 million in supplies, \$18 million in taxes and \$3 million in donations and charitable contributions, of which \$2.8 million went to DRA. Ms. Runde stated they have a great relationship with DRA, and are accomplishing great things in the community together. Ms. Runde submitted the following contracts for Commission approval:

- The Printer, Inc. – Direct Mail Printing
- TownSquare Media – Radio Media Buy

Ms. Runde introduced Tom Wiedmayer, the General Manager at Mystique Casino and DRA.

Mr. Wiedmayer advised that Ms. Runde and the employees of DJ are a great asset to the community, and partners in the community. With regard to the DJ’s contributions to DRA, Mr. Wiedmayer stated they paid \$2.8 million to DRA, which allowed them to give \$6.5 million to the City of Dubuque - \$5.2 million in rent and \$1.3 million in year-end distributions. He advised DRA awarded 159 grants to non-profits in the region totaling just over \$1.1 million, with an emphasis on education, public safety, health and human services, civic and community development and arts and recreation. Mr. Wiedmayer requested approval of the license renewal.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Kramer moved to renew the license to conduct gambling games to DRA and renew the license to operate DJ as a gambling structure, and the contracts as submitted. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Lyon County Riverboat Foundation, Inc. (LCRF)/Grand Falls Casino Resort, LLC d/b/a Grand Falls Casino Resort (GFCR). Sharon Haselhoff, General Manager, introduced Jeff Gallagher, President of LCRF, and stated they were present to request approval of the license renewal, and the following contracts:

- GPS Technologies, Inc. – Golf Cart GPS Lease Agreement
- Harris Golf Carts – Golf Cart Fleet Purchase
- Marcus Lumber – Golf Course Construction: Maintenance Building and Toilet Facilities
- Vital Support Systems – Technology Solutions: Hardware, Software, and Support Services

Ms. Haselhoff stated gaming revenues exceeded \$58.7 million, a slight increase from 2013. She advised 2015 is also going to be an exciting year for the facility with the long anticipated opening of their golf course, The Falls at GFCR. She stated GFCR has contributed over \$50 million in gaming taxes and fees to the State of Iowa, and created over 500 jobs with an annual

payroll in excess of \$14 million. She advised they have a great relationship with LCRF, and turned the floor over to Mr. Gallagher.

Mr. Gallagher advised funds were utilized to build a new fire house in Larchwood, a community center in Lester, a swimming pool in Inwood, and a day care in Rock Rapids is currently under construction. Additionally, they give half of their funds directly to the school districts and cities in Lyon County. Since GFCR opened, they have given in excess of \$750,000 to the three school districts and almost \$200,000 to each of the eight cities and the county. Those funds have a significant impact on the budgets and help to keep taxes just a little bit lower.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Mertz moved to renew the license to conduct gambling games to LCRF and renew the license to operate GFCR as a gambling structure, and the contracts as submitted. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Clarke County Development Corporation (CCDC)/HGI-Lakeside, LLC d/b/a Lakeside Hotel Casino (Lakeside). Bob Thursby, General Manager, introduced Michael Silberling, Chief Executive Officer for Affinity Gaming. Mr. Silberling stated he worked at Harrah's from 2006-2008, and has strong ties to that community, as well as Des Moines. He indicated he looks forward to working with the employees and local and Iowa vendors. He noted the good work CCDC has done in Osceola and other communities.

Mr. Thursby submitted the following contracts for Commission approval:

- Des Moines Asphalt and Paving – Parking Lot Overlay with Asphalt
- GTECH USA, LLC – Slot Machines and Slot Machine Leases

Doug Gross, legal counsel for CCDC, stated they continue to receive 1.5%, while state law mandates 3%. He stated the parties have been fighting for 4-5 years to try and get the contribution rate up to the statutory minimum. Mr. Gross noted the parties went through mediation which resulted in a Memorandum of Understanding that would have paid them 3% upon the sale of the facility if that occurred prior to 2017. CCDC thought it was a done deal, however, after signing the agreement, Affinity decided that was not what the agreement meant. Mr. Gross stated CCDC has spent a significant amount of money over the last year litigating the issue; a trial is now scheduled for May 11 in Federal District Court, which will hopefully resolve the issue. He stated CCDC did provide a letter along with the license application as they have done in the past, indicating that Affinity is not meeting the statutory minimum and believe the statute is very clear on the matter. He requested that if the Commission approves the license renewal application they make it clear that upon a sale, it would be the Commission's policy that the minimum 3% payment would be required to the non-profit.

Jerry Crawford, legal counsel for Affinity Gaming, described the situation between the parties as a simple disagreement that will be resolved in court on May 11. He advised that Mr. Gross believes that 1.5% plus 1% equals 1.5%, Affinity believes that equals 2.5%. Mr. Crawford stated state law states that prospective gaming licensees were required to pay 3.0%, and the

agreement in question existed prior to the implementation of the statute. He requested approval of the license renewal application.

Hearing no further comments from the parties, Chair Lamberti called for any questions. He stated there was no issue before the Commission except the license renewal, nor does he want the Commission to address the distribution issue considering the impending litigation. He stated both parties are aware of the Commission's frustration with the situation, and are hopeful of a resolution. Chair Lamberti stated there have been discussions over recent months about the Commission's view with respect to a transfer of ownership, or a sale in any form. He stated the Commission is not prepared to go on record with a motion as the matter is not before the Commission. He stated it is his opinion that if a transfer of ownership in any fashion occurs, he will want the new owners to meet the state required minimum distribution of 3%.

Chair Lamberti called for any further comments or questions. Commissioner Heinrich stated he concurred with Chair Lamberti's comments. He voiced his appreciation for the positive reports from the facilities and non-profits with respect to each other, and wished it were true for CCDC and Lakeside as well.

Commissioner Heinrich moved to renew the license to conduct gambling games to CCDC and renew the license to operate Lakeside as a moored barge and the contracts as submitted. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Southeast Iowa Regional Riverboat Commission (SIRRC)/Catfish Bend Casinos II, LLC d/b/a Catfish Bend Casinos II (CBC). Rob Higgins, General Manager, advised they started their 21<sup>st</sup> year of operations. He stated gaming revenues were up approximately 3%, and they continue to have a great relationship with SIRRC. He stated the economic situation in Burlington continues to grow and increase with new projects and industries.

Mr. Higgins introduced Steve Staebell, President of SIRRC. Mr. Staebell advised they enthusiastically support the license renewal application; and the enthusiasm is shared by the many that are benefiting from the \$1.2 million investment in southeast Iowa distributed by SIRRC. This includes funds the Keokuk Convention and Tourism uses for programs and events, money for public safety equipment, parks and recreational facilities in Keokuk. The Ft. Madison segment of SIRRC uses its funds to provide specific grants for a variety of organizations. Money has been used to assist in economic development through Ft. Madison partners and other recipients in Ft. Madison are Habitat for Humanity, YMCA, Westpoint Development Group, and capital improvements at the Tri-State Rodeo grounds. Mr. Staebell advised that in Burlington the money is channeled through Greater Burlington for economic development. Some recent successes include an expansion that will add 120 jobs at the Shearer Bakery, and a \$125 million dollar investment by Sylvan Containers Corporation for a new plant in Burlington, which will eventually provide 120 jobs. He indicated this would not be possible without the partnership with CBC, whom he called a first-class, quality operation and outstanding community partner. He turned the floor back to Mr. Higgins.

Mr. Higgins requested approval of the license renewal, and submitted a contract with Glazer Distributing for the purchase of liquor, wine and beer for Commission approval.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Kramer moved to renew the license to conduct gambling games to SIRRC and renew the license to operate CBC as a gambling structure, the contracts contained within the license renewal, and the additional contract as submitted. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Clinton County Development Association (CCDA)/Wild Rose Clinton, L.L.C. d/b/a Wild Rose Clinton (WRC). Travis Dvorak, General Manager, advised that a representative for the non-profit was not present, but stated the Board has been active since the inception of gaming in Clinton in 1991. Over those 21 years, CCDA has received over \$21 million to promote economic development, beautify the riverfront, contributed to emergency services and schools. He advised the two had recently partnered to provide new transportation to the Sky Center, a non-profit organization specializing in providing services to adults with special needs.

Mr. Dvorak stated WRC is proud to work with CCDA. WRC recently entered into a new contract with CCDA and agreed to increase the percentage going to CCDA. He stated WRC believes in working with the community outside of CCDA, and team members serve on the City Council, aldermen, and work with Boy Scout and church groups. Regarding the "Buy Iowa" program, Mr. Dvorak stated they try to buy within Clinton County as much as possible. On behalf of CCDA and WRC, Mr. Dvorak requested renewal of the licenses. He also presented a contract with Konami for the purchase of eight new slot machines.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Mertz moved to renew the license to conduct gambling games to CCDA and renew the license to operate WRC as a gambling structure, and the contract as submitted. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Palo Alto County Gaming Development Corporation (PACGD)/Wild Rose Emmetsburg, L.L.C. d/b/a Wild Rose Emmetsburg (WR Emmetsburg). Tom Timmons, Vice President of Operations for Wild Rose Entertainment, introduced Don Miller, President of PACGD. Mr. Miller advised they recently distributed grants to 73 organizations along with awards to the city and school. He stated they did a bus tour of all of the grants and it was great to see the pride evident in the small towns. Some of the grants this year were an extension of a bike trail, renovation of a trailer park to accommodate larger trailers, and a thermal imaging unit to the fire department. Mr. Miller thanked WR Emmetsburg staff and management for creating a destination in Palo Alto County.

Mr. Timmons requested approval of the license renewal, and submitted a contract with Accident Fund for Worker's Compensation Insurance.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Heinrich moved to renew the license to conduct gambling games to PACDG and renew the license to operate WR Emmetsburg as a gambling structure, and the contract as submitted. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Upper Mississippi Gaming Corporation (UMGC)/Isle of Capri, Marquette, Inc. d/b/a Lady Luck Casino Marquette (LLCM). Don Ostert, General Manager, noted the property celebrated its 20<sup>th</sup> anniversary last year, and has 41 team members out of 195 that were employed there on opening day. He requested renewal of the license on behalf of the team members. Mr. Ostert submitted a contract with Dell for the purchase of network and computer equipment. Mr. Ostert introduced Sindee Gohde, Executive Director of UMGC.

Ms. Gohde requested renewal of the license application. She stated they have a wonderful relationship with Isle, and consider them family. She noted their contract will be up for renewal someday and hope to obtain better terms at that time. She stated they do OK under the present terms.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Kramer moved to renew the license to conduct gambling games to UMGC and renew the license to operate LLCM as an excursion gambling boat that will not cruise and the contract as submitted. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to the contract approval portion of the agenda, and called on Wild Rose Jefferson, LLC d/b/a Wild Rose Jefferson (WRJ). Mike Couch, General Manager, presented the following contracts for Commission approval:

- Martin Brothers – Kitchen Equipment
- Gitchi Gaming, Inc. – Gaming Chairs

As there were no comments or questions, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by WRJ. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on SCE Partners, LLC d/b/a Hard Rock Hotel & Casino Sioux City (Hard Rock). Todd Moyer, General Manager, noted they did not have a license renewal before the Commission but took the opportunity to thank Missouri River Historical Development for their great work. He submitted the following contracts for Commission approval:

- United Healthcare – Group Healthcare Insurance
- Bally Technologies – Table Games Leases
- Powell Broadcasting – Media Advertising
- The Sgroup – Public Relations Consulting Services
- Terrye Seigel Productions, Inc. – Talent Agent
- Imagine This, Inc. – Promotional Marketing Items
- Penguins Entertainment Management – Talent Agent

- Buzz Analytics Group, LLC – Marketing Consultation

Commissioner Kramer moved to approve the contracts as submitted by Hard Rock. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on DRA d/b/a Mystique Casino (Mystique). Dustin Manternach, Chief Financial Officer, presented an agreement with the Iowa Greyhound Association regarding greyhound racing purse money and the following contracts:

- Bally Technologies – Annual Slot Machine Leases & Purchases and Games/Shuffler & Shuffler Maintenance Agreement
- Giese Sheet Metal – Replace Two 30-Ton Rooftop Units and One 130-Ton Chiller

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the agreement and contracts as submitted by Mystique. Commissioner Heinrich seconded the motion, which carried unanimously.

Following a short break, Chair Lamberti called on Spectrum Gaming for a report on their recommendations regarding the distribution of the Greyhound Racing Fund. Adam Steinberg, Senior Vice President, noted Bluffs Run and Dubuque Greyhound Park conducted 463 races in 2013, which generated approximately \$6 million in live handle, and they paid out just over \$13 million in purses. In preparing their report, Mr. Steinberg stated they were guided by Iowa statute and their interactions with various greyhound industry stakeholders at three public meetings held in November 2014, and via a dedicated e-mail address. He stated they had contact with over 70 individuals or entities. They concluded distribution of the fund based solely on past performance did not follow the intent of the legislation to compensate all industry participants. By basing 80% after one time distributions on past performance, there are sufficient funds to provide ample distributions to the successful owners, fair compensation to the less successful and to those who entered the industry later but still contributed to Iowa's economy. He noted some stakeholders did not want to see out-of-state participants receive any funds; however, state law encourages out-of-state participation in the industry, making it unfair to exclude them from any distribution. Other stakeholders encouraged the use of purse winnings prior to 2010 or for 2015. Mr. Steinberg advised they used the statute as their guide and used the years 2010 through 2014.

Mr. Steinberg stated Spectrum's task was to determine a distribution formula for payments from the Greyhound Cessation Fund. Approximately \$72 million will be paid into the fund; half is earmarked to go to the Iowa Greyhound Association to self-manage greyhound racing in Dubuque. However, if they fail to offer racing in any calendar year, the funds revert to the IRGC for additional distributions. Mr. Steinberg stated their analysis was based on the assumption that \$36 million would be distributed by the Commission. He stated they set up three types of distributions:

- One time distributions of approximately \$1.2 million for no-kill adoption agencies, equipment removal by owners at Bluffs Run, and hardship cases that were not covered by the distributions who might appeal to the Commission;

- Past Performance: \$27.9 million would be paid out to greyhound owners based on past earnings of purses; and
- Fixed Payment: \$ 7 million for trainers, assistant trainers, owners and others regardless of purse earnings.

Mr. Steinberg stated they had allotted funds for the following distributions from the one time distribution category: \$510,000 for the no-kill adoption agencies based on 300 adoptions and a cost of \$1,700 per adoption. To receive payment, the agency would have to provide documentation showing the greyhound was put up for adoption due to the closure, as well as final costs to facilitate the adoption. Additionally, \$75,000 was set aside to assist the kennel owners in the removal of their equipment from Bluffs Run, and \$585,000 to be used for special hardship cases by IRGC. Any funds not used would revert to the past performance fund.

Mr. Steinberg advised the past performance payout is based on the purses paid out to greyhound owners, noting approximately \$69 million was paid out in purses from 2010 through 2014. The top 50 owners collected between 70 and 90% of the purse awards, which is why some funds are set aside in the fixed payment fund for those who were not as successful.

Mr. Steinberg stated the fixed payment distribution fund will be used to make payments to the following groups:

- Greyhound farms - \$2.9 million;
- Iowa-registered greyhounds - \$2.7 million;
- Trainers - \$600,000;
- Assistant Trainers - \$300,000, and
- IRGC administrative costs - \$500,000.

Hearing no comments or questions for Mr. Steinberg, Chair Lamberti thanked Mr. Steinberg and Spectrum for their work as this is new territory. He stated he was very impressed with how thorough the report was, the time put in, and the reasoning behind their findings. With regard to the Commission's process, Chair Lamberti stated Spectrum's report is simply recommendations to the Commission as provided for in the legislation. Going forward, the Commission will go through the normal rule-making process in order to implement any recommendations, which includes ample opportunity for additional input from interested parties, and a public hearing. Chair Lamberti stated the Commission is months away from making a final decision.

Commissioner Heinrich stated he also appreciated the justification and reasoning behind their decisions.

Commissioner Mertz stated the report contained good recommendations, and appreciated her conversation with Mike Diamond, Vice President of Spectrum Gaming.

Chair Lamberti moved to the agenda items for the Iowa Greyhound Association; the first being the request for distribution of the escrow account. Mr. Crawford, legal counsel, advised the Iowa Greyhound Association and Iowa Horsemen's Benevolent and Protective Association have

reached an agreement to partner in simulcasting for the next 20 years. He advised that both parties have signed the agreement, which will be submitted for consideration at the April Commission meeting.

Mr. Crawford stated the Iowa Greyhound Association was before the Commission to request distribution of the escrow fund for use in Dubuque to run their live meet. He stated they have made a recommendation on the appropriate future use of the escrow account. He advised that Ms. May, legal counsel for Caesar's has made a recommendation, as has the IWRA, on a going forward basis. Mr. Crawford stated that counsel for IWRA and he believe the Commission has the jurisdiction to hear from them and make a decision on the matter.

Ms. May stated her belief the issue is properly before the Commission for resolution pursuant to the statutes and administrative rules.

Mr. Crawford highlighted the following areas:

- Jurisdiction: Both parties believe the matter is properly before the Commission for a decision.
- Using the funds at Dubuque is an appropriate use of those funds, and
- Need the entire escrow account in order to execute their plan for live racing at Dubuque.

Mr. Crawford stated it has always been their intent to use the escrow funds to fund live racing in Dubuque in 2015 prior to the start of the payments in January 2016, which would allow them to continue. He stated legal counsel for Caesar's has conducted the negotiations; and advised Caesar's has been willing to give the Iowa Greyhound Association the escrow fund to run the live meet at Dubuque if the Iowa Greyhound Association would give them something they wanted – a credit for a reduction in revenue if the Legislature passes a future law prohibiting smoking at the casinos. Mr. Crawford stated that because they did not get what they wanted, Caesar's will indicate using the funds for the live race meet at Dubuque is not an appropriate use of the funds. He questioned how it could be right if they got what they wanted, but wrong if they did not. Mr. Crawford advised that Caesar's had indicated the Iowa Greyhound Association could have the entire fund in front of Jeff Peterzalek, legal counsel for IRGC; Mr. Ohorilko, and in writing on two different occasions in what were draft settlement agreements.

Mr. Crawford, noting that jurisdiction had been agreed upon, moved to using the escrow fund at Dubuque. He noted it took five years to reach an agreement to end greyhound racing in Iowa. He indicated that from Day 1 of the last legislative session, everyone was aware the escrow fund was going to be used to fund greyhound racing in Dubuque; the immunity provisions were included in the legislation so that IWRA could not be sued. Mr. Crawford noted the Commission had received letters from three out-of-state individuals who want the money to be distributed at Bluffs Run. He called David Robinette, an Iowa greyhound breeder/racer, and Bob Hardison, President of the Iowa Greyhound Association, to the podium to comment on the topic of whether the fund should be used for purses at Bluffs Run or Dubuque.

Mr. Robinette stated he has been a breeder and racer for approximately 20 years. He indicated the use of the escrow fund has been an argument for the entire time he has been racing in Iowa. He stated if the funds are paid out as being suggested, he would gain the most; however, that is not what is best for the state as a whole. The escrow fund would provide them with the opportunity to run, and conduct the race meet on their own, without any arguments except between themselves; and to determine what works and what doesn't work. He questioned how they will get any money from Harrah's when they are in the middle of bankruptcy proceedings. He questioned how they can make a plan to go forward without any assurances of receiving any funds from Harrah's. Mr. Robinette stated the Iowa Greyhound Association proposal for use of the escrow funds would be better for him, the State, and the industry.

Mr. Hardison advised he has been racing greyhounds at Bluffs Run almost from the day the facility opened; long before the mediation and establishment of the escrow fund. He stated IWRA's plan to put the escrow fund toward purses at Bluffs Run would not be good for Iowa, which is why the Iowa Greyhound Association board voted unanimously to support the proposal before the Commission. It is their belief the best use of the money is to use it to help keep the sport alive in Iowa and provide an opportunity to rebuild it. Mr. Hardison stated the board was not alone in their decision; the association members are in agreement with the proposal as well with the exception of a few out-of-state people who would rather take the money and leave. He stated that is not what the escrow fund is for, nor is it good for the racing industry in Iowa.

Mr. Crawford stated a majority of the Board is present, and would do better personally, if the escrow fund were added to purses at Bluffs Run, but they are unanimous as a Board of Directors in believing that is the wrong position for the State and industry, and feel the money should be used at Dubuque. Mr. Crawford noted the proposal received overwhelming support at various association meetings.

Mr. Crawford noted that on September 17, 1998, Lyle Ditmars, former legal counsel for IWRA, stated, "The fund (escrow fund) is to be used for the benefit of all Iowa breeders in the Iowa racing industry, which may not limit the fund just to Bluffs Run Casino." Mr. Ditmars went on to suggest some possible uses, one of which was supplementing purses for Iowa-bred greyhounds that succeed out-of-state. Mr. Crawford stated the Iowa Greyhound Association is not talking about using the funds out-of-state, but at the only surviving greyhound track in Iowa at the end of this year. He asked if it made sense that after the track spent a significant amount of money lobbying to kill greyhound racing at their track that they would then appear before the Commission and state the escrow funds should be spent on purses at their track when legal counsel has indicated otherwise.

Mr. Crawford stated Bluffs Run's proposal was to close the racetrack on July 1, 2014. The Iowa Greyhound Association, on behalf of the greyhound kennels at Bluffs Run, negotiated successfully to continue live racing through 2014 and 2015. If Bluffs Run had their way, individuals involved in racing at the track would have been out of business after six months in 2014; however, they got an additional 18 months of racing and over \$15 million in additional purse money, an additional 18 months of employment for the kennel trainers, assistant trainers, handlers, farm workers, etc. They are now trying to do the same for the industry with the

operation in Dubuque. Mr. Crawford reiterated that everyone was aware from day one that it was their intention to utilize the escrow funds.

Mr. Crawford stated that Ms. May was an arbitrator in 1999, and signed an award that the escrow funds should be utilized to build the greyhound industry that allows Iowa greyhounds to compete on a national level. He indicated there is only one way left to achieve that goal, and that is to do it at the Dubuque track, not to give the money away in an excessive and non-productive way at Bluffs Run.

Mr. Crawford stated the Iowa Greyhound Association would only have one option if the Commission fails to give them the escrow account; that would be to go out in the market place and attempt to borrow approximately \$5 million at a cost of hundreds of thousands of dollars in interest if they can even get the loan. He questioned their ability to get the loan as the security would be payments from a company currently in bankruptcy, which is a red flag for most banks. Mr. Crawford noted that Ms. May is not involved with the bankruptcy proceedings, but did advise the Commission that the process is going smoothly. He advised that a bankruptcy judge in Delaware has described as “serious” creditors’ allegations that Caesar’s transferred substantial assets out of the reach of Caesar’s creditors prior to filing bankruptcy, and a New York judge stated “Caesar’s may have violated federal law when it stripped guarantees from debt in the transaction in which stakeholders were allegedly paid off while other investors were left out of the deal. Mr. Crawford stated the previous language would make it very difficult, if not impossible, and much more costly from an interest rate standpoint if the Iowa Greyhound Association does not receive the escrow account.

Mr. Crawford stated there have been comments that the escrow fund should be divided. He advised that if they have the entire fund to run live racing at Dubuque, the purses will be about one-third of what the purse values are at Bluffs Run, making it very difficult for staff to make sure individuals to not lose money in this proposition. He advised that receiving less than the entire escrow fund would be very problematic for the Iowa Greyhound Association. He requested the Commission grant their request for the entire escrow fund.

Mr. Tulipana concurred with Mr. Crawford’s comment that IWRA has not been actively involved in the meetings regarding the escrow fund, but stated they have been fully informed throughout the process. He expressed IWRA’s objection to any use of the escrow fund for any purpose other than which it was intended, which was for purses at Bluffs Run. Mr. Tulipana stated that Bluffs Run was required to pay the money for the express purpose of purse supplements at Bluffs Run; and that if the funds are not used for that purpose, the funds should be remitted back to Bluffs Run.

Ms. May advised that she has been retained by the management company, who has worked closely with IWRA on this and other issues at Horseshoe. She read the following excerpt from the Commission meeting minutes of May 20, 1999 with regard to the escrow fund: “Mr. Crawford noted that the Commissioners had copies of the previous arbitration decisions in their packets. The arbitration decision issued by David Blair in December 1995 stated that the 1996 purse supplement should be \$4 million, plus a \$4 million purse supplement escrow for purses in

future years.” The minutes further indicate Mr. Crawford went on to state there was no reference in either the statute or the arbitration decisions allowing for expenditures other than for purses.

Ms. May stated she and Mr. Crawford agree on almost everything personally, but almost nothing professionally; however, we were in agreement on this issue, but are not anymore. Ms. May agreed the Commission has a role in determining the payment from the escrow fund; however, it is strictly limited by what the statute permits in terms of distribution from the escrow fund. She stated the Commission is bound by the Legislature, which has already determined what is supposed to happen with the escrow fund. She reviewed the applicable statutes:

- Iowa Code Section 99F.6(5)b(2) – “... The Commission shall approve an annual contract to be negotiated between the recipient of the dog racing promotion fund (Iowa Greyhound Association) and each dog racetrack licensee to specify the percentage or amount of gambling game proceeds which shall be dedicated to supplement the purses of live dog races.” Ms. May stated the arbitration decisions say the same thing.

Ms. May stated that when the fund was established, the issue submitted for arbitration was defined as follows: The percentage or amount of gambling game proceeds that shall be “dedicated to supplement the purses of live dog races at Bluffs Run”; she stated this is the only reason the escrow fund has ever existed. The two decisions written thereafter indicate the amounts contributed should be consistent with that. Ms. May indicated any doubt left surrounding the intended use of the escrow account should be resolved.

Ms. May noted that legislation passed in 2014 provided for the elimination of live racing.

- Iowa Code Section 99D.9A(6)a states: “Compliance with the requirements of this section and the establishment of the Iowa greyhound pari-mutuel racing fund set forth in 99D.9(B) shall constitute the full satisfaction of and discharge from any and all liability or potential liability of the licensee in Pottawattamie County and the Iowa Greyhound Association which may arise out of either of the following:
  - (1) The discontinuance of live dog racing,
  - (2) Distributions made or not made from the Iowa greyhound pari-mutuel racing fund created in section 99D.9B, the subject of the previous presentation, or the purse escrow fund created in the arbitration decision issued in December 1995 with regard to the purse supplements to be paid at the pari-mutuel dog racetrack in Pottawattamie county, not in Dubuque.

She stated the Commission is familiar with what the first part means with regards to distributions under 99D.9B as it deals with the distributions from the greyhound fund. Ms. May stated the whole section is designed to cover the little variances within that purpose that the Commission has to decide such as who gets the money, when, what percentage and for what years. She stated as long as the Commission’s decisions meet the requirements of the Code section within the stated parameters, the Commission has the discretion.

With regard to the purse supplement fund, or escrow fund, the same issues apply. The Commission has to determine how much will go to Iowa-breds versus out-of-state greyhounds; will different levels of races be awarded more or less money; how much will be awarded to the various groups of individuals – kennel operators, owners, etc.

Ms. May moved to the immunity clause contained in the legislation. She stated immunity was granted for payments made within the parameters set forth above - purse supplement payments made to the greyhound races at Bluffs Run. She stated the Commission does not have the authority to do anything other than what the legislature said, which is to make purse supplement payments to the purse winners at Bluffs Run.

Ms. May stated she understands the position the Iowa Greyhound Association is in; they are trying to run a business for which there is no longer a market. Having said that, it does not change the wording of the statute. She pointed out that Bluffs Run is just not walking away from the greyhounds. The statute providing them with the ability to cease live racing requires them to pay \$9.285 million per year for seven years for the benefit of the greyhound industry. She noted the Iowa Greyhound Association will receive half of the funds, which can be used to operate the track in Dubuque. The other half of the funds will go directly to industry members.

Ms. May stated Bluffs Run is not appearing before the Commission to indicate they want the money, but to point out that the statute, the law and the history of the Commission indicate the funds can only be used for payment of purses at Bluffs Run. She stated that if the Commission tries to use the funds for any other purpose, there is no statutory authority. Ms. May stated the sole purpose of the purse escrow fund is to pay purses at Bluffs Run. She presented two suggestions for the distribution of the escrow fund: pay it all out to the kennels winning purses at Bluffs Run in 2015 or go back five years and distribute the funds to the purse winners proportionally over that period of time. Ms. May stated there are other options available, but pointed out these two would meet the statutory requirement regarding the use of the escrow funds. She stated giving the money to the Iowa Greyhound Association, shifting the money from Bluffs Run to Dubuque does not, and is directly contrary to every single statutory provision.

Ms. May stated she had carefully read the Iowa Greyhound Association's submission and could find no reference indicating Bluffs Run agreed they could have the escrow fund. She indicated that had it been there, she would have provided the Commission with significant information to the contrary. Ms. May stated Bluffs Run never agreed in isolation that the funds could go to the Iowa Greyhound Association to be used at their discretion in Dubuque or elsewhere. She reiterated the funds must be distributed according to the statute, which is for purse supplements at Bluffs Run.

Mr. Crawford advised the Commission to think carefully about credibility. With reference to statements that the fund could only be used for purses at Bluffs Run, he reiterated that Mr. Ditmars, an attorney for IWRA, suggested the funds could be used for out-of-state purses; encourage young people to get involved in the business, hire a chief operating officer for the Iowa Greyhound Association, or a Harley Davidson promotion, which has occurred. Mr.

Crawford stated he did not hear Ms. May mention anything about a credit should the smoking ban pass.

Ms. May concurred the escrow fund has been used for other things other than payment of purses. Bluffs Run has agreed that some of the interest, but never principal, could be used for ancillary promotions that would drive purses at Bluffs Run. She noted it was used for a Harley Davidson promotion at Bluffs Run. A request to use some of the escrow money to conduct the same promotion at Dubuque was made at the same time. At that time, the question of usage of the funds, and where the funds had to be used, came before the Commission. Jack Ketterer, former IRGC Administrator, concurred with IWRA that the funds could only be used at Bluffs Run. The Iowa Greyhound Association withdrew the request for funds to conduct a Harley Davidson promotion in Dubuque.

Chair Lamberti called for any comments or questions from Commission members.

Commissioner Mertz noted the Code requires the fund to be used for purses. She asked why it has not been used for purses previously.

Ms. May advised that substantial efforts had been made to do so over the years. She stated the Commission directed the Iowa Greyhound Association and Bluffs Run to come up with a plan to distribute the funds, and pushed them very hard to do so. However, Mr. Crawford stated there was no statutory authority to use the funds for anything other than purses, but did not want to use the fund and wanted it to continue to grow. The parties were never able to agree on a plan.

Mr. Crawford pointed out that in 1999 Ms. May was not yet an advocate for the other side. At that time, she was an arbitrator on a three-person panel. That decision stated "The escrow funds should be utilized to build a greyhound industry in Iowa that allows Iowa-bred greyhounds to compete on a national level." Mr. Crawford stated there is now only one way to accomplish that goal, and that is to supplement purses to the Dubuque track.

Commissioner Heinrich stated he is confused by the contradicting statements by Ms. May and Mr. Crawford as to whether or not the statute is clear. Ms. May reiterated her belief that it is clear; while Mr. Crawford stated there is nothing in the statute prohibiting the Commission from granting their request for the escrow funds. Mr. Crawford advised there is no reference to the escrow fund in the initial statute; the only reason it is mentioned in the new statute is because immunity was created to cover the distribution of the escrow fund. He stated everyone involved in the process, including the legislature, knew the Iowa Greyhound Association intended to use the fund for operations at Dubuque.

Commissioner Heinrich stated he is not so concerned about what people say, but more concerned with what the statute says. He stated that when a decision has to be made, those making the decision search for something solid on which to base their decision. In the Commission's case, that is the statute. He stated that he appreciates and understands both of their positions.

Commissioner Mertz stated she is aware of how these funds work, just like the rainy day fund in the Legislature.

Chair Lamberti stated he did not have any specific questions due to all of the information previously provided along with today's information and arguments. He noted both parties had stated their cases very well; however that does not make the Commission's decision any easier or clearer. Chair Lamberti stated in reviewing the history of the escrow fund he believes it was clearly intended for purses at Bluffs Run when it was initially established. He noted the payments came from Bluffs Run. It is his belief that if it was meant for purses, he questioned why it wasn't utilized for purses over the last 15 or so years. Chair Lamberti noted there were discussions in 2001 where the parties were told to reach an agreement or the Commission would do so; however neither scenario occurred. He stated that in reviewing comments made in various decisions there has been some evolution in terms of how the fund is viewed, its purpose and potential uses; possibly that it would not be used solely for purses at Bluffs Run, but for the greater good of the industry. Chair Lamberti stated that in reviewing contradictory comments throughout the history as to what should be done with the fund, ranging from purses to not purses, makes things difficult from the Commission's perspective. He noted there were numerous statements throughout today's presentations that the Commission has the authority to ultimately decide what to do with the funds. Noting the Commission has listened to the presentations this morning and reviewed the information in their meeting packets; there are good arguments on both sides. From his own perspective, he would support simply providing the funds to the greyhound association for the operation of Dubuque as he feels after so many years of holding the funds in escrow and not using them for purses at Bluffs Run there was some intent or acquiescence that these monies were being held for some greater purpose, unforeseen event or rainy day. Chair Lamberti called the passage of the legislation to end greyhound racing the biggest rainy day. Having said that, he noted that he is one of five, and believes he has a sense of how the Commission would like to resolve this difficult issue.

Chair Lamberti moved to provide for the distribution of the escrow fund for purses – one half for purses at Bluffs Run based upon the past five years, 2011-2015, and one half will be awarded to the Iowa Greyhound Association to be used for purses in the operation of the Dubuque track. Commissioner Heinrich seconded the motion. The motion carried on a 4-1 vote, Commissioner Mertz voting no.

Chair Lamberti moved to the Iowa Greyhound Association's plan to comply with Iowa Code 99D.7(23), the self-exclusion provisions. Mr. Crawford stated they thought an agreement had been reached with the Iowa Gaming Association relative to participating in their exclusion program for problem gamblers. He noted significant progress has been made. They were originally told it would cost them \$70,000 per year to have access, but noted some facilities are paying as little as \$8,000 per year for their full dues to the Iowa Gaming Association, which allows access to the self-exclusion list. He advised the Iowa Gaming Association's total receipts for the coming year are anticipated to be approximately \$7.1 million. Based on the receipts, Mr. Crawford stated their fees should be less than \$2,000 per year for dues to the Iowa Gaming Association. He further advised the Iowa Greyhound Association is not welcome to be a member of the Iowa Gaming Association; they have declined to offer them a membership. Mr.

Crawford called the situation ironic after hearing the presentations concerning problem gambling earlier in the meeting. He noted there is no statute giving the Iowa Gaming Association the right to maintain the problem gambling list or requiring any licensee to utilize their list. There is a resolution that was passed giving them the opportunity. Mr. Crawford stated it was his understanding that when the list was developed, the Iowa Gaming Association's member's dues did not increase. Mr. Crawford thought the issue was resolved with the Iowa Greyhound Association paying approximately \$1,800. He stated if they pay \$2,000, which they are willing to do, they will be paying the highest rate of anyone in the state, and would not have the benefits of being a member. He requested the Commission instruct the Iowa Gaming Association to make the list available to them.

Jon Moss, Executive Director of the Iowa Horsemen's Benevolent and Protective Association (IHBPA), concurred with Mr. Crawford's comments regarding the self-exclusion legislation. His review of the statute also indicates there is nothing specifically requiring the Iowa Gaming Association to maintain the list. He advised he is speaking on the issue today due to the Advanced Deposit Wagering legislation. He questioned whether those licensees would need access to the list. He stated the list should be accessible to all, whether that is the IRGC or some other mechanism; that it should not be a dues funded mechanism. Mr. Moss stated the IHBPA was happy to enter into an agreement with the Iowa Greyhound Association with regard to simulcasting.

Mr. Ehrecke advised the legislature passed legislation in 2004 requiring licensees to establish a process to allow persons to be voluntarily excluded from a racetrack enclosure and all other licensed facilities. The IRGC encouraged the Iowa Gaming Association to take on the task of developing the infrastructure to create the list and keep it confidential, accurate and archive the information going into the future. Based on that, the Commission has established significant fines if a licensee was found to be out of compliance. Mr. Ehrecke advised information is downloaded into the database on a daily basis and upgrades to technology that are required. Noting the list contains over 7,000 names, Mr. Ehrecke questioned the value of creating and maintaining the list over the past ten years. He stated the Iowa Gaming Association felt \$70,000 was appropriate for the knowledge created over the last ten years, and wanted the Iowa Greyhound Association to be a part of the knowledge and investment made. Mr. Ehrecke clarified the \$7,000 figure is something the Iowa Gaming Association does for new members before they get up and running; after that and as their revenues grow, the dues increase to a higher amount. He stated there has never been a request by the Iowa Greyhound Association to belong to the Iowa Gaming Association; the request was to find a way to have access to the self-excluded database. Mr. Ehrecke stated the Iowa Gaming Association's recommendation was to have the same minimum that would come in as a new licensee, \$7,000, to have access to the database. Mr. Ehrecke stated it would take a significant investment of money and time if someone else wants to take over the database and recreate it after ten years. He stated the Iowa Gaming Association feels this is a fair approach and a major accommodation based on the ongoing investment.

Chair Lamberti stated it was the Commission's hope the parties would have found a way to resolve the issue and move forward. He advised it was not the Commission's role to establish a

price, nor is it the issue before the Commission. The issue before the Commission is whether or not they will approve the plan submitted by the Iowa Greyhound Association for their compliance with the self-exclusion provisions of Iowa law. Chair Lamberti stated the Commission expects full compliance with the law regardless of the decision rendered today. He stated he had reviewed the Iowa Greyhound Association's proposal, and believes it complies with the law on self-exclusion.

Chair Lamberti moved to approve the plan submitted by the Iowa Greyhound Association to comply with Iowa Code Section 99D.7(23). Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to the Request for Season Approvals. Jim Quilty, legal counsel, introduced Brian Carpenter, Director of Racing, who was present to address any questions regarding the season approvals.

Hearing no comments or questions concerning the submission, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the Iowa Greyhound Association's 2015 Season Approvals with the following conditions:

- The immediate written notification of any change in racing official positions.
- The completion of necessary IRGC licensing and DCI background checks of officials.
- The import and export contracts should continue to have the review and approval by staff to ensure regulatory compliance.
- Continuous review of racetrack maintenance issues and monitoring of injuries in cooperation with IRGC representatives.
- Walk through by IRGC staff to ensure all equipment is in working order and the facility is ready to accept the greyhounds.
- Approved security plan by staff.
- Submission to the Commission by April 1, 2015, of adequate financing to support the live racing operations. Submission would be reviewed for determination at the April 16, 2015, Commission meeting.

Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti moved to the contracts. Mr. Carpenter submitted the following contracts for Commission approval:

- ShopperTrak RCT Corp. – Patron Counting System
- Sportech Racing, LLC – Tote System
- Sportview Television Corp. – Television Control Center, Monitor System, Cameras and Technical Support for Live Racing
- Roberts Communications – Equipment and Services for Sending Out Simulcast Signal for Live Races

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by the Iowa Greyhound Association. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on PMR&C. Mr. Palmer submitted the ancillary purse agreements with the IAHBPA for the thoroughbreds and the Iowa Quarter Horse Racing Enterprise, Inc. on behalf of the quarter horses.

Mr. Moss thanked Prairie Meadows and the Iowa Greyhound Association for reaching an agreement.

Hearing no further comments or questions, Chair Lamberti moved to approve the ancillary agreements with the thoroughbreds and quarter horses. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to the contracts. Mr. Palmer submitted the following contracts for Commission approval:

- Best Buy Stores, LP – Purchase of Electronic Items
- Des Moines Performing Arts – Sponsorship of Fine Arts Series Events
- High Plains Technology – Computer Hardware, Software and Related Services
- Karl Chevrolet – Purchase of Cars, Trucks and Parts
- US Foods – Food, Equipment and Supplies

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by PMR&C. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti moved to the hearing before the Commission, and called on Mr. Ohorilko. Mr. Ohorilko advised IRGC staff and SCE Partners, LLC d/b/a Hard Rock Hotel & Casino Sioux City had entered a Stipulated Agreement with regard to a violation of the state-wide voluntary self-exclusion law. An individual signed up on the list in December 2013 at the Argosy Casino in Sioux City. Approximately a year later, the individual was gambling at the Hard Rock facility and won a taxable jackpot at a craps table. The jackpot was processed at the table, which triggered the violation of the resolution, and the individual left the property. The facility identified the individual and the problem shortly after it occurred. The individual returned to the facility the next day, and was recognized by staff who removed him from the facility. Mr. Ohorilko advised Hard Rock self-reported the issue. He stated SCE Partners, LLC d/b/a Hard Rock Hotel & Casino Sioux City has agreed to an administrative penalty ranging from \$3,000 to \$20,000. He advised this is the first violation of this nature in the last 365 days.

Mr. Moyer advised the company takes regulatory compliance very seriously, but the most important issue is problem gambling. He stated the facility is very diligent about this issue, and accepted responsibility for missing this one. Mr. Moyer noted the table game jackpots are paid at the table and the paperwork processed later. He advised the situation was caught at the cage

when the paperwork was being processed. Mr. Moyer advised the policy has been changed, requiring that all paperwork be completed prior to any jackpots being paid out. He stated they are confident this situation will not occur again.

Hearing no comments or questions regarding the proposed Stipulated Agreement, Chair Lamberti moved to approve the Stipulated Agreement and recommended an Administrative Penalty of \$3,000. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to Public Comment, noting one individual had signed up. John Filipelli, representing the Filipelli Miner Kennel, commented on the Spectrum Report. He advised he owns and runs a kennel at Bluffs Run with his wife. The following comments are in addition to concerns expressed previously in an e-mail to the Commission. He started his kennel in 2013, and has built a respectable and competitive kennel with the help of Iowa breeders and some out-of-state-investors, but his business, with five employees, will be gone in 10 months. Mr. Filipelli stated the formula for distribution of the funds recommended by Spectrum is that 80% be paid on past performances, which gives individuals who made millions in the past to make millions in the soft landing. He indicated the majority of these individuals would be IGA board members. During a meeting in August 2014, it was stated that IGA board members would not make recommendations to the consultant on what the formula should be; however, pages 11 and 12 of the report show that Spectrum visited Brad Boeckenstedt's farm, giving them details on his costs over the years, his facility, and many other details. On page 18, Robert Hardison, President of the Iowa Greyhound Association, stated that the use of 1099 forms is the most comprehensive and fair way to distribute the funds. Mr. Filipelli reminded the Commission that the law is one that the Iowa Greyhound Association, along with their lobbyists, helped to write. He closed his comments by stating it was his and his family's hope the Commission would not succumb to the old saying "The rich get richer, and the poor get poorer" when making their decision.

Chair Lamberti moved to Administrative Business, and called on Mr. Ohorilko. Mr. Ohorilko noted the facilities submit unaudited economic impact reports to the Commission on an annual basis regarding the total impact of gambling on Iowa. He advised the numbers are consistent with what has been submitted in the past, and do reflect the positive impact of gambling on the state of Iowa. Mr. Ohorilko advised over \$270 million was paid out in payroll and employment benefits by Iowa casinos; over \$381 million in statutorily required payments of taxes for payroll and gaming taxes; and over \$33 million to the non-profits and other charitable contributions made by the casinos. He stated total economic impact to Iowa is \$1,044,828,977, which is just shy of the \$1.1 billion spent last year. He noted the "Buy Iowa" initiative for the properties is the highest it has been in recent years at 87.8% spent with Iowa vendors. When gaming equipment and specialized sources are removed, the Iowa percentage increases to 96.4%. Mr. Ohorilko advised all properties in Iowa exceeded 90%, which is difficult for some of the properties along the border to attain.

Mr. Ohorilko gave notice that applications for the Horse Promotion Fund are due in the Commission's office by 3:30 PM on April 2, 2015. All of the information will be posted on the Commission's website. He advised there is \$2,873.63 available for distribution.

Mr. Ohorilko advised the statutorily mandated purse supplements for 2015 for horse racing are as follows:

- Thoroughbreds - \$14,401,427
- Quarter Horses - \$2,889,760
- Standardbreds - \$1,658,059

As there was no further business to come before the Commission, Chair Lamberti requested a motion to adjourn. Commissioner Kramer so moved. Commissioner Mertz seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

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JULIE D. HERRICK

**IOWA RACING AND GAMING COMMISSION  
MINUTES  
APRIL 16, 2015**

The Iowa Racing and Gaming Commission (IRGC) met on Thursday, April 16, 2015 at the Mid America Center (MAC) in Council Bluffs, Iowa. Commission members present were Jeff Lamberti, Chair; Carl Heinrich, Vice Chair and members Rich Arnold, Kris Kramer and Dolores Mertz.

Chair Lamberti called the meeting to order at 8:30 AM, and requested a motion to approve the agenda. Commissioner Mertz moved to approve the agenda as submitted. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Mayor Matt Walsh, who welcomed the Commission to Council Bluffs. He thanked the Commission for all their work on behalf of the citizens of Iowa. Mayor Walsh stated the three facilities in Council Bluffs have a dramatic impact on the community from providing great entertainment venues, quality dining, and their employees contribute significantly to non-profits and community boards and commissions. He noted the MAC is now managed by Caesar's Entertainment, which has turned a \$1 million dollar loss in 2013 into a \$159,000 loss in 2014, and hopefully will be in the black this year.

Chair Lamberti thanked Mayor Walsh for his comments, and moved to the approval of the minutes from the March 5, 2015 Commission meeting. Commissioner Kramer moved to approve the minutes as submitted. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to announcements and called on Brian Ohorilko, Administrator of the IRGC. Mr. Ohorilko advised there would be no meeting in May, and the June meeting would be held on June 4<sup>th</sup> at the Hard Rock Hotel & Casino in Sioux City. Submissions for that meeting are due in the Commission office by May 20<sup>th</sup>. He then announced the following proposed meeting dates for Fiscal Year 2016:

July 9, 2015	Prairie Meadows Racetrack & Casino, Altoona
August 20, 2015	Riverside Casino & Golf Resort, Riverside
Sept. 24, 2015	Mystique Casino, Dubuque
November 19, 2015	Prairie Meadows Racetrack & Casino, Altoona
December 2015	No Meeting
January 14, 2016	Prairie Meadows Racetrack & Casino, Altoona
February 2016	No Meeting
March 3, 2016	Prairie Meadows Racetrack & Casino, Altoona
April 14, 2016	Ameristar, Council Bluffs
May 2016	No Meeting
June 9, 2016	Wild Rose Jefferson, Jefferson

Mr. Ohorilko recognized the following IRGC staff assigned to Council Bluffs: Licensing Assistants Linda Baxter and Gina Goos; Racing Stewards Max Zaragosa and Richard Woodsmall and Gaming Representatives Cory Ostermeyer and Carol Fajen located at Horseshoe Casino/Bluffs Run Greyhound Park; Gaming Representatives Bryan Crowdy and Lynette Masker assigned to Ameristar Casino Council Bluffs; and Gaming Representatives Julie Petersen and Jeff Rethmeier assigned to Harrah's Council Bluffs Casino & Hotel. He thanked them for their outstanding work on behalf of the Commission.

Chair Lamberti asked about announcing the potential for a special meeting. Mr. Ohorilko advised the Commission has disseminated proposed rules for the Greyhound Cessation Fund to stakeholders. The current plan is to notice those rules at the June Commission meeting, which will be the start of the formal rulemaking process. He stated the Commission would be holding a special meeting the end of July or in early August, which will be dedicated to receiving public comment on the greyhound cessation fund rules. Mr. Ohorilko stated the date would be announced at the June meeting, if a date and location could be confirmed.

Chair Lamberti stated the Commission felt it was important to schedule a public hearing to give everyone an opportunity to provide their input and feedback on the proposed rules due to the uniqueness of the situation.

Chair Lamberti moved to the update on the bankruptcy proceedings for Caesar's Entertainment Corporation. Tina Eick, legal counsel, noted Caesar's Entertainment Operating Company, Inc. and its related debtors filed for bankruptcy in the Northern District of Illinois on January 15, 2015. She stated the Bankruptcy Court entered final orders authorizing the company to pay their employees' wages, benefits, insurance obligations, taxes and fees on March 6th. On March 26<sup>th</sup>, additional final orders were entered authorizing the company to use its cash collateral to maintain their bank accounts. Ms. Eick stated the company continues to have sufficient cash on hand to meet its ongoing business obligations. She noted the bankruptcy proceedings have not interrupted the company's operation, and that the restructuring is only intended to de-leverage the company's balance sheet and not affect the day-to-day operations. Ms. Eick stated the restructuring support agreement Caesar's initially entered into with certain creditors to right-size the company's balance sheet is commencing. She advised the company is working to achieve a consensus with other creditors so the company can successfully exit bankruptcy as quickly as possible. Ms. Eick stated the Chapter 11 plan originally established and filed on March 2<sup>nd</sup> is still pending at this time. She stated the company is pursuing the reorganization and continuing to build consensus among its stakeholders. She advised hearings were held on March 25<sup>th</sup> and 29<sup>th</sup>, with additional hearings scheduled for May 27<sup>th</sup>, June 22<sup>nd</sup>, August 19<sup>th</sup>, and September 28<sup>th</sup>.

Chair Lamberti called on Isle of Capri Casinos, Inc. regarding their request for approval of a debt transaction. Elizabeth Tranchina, Vice President of Legal Affairs, requested approval of an additional \$150 million of 5.75% senior unsecured debt that will come due in 2021. She advised the offering will be conducted pursuant to a 144A private placement. The bonds will be registered as publicly traded debt as soon as the SEC finalizes their debt statement.

Hearing no comments or questions concerning the debt transaction, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the debt transaction as submitted by Isle of Capri Casinos, Inc. Commissioner Arnold seconded the motion, which carried unanimously.

Chair Lamberti moved to the review of the licensees' financial audits, and called on Ameristar Casino Council Bluffs, Inc. d/b/a Ameristar Casino Council Bluffs. Monty Terhune, General Manager, noted the facility finished strong financially in 2014, but was challenged by the fact that it was a transition year for them. This included consolidating the shared accounts, and implementing a new Players Club with additional benefits for the members. He noted there were more challenges in some months than others as there were also changes to market surveys, salary adjustments, and compensation changes which are reflected in the financial statement. Mr. Terhune advised they have emerged from the transition year, and are looking forward to continuing operations on a more normal basis. He noted that promotional expenses increased.

Commissioner Heinrich asked Mr. Terhune to tell the Commission about the honor the hotel received. Mr. Terhune advised Ameristar Hotel was named the best hotel in Iowa, out of 488, by the U.S. News and World Report. He indicated that is in line with their 4 Diamond designation by Triple A.

Chair Lamberti called on Catfish Bend Casinos II, LLC d/b/a Catfish Bend Casino II. Rob Higgins, General Manager, and Donald Spears, Controller, were present to address the financial audit. Mr. Higgins advised the facility took in almost \$1 million more in revenue in 2014; they continued to decrease their debt; and cash flow continues to improve. He noted the facility has upgraded the gaming floor by getting new machines and doing some re-arranging, which has also had an impact on the gaming floor. The renovation of the boutique hotel, Catfish Bend Inn, was completed in the fall, and they are continuing to renovate The Pzazz Hotel. This renovation should be completed in the next month. Mr. Higgins advised the facility is re-vamping the HVAC system in an attempt to make the gaming floor pleasant for everyone, and should be completed within the next two-three weeks. Debt was re-financed with very favorable terms. Mr. Higgins stated he feels the company is in the strongest position it has been in for a long time. He indicated they will continue to reinvest in the facility.

Chair Lamberti called on Diamond Jo, LLC d/b/a Diamond Jo Casino. Wendy Runde, General Manager, advised the Dubuque market saw a decline in gaming revenue of 6.6% in 2014; the Diamond Jo saw a decline of 4.7%, or \$2.8 million. They have an average employment level of 330 FTEs for the year resulting in total payroll and benefits of \$12.7 million. The company invested \$1.8 million in capital expenditures, primarily on the slot floor. They also remodeled the kitchen floors in the buffet and fine dining restaurant, replaced a chiller, added a roulette table and expanded their warehouse. Ms. Runde noted last year's report included a Be Connected conversion; but the conversion was postponed. She indicated it may occur in the fourth quarter of this year, or as late as 2016. The Boyd properties, which were already connected, are having their systems upgraded to a newer version.

Chair Lamberti called on Diamond Jo Worth, LLC d/b/a Diamond Jo Worth (DJW). Kim Pang, General Manager, advised gaming revenue at the property decreased approximately \$2.8 million

in 2014. He noted the facility is going through some transition from the takeover by Boyd Gaming. He stated DJW had gone through the Be Connected conversion, and will now have to be upgraded to the new slot system. Mr. Pang advised there were 310 FTEs resulting in payroll and benefits of \$11.3 million. Capital expenditures were approximately \$5.2 million in 2014, mostly on the slot conversion system. Funds were also expended on expanding the Jo Stop Gas Station, which should be finished by the end of April. Mr. Pang advised the non-profit, Worth County Development Authority, received \$4.8 million. He stated the relationship is good for Worth County and the surrounding communities.

Chair Lamberti called on Grand Falls Casino Resort, LLC d/b/a Grand Falls Casino Resort. Sharon Haselhoff, General Manager, advised the facility received a clean opinion with no internal control comments. She noted Lyon County Casino Resort, LLC is owned by 471 unitholders, representing over 750 Iowa investors. This was their third full year of operations; gross revenue was \$69.1 million, up from \$68.9 million in 2013; gaming revenue increased to \$58.8 million from \$58.1 million in 2013; and slot revenue grew by \$1 million, accounting for 87% of the gaming revenue. Table revenue was \$7.8 million, and accounted for 13% of the gaming revenue. The facility had \$10.3 million in non-gaming revenue compared to \$10.85 in 2013; she attributed the decrease to fewer entertainment events. Expenses totaled \$55.1 million versus \$56.2 in 2013, or a decrease of 1.9%. Cash revenue was \$15.2 million for 2014 compared to \$14.1 million, an increase \$1.1 million. Net income was \$4.1 million compared to \$2.2 million in 2013. Ms. Haselhoff stated the property has approximately 500 employees, making them the largest employer in Lyon County. She advised the facility has provided the employees with three consecutive years of profit-sharing checks, and due to the success of the property in 2014, the Board of Directors decided to give them an extra profit-sharing check. In 2015, Ms. Haselhoff stated the facility is looking forward to opening The Falls, the Rees Jones 18-hole golf course; the official grand opening will be held on May 20<sup>th</sup>.

Chair Lamberti called on Harveys Iowa Management Company, Inc. d/b/a Harrah's Council Bluffs Casino and Hotel (Harrah's). Janae Sternberg, Director of Finance, stated the facility is still enjoying the benefits of moving from the riverboat to a land-based casino. Gaming revenue and net revenue were up 3% year over year. The company continues to invest in the property with approximately \$3.5 million in capital expenditures, along with finishing up the casino. They also added a new table games lounge, made a significant investment in slots, and remodeled the hotel corridors. Ms. Sternberg advised the first quarter of 2015 was their second best, even with the bankruptcy issues.

Chair Lamberti called on HGI-Lakeside, LLC d/b/a Lakeside Hotel Casino. Bob Thursby, General Manager, advised the company made a decision to continue to be aggressive in driving revenue, and were successful in growing the business a little bit. Capital expenditures were made to keep the slot floor fresh, made some renovations in the buffet, and are currently purchasing new uniforms for staff. Mr. Thursby stated the company was pleased with the results from the hotel in 2014; that faction of the business continues to grow.

Chair Lamberti called on Rhythm City Casino, LLC d/b/a Rhythm City Casino. Mo Hyder, General Manager, noted 2014 was a transition year for the property as it was acquired by Scott

County, LLC, led by the Kehl family and Iowa investors. He stated the financial before the Commission was for a partial year; reflecting activity from February 2014 through the end of the year. Mr. Hyder reported the company received a clean opinion with no internal control issues reported. He advised the Quad City market continues to be under pressure due to the proliferation of VGTs in Illinois. The market was down 5.1% for all of 2014. He indicated the VGTs seem to be the most critical factor as Illinois VGT revenue has almost doubled from a year ago. Mr. Hyder stated the company spent several million dollars at the time of the acquisition to update the systems and the facility to meet the expectations and standards of the new ownership. As of December, the facility had paid approximately \$16 million in taxes and \$7 million in competitive wages and benefits for the 275 employees. For the upcoming year, Mr. Hyder advised the land-based project is progressing very well; the road is being extended and it is hoped that construction will be completed by May, which will give them access to the property. They are hoping to get the footings poured in May, and barring any inclement weather, get the facility enclosed prior to winter, and then hopefully opening in May 2016.

Chair Lamberti called on Riverside Casino & Golf Resort, LLC d/b/a Riverside Casino & Golf Resort (RCGR). Dan Franz, General Manager, advised gross revenue was \$108.3 million, up from \$108.2 million in 2013. He noted gaming revenue decreased about \$1.1 million or 1%; however, this was offset by an increase in non-gaming revenue by about the same amount. Mr. Franz stated the facility set new revenue records in the food and beverage operation, hotel operation, retail establishments and spa operation. He noted expenses increased by \$1 million, which included approximately \$20.6 million in payroll and benefits. Mr. Franz stated operating income increased by 6% and net income increased by 16%. During 2014, the facility completed a re-refresh of all the hotel rooms – new carpet, larger TVs, new nightstands and lighting fixtures, new linen covers, refinished armoires and doors, and an intense cleaning to return the rooms to opening condition. He stated they continue to invest in the property to keep it up-to-date with parking lot work, kitchen equipment, built a new hotel entrance vestibule with automatic doors to make it easier for patrons to enter with their luggage, and bought a couple of new valet fleet vehicles to transport guests to and from the airport. Mr. Franz advised the facility has over 700 employees; they have received profit-sharing checks for 30 straight quarters since 2008. They are looking forward to 2015.

Chair Lamberti called on SCE Partners, LLC d/b/a Hard Rock Hotel & Casino Sioux City (Hard Rock). Todd Moyer, General Manager, thanked the Commission, on behalf of the 500 team members, for giving them the opportunity in Sioux City. He noted the property was built and opened on time and under budget in 350 days from the start of construction to the grand opening on August 1, 2014. Mr. Moyer advised that 2014 payroll and benefits were \$6.9 million; taxes were \$7.9 million; and they contributed \$1.9 million to charity. The facility spent over \$108 million with Iowa vendors for supplies and services. He stated the facility has had over 850,000 guests in the first five months of operation. Mr. Moyer stated the facility is re-working the outdoor concert area, and adding a new restaurant and bar, The Beer Garden. The project will cost \$850,000, and will add significant space to the outdoor dining area. The space will include fire pits, grills and space to enjoy music under the stars. Mr. Moyer named some of the music acts scheduled to appear this summer.

Chair Lamberti called on Wild Rose Clinton, L.L.C. d/b/a Wild Rose Clinton (WRC). Scott Ivers, Chief Financial Officer for Wild Rose Entertainment, advised WRC experienced a 9% decline in gaming revenue in 2014, which they attributed to the VGT market in Illinois. He stated the market in Clinton is approximately \$160 million, and the facility has started to see an uptick in revenue and attendance during the first quarter of this year. Mr. Ivers stated capital expenditures have been focused on slot product, re-configuration of the slot floor, and adding a number of new games. He stated they are also trying new marketing ideas.

Chair Lamberti moved to Wild Rose Emmetsburg, L.L.C. d/b/a Wild Rose Emmetsburg (WRE). Mr. Ivers advised WRE also experienced a small decline in revenue; noting the market in the area tends to move with the agricultural market. He stated WRE has seen a reversal in the trend for the first quarter of 2015 and believes the facility will see some stabilization in revenue. WRE has also focused on their slot product – rearranging the floor and adding new product, which has been well received by the patrons.

Mr. Ivers indicated Tom Timmons, Vice President of Operations, had an update on the Wild Rose Jefferson (WRJ) project. Mr. Timmons advised the turning lanes off Highway 4 were in the process of being poured, and the lanes for Highway 30 will be poured next week. He stated the big billboard sign has been installed, but is not hooked up. Mr. Timmons stated the project is progressing very well; and might be a little ahead of schedule at this time due to the good weather in February and March. He hopes to be able to give a date when the machines can be turned on at the June Commission meeting.

Chair Lamberti called on Bluffs Run Casino. Ms. Sternberg advised gaming revenue and net revenue both declined 6% year over year, some of which she attributed to moving business between the two properties and to the remodel of the facility, which included re-carpeting the gaming floor during the second quarter of 2014. She stated Caesar's made a significant capital investment in the property, over \$5 million, between the carpeting, new slot machines, and additional office space. Ms. Sternberg noted Bluffs Run is also coming off its second best first quarter.

Chair Lamberti called on Iowa West Racing Association. Pete Tulipana, Executive Director, advised they had revenue of just over \$7 million, a slight increase from 2013. He indicated their revenue is stable.

Chair Lamberti called on Dubuque Racing Association (DRA). Dustin Manternach, Chief Financial Officer, noted the facility acquired the Hilton Garden Inn and Houlihan's Restaurant located adjacent to the property, and will be doing a full remodel of the hotel rooms over the next two years. He referenced the passage of legislation allowing the DRA to eliminate live racing and subsidize purses. Mr. Manternach advised both developments will help strengthen the financial health of DRA and insure larger distributions to local non-profits and the City of Dubuque. He noted the decline in the Dubuque market, but the \$2.8 million DRA received from the Diamond Jo allowed them to distribute \$8.3 million to the City of Dubuque and local non-profits. Mr. Manternach stated the facility paid \$17 million in wages, taxes and benefits, and approximately \$2.4 million in capital expenditures in addition to the hotel. He noted there were

two large items referenced in the audit: a loss associated with exit activity of \$6.6 million, which is the \$7 million greyhound cessation fee, and a \$3.5 million loss associated with racing, which was pulled out from continuing operations.

Chair Lamberti called on Prairie Meadows Racetrack & Casino, Inc. d/b/a Prairie Meadows Racetrack & Casino (PMR&C). Brian Wessels, Director of Finance, advised gaming revenue was down less than 1%, which occurred during the remodeling of the casino floor; gaming taxes were \$46 million; and wages and benefits were \$58.1 million for an average of 1,256 employees. Community benefits were \$36.3 million with Polk County receiving \$26.4 million; the City of Des Moines received \$3.9 million, the Polk County School District received \$700,000, and all other charitable distributions were \$5.3 million. Mr. Wessels stated PMR&C invested \$15.8 million in the property during 2014, with approximately \$11 million being the remodel of the casino floor.

Chair Lamberti noted most facilities reported a downturn in revenue, or were flat. He expressed his hope that 2015 is looking better for them. Commissioner Mertz stated that she felt the audits looked pretty good overall, and congratulated the properties for doing well in a tough economic situation.

Chair Lamberti called on Isle of Capri Bettendorf, L.C. d/b/a Isle Casino Hotel Bettendorf (IOCB). Ms. Tranchina requested approval of the Fourth Amendment to the Operator's Contract between Scott County Regional Authority (SCRA) and Isle of Capri Bettendorf, L.C. She stated the new agreement includes provisions to reflect the inclusion of the land-based facility, did some clean up to the existing Operator's Contract, and extended the term. Ms. Tranchina requested approval of the Fourth Amendment to the Operator's Agreement.

Hearing no comments or questions, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the Fourth Amendment to the Operator's Contract between SCRA and IOCB. Commissioner Kramer seconded the motion, which carried unanimously.

Nancy Ballenger, General Manager at IOCB, thanked the Commission for taking the time to listen to the presentation, and indicated they are excited to share the plans for a land-based casino. She noted her career started in 1995 in marketing when the facility was opened as the Lady Luck Bettendorf, so she has experienced all of the changes and renovations to the facility. It is now the largest hotel complex in Iowa. Ms. Ballenger stated that Isle of Capri already has over \$225 million invested in Bettendorf. They are currently spending \$8.5 million to remodel the south hotel tower, with two floors completed to date. She noted the request before the Commission indicates a remodel of the facility but the presentation represents Isle's commitment to the State of Iowa, but also the excitement to continue to provide their guests with the entertainment experience they have come to expect. Ms. Ballenger introduced John Wilson, Chief Development Officer, from the St. Louis office, noting he joined the company in January 2013, and provided some brief employment history. She noted that Mr. Wilson has been instrumental in designing the land-based facility. She turned the floor over to Mr. Wilson.

Mr. Wilson stated that everyone at Isle of Capri is looking forward to the day they can share the land-based casino with their patrons. He indicated a great deal of time has been spent in meeting with local focus groups to learn their needs and desires so the design team could incorporate their thoughts into the vision for the project. He stated the overall design takes many cues from the Iowa landscape as well as the many manufacturing industries located in Iowa. Amenities will include the Farmers Pick Buffet located adjacent to the casino floor; an O & H Grab and Go Diner, the Lone Wolf Bar & Stage and a consolidated hotel check-in lobby. The estimated investment is approximately \$55-60 million, and does not include the \$8.5 million for the renovation of the south hotel tower. Mr. Wilson advised Isle of Capri intends to use their cash flow from operations to fund the construction and does not anticipate needing any third party financing. He stated the company also has approximately \$150 million under an existing revolving credit facility.

A power point presentation showed the location of the 35,000 square foot gaming floor, which will be placed in the existing courtyard between the two hotel towers. The gaming floor will become the heart of the property. He stated the buffet, grab and go, new bar, gift shop and all of the associated functions, including back of house, and the new gaming floor represent a new project of approximately 82,000 square feet. Mr. Wilson stated adding this to their already more than 300,000 square feet of hotel space, 90,000 square foot Isle Center and 54,000 square foot Waterfront Center, the property will encompass well over 500,000 square feet of development. The previous numbers do not include the 240,000 square foot parking garage.

Mr. Wilson stated the new entry will provide a grand sense of arrival and serve as the new front door to the facility. He indicated consolidating the valet functions into one easily accessible drive will put patrons steps away from the gaming floor or being treated to the best dining experience in the area. Consolidating the hotel front desk in to one centrally located lobby between the two towers will eliminate any confusion with hotel check-ins. Mr. Wilson stated the lobby was designed with textures and colors that are used throughout the entire property in order to visually tie the property together. Finishes include wood, natural and curvy wall textures relating to the Iowa landscape, and should enhance the experience for the customers.

Mr. Wilson stated the gaming floor will be a single level, which is preferred by the customers. The ideas of manufacturing and production, machinery and farming influenced a lot of the patterns found on the gaming floor. The ceiling design is meant to represent an aerial view of the Midwestern plains. The concept behind the pit canopy was a series of inter-locking tractor tire treads, which reference Iowa's history and present day involvement in farming and agricultural industries. The Lone Wolf Bar incorporates rough textures paired with slicker finishes to satisfy and appeal to younger crowds and professionals attending business conventions on site. The inspiration for the high limits area was a view of an old, but grand, Iowa barn at sunset. The color scheme uses rich, weathered, textured woods against jewel tones of red, purple and gold.

Mr. Wilson advised the buffet will be moved next to the gaming floor, and introduces the Farmers Pick concept. He turned the floor over to Ms. Ballenger to discuss the farmers pick concept. Ms. Ballenger stated farmers pick focuses on farm-to-table cuisine, bringing locally

grown or based products directly to the customer. She noted the property is already working with many Iowa vendors, and will be working with many more with the expanded buffet. She turned the floor back to Mr. Wilson. Mr. Wilson stated the design in the buffet took its cues from the already existing Farmers Pick brand, but was given a modern, clean feel. Finishes and textures were influenced by the farm-to-table movement – fresh, local, natural, simple and pure. Continuing with the Farmers Pick campaign to utilize locally grown produce, a feature wall was designed to showcase those food items from local vendors. Colors were selected that referenced fresh fruit and produce; bright citrus colors paired with fresh wood tones and creamy white tile walls.

Mr. Wilson stated the intent is to begin construction upon receipt of all necessary approvals. In addition to the approval of IRGC, IOCB also needs to obtain the necessary construction approvals from the City of Bettendorf. Based on weather conditions and other external factors, it is estimated the construction period will be approximately 12-14 months. He advised that IOC has chosen Krause-Anderson Construction out of Minneapolis as the general contractor, who has indicated that approximately 65% of the construction work will be performed by Quad City firms.

Ms. Ballenger stated that she was proud of all the facility has accomplished over the years. She stated all of the employees are eager to see construction begin. She requested approval of their request to remodel the facility.

Chair Lamberti stated IOCB has been working toward a land-based facility for quite some time, and advised the Commission is happy to see it moving forward, particularly in light of the tough economic times in the area. He stated it is a significant commitment to the area and facility by Isle of Capri.

Chair Lamberti moved to approve the request of Scott County Regional Authority to convert the license to authorize the conducting of gambling games on a gambling structure upon completion of the remodeling, and approve the remodeling as proposed by IOCB. Commissioner Mertz seconded the motion, which carried unanimously.

Ms. Ballenger presented the following contracts for Commission approval:

- Kraus-Anderson – Contractor for Land-Based Casino Construction
- Hnedak Bobo Group, Inc. – Architecture Design Services for Land-Based Casino Construction
- North American Video – New Digital Surveillance System for Land-Based Construction
- Michael Raiser Associates, Inc. – Low Voltage Design for Land-Based Casino Construction
- Terracon – Geotechnical Engineering Services for Land-Based Casino
- CCM Consulting Group – Construction Audit for Land-Based Casino Construction
- Miller and Company – Procurement Firm for Land-Based Casino Construction
- Arrow SI – Renewal of 3-Year Maintenance Contract
- Sealy Corp. – Purchase New Mattresses for Hotel

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by IOCB. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti moved to the contract approval portion of the agenda, and called on DJW. Mr. Pang presented a contract with Midwest Liquid Systems, Inc. for maintenance of the gasoline pumps and systems at the convenience store.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contract as submitted by DJW. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Harrah's. Ms. Sternberg presented a contract with Nebraska Furniture Mart for furniture and carpet.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Arnold moved to approve the contract as submitted by Harrah's. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on RCGR. Mr. Franz presented the following contracts for Commission approval:

- GTECH, USA, LLC – Slot Machine Leases
- The Printer, LLC – Printing Services

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by RCGR. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on WRC. Mr. Timmons presented the following contracts for Commission approval:

- Global Cash Access/Central Credit, LLC – Cash Access Services
- Mediacom – High Speed Internet Service

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by WRC. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on WRE. Mr. Timmons presented the following contracts for Commission approval:

- Global Cash Access/Central Credit, LLC – Cash Access Services
- Cleary Building Corp. – Construction of Maintenance Building

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by WRE. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on WRJ. Mr. Timmons presented the following contracts for Commission approval:

- Wild Rose Leasing, LLC – Vehicle and Equipment Lease (RP)
- Transact Technologies Inc. – Slot Equipment
- Global Cash Access/Central Credit, LLC – Cash & Cash Services
- Ricoh USA, Inc. – I.T. Equipment
- Infomax – Office Solutions
- Ainsworth – Slot Machines
- VSR Industries, Inc. – Slot Machine Bases
- American Engineered Products, LLC – Slot Machine Bases

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by WRJ. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Hard Rock. Mr. Moyer presented the following contracts for Commission approval:

- Braungers Foods – Food Supplier
- WMS Gaming – Slot Machine Purchases and Leases
- Wells Fargo Bank – Credit Agreement
- Kai – Slot Dispatch and Beverage System
- Waste Management – Waste Disposal
- McGladrey, LLP – Financial Audit and Reporting
- Loffredo Fresh Produce Co., Inc. – Food Products and Fresh Produce
- W.A. Klinger – General Contractor for Construction Project for Battery Park
- Axis Worldwide Hospitality – Furniture Assembly, Installation, Storage and Transportation
- Grefe & Sidney, PLC – Legal Services
- Kirkland & Ellis, LLP – Legal Services
- Latham & Watkins, LLP – Legal Services

Chair Lamberti inquired as to the amount being refinanced with Wells Fargo. Mr. Moyer stated the facility is a great Iowa success story; when they were looking to borrow funds to build the casino the Iowa business climate was very favorable. Now that the facility is open, it is a much easier sale, and the interest rate was cut in half. Mr. Moyer indicated the amount being refinanced is approximately \$90 million.

Hearing no further comments or questions, Chair Lamberti requested a motion. Commissioner Arnold moved to approve the contracts as submitted by Hard Rock. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on PMR&C. Gary Palmer and Derron Heldt, General Manager and Director of Racing respectively, were present to address agenda items. Mr. Heldt advised the thoroughbred meet would commence on April 18<sup>th</sup>; that entries were being taken at this time. He stated the facility received 1,590 applications for stalls in March, but only have 1,350 stalls available. They have been working with trainers over the last few weeks to try and determine how many horses they will actually be bringing. Mr. Heldt advised there are currently 834 horses on the backside, and indicated the possibility there will be empty stalls during the season. He is hopeful there will be over 1,000 horses on the backside for the first weekend. He noted there is a racetrack in Nebraska whose meet ends on May 2<sup>nd</sup> and approximately 100 horses will be coming to PMR&C from that track. Another racetrack in Oklahoma ends around Memorial Day, and PMR&C has a commitment for 80-100 horses to come up at the end of that meet. Mr. Heldt indicated there should be approximately 1,200 horses on property by June 1<sup>st</sup>. He stated there are sufficient horses on property to get the season going, and feels comfortable with where they are at now. Mr. Heldt stated the property is ready for the first weekend, and is looking forward to a good racing season.

Chair Lamberti moved to the contracts. Mr. Palmer submitted the following contracts for Commission approval:

- Central Iowa Mechanical – Plumbing and HVAC Contractor
- Community Foundation of Greater Des Moines – Sponsorship of Des Moines Area Events
- Consolidated Electrical Distributors, Inc. – Electrical Equipment, Parts, Supplies and Service
- Micros Fidelio Worldwide, Inc. – Property Management System Software and Support

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by PMR&C. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on the Iowa Greyhound Association (IGA). Nick Mauro and Matt Kingdon, legal counsel and consultant respectively, were present to address the agenda items. The first was a request to modify the approved race dates and minimum purse for 2015.

Chair Lamberti asked what the previously approved dates were. Mr. Mauro indicated the original dates were April 29<sup>th</sup> through the end of October. The new dates are May 16<sup>th</sup> through October 24, 2015, with four performances per week and 15 races per performance, or 93 performances. Revised race days and post times will be at 6:30 PM on Wednesday and Friday; and 1:00 PM on Saturday and Sunday. Races will be held on July 3<sup>rd</sup> with a 1:00 PM post.

Hearing no comments or discussion regarding the revised racing dates or minimum purse, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the revised race dates and minimum purse for 2015 as submitted by the IGA. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti moved to the IGA's request for approval of financing. Mr. Mauro stated based on the Commission's decision regarding the escrow fund, IGA sought financing to get through the first year until payments from the Horseshoe Casino start in 2016. They obtained a line of credit through the Earlham Savings Bank.

Hearing no comments or questions concerning the financing, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the financing as submitted by the IGA. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti moved to the contracts. Mr. Mauro submitted the following contracts for Commission approval:

- United Healthcare – Health Insurance for Full-Time Employees
- Iowa Horsemen's Benevolent & Protective Assoc. – Simulcast Wagering Services Agreement between IAHBPA and IGA

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by IGA. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti moved to the hearing for Hard Rock for a violation of Iowa Code § 99F.4(22), the self-exclusion rule. Mr. Ohorilko stated Commission staff and Hard Rock have entered into a Stipulated Agreement. He advised an individual signed up on the list in 2007 at the Argosy Casino. That individual entered the Hard Rock facility and signed up for a Players Club account on November 21, 2014, which triggered the violation. When the individual attempted to cash a check approximately three weeks later, staff identified them as being on the self-exclusion list. Hard Rock staff reported the violation to the Commission office. Mr. Ohorilko stated Hard Rock has agreed to pay an administrative penalty between \$3,000 – \$20,000, and requested approval of the Stipulated Agreement.

Mr. Moyer noted the facility missed this individual as previously acknowledged due to the fact that a proper name search was not conducted at the time the individual signed up for the Players Club. He indicated staff has been re-trained on the proper procedures.

Chair Lamberti moved to approve the Stipulated Agreement with an administrative penalty of \$5,000. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti moved to Public Comment. John Filipelli, a partner in a kennel with Dean Miner at Bluffs Run, stated that despite massive investments in Iowa, their kennel will cease to exist in eight months. He informed the Commission that they had hired an attorney, Larry Melcher of

Council Bluffs, in regard to their decision awarding half of the escrow fund to the IGA private racing venture in Dubuque. Mr. Filipelli stated Mr. Melcher would be seeking a Declaratory Judgement in an attempt to keep the escrow funds in Council Bluffs as outlined by the statute. He stated he, his partner and others in the greyhound industry disagree with the decision and continue to be disappointed in the misrepresentation of the IGA racing venture and the Commission's endorsement of almost every request made by the private group. Mr. Filipelli stated the misrepresentation started in October when the Commission was told an impartial, 3-person board would be accepting kennel applications for all interested parties in bookings. He advised this did not occur as the IGA decided to accept only one application and keep everything status quo with the kennels already booked at Dubuque; leaving five board members and five other kennels to run for a total of 10 kennels. This is contrary to the 14 the IGA indicated they would book. Mr. Filipelli mentioned the cut in performances from 120 to 92 for this year. He referenced the \$2 million line of credit, which, to his understanding, is guaranteed by members of the board that are also kennel operators. These are the same people that pay the racing secretary, make up races, starters, and judges for the races. Mr. Filipelli stated he had asked the Commission where the line is drawn from these individuals being kennel operators and being contract kennels with employees. He then referenced the simulcast contract with the IHBPA, indicating there is no information regarding the timeframe or details. With no guarantee as to how long greyhound racing will continue, he questioned where the simulcast money would go when there is no one left in the industry. Mr. Filipelli indicated the Commission suggested the money staying in Council Bluffs could be paid according to the Spectrum report, but there were no stipulations or guidelines for the Dubuque side. He requested that the Bluffs Run track operators be allowed to determine how the money is distributed. Mr. Filipelli thanked the Commission for listening to him.

Chair Lamberti moved to Administrative Business and called on Mr. Ohorilko. Mr. Ohorilko stated the item before the Commission is the approval of the distribution of the Horse Racing Fund. He noted there were four applicants: the Iowa Thoroughbred Breeders and Owners Association, Iowa Quarter Horse Racing Association, Legacy Harness Horse Foundation and the Iowa Harness Horsemen's Association. There is over \$2,800 to distribute. Mr. Ohorilko asked how the Commission would like to distribute the funds.

Hearing no comments or questions, Chair Lamberti moved to distribute the Horse Racing Promotion fund equally among the four applicants. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti turned the floor over to Commissioner Mertz, who congratulated Chair Lamberti and Commissioner Arnold for being inducted into the Iowa Pioneer Lawmakers Association on Tuesday.

Hearing no further business to come before the Commission, Chair Lamberti requested a motion to adjourn. Commissioner Kramer so moved. Commissioner Mertz seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

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JULIE D. HERRICK

**IOWA RACING AND GAMING COMMISSION  
MINUTES  
JUNE 4, 2015**

The Iowa Racing and Gaming Commission (IRGC) met at the Hard Rock Hotel and Casino in Sioux City, on June 4, 2015. Commission members present were Jeff Lamberti, Chair; Carl Heinrich, Vice Chair; and member Kris Kramer. Commissioner Rich Arnold participated via conference phone. Commissioner Dolores Mertz was absent.

Chair Lamberti called the meeting to order at 8:30 AM and requested a motion to approve the agenda with the following change: item 10G(3) is being removed as it has been approved previously. Commissioner Kramer so moved. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti moved to the Welcome. Mayor Bob Scott stated he was happy to have everyone here; that he is proud of the community. He noted it was not an easy path to get to where they are at, but having the Hard Rock Hotel & Casino downtown is helping to revitalize the downtown area. Mayor Scott stated the facility has a good operator who is supportive of proposed projects. He thanked the Commission for everything they have done.

Mark Monson, President of Missouri River Historical Development, stated the Warner group is great to work with; and the facility provides a food and entertainment venue for the entire region. He noted current board members will start rotating off at the end of the year and that three new members, who were recently selected, will start the background process. He thanked the Commission for coming to town.

Bill Warner, President of SCE Partners, LLC, also thanked the Commission for coming to town and for the opportunity to build the property and become a part of Sioux City. He stated they are looking forward to being in the community for a long time.

Chair Lamberti stated the Commission was happy to be in Sioux City. He indicated this was his first time seeing the facility and was very impressed; that it is everything the Commission hoped it would be.

Chair Lamberti moved to the approval of the minutes from the April 16, 2015 Commission meeting. Commissioner Kramer moved to approve the minutes as submitted. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Brian Ohorilko, Administrator of IRGC, for announcements. Mr. Ohorilko provided the following information regarding upcoming Commission meetings:

- July 9, 2015 – Prairie Meadows Racetrack & Casino, Altoona, IA (Submissions due by June 24, 2015)
- July 29, 2015 – Prairie Meadows Racetrack & Casino, Altoona, IA (Public Hearing)

- August 20, 2015 – Riverside Casino & Golf Resort, Riverside, IA (Submissions due by August 6, 2015)
- September 24, 2015 – Mystique Casino, Dubuque, IA (Submissions due by September 10, 2015)

Mr. Ohorilko recognized Pam Oliver and Dan Thurman, IRGC Gaming Representatives assigned to the Hard Rock Hotel and Casino, and thanked them for their work on behalf of the Commission.

Chair Lamberti moved to the rules before the Commission under Notice of Intended Action, and called on Mr. Ohorilko. Mr. Ohorilko advised these are the rules drafted by Commission staff with regard to the greyhound racing cessation fund. He stated the hearing on July 29<sup>th</sup> is a special meeting to receive public comment on the Greyhound Cessation proposed rules prior to them becoming final. He noted the hearing would start at 8:30 AM at Prairie Meadows Racetrack & Casino. He requested the Commission move forward with the Notice of Intended Action.

Chair Lamberti requested a motion regarding the proposed rules. Commissioner Heinrich moved to approve the rules as submitted under Notice of Intended Action. Commission Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Caesar's Entertainment Corporation for an update on the bankruptcy proceedings. Tina Eick, legal counsel, noted Caesar's Entertainment Operating Company, Inc. and related debtors filed for voluntary bankruptcy on January 15, 2015 and the proceedings are going forward in the Bankruptcy Court in Chicago. She advised the company continues to have sufficient cash on hand to meet its obligations. Ms. Eick stated the bankruptcy proceedings have not interrupted operations; that the restructuring is only intended to deleverage the company's balance sheet and not impact the day-to-day business operations. The deadline for general creditors to file claims passed on May 26<sup>th</sup>; government entities have until July 14<sup>th</sup> to file their claims. She advised the Chapter 11 plan and related disclosure statement filed on March 2<sup>nd</sup> is still pending while the company pursues the reorganization and continues to build consensus among its stakeholders. Ms. Eick stated the Restructuring Support Agreement entered into with certain senior creditors prior to commencing the bankruptcy case remains in place. She advised the company is continuing to work with other creditors to build consensus in order to exit bankruptcy successfully and as quickly as possible. An Omnibus hearing was held on May 27<sup>th</sup> and additional hearings are scheduled for June 22<sup>nd</sup>, August 19<sup>th</sup> and September 28<sup>th</sup>.

Chair Lamberti called on Isle of Capri Casinos, Inc. regarding their shelf application for approval of debt financing. Elizabeth Tranchina, Vice President of Legal Affairs, requested approval of the shelf application for debt refinancing pursuant to Section 5.4(20) of the Commission's administrative rules. She requested the approval for three years, noting the funds would be utilized for, but not limited to, capital expenditures, working capital and refinancing current indebtedness.

Hearing no comments or questions for Ms. Tranchina, Chair Lamberti requested a motion. Commissioner Arnold moved to approve the shelf application for debt financing as submitted by Isle of Capri Casinos, Inc. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Riverboat Development Authority (RDA) and Rhythm City Casino, LLC d/b/a Rhythm City Casino (RC). Dan Kehl, Chief Executive Officer, advised the \$110 million project is progressing nicely; the extension to Elmore Street is almost complete and groundbreaking is scheduled for 4:00 PM this afternoon pending the approval of all agenda items. He introduced Mo Hyder, General Manager; Randy Rathje, President of RDA, and Tom Hoskins, design team lead for the facility. Mr. Kehl turned the floor over to Mr. Hoskins.

Mr. Hoskins stated the colors and curves in the facility reflect the Mississippi River and its banks. There will be a LED light feature to the right of the porte-cochere that invites guests as they drive up to the facility. The property will have 2,000 parking spaces. He stated the main organizing element is the Grand Hall, from which the gaming floor, restaurants, events center, buffet and hotel branch off. The casino will be two-thirds smoking and one-third non-smoking. Mr. Hoskins stated there will be under-floor duct work that will clean the air to make the facility as clean as possible. The show lounge, inspired by Urban Beat, uses blues and greens; and can be seen and heard from the gaming floor, allowing individuals on the gaming floor to be involved in the entertainment. The High Limit area features bold geometry and bright colors, and has a small lounge and bar. The feature bar is shaped like a grand piano. The sports lounge utilizes multiple types of seating and includes a fire pit area with lighting, but also includes typical sports bar elements. Mr. Hoskins advised the buffet uses a lot of wood in the entry, and light greens and woods in the interior. He stated the buffet was designed to showcase the food being served in the buffet. The event center can hold up to 1,500 people, but can also be broken up into small meeting rooms. The resort shop will serve coffee, as well as the other typical elements. The spa uses water and curved shapes and forms to invite guests into the spa. Mr. Hoskins stated the crown jewel of the property is Ruthie's, which will be located on top of the hotel and will provide a 180 degree view of the surrounding landscape. There will be a circular bar with a twinkling light ceiling. There will be drapes to help separate the eating areas.

Mr. Hyder introduced Mr. Rathje, who noted it has been a long journey to reach this point, but it has been worth the wait. He stated RDA is very happy with their new partner. He advised the project is becoming an economic engine for the community; noting that a new Chevy dealership will be built along the Elmore corridor. There is also the potential for other big box businesses to move to the area. Mr. Rathje stated RDA and Rhythm City are not abandoning the river; the City of Davenport is anxious to get the riverfront back. They have signed an agreement with a vendor to provide river cruises that will draw approximately 13,000 people to the area. Mr. Rathje stated RDA is excited about the project and is anxious for its completion next spring. He requested approval to convert RDA's license to conduct gambling games on an excursion boat to a license to conduct gambling games in a gambling structure.

Mr. Hyder advised approximately 75% of the contracts listed have been awarded, and 90% were awarded to Iowa vendors. Mr. Hyder requested approval of all agenda items.

Chair Lamberti stated the Commission would combine items 8A and B, which request approval of construction of the land-based casino and the request to convert the license to a land-based facility. He requested a motion. Commissioner Heinrich moved to approve the request of RDA to convert the license to authorize the conducting of gambling games on a gambling structure upon completion of the construction, and approve the construction as proposed by Rhythm City Casino, LLC. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti stated the Commission is anxious to see this project start; it is consistent with some of the things the Commission has been trying to do over the past few years to enhance the gaming experience as well as the entertainment experience.

Mr. Hyder submitted the following contracts for Commission approval:

- Architectural Southwest Stone Co., LLC – Construction – Tile
- Baxter Construction Company, LLC – Pre-Construction and Construction Manager
- Brockway Mechanical and Roofing Co. – Construction – HVAC
- Brockway Mechanical and Roofing Co. – Construction – Metal Wall Panels
- Brockway Mechanical and Roofing Co. – Construction – Roofing
- Doors, Inc. – Construction – Doors, Frames, Hardware
- Harger’s Acoustics, Inc. – Construction – ACT
- Industrial Steel Erection – Construction – Steel Erection, Masonry
- JP Phillips, Inc. – Construction - EFIS
- Legacy Corporation of Illinois – Construction – Site Utilities
- McCarthy Improvement Company – Construction – Hotel Tower Foundation/PT Slabs
- McClure Engineering Associates, Inc. – Engineer
- Midwestern Mechanical, Inc. – Construction – Fire Suppression
- Millenium Concrete – Construction – Foundations & Building Concrete
- Structural Steel Corp. of Iowa – Construction – Steel Fabrication
- Swanson & Youngdale, Inc. – Construction – Painting
- Tri-City Electric Company – Construction – Electrical, Low Voltage

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by RC. Commissioner Arnold seconded the motion, which carried unanimously.

Chair Lamberti called on Washington County Casino Resort (WCCR)/Lyon County Resort & Casino, LLC (LCRC)/Scott County Casino, LLC (SCC). Dan Kehl and Ken Bonnet, Chief Executive Officer and Chief Financial Officer respectively, were present to address the various agenda items. Mr. Kehl noted it has been approximately 10 years since Riverside opened, five years since Grand Falls received a license and the purchase of Rhythm City a year ago. A decision was made to consolidate operations into one holding company, which will diversify the revenue stream for all of the unitholders, provide greater stability to the businesses, help mitigate competitive pressures, create favorable debt terms with the multi-company properties with their lenders, provide on-going cash generation to help support the Rhythm City

construction, provide future investment opportunities for the Iowa investors, and provide an economy of scale by pooling purchases for the facilities. The company will also receive a 25-30% reduction in premiums for their PNI insurance by combining the three companies. Mr. Kehl advised the three entities will have access to a single database with 650,000 members, which will enable the facilities to cross-market. This process will also allow for management continuity and long-term planning for management succession.

Mr. Kehl stated the companies were set up through an Iowa intrastate offering, which sets forth specific standards and guidelines that have to be met that could have triggered SEC filings. He advised they did not see any need to be an SEC company, so the following ownership structure was developed for Elite Casino Resorts, LLC: WCCR will own 54.74%; LCRC will own 27.94%; and SCC will own 17.32%. Elite Casino Resorts will own the operating companies: Riverside Casino & Resort, LLC; Grand Falls Casino Resort, LLC and Rhythm City Casino, LLC. Mr. Kehl advised that management had met with all of the unitholders, and all have voted in favor of proceeding with the consolidation. The votes were as follows:

- WCCR – 87% in Favor, Less than 3% Opposed; 10% Not Voted
- GFCR – 89% in Favor, Less than 3% Opposed; Approximately 10% Not Voted
- SCC – 99% in Favor
- Catfish Bend Riverside – 76% Approved; 3% Opposed

Mr. Kehl stated the company obtained a third-party fairness opinion from Duff & Phillips. The opinion stated the values set forth were within an appropriate range. The current board of directors, management and operating licenses will remain in place at the property level. Operating agreements with the non-profit operators will also remain in place.

Mr. Kehl turned the floor over to Mr. Bonnet to discuss the financial aspects of the transaction. Mr. Bonnet stated the company currently has a line of credit with Wells Fargo for a five-year commitment for a \$220,000,000 term loan; \$145 million will be drawn at close and the remaining \$75 million will be drawn as needed as construction of the land-based facility progresses. There will also be a \$15 million revolver in the event additional funding is needed. During the construction period, the loan will be an interest only for six months. The first payment will be due approximately six months after the property opens. The interest rate will be 3.25% or LIBOR or around 3.75%. The initial principal payments will be based on 7½% of the outstanding balance to be paid annually. The \$145 million loan will be used to repay the debt for Riverside, Grand Falls and Rhythm City, and \$20 million will be used to repurchase units and/or a distribution. Mr. Bonnet stated that unitholders who do not like this concept will be given an opportunity to get out of their investment, which was part of the third party opinion related to the valuation of shares. The other part of the initial funding is to pay the expenses related to the transaction – legal, title, appraisals, Wells Fargo, and the construction guarantee put in place for Wells Fargo to provide the funding.

Chair Lamberti called for any questions. He asked if there is a specific period of time in which the unitholders would need to exercise their option to sell their shares back to the company. Mr. Bonnet advised the letters were sent approximately two and a half weeks ago, and a response is

due by June 5<sup>th</sup>. Chair Lamberti asked if there have been any requests to date. Mr. Bonnet indicated less than eighteen at each location.

Chair Lamberti thanked Mr. Kehl and Mr. Bonnet for providing information on the transaction prior to today's meeting, and providing an opportunity to ask questions and follow the process. He stated that agenda items A-G are requests for approval of various agreements and amendments relating to the consolidation, whereas item H relates to the financing. Chair Lamberti stated the motion for items 9A-9G could be combined, and requested a motion. Commissioner Kramer moved to:

- A. Approve the Agreement and Plan of Consolidation by and among Washington County Casino Resort, LLC, Lyon County Resort & Casino, LLC, and Scott County Casino, LLC.
- B. Approve the Operating Agreement for Elite Casino Resorts, LLC.
- C. Approve the Amendment to the Operating Agreement of Washington County Casino Resort, LLC concerning the election of members of Elite Casino Resorts, LLC's board of directors.
- D. Approve the Amendment to the Operating Agreement of Lyon County Resort & Casino, LLC concerning the election of members of Elite Casino Resorts, LLC's board of directors.
- E. Approve the Amendment to the Operating Agreement of Scott County Casino, LLC concerning the election of members of Elite Casino Resorts, LLC's board of directors.
- F. Approve the Amendment to the Management Agreement between Kehl Management-Lyon County, LLC and Scott County Casino, LLC.
- G. Approve the Amended and Restated Operating Agreement for Riverside Casino & Golf Resort, LLC.

Mr. Bonnet advised Item F should state Kehl Management and Scott County Casino, LLC. Chair Lamberti stated his understanding was that Item F should read "Kehl Management-Scott County". He asked Commissioner Kramer if she accepted the amendment to her motion. She answered in the affirmative.

Commissioner Heinrich seconded the motion.

Chair Lamberti noted this is a complex transaction, but feels it is clear as to what Mr. Kehl is trying to accomplish. Hearing no further comments or questions, he requested a vote. The motion carried unanimously.

Chair Lamberti requested a motion on 9H which deals with the financial aspects of the above transaction. Commissioner Heinrich moved to approve the Credit Agreement and all ancillary agreements, including, among others, any Mortgages, Fixture Filings, Security Agreements, Preferred Ship Mortgages, Guaranty Agreements, and Promissory Notes, by and among Elite Casino Resorts, LLC, Riverside Casino & Golf Resort, LLC, Grand Falls Casino Resort, LLC, and Rhythm City Casino, LLC ("Borrowers"), Washington County Casino Resort, LLC, Lyon County Resort & Casino, LLC and Scott County Casino, LLC ("Guarantors"), and Wells Fargo

Bank, National Association, and other lenders whereby the Borrowers will borrow up to \$235,000,000 to refinance existing indebtedness, provide funds for the construction of the land-based Rhythm City Casino, and other purposes.

Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti moved to the contract approval portion of the agenda and called on IOC Black Hawk County, Inc. d/b/a Isle Casino Hotel Waterloo (IOCW). Grant Gubbrud, Senior Director of Finance, presented the following contracts for Commission approval:

- Ainsworth Game Technology, Inc. – Purchase Slot Machines
- Aruze Gaming America, Inc. – Purchase of Slot Machines

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by IOCW. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Catfish Bend Casinos II, LLC d/b/a Catfish Bend Casino (CBC). Rob Higgins, General Manager, presented the following contracts for Commission approval:

- Josh Jones – Sale of Catfish Bend Casino's riverboat through a broker, Pinnacle Marine
- Sunflower Enterprises, Inc. – Sale of the Catfish Bend Casino's Riverboat

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by CBC. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Diamond Jo Worth, LLC d/b/a Diamond Jo Worth (DJW). Kim Pang, General Manager, presented the following contracts for Commission approval:

- Aruze Gaming America, Inc. – Purchase and Lease of Slot Machines, Conversions and Parts
- Farner Bocken – Convenience Store and Food Service Distributor

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by DJW. Commissioner Arnold seconded the motion, which carried unanimously.

Chair Lamberti called on Diamond Jo Casino, LLC d/b/a Diamond Jo Casino (DJ). Wendy Runde, General Manager, presented the following contracts for Commission approval:

- Aruze Gaming America, Inc. – Purchase 6 Slot Machines and Future Lease of Slot Machines
- Holiday Inn Dubuque – Hotel Rooms for Casino Guests

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by DJ. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Wild Rose Clinton, L.L.C. d/b/a Wild Rose Clinton (WRC). Rick Gilson, Director of Regulatory Compliance for Wild Rose Entertainment, submitted the following contracts for Commission approval:

- IGT – Purchase of 12 New Slot Machines with a Trade of 12 Older Machines
- Bally – Purchase of 6 New Slot Machines
- Northwest Bank – Employee/Employer 401K Annual Contributions
- ADP – Payroll/HR Services
- Ticket Force – Concert Venue POS System
- Clinton LumberKings Baseball Club – Advertising Score Board

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by WRC. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Wild Rose Emmetsburg, L.L.C. d/b/a Wild Rose Emmetsburg (WRE). Mr. Gilson presented the following contracts for Commission approval:

- Tech Art – Lease of Peakers for Blackjack Tables
- Northwest Bank – Employee/Employer 401K Annual Contributions
- ADP – Payroll Processing

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by WRE. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Wild Rose Jefferson, LLC d/b/a Wild Rose Jefferson (WRJ). Mr. Gilson presented the following contracts for Commission approval:

- Tech Art – Table Peakers
- Edward Don & Company – Kitchen Goods and Chairs
- ABC Electrical Services – Electrical Service
- Doll Distributing – Beverage Distributor
- Holmes Murphy – Insurance
- PepsiCo – Beverage Distributor
- Reinhart Food Services – Food Distributor
- Johnson Brothers of Iowa, Inc. – Beverage Distributor
- The Waldinger Corporation – HVAC Maintenance
- Wellmark Blue Cross Blue Shield – Medical Benefits
- H & F Distributors – Beverage Distributor

- ADP – Payroll Services
- Northwest Bank – Retirement Plan Administrator

Chair Lamberti requested an update on the construction progress and anticipated opening. Mr. Gilson stated the project has reached the point where the construction team has recognized the vision of the architect and are putting it in place. He noted one of the biggest issues delaying the opening of the facility is the installation of the sewer line, which will hopefully occur this month. Mr. Gilson stated they are sticking with the August 1 opening date; how far in advance of that will depend on how fast everything can be pulled together.

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Arnold moved to approve the contracts as submitted by WRJ. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on SCE Partners, LLC d/b/a Hard Rock Hotel & Casino Sioux City (HRH&C). Todd Abbott, Vice President of Regulatory Compliance for Warner Gaming, presented the following contracts for Commission approval:

- MTM Sales Corp. – Promotional Items
- Saturday in the Park, Inc. – Concert in the Park/Annual Festival (RP)
- AJR Equities, Inc. – Promotional Items
- Rymax Marketing Services, Inc. d/b/a Brainstorm Logistics – Promotional Items
- Imagine This – Promotional Items

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by HRH&C. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on HGI-Lakeside, LLC d/b/a Lakeside Hotel Casino (Lakeside). Bob Thursby, General Manager, presented the following contracts for Commission approval:

- Crawford Law Firm – Legal Fees
- Incredible Technologies – Purchase Slot Machines
- King Food Service – Seafood, Poultry and Meat for Use in Buffet

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by Lakeside. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Ameristar Casino Council Bluffs, Inc. d/b/a Ameristar Casino Council Bluffs (Ameristar). Monty Terhune, General Manager, presented the following contracts for Commission approval:

- Inca Supply Corp., LLC – Marketing Give Away and Promotional Items

- The Printer, Inc. – Direct Mail Production
- Brown Winick Graves Gross – Regulatory and Legal Litigation

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by Ameristar. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Isle of Capri Bettendorf, L.C. d/b/a Isle of Capri Hotel Bettendorf (IOCB). Ms. Tranchina presented the following contracts for Commission approval:

- G&K Services – Rental and Cleaning of Floor Mats, Hotel Sheets and Linens, and Table Linens
- Guest Supply, LLC – Hotel Room Furnishings/Supplies

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by IOCB. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Harvey's Iowa Management Company, Inc. d/b/a Harrah's Council Bluffs Casino & Hotel (Harrah's). Janae Sternberg, Director of Finance, presented a contract with D & D Construction Services, Inc. for construction services.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contract as submitted by Harrah's. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Iowa West Racing Association d/b/a Horseshoe Casino/Bluffs Run Greyhound Park (HC/BRGP). Ms. Sternberg submitted a contract with Thomas Bus Sales as a vehicle vendor.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contract as submitted by HC/BRGP. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Prairie Meadows Racetrack & Casino, Inc. d/b/a Prairie Meadows Racetrack & Casino (PMR&C). Gary Palmer, General Manager, presented the following contracts for Commission approval:

- Baker Electric – Electrical Contractor
- Daktronics – Tote Board Replacement
- Novomatic Americas – Gaming Equipment and Supplies
- Shiver-Hattery, Inc. – Engineering Services
- Trans Lux West Corporation – Tote Board Replacement

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by PMR&C. Commissioner Arnold seconded the motion, which carried unanimously.

Following a short recess, Chair Lamberti moved to the Petition for Declaratory Order RE: Chapter 99F and Chapter 17A of the Iowa Code filed by Eugene Kopecky. Tom Flynn, representing the Iowa Gaming Association, filed a Petition for Intervention. Chair Lamberti advised each side would be given ten minutes to present their case, and then Mr. Kopecky would be given five minutes to respond to Mr. Flynn's comments before the floor is opened for questions.

Mr. Kopecky stated he was before the Commission due to a very important issue for Linn County, as well as other counties that do not have casinos. He indicated the question is whether or not cannibalization, the finding used by the Commission to deny a license to Linn County, is a valid criterion. Mr. Kopecky stated he was not a part of the group seeking the casino license when the Commission denied the license application on April 17, 2014, but stated he was interested in seeking a license. He noted the reason stated by the Commission for denying the license was the cannibalization of revenue and profits from existing license holders; taking approximately 20-25% of the revenue from Riverside and approximately 8% from Waterloo. He stated the casinos are located 40-50 miles from Linn County with another county between Linn County and Washington and Black Hawk Counties.

Mr. Kopecky stated that after reading the Commission's decision and reviewing the minutes, he examined Chapter 99F. After reading the law, he realized that counties like Johnson, Story, Dallas, Webster, Muscatine and Henry would not be able to get a license because they would also cannibalize existing license holders to some extent. He pointed out that it did not make any difference whether the applicants were suitable or not; he noted he did not review any documentation and is assuming they were suitable for licensure. Mr. Kopecky stated his point is that in Linn County and many counties in Iowa there can be no gambling until a referendum is held. He stated that once the referendum passes, there is a series of events that take place to determine whether or not gambling will be allowed in the county. Mr. Kopecky stated when the State passed Iowa Code Chapter 99F and other gambling sections, they had the option of opening the state to gaming and the Commission could allow a certain number of licenses, but that was not what happened; nor did they allow counties to opt out. The legislature stated there would be no gambling in any county unless the county approved gambling. He called this "County Option 1". Mr. Kopecky stated the Legislature also indicated there would not be a flat fee for licensing; it would be based on the county population: \$5,000,000 for a population of 15,000 or less, \$10,000,000 if the population is more than 15,000 but less than 100,000, and \$20,000,000 if the population is 100,000 or more. He stated the Legislature believed the county should control their options. Mr. Kopecky stated once the referendum passes, and there is an applicant that believes they are able to operate a casino, they file an application for a license with the Commission, which is required to list the name, residence, date of birth, whether or not the applicant has ever been convicted of a felony, had an addiction to alcohol or controlled substances, a history of mental illness, a picture, fingerprints, a physical description, and then the applicant must go through a DCI background investigation. The applicant must also be of good repute and moral

character before a license can be granted. He believes the criteria listed would exclude the mafia, drug cartels, convicted felons, money launderers and others that would not qualify for a license; however, he feels there are many good people who are suitable and could get a license. Mr. Kopecky stated the criteria that should be used are limited to what is included in Chapter 99F; he also noted the Commission is given a lot of powers under subsection 4, and to adopt rules pursuant to chapter 17A.

Mr. Kopecky stated the second part of his Petition is that the Commission cannot enact a rule that is contrary to Chapter 99F. He provided the following example: The fee for a license in Linn County would be \$20,000,000; the Commission could not enact a rule stating it would be \$25,000,000. Mr. Kopecky stated once the Commission adopts the cannibalization rule there are consequences; it nullifies the vote of the electorate at the county level and gives the power to the regional license holders instead of the county because they are now covering six or seven counties. He stated that since Riverside covers Johnson and Linn counties; there is approximately \$40 million in license fees the State is not collecting because Riverside would be cannibalized. Further, it denies the State of Iowa a significant amount of tax revenues; Linn County would have paid a \$20 million license fee, and the income tax, gambling tax and other fees would have been approximately \$20 million per year, or over a period of ten years, the cannibalization rule would cost the state around \$220 million. He stated the county is losing several million as well. He noted the license denial also cost the county 400 jobs, cost charities a significant amount of income as they do not receive any funds from either Riverside or IOC Waterloo, has had an adverse effect on the city's economic development, and requires county residents to drive between 80 and 100 miles to participate in casino gaming. Mr. Kopecky stated the cannibalization rule also restricts competition in violation of Iowa law regarding the restraint of trade/monopolies. He indicated he understands the State of Iowa can participate in restrictive trade and monopolies if that is what is desired; however, he believes if that was the case, the Legislature would have identified it in Chapter 99F and there is no reflection in Chapter 99F that indicates that was their intent. Mr. Kopecky stated that if an individual is a suitable and qualified applicant, the Commission is saying that person or those persons are not entitled to a license even though the county and Chapter 99F says they are. He further stated the cannibalization rule gives the existing license holders throughout the state authority over the issue of licenses, and takes away the Commission's duties. Mr. Kopecky stated he believes it is the Commission's responsibility to supervise and regulate the license holders pursuant to Chapter 99F rather than support them or take their position and deny competition. He noted there is nothing in the statute that indicates the Commission should favor one county over another, using the vote in Linn County as an example, and indicated it is to the detriment of the county. Mr. Kopecky stated the most important part of his petition is the vote. By using the existing license holders' cannibalization as a reason to deny licenses, the county vote is nullified, which is a basic concept of democracy. The public vote is important, and the Linn County referendum passed by approximately 67%. When the Commission denies a license because someone is going to have part of their business cannibalized, the referendum is being voided. Mr. Kopecky stated the Commission's answer to the question of whether or not they can use the existence of a gambling license in one county, or the impact on an existing license, when considering whether or not to issue a license in another county should be no.

Mr. Kopecky stated the second question set forth in his Petition for Declaratory Order has to do with the administrative rules, and are authorized by Iowa Code Chapter 17A. He referenced cases that were heard by the Iowa Supreme Court regarding statutory construction; in *State v. Nicolette*, the Court indicated it is not the province of the Court to speculate about probable legislative intent without regard to the wording of the statute, and any determination must be based upon the what the legislature actually said rather than on what it might have said or should have said. Policy arguments to amend statutes must be directed to the legislature. These principles are not hyper technical, but rather they are fundamental to the separation of powers and must be applied in a consistent fashion, across all spectrums of cases. Mr. Kopecky stated the Supreme Court Justices also stated, in *Doe v. Iowa Dept. of Human Services*, that they could not extend a statute, expand a statute or change its meaning under the pretext of construction. In *Holland vs. State of Iowa, Insurance Dept. of Iowa*, the Court stated an administrative body may not make law or change the legal meaning of the common law or statutes. For that reason, he believes the gambling license criteria in Chapter 99F does not include the impact on existing license holders in another county and any administrative rule that outlines such criteria is null and void and therefore should not be enforceable.

Chair Lamberti stated he would have several questions, but was going to withhold the majority until the Commission has heard from Mr. Flynn and his rebuttal comments. He noted Mr. Kopecky has presented two questions in the Petition, and is specifically looking at question two which states: "If the IRGC has adopted administrative rules that are contrary to Chapter 99F of the Iowa Code, are those administrative rules null and void?" Chair Lamberti asked which rules, or if there is one in particular Mr. Kopecky was referencing. In reviewing the administrative code, 491-1.7 is titled "Criteria for granting licenses", and further down there is a specific subparagraph that talks about the impact on existing operators' adjusted gross revenue versus existing operators' ratio of adjusted gross revenue to investment. He asked if Mr. Kopecky was referencing that particular subrule, the broader rules, or other rules. Chair Lamberti stated he was trying to determine which rule or rules Mr. Kopecky believes are not consistent with Iowa code. Mr. Kopecky advised the rule Chair Lamberti referenced is the one he is referring to. He stated he didn't know if there were others as he has not examined all of the rules.

Chair Lamberti called on Mr. Flynn. Mr. Flynn stated the Iowa Gaming Association (IGA) disagrees with the arguments advanced and conclusions reached by Mr. Kopecky, particularly as it pertains to the power of 99F.7(11), which is the argument upon which most of Mr. Kopecky's argument is based. The interpretation put forth by Mr. Kopecky is that once the county electorate votes to approve gambling then it is the Commission's role to grant the license subject to the background checks and financing thereby elevating the importance of the county vote above the role of the Commission, and the "county voters decide if casino gambling shall be conducted in their county, not the IRGC." Mr. Flynn stated it is Mr. Kopecky's belief that the journey for a license starts and concludes with the vote of the county; however, the IGA believes the Legislature, as does the Commission, that the journey for a license starts with the passage of the referendum by the county electorate, and the Commission's role is to review various other factors of 99F. Iowa Code Chapter 99F.4 lists many powers granted to the Commission, and starts off stating the Commission shall have full jurisdiction over, and shall supervise, all gambling operations governed by this chapter, and shall adopt rules to implement this chapter.

Subparagraph one states the Commission shall investigate applicants and determine the eligibility of applicants for a license and select among competing applicants the applicant which best serves the interests of the citizens of Iowa. Iowa Code Chapter 99F.7 states the commission shall decide the number, the location and the type of gambling structures licensed under this chapter.

Mr. Flynn noted that while the Commission has been granted broad powers, one power it was not granted was the power to award a license to an applicant from a county that had not authorized gambling in the county. Mr. Kopecky feels this is the ultimate power of the county; when the referendum passes, the county gets a license; however the IGA does not believe that was the intent of the Legislature. The Legislature took the position that the Commission could not force gambling on a county if they don't want it. Before the journey for a license begins, the county voters must say yes; then the other factors of Chapter 99F come into play. Mr. Flynn stated if the Legislature had intended the result Mr. Kopecky seeks, it could have said in the legislation that once a county electorate votes yes in a referendum, the Commission shall grant a license but that is not what they said. The Legislature said the Commission may grant a license. Historically, the Commission has, when reviewing applications, denied some applications, most recently Cedar Rapids, because of the cannibalization effect and other factors that would be adverse to other licensees. Mr. Flynn noted the legislature has witnessed these actions; and if the Legislature thought the Commission had superseded the powers granted by them, it clearly could have advised the Commission they misinterpreted the law, we are going to amend the law and make it clear the Commission does not have the power to deny a license when a county passes a referendum. Mr. Flynn pointed out the Legislature has not taken any action. He advised the only case to reach the Iowa Supreme Court dealing with the denial of a gaming license is the Alfredo case, which started with the preface that it looks at the Legislative intent to grant the Commission broad and vast powers and that it will not overturn the Commission's actions unless they are irrational, illogical, or fully unjustifiable. The Supreme Court found the Commission acted within its powers to deny an application.

Mr. Flynn noted Mr. Kopecky raised the issue that the Commission's actions create monopolies or restraints of trade. He stated the Iowa Competitive Law is clear that regulatory bodies are exempt from the Iowa Competition Law and; therefore, is not applicable in this case.

Mr. Flynn stated if Mr. Kopecky's Petition were approved it is reasonable to assume that many counties in Iowa would be passing referenda and seeking gambling licenses. The Commission's ability to deny those applications would be muted; their ability to condition the granting of an application on the amenities and entertainment component of the license would be diminished; the high quality and high cost of the facilities built by the existing licensees are going to be greatly jeopardized or devastated due to possible competition from many counties and those applicants most likely are not going to be required to build the high quality facilities Iowa currently has, which has made the gaming and entertainment experience so positive. The existing licensees also face the possibility that their lenders are going to get skittish and decide not to renew loans if there are going to be licenses in every county. Mr. Flynn stated that even if Mr. Kopecky were to get his wish and obtain a license in Linn County, all of the surrounding

counties could also apply and receive a license and the success of his project could be questionable.

Mr. Flynn concluded his remarks by stating the Legislature clearly granted the Commission the power to take applications, to establish the criteria, to look at the effect on existing licensees, and has not exceeded its authority. He stated the IGA believes the answers to the questions raised are Yes, the Commission can look at the cannibalization factor, and yes, the Commission can pass rules to implement its power, and that the Commission has not established rules that exceeded its power.

Chair Lamberti called for any questions of Mr. Flynn. Hearing none, he called on Mr. Kopecky for his rebuttal of Mr. Flynn's comments.

Mr. Kopecky stated he would welcome the competition if he had a casino in Linn County. He stated the first power after the referendum is passed is to file an application for a license under 99F.4, which states the Commission is "to investigate the applicants and determine the eligibility of applicants for a license and to select among competing applicants for a license the applicant which best serves the interests of the citizens of Iowa." He feels the above is saying "shall". He stated he has looked at the question of "may", and the Iowa Supreme Court, over the last three years has indicated at least twice in the Sierra case that "may" actually means "shall" in 17A.

Mr. Kopecky questioned where the Commission's responsibilities or duties lie; do they lay with the existing license holders, with the citizens or are they independent of either of them. He feels Linn County voted on the gambling referendum twice and turned it down once. Since that time, significant changes have occurred in the county. A flood six or seven years ago destroyed in excess of 3,500 homes and several hundred businesses; the community is rebuilding at a fast pace. During the rebuilding process, the Board of Supervisors was convinced to put the referendum on the ballot, and county residents approved the measure by 67%. Mr. Kopecky stated there is a significant amount of community support. The proposed location was in the flood rebuilding area. A group of individuals was found who was willing to build and operate the casino; he assumes they were suitable. The Commission then decided none of those things mattered; the most important thing was the impact on Riverside and Washington County – that their profits and revenues were more important than the people that voted on the issue in Linn County. Mr. Kopecky stated that he felt the citizens and residents of the county have to be more important in the process than whether or not a casino is operating at maximum capacity and profit. He feels the citizens should be in front of the pack instead of the back.

Chair Lamberti stated Mr. Kopecky had addressed one of his questions pertaining to 99F.7(11) which was if the Legislature had chosen to use the word "shall" instead of "may". He stated that Mr. Kopecky's position is that if the county approves a referendum they are entitled to a license. Chair Lamberti asked him to contrast that to the argument set forth by Mr. Flynn that the referendum is simply the initial step to insure that the Legislature put a safe guard in place to insure that a county could not have gambling forced upon them as opposed to the referendum being a mandate for the Commission to issue a license.

Mr. Kopecky stated the Commission should not issue a license in a county after the referendum if there is no one suitable to operate the facility. He stated 99F starts out saying if the referendum is passed then all of the other steps comes into play, so he believes the referendum is the most important item. He stated the people in the county have control because they have the ability to vote casino gambling in, but also have the ability to vote it out. Mr. Kopecky stated that all of the power of whether or not there is going to be a casino in a county lies with the voters, and it is up to the Commission to determine who is going to be there and where and regulate them, but don't have that authority until a county passes a referendum.

Chair Lamberti clarified that he heard Mr. Kopecky concede that if a referendum was approved in a county but there was no suitable operator, they would not be entitled to a license. Mr. Kopecky answered in the affirmative.

Mr. Ohorilko advised Mr. Kopecky the Commission did receive the documents he had submitted for Commission review.

Hearing no further questions for Mr. Kopecky or Mr. Flynn, Chair Lamberti moved to go into Executive Session pursuant to, but not limited to, Iowa Code Sections 21.5(1)c and f for the purpose of discussing strategy with counsel and discussing the decision to be rendered in a case conducted according to the provisions of chapter 17A. Commissioner Kramer seconded the motion, which carried unanimously on a roll call vote.

Upon reconvening in open session, Chair Lamberti, based upon the information submitted and discussions, moved to answer the questions presented in the Petition for Declaratory Order as follows:

Question One: Whether or not the IRGC can use the existence of a gambling license in one county, or the impact on an existing gambling license in one Iowa county, when considering whether or not to issue a gambling license in another (different) Iowa county?

The motion would be that the Commission answers in the affirmative, based upon the authority granted to the Commission pursuant to Iowa laws set forth in Chapter 99F and the administrative rules that the Commission can use the existence of a gambling license in one county or the impact in making a decision on a gambling license in another county.

Chair Lamberti stated the motion would then move to the second question which is:

If the IRGC has adopted administrative rules that are contrary to Chapter 99F of the Iowa Code, are those administrative rules null and void?

Chair Lamberti stated that while the Commission believes the rules are consistent with Iowa law, the answer is that the determination of whether or not a rule adopted by the Commission is inconsistent with Iowa law, it is not for the Commission to make that determination, but for another body, specifically the courts, to make that determination.

Chair Lamberti stated that would be his motion with respect to the two questions. He further moved that the Attorney General's Office prepare an order in accordance with the motion for review and action by the Commission at a later date.

Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti moved to Public Comment. Gail Shook, a greyhound owner from Council Bluffs, noted the Commission was holding a meeting on July 29<sup>th</sup> to discuss the proposed rules regarding the payout of the greyhound cessation fund, but a memo from IRGC received in April advised the Commission would be determining the rulemaking process at the June Commission meeting. She asked if that process has been determined.

Mr. Ohorilko advised the first step in the rulemaking process was the Notice of Intended Action that was approved earlier in the meeting. He noted the Commission included the informal rules when the memo was sent out in April. The meeting on July 29<sup>th</sup> will be the public hearing for the greyhound rules. The hearing presents an additional opportunity for individuals to present additional comments or letters specifically addressing the rules. Mr. Ohorilko advised any written comments or letters should be submitted to the Commission by July 29<sup>th</sup>.

Ms. Shook asked if individuals would be able to speak at the July 29<sup>th</sup> meeting, and if they would be required to get on the agenda. Chair Lamberti advised the meeting is a public hearing. There will be a process established for individuals to sign up to speak, but everyone who signs up to speak will be given an opportunity to do so. Ms. Shook asked if there is a format the individuals would need to follow. Chair Lamberti stated, depending on the number of individuals signing up to speak, they will have 3-5 minutes to address the Commission. Additional comments can also be submitted in writing.

Ms. Shook stated she submitted comments when they were requested the first time, but would be submitting additional comments and asked the date by which they needed to be submitted. Mr. Ohorilko stated she would need to submit a separate letter for the formal rules, and those needed to be submitted by the public hearing. He advised she could bring it to the hearing if she desired.

Chair Lamberti stated the Commission did seek informal comments, which led to some changes in the proposed rules sent out in April, but the rules approved today are in their final format.

As there was no further Public Comment, Chair Lamberti moved to Administrative Business and called on Mr. Ohorilko to discuss the regulatory fees for Fiscal Year 2016. He stated the fees have been sent to all stakeholders, but noted budgets have not been officially established at this time. The fees sent out were based on what IRGC staff believes will be the result of the budget bill. He noted if there were any material changes, the fees would be brought back before the Commission for approval. He advised staff had not received any comments from the stakeholders regarding the fees, and requested approval of the fees as submitted.

Hearing no comments or questions concerning the proposed fees, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the regulatory fees for Fiscal Year 2016 as submitted. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti moved to the update on gaming legislation. Mr. Ohorilko advised there were two laws that were passed in the recent legislative session. One piece of legislation requires IRGC to conduct a study on exchange wagering as a form of pari-mutuel wagering, which is due to the General Assembly by December 1<sup>st</sup>. He advised staff has started working on the study, and would be reaching out to some of the stakeholders involved with pari-mutuel wagering.

The second law passed modified the penalties for individuals caught placing or changing a bet that would alter the outcome of the game. Previously, the individual would have been charged with a felony but many county prosecutors were reluctant to do so if the dollar value was not substantial. Mr. Ohorilko advised the new law incorporates steps, and provided the following example: A bet for under \$200 changed after obtaining knowledge of the outcome of the game would be a simple misdemeanor but the charges would escalate depending upon the value of the alleged incident.

Hearing no comments or questions for Mr. Ohorilko concerning the new laws, Chair Lamberti requested a motion to adjourn. Commissioner Heinrich so moved. Commissioner Kramer seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

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JULIE D. HERRICK

**IOWA RACING AND GAMING COMMISSION  
MINUTES  
JULY 9, 2015**

The Iowa Racing and Gaming Commission met on Thursday, July 9, 2015 at The Meadows Event and Conference Center, Prairie Meadows Racetrack and Casino, Altoona, Iowa. Commission members present were Jeff Lamberti, Chair; Carl Heinrich, Vice Chair; and members Rich Arnold, Kris Kramer and Dolores Mertz.

Chair Lamberti called the meeting to order at 8:30 AM, and requested a motion to approve the agenda. Commissioner Mertz so moved. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti moved to the approval of the minutes from the June 4, 2015 Commission meeting, noting they had been previously disseminated. Commissioner Kramer moved to approve the minutes from the June 4, 2015 Commission meeting as submitted. Commissioner Arnold seconded the motion, which carried unanimously.

Chair Lamberti moved to the announcements, and called on Brian Ohorilko, Administrator of the Iowa Racing and Gaming Commission. Mr. Ohorilko provided the following information regarding future Commission meetings:

- August 20, 2015 – Riverside Casino & Golf Resort, Riverside, IA (Submissions due by August 6, 2015)
- September 24, 2015 – Mystique Casino, Dubuque, IA (Submissions due by September 10, 2015)
- November 19, 2015 – Prairie Meadows Racetrack & Casino (Submissions due by November 4, 2015)

Mr. Ohorilko advised there will be a Public Hearing on July 29, 2015 regarding the Greyhound Cessation Fund rules. The hearing will be held at Prairie Meadows Racetrack & Casino in Salons 2 and 3 commencing at 8:30 AM. Those wishing to address the Commission should plan to arrive early to sign up.

Mr. Ohorilko also advised Commission staff will be having a demonstration on exchange wagering. The tentative date is July 28<sup>th</sup>. He noted the Commission, due to legislation passed this year, has been tasked with studying exchange wagering and writing a report to be delivered to the Legislature by December 1<sup>st</sup>. Mr. Ohorilko stated the demonstration will be conducted by Bet Fair. Additional information on the demonstration will be sent out to interested parties when it is available.

Chair Lamberti called on Caesar's Entertainment Corporation for an update on the bankruptcy proceedings. Lorraine May, legal counsel, noted Caesar's Entertainment Operating Company,

Inc. (CEOC) and related debtors filed for voluntary bankruptcy on January 15, 2015 and the proceedings are going forward in the Bankruptcy Court in Chicago. She advised the company continues to have sufficient cash on hand to meet its operational obligations. Ms. Eick stated the bankruptcy proceedings have not interrupted operations; that the restructuring is only intended to deleverage the company's balance sheet and not impact the day-to-day business operations. The deadline for general creditors to file claims passed on May 26<sup>th</sup>; government entities have until July 14<sup>th</sup> to file their claims. With regard to the restructuring, on May 27<sup>th</sup>, the Court entered an order extending the Company's exclusive period to file a Chapter 11 plan until November 15<sup>th</sup> of this year and extended the Company's exclusive period to solicit acceptances of the Chapter 11 plan until January 13, 2016. She stated the Chapter 11 plan and related disclosure statements filed by the Company on March 2<sup>nd</sup> are still pending while the company pursues the reorganization and continues to build consensus among its stakeholders. Ms. May stated the Restructuring Support Agreement entered into with certain senior creditors prior to commencing the bankruptcy case remains in place. She stated the Company expects a ruling from the Bankruptcy Court regarding CEOC's pending action to stay certain limited party litigation against the parent company, Caesar's Entertainment on or after July 22<sup>nd</sup>. Additionally, a trial on the involuntary petition of CEOC is scheduled for October 5<sup>th</sup> – 7<sup>th</sup>, and October 13<sup>th</sup>-15<sup>th</sup>.

Hearing no comments or questions for Ms. May, Chair Lamberti moved to the contract approval portion of the agenda, and called on Isle of Capri Bettendorf, L.C. d/b/a Isle Casino Hotel Bettendorf (IOCB). Don Ostert, General Manager for Lady Luck Casino Marquette, presented a contract with Aruze Gaming America, Inc. for the purchase of slot machines.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contract as submitted by IOCB. Commissioner Arnold seconded the motion, which carried unanimously.

Chair Lamberti called on Isle of Capri, Marquette, Inc. d/b/a Lady Luck Casino Marquette (LLCM). Mr. Ostert presented a contract with Aruze Gaming America, Inc. for the purchase of slot machines.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contract as submitted by LLCM. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Grand Falls Casino Resort, LLC d/b/a/ Grand Falls Casino Resort (GFCR). Joe Massa, Chief Operating Officer, presented a contract with Wessels Oil Company, Inc. for propane gas.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Arnold moved to approve the contract as submitted by GFCR. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Diamond Jo Worth, LLC d/b/a Diamond Jo Worth (DJW). Kim Pang, General Manager, presented the following contracts for Commission approval:

- Agilysys – Maintenance Contracts, Software Upgrade, Hardware Upgrade
- Hussman – Convert Gas Piping, Regulators, HVAC and Kitchen Equipment from LP Gas to Natural Gas
- Jim and Dude’s - Convert Gas Piping, Regulators, HVAC and Kitchen Equipment from LP Gas to Natural Gas
- Schwickert’s Tecta America - Convert Gas Piping, Regulators, HVAC and Kitchen Equipment from LP Gas to Natural Gas
- Young Plumbing and Heating - Convert Gas Piping, Regulators, HVAC and Kitchen Equipment from LP Gas to Natural Gas

Mr. Pang advised one of the four proposed vendors would be selected regarding the conversion from LP gas to natural gas. He will advise the Commission which vendor was selected at the August Commission meeting.

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by DJW. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Rhythm City Casino, LLC d/b/a Rhythm City Casino (RCC). Mr. Massa presented the following contracts for Commission approval:

- AAA Pools – Construction – Pool
- ASC Insulation & Fireproofing – Construction – Fire Proofing
- Builders Sales & Service Company – Construction – Framing, Drywall, Insulation
- Builders Sales & Service Company – Construction – Acoustic Wall Panel
- CJ Moyna & Sons, Inc. – Construction – Grading
- RG Construction Services, Inc. – Construction – Operable Partitions
- Streb Construction Co., Inc. – Construction – Site Paving & Sidewalks

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by RCC. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on SCE Partners, LLC d/b/a Hard Rock Hotel & Casino Sioux City (Hard Rock). Dan Welch, Director of Table Games, presented the following contracts:

- Thames Live, Ltd. – Entertainment Act
- Think Ink Tours, LLC - Entertainment Act
- Runnin’ Band, Inc. – Entertainment Act
- USPS – Postage
- Sioux City Journal Communications – Advertising
- W.A. Klinger, LLC – General Contractor for Construction Project for Battery Park
- Sure Sound & Lighting – Lighting & Sound for Stage Equipment
- Gem Promotions, LLC – Promotional Items

- Gary Allan Tours, Inc. – Entertainment Act

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by Hard Rock. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Harvey's Iowa Management Company, Inc., d/b/a Harrah's Council Bluffs Casino and Hotel (Harrah's). Janae Sternberg, Director of Finance, presented the following contracts for Commission approval:

- Agilysys – Point of Sale Vendor
- Southwest Airlines – Guest/Employee Travel

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by Harrah's. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Iowa West Racing Association d/b/a Horseshoe Casino/Bluffs Run Greyhound Park (HC/BRGP). Ms. Sternberg presented the following contracts for Commission approval:

- Energyefficient – Lighting Efficiency Vendor
- Southwest Airlines – Guest/Employee Travel
- Agilysys – Point of Sale Vendor

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by HC/BRGP. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on the Iowa Greyhound Association (IGA). Nick Mauro, legal counsel, presented a contract with MassMutual for a 401K for employees.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contract as submitted by the IGA. Commissioner Heinrich seconded the motion, which carried unanimously;

Chair Lamberti called on Prairie Meadows Racetrack & Casino, Inc. d/b/a Prairie Meadows Racetrack & Casino (PMR&C). Ann Atkin, Chief Operating Officer, presented the following contracts for Commission approval:

- Aruze Gaming America, Inc. – Gaming Equipment & Supplies
- VHF Sales – Purchase of Water Heaters & Related Supplies

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by PMR&C. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti moved to the review of the horsemens' groups audits and called on the Iowa Horsemens Benevolent Protective Association, Inc. (IHBPA) and the Iowa HBPA Benevolent Trust. Jon Moss, Executive Director, advised the audit submitted is a consolidated report. He noted the IHBPA is statutorily required to help promote and provide guidance to the Iowa thoroughbred industry. He stated his belief that the organization is using the funds received very effectively; he noted the number of stallions has increased, not only in Iowa but across the nation. Mr. Moss stated there has been an increased demand for thoroughbreds.

Hearing no comments or questions for Mr. Moss, Chair Lamberti called on the Iowa Quarter Horse Racing Enterprises, Inc. d/b/a Iowa Quarter Horse Racing Association (IQHRA). Butch Hammer, Past President, noted the IQHRA had another successful year. One of the highlights was the National Challenge Championships races held at PMR&C for the second time in three years. He stated IQHRA incorporated the Iowa Stakes Championship races with the Challenge Championship races, which gave better recognition to the Iowa-bred horses and promote them nationally. Mr. Hammer stated over \$2,000,000 was paid out in purses over the two days of racing, which was a new record for the American Quarter Horse Association Challenge Championship races. He noted the IQHRA has expanded their "Youth Days" to three days this year. Mr. Hammer advised the IQHRA has distributed between \$125,000 and \$150,000 in scholarships to Iowa youths so they can go to college over the past 16 years. He noted the IQHRA took their Stallion Service Auction "online" this year, which allowed them to set a new record for monies raised to over \$121,000, and attract bidders from all over the country.

Hearing no comments or questions for Mr. Hammer, Chair Lamberti called on the Iowa Harness Racing Association (IHRA). Royal Roland advised the audit received an unqualified opinion. He stated there were 234 foals born in 2014; noting the number of foals has increased every year since the purses were codified. Mr. Roland stated there were 38 days of racing between May 27<sup>th</sup> and September 27<sup>th</sup> at Humboldt, What Cheer, Bedford, Oskaloosa, Central City, Eldon, Bloomfield, Monticello, and Sioux Center. Approximately \$1.5 million was paid out last year in purses and breeder's awards to Iowa-registered horses and almost 98% of the payments went to Iowa-registered or Iowa-owned horses. Mr. Roland stated the IHRA has a very positive view regarding the increase in the number of horses; and noted the quality of the horses is also increasing. He advised an Iowa-registered horse is going to be competing in the \$800,000 Meadowlands Pace on July 11<sup>th</sup>; pointing out that Iowa horses are able to compete at the highest levels.

Mr. Ohorilko asked where the next race meet would be held. Mr. Roland stated racing would be held Friday, Saturday and Sunday at What Cheer.

Chair Lamberti called on Game Play Network, Inc. Greg Avioli, Executive Vice President, advised Game Play Network is an advanced deposit wagering company. They have recently reached an agreement with the IHBPA and PMR&C; and have submitted an application for an

ADW license with the Commission. He noted that he has worked in the horse racing industry since 1997, and has worn many hats and has seen a significant amount of money spent trying to promote horse racing around the United States. He stated that from 1998 to 2008 more than \$300 hundred million was spent on marketing horse racing; however, the result was that handle has gone from approximately \$16 million to just over \$10 million. Mr. Avioli stated the reason people don't bet horses more is that it is too complicated and they don't win enough. He stated Game Play Network has looked at ways to get people to bet more and get more money into the pari-mutuel system. They have developed a program that helps them with their bets. The system was developed over 10 years by looking at millions of races. He stated if an individual wants to bet \$20.00, the system will provide them with ten (10) \$2.00 bets with a combination of win, place, show, exactas and trifectas. The system is designed to return 80 cents for every dollar bet; and 10% of the time, the bettor will win some money. Mr. Avioli stated the bettor will win a lot more with their system than if they just show up and start picking numbers or a horse. The second part of the system is that after the bettor has won, they can push a button on their phone to see how much they have won, or they can play games designed for various skill levels and then see how much they have won. He advised that in April of this year 140 million Americans played games on their phones with 70% of those individuals being over 18. The majority played over 2 hours of games per day. In comparison, he noted that only 2.2 million people bet on horses last year. Mr. Avioli stated Game Play just started this aspect of the business this year, and are licensed in Oregon, California, Colorado, Montana, and Wyoming. He stated they have been approved in every state in which they have applied for a license. They have raised approximately \$20 million in seed capital. He stated that every dollar bet in their system goes into the pari-mutuel pools to the benefit of the racetrack hosting them. He indicated Game Play has had an agreement with PMR&C for over a year. Mr. Avioli stated he is involved to try and bring new money into the horse racing business, to attract people to bet on the pari-mutuel pools. He stated Game Play would be honored to receive a license from the Commission.

Chair Lamberti advised that Mr. Ohorilko had forwarded him the link to try the system, and that it is very different and unique. He asked how the wagers presented on the phone are selected – by computer or randomly? Mr. Avioli stated it is done by an algorithm. He stated the program does not handicap the horses unlike many sites. He stated the program is an overlay into the pari-mutuel pool. He stated that if an individual bet randomly over the whole pool they have a better chance of winning than picking a horse. Mr. Avioli stated they have a combination where a majority of the bets are win-place-show, then \$1.00 exacta and trifecta to give the individual a chance. The system picks the track based on the next track that has a race. He indicated there are agreements in place for 100,000 races throughout the United States, Canada, United Kingdom, France, South Africa, Japan, and Australia. The races are multi-grade and include thoroughbred, quarter horse and standardbred.

Mr. Ohorilko thanked Mr. Avioli for sending the information and demo as it was very helpful. He asked for clarification that the race selections were based on mathematics. Mr. Avioli answered in the affirmative. He asked if the patron has the ability to select their own wager in the game component or is it an easy pick. Mr. Avioli stated the patron has the right to look at the wagers and if they don't like them, they will be provided with another set, and they can continue doing that until they get a set of wagers they like. The patron does not have the ability to pick an

individual one as it would throw the math out the window. He noted there is a sister site powered by Am Tote which allows them to pick their own bets and is similar to TVG or Express Bets. By choosing to go that route, it removes the patron from the game mode and into traditional ADW.

Mr. Ohorilko asked if there is any aspect of skill connected to the game component of the system; he asked if the results would be the same no matter how the patron performs on the game. Mr. Avioli stated the patron's winnings are completely based on the outcome of the horse races. He advised that if the patron plays the games well, they could receive extra points, virtual enhancements, an extra round, etc.

Chair Lamberti asked if the system was up and running at this time. Mr. Avioli answered in the affirmative, noting they have been testing the system for approximately six months and started accepting live customers on a limited basis in California and southern Oregon at the end of the first quarter. They currently have 1,000 account holders who have placed approximately \$100,000 in wagers, and hope to expand that in the next few weeks.

Mr. Avioli stated he was surprised by how low the ADW handle is in Iowa. He advised that comparable-sized racing states have approximately \$80-\$90 million per year in ADW, while Iowa will see approximately \$2 million this year. He indicated there is a great opportunity for growth and feels Game Play's system is a good way to fuel the growth.

As there was no Public Comment, Chair Lamberti moved to Administrative Business. He noted the Commission heard the Petition for Declaratory Order filed by Eugene Kopecky at the June Commission meeting. The Commission directed legal counsel to draft a proposed order, which has been distributed for review. Hearing no comments or questions concerning the proposed order, he requested a motion. Commissioner Mertz moved to approve the Declaratory Order as presented. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti moved to the election of the Chair and Vice Chair for Fiscal Year 2016. Commissioner Mertz moved that Mr. Lamberti and Mr. Heinrich remain as Chair and Vice Chair respectively for Fiscal Year 2016. Commissioner Arnold seconded the motion, which carried unanimously.

Hearing no further business to come before the Commission, Chair Lamberti requested a motion to adjourn. Commissioner Kramer so moved. Commissioner Mertz seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

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JULIE D. HERRICK

**PUBLIC COMMENT HEARING  
ON  
GREYHOUND CESSATION FUND  
PROPOSED RULES  
MINUTES  
JULY 29, 2015**

The Iowa Racing and Gaming Commission (IRGC) met on Wednesday, July 29, 2015 at The Meadows Events Center, Prairie Meadows Racetrack & Casino, Altoona, IA. Commission members present were Jeff Lamberti, Chair; Carl Heinrich, Vice Chair, and members Richard Arnold and Kristine Kramer. Commissioner Dolores Mertz was absent.

Chair Lamberti called the meeting to order at 8:30 AM and requested a motion to approve the agenda. Commissioner Heinrich moved to approve the agenda. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti stated the purpose of the meeting is to receive public comment on the proposed rules with respect to the greyhound cessation fund. He noted legislation was passed last year in which the Commission was directed to determine some elements of how the fund is to be distributed consistent with the legislation. The Commission did retain the services of a consultant to assist them and make some recommendations. Based on those recommendations and the legislation, the Commission has distributed proposed rules. Chair Lamberti noted the Commission has received some comments, and the purpose of this meeting to take further public comment on the proposed rules. He advised individuals should go to the podium when their name is called if they wish to speak. He called on Brian Ohorilko, Administrator of IRGC, for some general comments.

Mr. Ohorilko stated any previously received comments have been disseminated to the Commission members. He addressed the following points and questions from those comments. With regard to 7.15(3), the Commission received some comments about giving consideration to doing away with the application process for the breeders and owners distributions, specifically where the applicant would supply documentation to the Commission, and instead of doing that, utilizing information received directly from Bluffs Run, Mystique and the Department of Agriculture. He stated the Commission would be interested in hearing further comments on possibly modifying this rule.

Within the same rule, Mr. Ohorilko addressed the issue of points being awarded for individual greyhounds registered. He stated the intent of that particular rule is to award points for greyhounds that are whelped and raised for the first six months when they are recorded and registered with the Department of Agriculture. He noted there may be other times that a dog could be registered with the Department of Agriculture, but it is at that point in time the Commission is looking for in order to award the points. He indicated the rule would be clarified prior to final adoption of the rules.

Chair Lamberti asked Mr. Ohorilko to provide those in attendance with the process following this meeting. Mr. Ohorilko stated the Commission members and staff will take into consideration the comments received. If there are any modifications made, those will come back before the Commission at a subsequent meeting, most likely in August; however, if there are material changes, it could be later than that. He stated the rules will need to come back before the Commission for final adoption. He advised that would be the last step, but noted they could go back before the Administrative Rules Review Committee.

Chair Lamberti moved to the public comment section of the meeting. He advised the Commission would not be terribly strict on the time, assuming individuals do not abuse the privilege.

Mr. Ohorilko called on Dean Miner, who indicated he was present representing his partner, John Filipelli and their company, Filipelli and Miner Racing, LLC. Mr. Miner noted that in preparing their comments, they had discussions with American Greyhound Track Operators Association members, commission members from other states, and approximately ten lawyers from several states to make sure their comments were accurate. Mr. Miner noted today's meeting was for discussion of the Spectrum Gaming rules, but requested latitude to discuss other issues tying into those rules and the amount of money involved.

Mr. Miner commenced his comments by addressing the individuals and process leading up to the drafting and passage of the legislation dealing with the cessation of greyhound racing at Bluffs Run Greyhound Park in Council Bluffs and Mystique Casino in Dubuque; and the granting of a license to the Iowa Greyhound Association to conduct racing at the Iowa Greyhound Park in Dubuque. He also commented on the Iowa Greyhound Association and its executive board; and the Commission's decision regarding the escrow fund established in Council Bluffs.

Chair Lamberti advised the Commission is aware there is a lot of emotion regarding past actions on how the legislation came to be and the Commission's decision regarding the escrow fund, but that is not the purpose of this meeting. He stated the Commission is not going to listen to comments rehashing previous decisions. Chair Lamberti pointed out the Commission did not pass the legislation; they are implementing it. He noted the Commission's decision regarding the escrow fund is final. The Commission is here to receive comments regarding the proposed rules regarding the cessation fund. He stated that while the Commission is aware of the emotion regarding those issues, this is not the proper forum.

Mr. Miner stated that his comments tie in to his comments regarding the rules. Chair Lamberti stated he needed to get to his comments on the rules.

Jeana Wilhite asked if there was \$36 million going to Dubuque that was not tied to the legislation; that it was up to the Commission to decide whether or not they receive the funds.

Chair Lamberti stated her comment was not entirely correct; the legislation states that one-half of the money goes for the operation of the track in Dubuque provided they continue to operate it. If

the track ceases operations, any money left over goes back into the cessation fund. He stated what the Commission is dealing with at this meeting, and what the rules are addressing, is the legislation, which directed the Commission to determine how to disburse the \$36 million in the cessation fund. He reiterated that the Commission was not involved in the legislation.

Mr. Miner asked how speakers were to address how to disburse the \$36 million without discussing how that point was arrived at.

Chair Lamberti stated that as far as the Commission is concerned, those issues are not relevant to the decision making process. He noted that it is relevant to his position with respect to the Iowa Greyhound Association, but the legislation has been passed, signed into law by the Governor, and the Commission has been directed to implement a process for disbursing the funds.

Mr. Miner stated it appears the Commission is using, as did Spectrum Gaming, the suggestion of 1099s from 2010-2014. Chair Lamberti stated that is on point to the rules, and it is clear he does not agree with the proposed rule. He stated the Commission is willing to hear any suggestions he may have regarding the disbursement of the funds.

Mr. Miner stated he was at a loss as to how to make a point that the Commission is considering something that was clearly drafted by individuals who may have had a vested interest in steering the Commission to disburse the fund in a manner so that a specific individual and his inner circle would like to have the funds disbursed. He stated that he would like to illustrate how the industry reached this point. Mr. Miner stated his belief that the individuals who will receive the bulk of the money had the legislation drafted on their behalf and believes he can illustrate that and feels that should be taken into consideration by the Commission with regard to the drafted rules. He stated that if the individuals were able to put a suggestion into the legislation, and it appears the Commission has great latitude in drafting the rules; then he feels some credence must be given to who benefits the most and who crafted the words. Mr. Miner stated he wanted the leeway to show a pattern of misrepresentation that shows the individuals who made the suggestion are the people who are looking to take more than the lion's share of the \$100 million and have a personal interest in it. He stated he is troubled by the fact the Commission only wants to hear his comments regarding the \$36 million. He noted there are only nine speakers and feels he can wrap up his comments in another fifteen minutes. Mr. Miner stated he understood the Commission's position. He stated the issue is not about \$36 million, but a handful of people enriching themselves egregiously and continuously misrepresenting facts to the Commission. He believes those issues should be taken into account. Mr. Miner stated that he wanted to touch on a couple of issues that did not fit into the framework and hoped the Commission would allow him to cover those topics.

Mr. Miner then referenced comments made at the November Commission meeting by representatives of the Iowa Greyhound Association regarding kennel bookings and how those would be handled. He also touched on the financing for the operation of the Iowa Greyhound Park by the Iowa Greyhound Association.

Commissioner Heinrich asked Mr. Miner if he was saying the amount shown on the 1099 would have an impact on their distribution.

Mr. Miner stated the legislation contains a suggestion that 1099s from 2010-2014 be used, and the Commission feels that is a guideline, and Spectrum included it in their report. He stated the manner in which the legislation was crafted enriches specific individuals in the Iowa Greyhound Association.

Commissioner Heinrich asked if Mr. Miner was saying the amount of money these individuals received, which affects their 1099s, will affect their distributions from the cessation fund. Mr. Miner indicated that was correct. Commissioner Heinrich asked for Mr. Miner's suggestion to correct this issue.

Mr. Miner stated he had submitted his own proposal, and several of his suggestions were considered in the Spectrum report.

Commissioner Heinrich stated he concurred with Chair Lamberti; the Commission did not have anything to do with the drafting of the legislation. He stated he wanted to know how that impacts the rules, and requested that he get to that portion of his comments.

Mr. Miner stated that when he and his partner put their proposal together, they attended two of the three Spectrum conferences. He stated the Iowa Greyhound Association offered no suggestions or proposals, and had indicated they would not due to a conflict of interest. He indicated the Spectrum report contained information received from two board members, which he called a conflict of interest on the part of Spectrum. Mr. Miner stated their proposal was posted on several websites, and was provided to the Commission and various media outlets and was very transparent; he did not think the Iowa Greyhound Association was very transparent in their actions. Mr. Miner stated he sent an e-mail to Spectrum inquiring about any other greyhound farms they might have visited in seeking information for their report.

Bob Hardison stated his purpose in attending the meeting was to object to any lies that were told. He stated Spectrum representatives never came to his farm; they met with many people at the racetracks and around the state in an effort to collect information for their report.

Chair Lamberti thanked him for his comments. He stated the Commission was not going to listen to any more accusations against people; that this was not the correct forum. He stated if individuals have suggestions regarding the rules; that is what this meeting is for. If comments are not related to the purpose of the meeting, the individual will not be allowed to continue with their comments. Chair Lamberti stated this is not a forum to make accusations against other people; there are other avenues available to them to pursue if that is their desire.

Mr. Miner requested the Commission consider a \$1 million cap on any person, family or entity receiving money from the fund, thus providing an opportunity to increase everyone's share. He requested that the Iowa Greyhound Association step forward and support the cap. He stated he

would find it interesting if an individual was not able to close down their greyhound business/operation and find a new career path with \$1 million. Mr. Miner stated individuals should not be allowed to double-dip in the cessation fund; if someone is continuing their career in the industry and continuing to receive benefits from the \$36 million set aside for racing, then those individuals should not be allowed to collect funds from the \$36 million retirement fund.

Mr. Ohorilko called on Jeff Wilhite. Mr. Wilhite stated it was not Governor Branstad's intention to make 8-10 kennel owners wealthy; but to get money to individuals interested in growing the horse and dog breeding programs. He stated some were interested in giving 80% of the money to the top 8-10 kennels in Iowa; they have forgotten there is a greyhound industry, not just 8-10 people. Mr. Wilhite stated the top kennels have already received 80% of the purse money in the last five years, and now have received another \$36 million to run for at Dubuque. He indicated those individuals and Spectrum believe they deserve 80% of the last \$36 million. Mr. Wilhite stated he feels the money should be split between the breeders, kennel owners and employees, and the adoption programs in the following manner: 96% - breeders and kennel owners; 3% to employees and 1% to the adoption programs. Everyone gets paid the same amount. He noted that many of the top kennels were not around when the points were paying very little in 1989-1991. Mr. Wilhite reiterated his opinion that the money should be split evenly. He called the current proposal for splitting the money wrong.

Mr. Wilhite moved to the topic of a soft landing, noting that many in the industry will not have a soft landing. He expressed his belief that only the top kennels will have a soft landing. He expressed his hope that the Commission will see the current proposal is wrong. He indicated most in the industry thought they would be splitting \$72 million instead of \$36 million, but that amount should be enough for everyone. He requested that the Commission look at things fairly and not be swayed by the Spectrum report. He stated the industry does not need Spectrum to tell them how to spend the remaining \$36 million.

Mr. Ohorilko called on Jeana Wilhite. Ms. Wilhite stated her husband was the first person at Bluffs Run Greyhound Park, and had a kennel there until 2012. She noted that a few people could get rich, while they no longer have the ability to work. They had intended to breed and raise dogs to make a living but that possibility is now gone. She stated that it will not take \$5,000 to move a kennel out of the track; it will take two tanks of gas as the crates belong to the racetrack. All the kennel owner needs to remove is any medications, grooming supplies, etc. She does not believe that it is necessary to provide funds for removing a kennel from the track. She requested the Commission consider her husband's proposal as it would give everyone plenty of money.

Mr. Ohorilko called on George Darnell. Mr. Darnell, owner of Sunshine Veterinary Clinic, addressed draft rule 7.15(2)f – one time payments for industry participants. He stated the arbitrary cap of \$29,250 does not appear to have any direct relevance to the actual hardship involved. He indicated he has been a practicing veterinarian at Bluffs Run since it opened in 1986; and has been licensed by the Commission for the last 29 years. Mr. Darnell stated that since the track opened he has invested in a rural veterinary clinic, specialized orthopedic

equipment, and attended numerous greyhound seminars in order to more effectively treat the racing greyhound at Bluffs Run. He stated 95% of his current practice is working on the greyhounds at Bluffs Run, and he will be forced to retire when the track closes. Mr. Darnell stated his income from Bluffs Run has averaged \$74,250 for the last six years, but was considerably higher when times were better. Mr. Darnell stated he does not feel the one-time payment of \$29,250 is equitable considering his investment and 29-year commitment to the Bluffs Run greyhounds.

Mr. Ohorilko called on Rick Bartley. Mr. Bartley asked if there is any possibility of scrapping the Spectrum report and starting over. Chair Lamberti stated the rules being discussed are proposed rules; he indicated there is a possibility of no modifications to them to significant modifications. He stated the meeting today is to provide an opportunity for the Commission to receive comments from interested parties. The Commission will take the comments under consideration before coming up with the final rules.

Mr. Bartley stated he was happy to see the Spectrum report included compensation for the trainers and assistant trainers, noting he had made the suggestion at the Spectrum meeting in Council Bluffs. He advised that he has promised his help one month's severance pay if they stayed until the end - \$8,000 for trainers and \$4,000 for assistant trainers. Mr. Bartley stated that if the Commission tweaked how the funds are disbursed they should not change that one.

Mr. Bartley stated the rules do not address the issue of the contract farms. He stated he came to Iowa in 2000, and there were 3-4 Iowa residents that had racing kennels, which he characterized as another aspect of the greyhound industry. He indicated it is an area that takes time to grow into and understand; and that many Iowa breeders needed out-of-state contracts to come into the racetrack and operate the kennel. Mr. Bartley stated his kennel was 50/50 or a little heavier on the Iowa-bred side. He stated he has a big farm in Abilene, Kansas with approximately 300 head, down from 7,000. He noted he has spent a significant amount of money in Iowa over the last 15 years for help, veterinarian care, food, etc. Mr. Bartley stated the owner raises the dog until it is old enough to be on the track - 16 months at Bluffs Run, at which time the contract operator takes over paying the bills. He stated he used to figure \$3,500 per dog per week, but thinks it is closer to \$4,500. Mr. Bartley stated he owns the majority of his dogs, but does lease some. He stated there should be a lump sum payment for the contract farm operators.

With regard to the figure of \$1,700 for adoption fees per greyhound, Mr. Bartley indicated the amount is too high. He stated he spoke to a couple of different individuals who work with reputable adoption agencies, and could provide the Commission with contact information. He also advised the National Greyhound Association has a list of accredited adoption agencies.

Commissioner Heinrich asked what he recommended. Mr. Bartley stated the dogs could be moved. He asked if the adoption money was only for greyhounds that have been raced in Iowa. Mr. Ohorilko answered in the affirmative. He expressed his belief that he does not feel there will be that many dogs that will be placed for adoption.

Commissioner Heinrich asked Mr. Bartley if he felt \$200 was adequate to handle any adoption fees. Mr. Bartley stated he thought some could be done for \$50, depending on the agency, but no more than \$200.

Mr. Bartley questioned the cut-off date of October 2016 for submitting requests for reimbursement; he thought January 1<sup>st</sup> would be enough time. He stated the Dubuque dogs would have already been moved out-of-state by December 18<sup>th</sup> and the compound shut down. Transporting the dogs to another track is just part of the process, and he expects to pay those expenses as part of his operation. He stated the Commission should consider giving the contract farm operators some kind of payment as they are the ones putting the money out. He feels he spends more on a leased Iowa greyhound than the owners did raising it.

Mr. Bartley stated he did not understand about the hardship payment Mr. Darnell was talking about or what it might be for. He indicated the \$29,250 would not even pay for food for one month on his farm; the weekly feed bill is \$7,000.

Mr. Bartley stated his biggest concerns with the Spectrum report is the dates, why nothing until late in 2016, and then April 2017. He stated his interpretation of the rules is that there is no payment until sometime in 2016, and asked if that was correct. Chair Lamberti indicated that was correct as the rules are currently drafted.

Mr. Bartley stated that a significant portion of his income will cease on December 19<sup>th</sup>, but his expenses will not. He requested the Commission find a way to speed up the process. He noted the Commission is going to charge expenses against the fund for administering the fund. He indicated time is of the essence.

Chair Lamberti indicated the dollar amounts shown for the adoption of greyhounds or removing equipment from the facility are the maximums; the Commission will be requiring documentation before writing checks to cover those expenditures.

Mr. Bartley again requested the Commission review the time frames set forth in the proposed rules. He reiterated his offer to provide names and phone numbers of individuals that deal with greyhound adoptions, although he does not believe there will be many greyhounds put up for adoption with the closing of Bluffs Run. Mr. Bartley stated the funds set aside for the trainers and assistant trainers is important, and requested that it not be removed from the proposed rules.

Mr. Ohorilko called on John Filipelli. Mr. Filipelli commenced his comments by noting there were two funds – one for second-chance racing and the other for a soft landing. The first was to allow people to go on and keep racing dogs; the other for people who have had enough and wanted to start new lives. Mr. Filipelli stated those individuals who have elected to continue racing should not be able to also receive funds from the soft-landing fund. He hopes the Commission will take that into consideration when making their final decisions. He is cognizant of the fact these individuals have invested a significant amount of money in the state raising and

racing dogs; however, like any other business, they were paid. He questioned why they should be paid again. The soft landing fund is for future losses, not past earnings.

Mr. Filipelli brought up the escrow fund, and how it was being paid out at Bluffs Run versus Dubuque. After a short discussion, Chair Lamberti reiterated his earlier statement that the escrow fund is not the topic of this meeting; the Commission's decision with respect to the escrow money has been made and is final. The Commission explained some of their reasons behind their decision at that time.

Mr. Ohorilko called on Gail Shook. Ms. Shook asked for clarification on 7.15(2)g – Live greyhound racing in Dubuque County, noting Chair Lamberti had indicated those funds would go into the cessation fund and be combined with the remaining \$36 million. Chair Lamberti clarified that would occur only if racing ceased at Dubuque prior to 2022. Ms. Shook then asked if the Commission's decision on how those funds would be paid out would be based on what is decided today. Chair Lamberti answered in the affirmative.

Ms. Shook indicated she did not have an issue with the trainers and assistant trainers receiving compensation, but requested that there be a process to insure those individuals have paid taxes, and that there are no liens or unpaid taxes due.

Chair Lamberti advised all payments would be disbursed through the State, and if there are any outstanding monies owed to the State or other items the State has jurisdiction over, those funds will be withheld. He feels it will be handled similar to how refunds from the Department of Revenue are handled with respect to judgments, liens, past due taxes, etc.

Ms. Shook asked if the Commission would be issuing 1099s on the payments. Mr. Ohorilko stated he believed the State would do so. Chair Lamberti advised the Commission is determining how the funds will be disbursed but will not be making the actual disbursements.

Ms. Shook noted payments are going to be based on 1099s. She stated the 1099s that the kennel owners and owners received included commissions paid on non-Iowa dogs. She expressed her opinion that the fund should only be paid out to Iowa-bred dogs and not out-of-state dogs. She also stated she believes the kennels should not be entitled to as much as the owner/breeder as they spend 16 months getting the dog ready to go to the track. She conceded the kennel owner does have expenses, and may not be compensated for two to three months, but after that, the booking is 50/50. In her opinion, the kennel owners have already been paid. She noted there are only 14 kennel owners at Bluffs Run; she has applied but has not been able to get in. She also stated she does not believe any out-of-state individuals should receive any payment from the fund. She stated racing was set up for Iowa residents, and believes that fact is often forgotten. Ms. Shook stated her belief this is an Iowa thing and the money should stay in Iowa.

Ms. Shook asked Mr. Ohorilko if he had received her e-mail. She advised her e-mail addresses several other issues.

Mr. Ohorilko called on Ron Mullen. Mr. Mullen advised he started as a contract kennel owner in 1975 for \$5,000; and switched to a farmer thirteen years ago, which cost him considerably more to start. He stated the 20/80% division is way off; a contract kennel owner can start a business with \$5,000, but a farmer can't. Mr. Mullen stated 70 greyhounds have already been adopted from Bluffs Run this year, but does not believe there will be a significant number put up for adoption when the track closes. With regard to the trainers and assistant trainers, he advised some kennels have two or three assistant trainers, and feels the Commission should address how many assistant trainers will get paid. He stated he would like to see the Commission tweak the numbers and keep a little more money in Iowa.

Mr. Ohorilko called on Mark Spahos. Mr. Spahos thanked everyone who took the time to attend the meeting. He indicated he respects everyone's perspective on this issue, but is here to be the voice for those that aren't in attendance because they are working in the kennels or don't have the means to attend the meeting. It is his intent to add clarity so that decisions made going forward benefit the majority, not the minority. He noted those individuals who have moved on and are racing at Dubuque are gaining revenue and continuing to breed dogs. For those that did not get a kennel at Dubuque, they have little recourse and are relying on the Commission to provide the soft landing. Mr. Spahos stated the points he wanted to make today were a \$1 million cap per individual, and no double dipping. He feels the \$1 million cap should be agreeable to everyone. He noted that some of the kennel operators that went to Dubuque also have other kennel bookings across the country. It was their decision to move on, and they should not be allowed to receive funds from the soft landing money. Mr. Spahos stated he believes the intent of the legislation, or the Commission, should be to do the most good for the most amount of people.

Mr. Ohorilko called on Jason Hess. Mr. Hess asked about the annual payments for the greyhounds raised, he asked if that was at the six month inspection when they are registered Iowa-breds or once they get to the racetrack and are papered.

Mr. Ohorilko stated the intent was at the six-month period when the dog is registered; that would be the point the Commission is looking for to award the 32 points. He stated the rule would be clarified.

Mr. Hess asked if there had been any consideration given to trainers at Dubuque getting compensation. He noted there are four fewer kennels this year so some trainers lost their jobs and some of the trainers from Bluffs Run could possibly go to Dubuque and take jobs away from individuals already working there. Chair Lamberti stated that issue had not been part of the discussion, and thanked Mr. Hess for raising the issue. He noted there is an opportunity for the Commission to give it some thought.

Mr. Ohorilko called on Bob Rider. Mr. Rider stated one of his biggest concerns was when a greyhound was considered an Iowa-bred. He stated the paperwork required for the Department of Agriculture states the individual has to be a 2-year resident, have the dogs in your possession for the first six months of their life, the greyhound has to be inspected prior to the female having

the pups and right after the pups are delivered, and again when they are tattooed at six months. Mr. Rider stated he had brought some of the necessary paperwork for the Department of Agriculture to show the Commission if they are interested.

Mr. Rider stated the kennels at Bluffs Run and Dubuque are good kennels. He advised that he did not have any dogs racing in Iowa at this time because he was concerned about a conflict of interest if he was involved in deciding which kennels got booked at Dubuque. He wonders what will happen next year if the kennel bookings in Dubuque are wide open. He also expressed his opinion that the amount of money set forth for the adoptions was too high, but agrees with the fact that receipts will be required before payment is made. Mr. Rider also felt that was a good process for the kennel owners, noting the kennels owners in Dubuque move in and out every year because it is a six-month meet, and that they don't spend \$5,000 doing so. He stated one of his concerns is the fact that the Dubuque kennels aren't going to receive anything.

Mr. Rider asked how to go about getting the miscellaneous 1099s on the dogs; he asked if the racetracks would be providing the copies. He noted his original copies have been provided to whoever prepared his taxes. Mr. Ohorilko advised Mr. Rider the Commission has considered, and was looking for further comment, on doing away with the application process for past performance distributions and using information supplied by Bluffs Run, Mystique and the Iowa Department of Agriculture. Mr. Rider indicated the Department of Agriculture should pretty much have all of the information on the Iowa-bred dogs, but then recalled they would only have the information for the first year.

Mr. Bartley requested additional time. He noted that Bluffs Run was one of the safer tracks in the United States; however, due to some staff changes and inexperienced staff dragging the track, he expects injuries will start to occur. Mr. Bartley stated the Commission needs to insure the track surface is safe to prevent injury to the dogs. He stated Harrah's has no incentive to take care of the track or the dogs between now and December 18<sup>th</sup>.

Mr. Ohorilko advised track safety and the welfare of the dogs are paramount. He advised he would have Commission staff at the facility meet with management to address the issue. He stated there are procedures the Commission can put in place to insure the safety of the dogs.

Chair Lamberti noted the greyhound cessation fund law provides that if Caesar's fails to make the necessary payments into the fund, they will be required to conduct racing.

Chair Lamberti requested a motion to adjourn the meeting. Commissioner Heinrich so moved. Commissioner Arnold seconded the motion, which carried unanimously.

Chair Lamberti thanked everyone for their input, stating that it has been very helpful. He assured everyone that all of decisions have not been made, and all input will be taken into consideration.

MINUTES TAKEN BY:

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JULIE D. HERRICK

**IOWA RACING & GAMING COMMISSION  
MINUTES  
AUGUST 20, 2015**

The Iowa Racing & Gaming Commission met on Thursday, August 20, 2015 at Riverside Casino and Golf Resort (RCGR), Riverside Iowa. Commission members present were: Jeff Lamberti, Chair; Carl Heinrich, Vice Chair; and Richard Arnold, Kris Kramer and Dolores Mertz.

Chair Lamberti called the meeting to order at 8:30 AM, and moved to the approval of the agenda. He noted Agenda Item 8(2)t was being withdrawn by Prairie Meadows Racetrack & Casino (PMR&C). He also advised the Commission is deferring Agenda Item 5, the final adoption of the rules pertaining to the Greyhound Cessation Fund. Chair Lamberti stated this is new territory for the Commission; the Commission made changes to the proposed rules following a Public Hearing to receive public comment. He noted the Commission continues to receive comments and needs additional time to take those into consideration.

Chair Lamberti called for a motion to approve the agenda with the above changes. Commissioner Mertz moved to approve the agenda as amended. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti moved to the Welcome. Dan Franz, General Manager, welcomed the Commission to RCGR on behalf Elite Casino Resorts, Riverside Executive Management, Board of Directors and their employees. He thanked the Commission for providing them the opportunity to host the meeting. Mr. Franz stated the facility prides itself on becoming an entertainment destination in eastern Iowa. He noted the facility could not have become a reality without the commitment of the 365 Iowa-based investors and the Commission granting a license. He stated they have a great non-profit partner, Washington County Riverboat Foundation (WCRF), and look forward to continuing the relationship for many years. Mr. Franz introduced Mike Driscoll, President of WCRF.

Mr. Driscoll noted WCRF started distributing grants to non-profits in 2006, and has provided grants to hundreds of projects that have improved lives, communities and schools, not only in Washington County but throughout Southeast Iowa. Each summer, WCRF distributes mini-grants, which have a \$2,000 maximum grant for small non-profits. One such grant went to a church in Hills, IA to build a ramp at a family home who has a child confined to a wheelchair. Other recent distributions include \$750,000 to Halcyon House in Washington for a \$14 million dementia and Alzheimer health center. Mr. Driscoll stated their largest grant, \$2.5 million, went to the Washington County Community High School for a \$5 million auditorium. He noted that neither facility would have come to fruition without the support of RCGR and WCRF.

Chair Lamberti moved to the approval of the minutes from the July 9, 2015 Commission meeting and July 29, 2015 Public Hearing. Hearing no comments or changes, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the minutes from July 9, 2015 and July 29, 2015 as submitted. Commissioner Arnold seconded the motion, which carried unanimously.

Chair Lamberti called on Brian Ohorilko, Administrator of IRGC, for announcements. Mr. Ohorilko provided the following information regarding future Commission meetings:

- September 24, 2015 – Mystique Casino, Dubuque, IA (Submissions due by September 10, 2015)
- October 2015 – No Meeting
- November 19, 2015 – Prairie Meadows Racetrack & Casino, Altoona, IA (Submissions due by November 4, 2015)
- December 2015 – No Meeting
- January 14, 2016 – Prairie Meadows Racetrack & Casino, Altoona, IA (Submissions due by December 30, 2015)

He advised the Commission would be reviewing the license renewal applications for the pari-mutuel facilities at the September 24<sup>th</sup> Commission meeting.

Mr. Ohorilko recognized Scott Ditch, the Commission's Gaming Representative assigned to RCGR, and thanked him for his work on behalf of the Commission.

Chair Lamberti called on Caesar's Entertainment Corporation for an update on the bankruptcy proceedings. Lorraine May, legal counsel, advised the bankruptcy proceedings filed by Caesar's Entertainment Operating Company (Company) and related debtors is still pending in the Bankruptcy Court in Chicago. Operationally, the Company continues to have sufficient cash to meet ongoing obligations; and the bankruptcy proceedings have not interrupted the Company's operations. Ms. May stated the restructuring was intended to deleverage the Company's balance sheet and not impact day-to-day business.

Ms. May advised the Chapter 11 plan and related disclosure statement filed on March 2<sup>nd</sup> are still pending at this time as the Company pursues the reorganization and continues to build consensus among the stakeholders. On May 27<sup>th</sup>, the Bankruptcy Court entered an Order extending the Company's exclusive period to file a chapter 11 plan until November 15, 2015, and extended the Company's exclusive period to solicit acceptances of the plan until January 15, 2016. The Restructuring Support Agreement the Company entered into with certain senior creditors to right-size the balance sheet prior to commencing the bankruptcy case has been amended but reaffirms the support of a key creditor constituency. On July 20, 2015, the Company entered into a separate Restructuring Support Agreement with certain junior creditors, which is a significant step towards a consensual restructuring. The Company continues its discussions with other leading stakeholders. On July 22, 2015, the Bankruptcy Court denied the Company's action to stay certain related party litigation, including litigation against the parent company, Caesar's Entertainment Corp.) The Company has appealed the decision.

Hearing no comments or questions for Ms. May, Chair Lamberti moved to the review of the financial audit for Isle of Capri Bettendorf, L.C., Isle of Capri, Marquette, Inc. and IOC Black Hawk County, Inc. Sally Rogers, Senior Director of Finance for Bettendorf; Laurie Fisher, Director of Finance for Marquette, and Meagan Miller, Controller at Waterloo, were present to address the audit. Ms. Rogers stated combined investment in the Iowa properties was \$13

million during fiscal 2015. She noted the properties took advantage of some great pricing and placed \$3 million of new slot product on the gaming floors. Ms. Rogers stated this is the start of an exciting year for Bettendorf; they anticipate spending approximately \$4.9 million on the South Tower hotel renovation and the construction of the land-based facility. The combined investment of the two projects is estimated to be approximately \$68 million. Ms. Rogers stated the compiled audit was clean.

Chair Lamberti advised the Commission had taken note of the investment at the three Iowa properties, and were glad to see that.

Chair Lamberti moved to contract approvals, and called on HGI-Lakeside, LLC d/b/a Lakeside Hotel Casino (Lakeside). Bob Thursby, General Manager, presented a contract with Imagine This for promotional items.

Hearing no comments or questions regarding the contract, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contract as submitted by Lakeside. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Dubuque Racing Association Ltd. d/b/a Mystique Casino (Mystique). Dustin Manternach, Chief Financial Officer, presented the following contracts for Commission approval:

- Aruze Gaming Corp. – Annual Slot Machine Leases and Purchases
- Lincoln Financial Group c/o Friedman Insurance – Employee Life, AD&D and STD Insurance Management Group

Hearing no comments or questions regarding the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by Mystique. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Ameristar Casino Council Bluffs, Inc. d/b/a Ameristar Casino Council Bluffs (Ameristar). Misty Wilburn, Director of Compliance, presented the following contracts for Commission approval:

- Sanders Hyland Corp. – Vessel Rubberized Decking Replacement
- WM of Iowa, Inc. – Removal of Waste and Recycling
- Interline Brands – Cleaning Supplies
- Scavuzzo's Inc. Beef and Pork Provider
- DB Construction – Construction Projects

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Arnold moved to approve the contracts as submitted by Ameristar. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Isle of Capri Bettendorf, L.C. d/b/a Isle of Capri Bettendorf (IOCB). Nancy Ballenger, General Manager, presented a contract with MicAid Texas, LLC d/b/a M Partners as an advertising agency.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contract as submitted by IOCB. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Isle of Capri, Marquette, Inc. d/b/a Lady Luck Casino Marquette (LLCM). Don Ostert, General Manager, presented a contract with MicAid Texas, LLC d/b/a M Partners as an advertising agency.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contract as submitted by LLCM. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on IOC Black Hawk County, Inc. d/b/a Isle Casino Hotel Waterloo (Isle Waterloo). Bari Richter, General Manager, presented the following contracts for Commission approval:

- Wilson Restaurant Supply – Restaurant Supplies – Equipment Repair
- Nagle Signs, Inc. – Signage Vendor
- Stich, Inc. d/b/a D & W Floor Covering – Carpet Vendor and Installer
- MicAid Texas, LLC d/b/a M Partners – Advertising Agency

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by Isle Waterloo. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Rhythm City Casino, LLC d/b/a Rhythm City Casino. Joe Massa, Chief Operating Officer of Elite Casino Resorts, LLC, presented the following contracts for Commission approval:

- Builders Sales & Service Company – Construction – Framing, Drywall, Insulation Event Center and Exterior Framing
- CJ Moyna & Sons Construction – Construction – Grading
- Dodd Construction – Construction – Finish Carpentry
- Dodd Construction – Construction – LGM Framing, DW, Casino/Back of House
- East Moline Glass Company – Construction – Glass/Glazing
- Evergreen Landscaping Associates – Construction – Unit Paver – Porte Cochère
- Evergreen Landscaping Associates – Construction – Irrigation
- Estes Construction Company – Construction – Finish Carpentry
- Kone Elevators – Construction – Elevators
- Marsh USA, Inc. – Property and Liability Insurance/Bond Premiums

- Renaissance Granite & Quartz – Construction – Toilet Compartments
- Renaissance Granite & Quartz – Construction – Quartz Countertops
- Glenn Rieder, Inc. – Construction – Casework
- Riverside Casino & Golf Resort, LLC – Support Services (RP)
- UMR/United Healthcare Company – Medical and Flexible Spending Plan

Mr. Massa advised all of the contracts are related to the construction of the land-based facility in Davenport.

Chair Lamberti asked how the construction project was progressing. Mr. Massa stated that with the approval of the above contracts approximately 98% of the construction contracts have been awarded. He noted there have been some rain issues, but feels those are being caught up. He distributed pictures of the construction site as of August 19<sup>th</sup>. Mr. Masa stated four floors of the hotel have been poured; the parking lot and hotel structure are planned for the 23<sup>rd</sup> of September, and steel for the casino portion is starting to come out of the ground.

Commissioner Mertz asked about a completion date. Mr. Massa stated they are hoping to be open by Memorial Day 2016.

Hearing no further comments or questions for Mr. Massa, Chair Lamberti requested a motion. Commissioner Arnold moved to approve the contracts as submitted by Rhythm City. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on RCGR. Dan Franz, General Manager, presented the following contracts for Commission approval:

- Fuerste, Carew, Juergens & Sudmeier, P.C. – Professional Services
- Kluesner Construction, Inc. – Asphalt Overlay and Repair of Driveway
- Lane & Waterman, LLP – Professional Services

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by RCGR. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Grand Falls Casino & Golf Resort, LLC d/b/a Grand Falls Casino & Golf Resort (GFCGR). Sharon Haselhoff, General Manager, presented the following contracts for Commission approval:

- Bally Technologies – Gaming Leases and Equipment
- Sun Life Assurance Company – Insurance Premiums

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by GFCGR. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Diamond Jo, LLC d/b/a Diamond Jo Casino (DJ). Wendy Runde, General Manager, presented a contract with Cummins-Allison Corp. for the purchase of a Jet Scan MPS Model 4115 for the count room.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contract as submitted by DJ. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Diamond Jo Worth, LLC d/b/a Diamond Jo Worth (DJW). Kim Pang, General Manager, presented the following contracts for Commission approval:

- Cummins-Allison Corp. – Purchase New Equipment for Cage and Soft Count; Annual Service Contracts to Maintain Equipment
- Heartland Power Coop – Electrical Service for Casino
- Loffredo Fresh Produce – Purchase Produce and Other Food Items for Casino Restaurants
- USA Security, Inc. – Maintenance Contracts, Software and Hardware Upgrades for Surveillance Equipment

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by DJW. Commissioner Kramer seconded the motion, which carried unanimously.

Mr. Pang noted the Commission approved several vendors at the July 9<sup>th</sup> Commission meeting for the conversion of the facility from propane to natural gas. He advised that Young Plumbing and Heating had been selected as the contractor, and Goodwin Tucker as the sub-contractor. He indicated the project will hopefully be completed in October.

Chair Lamberti called on SCE Partners, LLC d/b/a Hard Rock Hotel & Casino Sioux City (HRHCSC). Dan Welch, Table Games Supervisor, presented the following contracts for Commission approval:

- The Agency Group – Talent Agent
- Buzz Creative Group, LLC – Marketing Agency (RP)
- Jones Family Farms, LLC d/b/a Clausen's Nursery – Property Maintenance

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by HRHCSC. Commissioner Arnold seconded the motion, which carried unanimously.

Chair Lamberti called on Prairie Meadows Racetrack & Casino, Inc. d/b/a Prairie Meadows Racetrack & Casino (PMR&C). Gary Palmer and Derron Heldt, General Manager and Director of Racing respectively, were present to address the agenda items.

Mr. Heldt advised the recently completed thoroughbred meet was very good. He noted on track handle was down approximately 3%, or about \$192,000; but off track handle was up 19%, or approximately \$4.7 million. Field size was down slightly from last year – 7.3 versus 7.4. Mr. Heldt stated there were three catastrophic injuries out of 4,350 horses that started; the national average is about 1.9 horses per 1,000 starts. He noted PMR&C was well below the national average at .068. He stated the track surface was very safe for the thoroughbred horses and jockeys.

Mr. Heldt provided the following highlights from the Festival of Racing, which was held the last weekend of June. Several of the top owners, trainers and jockeys from around the country participated. The leading jockey in New York and the country, Javier Castellano, was here; as was the top leading trainer by wins, Karl Broberg. The second leading trainer by wins, Todd Fletcher, sent a horse from New York that won one of the major stakes races. Mr. Heldt noted that a local horse, Ghost Rocket, owned by Dream Walkin Farms, whose principal owner is Toby Keith, also ran during the Festival. Mr. Keith was at the Festival to watch the race and signed autographs.

Mr. Heldt stated the final weekend of racing is the Iowa Classic, which feature all Iowa-bred horses. There were seven stakes races that evening; Mr. Heldt stated the races were very competitive. Mr. Heldt stated the current 2-year old crop is the best he has seen over the last 15 years; there is good depth with three or four good horses in each division.

Mr. Heldt noted the transition between the thoroughbred meet and the quarter horse meet is tough, but they have worked hard over the last few years and have tweaked the process to help it go smoother. He noted they have had two days of quarter horse racing. There are approximately 550 horses on the backside, and they are expecting another 50-75 horses. There are currently 15 trainers, and additional trainers will arrive in the next ten days. Mr. Heldt stated the on and off track handle were both good on Saturday night; as was the attendance.

Hearing no questions for Mr. Heldt, Mr. Palmer presented the following contracts for Commission approval:

- Bally Gaming, Inc. (ShuffleMaster) – Gaming Equipment and Supplies
- Bankers Trust Company – Revolving Loan
- Bolton and Company – Jockey's Accident Insurance
- C & T Design – Food Service Equipment and Design Services
- Care Ambulance – Ambulance and Emergency Medical Services
- Delta Dental of Iowa – Employee Dental Insurance
- Doll Distributing – Beer and Other Products
- DRF Holding, LLC (Daily Racing Form) – Racing Form Publication
- Farner Bocken Company – Candy, Food, Tobacco and Other Supplies
- Global Payments – Casino Guest Check Cashing Services
- Global Payments – Casino Guest Credit Card Services
- Global Spectrum – Suite License and Advertising Agreements

- GTECH USA, LLC (Spielo) – Gaming Equipment and Supplies
- IGT – Gaming Equipment and Supplies
- Iowa Alcoholic Beverages – Purchase of Liquor Products
- McGladrey, LLP – GP Dynamics Accounting Software and Support
- Metro Waste Authority – Waste Disposal
- Nalco Company – Water Treatment Chemicals and Equipment
- Paycom Software – HR/Payroll System Software Agreements and Processing
- US Foods – Food, Equipment and Supplies
- Wellmark Blue Cross Blue Shield of Iowa – Employee Medical Insurance
- WMS Gaming – Gaming Equipment and Supplies

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by PMR&C. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti moved to Public Comment and called on Wes Ehrecke, President of the Iowa Gaming Association. Mr. Ehrecke distributed a document that shows how the gaming dollars received by the state are distributed. The document is shared with the legislators and media.

As there was no Administrative Business to come before the Commission, Chair Lamberti requested a motion to adjourn. Commissioner Mertz so moved. Commissioner Kramer seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

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JULIE D. HERRICK

**IOWA RACING AND GAMING COMMISSION  
MINUTES  
SEPTEMBER 24, 2015**

The Iowa Racing and Gaming Commission (IRGC) met on Thursday, September 24, 2015 at Mystique Casino, Dubuque, Iowa. Commission members present were Jeff Lamberti, Chair; Carl Heinrich, Vice Chair; and Richard Arnold, Kris Kramer and Dolores Mertz.

Chair Lamberti called the meeting to order at 8:30 AM and moved to the approval of the agenda. He advised that Item 8, the license renewal for Iowa West Racing Association d/b/a Horseshoe Casino-Bluffs Run Greyhound Park, was being deferred until the November Commission meeting. Commissioner Mertz moved to approve the agenda as amended. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti moved to the Welcome. Wendy Runde, General Manager of the Diamond Jo, welcomed everyone to Dubuque, and introduced Rusty Knight, Chair of the Dubuque Racing Association (DRA). Mr. Knight also welcomed the Commission to Mystique and Dubuque. He noted that during his time in Dubuque he has come to realize how valuable the gaming industry and the two casinos are to the community, not only to provide entertainment, but as an important economic engine for the community and region. Mr. Knight stated millions of dollars have been returned to the City of Dubuque and a large number of charitable organizations in Dubuque County, surrounding counties and extending into Illinois and Wisconsin.

Mr. Knight introduced Kevin Lynch, a City Council member and DRA member, who welcomed the Commission to Dubuque on behalf of the city. Mr. Lynch stated it is good to look back and see all the positive effects of the work that you do, and noted it is easy to see all of the positive effects of gaming in Dubuque. He stated gaming revenue has had a quiet but significant impact on the City of Dubuque.

Chair Lamberti thanked Dubuque for the hospitality, noting the Commission likes to get out to see the facilities and the impact they have on the communities.

Chair Lamberti moved to the approval of the minutes from the August 20, 2015 Commission meeting. Hearing no comments or changes, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the minutes as submitted. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to announcements, and called on Brian Ohorilko, Administrator for IRGC. Mr. Ohorilko provided the following information regarding future Commission meetings:

- October 2015 – No Meeting
- November 19, 2015 – Prairie Meadows Racetrack & Casino, Altoona, IA (Submissions due by November 4, 2015)
- December 2015 – No Meeting

- January 14, 2016 – Prairie Meadows Racetrack & Casino, Altoona, IA (Submissions due by December 30, 2015)
- February 2016 – No Meeting

Mr. Ohorilko introduced the following IRGC staff assigned to the Dubuque facilities: Licensing Assistant Cathy Dillon; and Gaming Representatives Joe Gau and Tracy Potter – Mystique Casino. He thanked them for their work on behalf of the Commission.

Chair Lamberti moved to the Greyhound Cessation Fund rules, which are before the Commission for final adopt. He noted this has been a unique situation for the Commission to deal with following the passage of legislation last year to cease greyhound racing. Chair Lamberti noted the Commission hired a consultant to assist with the process, and held public hearings. They feel they have tried to do the best job they can. The rules before the Commission are the proposed final rules related to the greyhound cessation fund. He requested a motion to approve the final adoption of the rules.

Commissioner Mertz moved to approve the rules before the Commission for final adoption. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti moved to the next agenda item, Game Play Network, Inc. and their application for an Advanced Deposit Wagering (ADW) License. He called on Mr. Ohorilko for an update on the process. Mr. Ohorilko stated Game Play offers ADW and applied for a license in April of this year. There is only one other ADW company licensed in Iowa. He advised that Game Play has entered into an agreement with the Iowa Horsemen's Benevolent and Protective Association (IHBPA), and Prairie Meadows that establishes the profit-sharing for the product. He stated that a background has been completed and did not find any issues. Mr. Ohorilko advised the company gave a presentation at the July meeting. There are two components to the product: the traditional ADW platform and a game platform where outcomes are determined by pari-mutuel horse races. Mr. Ohorilko stated he ran the technology past legal counsel, who has provided an informal opinion.

Hearing no comments or questions for Mr. Ohorilko, Chair Lamberti requested a motion. Commissioner Arnold moved to approve the application for an advanced deposit wagering license submitted by Game Play Network, Inc. for the term of September 25, 2015 through December 31, 2016 conditioned upon any games offered by Game Play Network on the ADW platform be approved by Commission staff prior to implementing the game; and to approve the related ADW Operator Agreement between Game Play Network, Inc., Prairie Meadows Racetrack & Casino and the IHBPA. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti moved to the contract approval portion of the agenda and called on Isle of Capri Bettendorf, L.C. d/b/a Isle of Capri Bettendorf (IOCB). Nancy Ballenger, General Manager, presented a contract with Build to Suit as the building contractor for the administrative office remodel.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contract as submitted by IOCB. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti asked what the anticipated completion date is for the construction project. Ms. Ballenger stated they indicated 12-14 months when they made their presentation to the Commission. She advised everything is going well and is on track. She stated that as soon as she has a better idea, she would advise.

Chair Lamberti called on SCE Partners, LLC d/b/a Hard Rock Hotel & Casino Sioux City (Hard Rock). Dan Welch, Table Games Supervisor, presented a contract with Creative Artists Agency as a talent agent.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contract as submitted by Hard Rock. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Diamond Jo Worth, LLC d/b/a Diamond Jo Worth (DJW). Kim Pang, General Manager, presented a contract with King Food Service for seafood and other grocery items for the casino restaurants.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contract as submitted by DJW. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Wild Rose Clinton, L.L.C. d/b/a Wild Rose Clinton (WRC). Tom Timmons, Vice President of Operations for Wild Rose Entertainment, presented a contract with Empower Retirement for record keeping and website coordinator for Northwest, the 401K Plan administrator. He noted they approached their local bank, Norwest Bank, and advised they wanted to change the 401K provider. The bank is the one that chose Empower to be the administrator.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contract as submitted by WRC. Commissioner Arnold seconded the motion, which carried unanimously.

Chair Lamberti called on Wild Rose Emmetsburg, L.L.C. d/b/a Wild Rose Emmetsburg (WRE). Mr. Timmons presented the following contracts for Commission approval:

- Agilysys – Facility Point of Sale System
- Mail Services, LLC – Mail Service
- Roger Cox – Chairs for Casino Floor
- Empower Retirement – Record Keeping & Website Coordinator for Northwest, 401K Plan Administrator

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by WRE. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Wild Rose Jefferson, L.L.C. d/b/a Wild Rose Jefferson (WRJ). Mr. Timmons presented the following contracts for Commission approval:

- SteriSafe – Regulated Medical Waste Services
- Empower Retirement – Record Keeping & Website Coordinator for Northwest, 401K Plan Administrator

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by WRJ. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on HGI-Lakeside, LLC d/b/a Lakeside Hotel Casino (Lakeside). Bob Thursby, General Manager, presented the following contracts for Commission approval:

- Baker Electric – Run Wiring for New Aristocrat Upgrade
- DYNTEK – Servers and Hardware for Aristocrat Gaming System Upgrade

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by Lakeside. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Rhythm City Casino, LLC d/b/a Rhythm City Casino (RC). Mo Hyder, General Manager, presented the following contracts for Commission approval:

- Evergreen Landscaping Associates – Construction – Landscaping
- Prime Construction Services – Construction – Framing, Drywall, Insulation – Casino/BOH

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by RC. Commissioner Arnold seconded the motion, which carried unanimously.

Mr. Hyder advised the construction project is going well; they have poured the sixth level of the hotel and the steel structure and some of the other paving is nearing completion. He stated they plan to hold the topping of the hotel ceremony on October 6. If the weather holds, they anticipate opening around Memorial Day 2016.

Chair Lamberti called on Isle of Capri Marquette, Inc. d/b/a Lady Luck Casino (LLC). Don Ostert, General Manager, presented the following contracts for Commission approval:

- Casper Plumbing & Heating – Boiler Replacement

- Search Optics – Marketing and Advertising Agency

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Arnold moved to approve the contracts as submitted by LLC. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on the Iowa Greyhound Association regarding their renewal application for the pari-mutuel license. Brian Carpenter, General Manager and Director of Racing for the Iowa Greyhound Park, and Nick Mauro, legal counsel, were present to address any questions. For the 2016 race season, racing will commence on May 14<sup>th</sup> and conclude on October 22<sup>nd</sup>. Matinee performances will be on Saturday and Sunday at 1:00 PM; evening performances will be on Wednesday and Friday at 6:30 PM. Additional performances will be held on May 30, July 4 and September 5 with a 1:00 PM post time. The Iowa Greyhound Association requested the following simulcast schedule:

- January 1 – May 15, 2016 - Friday, Saturday and Sunday;
- May 18 – October 23, 2016 - Wednesday, Thursday, Friday, Saturday and Sunday;
- October 28 – December 31, 2016 – Friday, Saturday and Sunday
- Additional Simulcast Dates: May 30<sup>th</sup>; July 4<sup>th</sup>; and September 5<sup>th</sup>.
- No simulcasting will occur on March 26<sup>th</sup>; December 24<sup>th</sup>; and December 25<sup>th</sup>.

Chair Lamberti thanked Mr. Carpenter for the tour of the Iowa Greyhound Park facility on Wednesday afternoon, noting it was very helpful to the Commissioners.

Hearing no comments or questions concerning the license renewal application, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the renewal of the pari-mutuel racing license, including dates, for the Iowa Greyhound Association contingent upon the following conditions:

- The import and export contracts should continue to have the review and approval by staff to insure regulatory compliance.
- Continuous review of racetrack maintenance issues and monitoring of injuries in cooperation with IRGC representatives.

Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Prairie Meadows Racetrack & Casino, Inc. d/b/a Prairie Meadows Racetrack & Casino (PMR&C). Gary Palmer and Derron Heldt, General Manager and Director of Racing respectively, were present to address any questions with regard to the license renewal application. PMR&C requested the following:

- Thoroughbred Meet – April 28 – August 13, 2016; Evening performances on Wednesday, Thursday and Friday at 5:30 PM; Matinee performances on Saturday and Sunday at 1:00 PM; Holiday performances were requested for May 30 and July 4 with 1:00 PM post times. They requested year-round simulcasting.

- Quarter Horse Meet – August 20 – October 15, 2016; Evening performances on Thursday and Friday at 5:30 PM; Matinee performances on Saturday and Sunday at 1:00 PM; No additional performances were requested. Year-round simulcasting was requested.

Mr. Palmer presented the following contracts for Commission approval:

- Adventureland – Ticket Sales and Lodging Expenses
- American Teletimer Corp. – Conversion of Television Department to High Definition Capability
- Competitive Edge – Promotional and Advertising Items
- Perficut Lawn and Landscape, Inc. – Lawn Care Services
- Summit Fire Protection Company – Fire Protection System Contractor

Chair Lamberti called on Jon Moss, Executive Director of the IHBPA, who advised the Commission the horsemen's groups had reached an agreement with PMR&C. He stated that moving up the license renewal to this meeting forced the groups to realize they could complete the process while everyone was present for the live race meet. The individuals were able to talk more frequently and work through issues. Mr. Moss indicated working on the agreement during the meet was more work for them, but the agreement provides more stability for the racing industry going forward. It will allow them to start planning further out.

Chair Lamberti expressed the Commission's appreciation for everyone's hard work in reaching an agreement. Hearing no further comments or questions, Chair Lamberti requested a motion regarding the license renewal application. Commissioner Kramer moved to approve the renewal of the pari-mutuel racing license with 67 race days scheduled for thoroughbreds and 26 race days scheduled for quarter horses, the racetrack enclosure license to conduct gambling games for PMR&C, and the additional contracts contingent upon the following conditions:

- The import and export contracts should continue to have the review and approval by staff to insure regulatory compliance;
- All marketing promotions that may affect live racing, particularly the racing schedule and post times, shall have prior approval from IRGC; and
- Ongoing updates to staff on track surface safety measures and improvements.

Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to the hearing for Riverside Casino & Golf Resort, LLC d/b/a Riverside Casino & Golf Resort (RCGR) for a violation of Iowa Code §99F.9(5), relating to underage gambling. He called on Mr. Ohorilko, who advised Commission staff and RCGR had entered into a Stipulated Agreement. Mr. Ohorilko stated an 18-year old female approached the turnstile with her parents on July 26, 2015, and was allowed to enter the gaming floor unchallenged. The minor was on the floor for 35 minutes and gambled at eight different machines. Mr. Ohorilko noted two Riverside employees suspected the individual was underage and did remove her from the floor. He stated RCGR self-reported the incident; however, the three criteria which trigger a

Commission referral were met. Mr. Ohorilko stated RCGR acknowledges the facts as set forth in the Stipulation and agreed to a \$20,000 administrative penalty.

Dan Franz, General Manager of RCGR, expressed regret that the situation occurred, stating the facility takes underage gambling very seriously. He advised there were discussions with the security department about the importance of being aware and following policies. Mr. Franz stated the facility has taken a couple of steps to insure this particular instance will not occur in the future: 1) The security officer has been transferred to the EVS Department, and 2) the parents involved in this situation have been permanently banned from the facility.

Chair Lamberti noted the parent's involvement does present a unique set of circumstances, and stated he was happy to hear the facility has banned them. As there were no comments or questions concerning the stipulated agreement, Chair Lamberti moved to approve the proposed Stipulated Agreement with an administrative penalty of \$20,000. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti moved to Public Comment and called on Mr. Moss. Mr. Moss stated he wanted to discuss H.R. 3084, "The Thoroughbred Horseracing Integrity Act of 2015", that is currently before the U.S. House of Representatives. He provided some background information regarding the IHBPA and the National HBPA. Mr. Moss stated the National HBPA is focused on a two-fold common goal: 1) safe and fair horse racing at all levels; and 2) an unwavering commitment to the health and well-being of race horses.

Mr. Moss stated the IHBPA and National HBPA believe the use of performance enhancing drugs has no place in horse racing; and those who have been found to have cheated, following a fair hearing, by administering drugs that have no therapeutic use in horse racing should be expelled from horse racing. He advised the National HBPA draws a clear distinction between illegal doping and lawful therapeutic medication that has long been used in horse racing by licensed veterinarians to maintain the health of race horses and to treat injuries when they occur. Furosemide, or Lasix, is a therapeutic medication used to prevent and mitigate pulmonary hemorrhaging during racing, and is necessary to keep a horse healthy and reduce the risk of injury to the horse and jockey. Mr. Moss stated the use of Lasix is not doping; has been used by veterinarians for the past 40 years; and is fully transparent to the public.

Mr. Moss advised the Commission the IHBPA and National HBPA strongly oppose H.R. 3084 for the following reasons:

- Seeks to address a problem in U.S. horseracing that does not exist. In 2013, out of 340,932 post race drug tests taken in thoroughbred races across the U.S., 99.65% were negative of illegal drug use, or less than one-half of one percent. The number of "clean tests" does not provide convincing evidence of a problem of unregulated drug use in U.S. horse racing.
- Employs a new non-governmental organization, the Thoroughbred Horseracing Anti-Doping Authority (Authority), which would be managed by a Board and CEO of the U.S.

Anti-Doping Agency (USADA), none of whom have any knowledge, experience or expertise in thoroughbred horse racing.

- Gives the Authority, which is set up and managed by the USADA, the exclusive right to promulgate and enforce medication regulations in the U.S. thoroughbred racing industry.
- Section 2 of the bill states the legislation does not eliminate simulcasting consents currently required from state racing commissions, race tracks, and horsemen's groups under the Interstate Horseracing Act of 1978 (IHA); however, Section 4 indicates the Authority has ultimate control of simulcasting because without its consent, the consent of others under the IHA is insufficient to permit interstate wagering.
- Effective January 1, 2017, Section 4 indicates the Authority would have exclusive jurisdiction for all anti-doping matters in thoroughbred racing. Acceptance of the Authority's jurisdiction is imposed as a condition for accepting, receiving or transmitting wagers under the IHA, without regard to consents required of other organizations and groups. Section 8 of H.R. 3084 states the "Act shall not be construed to modify, impair, or restrict the operation or effectiveness of State or Federal statutes and regulations," including under the IHA, criminal conduct, or thoroughbred horseracing matters unrelated to anti-doping. Mr. Moss stated Section 4 of the bill would trump current IHA consents because interstate simulcasting is conditioned on acceptance of the Authority's jurisdiction, rulemaking, and enforcement authority.
- All new costs associated with this bill would be borne by horsemen and, given the razor thin profit margin in the U.S. thoroughbred racing industry today; the added costs could easily lead to the demise of the industry. The 2013 tax return for USADA showed over \$14 million in expenses, 40% of which was allocated to compensation; and they only conducted about 10,000 drug tests. As previously noted, the U.S. thoroughbred horse racing industry conducted 340,922 drug tests in 2013. Based on the USADA's extraordinary costs incurred in conducting approximately 10,000 drug tests in 2013, if the current cost structure remains similar for the U.S. thoroughbred racing, it would add a significant expense to horsemen and could lead to the end of the industry.

Mr. Moss stated the IHBPA would continue to monitor the bill and keep the Commission current on the proposed legislation as it affects PMR&C, the Commission and IHBPA members.

Commissioner Heinrich asked if the bill had been introduced. Mr. Moss advised that it has been introduced in the House, and is sitting in a subcommittee, Energy and Commerce Committee. He indicated there are approximately 20 members on the subcommittee, one of which is David Loeb sack from Iowa.

Commissioner Heinrich asked who introduced the bill and where it was coming from. Mr. Moss advised it was introduced by an individual by the name of Tonko out of New York. He stated that while his intentions were for the good, there are always individuals in the background trying

to push their own agenda. Mr. Moss stated the bill is trying to take away states' rights, which is a major issue.

Chair Lamberti moved to Administrative Business and called on Mr. Ohorilko. Mr. Ohorilko announced the following revisions from Fiscal Year 2015. The racetrack facilities will have an overall reversion of \$48,952.78. The riverboat and gambling structures have a total reversion of \$106,971.34. He advised the reversions will be recognized at the end of Fiscal Year 2016.

Hearing no further business to come before the Commission, Chair Lamberti requested a motion to adjourn. Commissioner Mertz moved to adjourn the meeting. Commissioner Kramer seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

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JULIE D. HERRICK

**IOWA RACING & GAMING COMMISSION  
MINUTES  
NOVEMBER 19, 2015**

The Iowa Racing and Gaming Commission (IRGC) met on Thursday, November 19, 2015 at Prairie Meadows Racetrack & Casino, Altoona, Iowa. Commission members present were Jeff Lamberti, Chair; Carl Heinrich, Vice Chair; and Richard Arnold, Kris Kramer and Dolores Mertz.

Chair Lamberti called the meeting to order at 8:30 AM and requested a motion to approve the agenda as presented. Commissioner Heinrich moved to approve the agenda as presented. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti moved to the approval of the minutes from the September 24, 2015 Commission meeting. Noting they had been distributed previously, he called for any changes or corrections. Hearing none, he requested a motion. Commissioner Mertz moved to approve the minutes from the September 24, 2015 Commission meeting as submitted. Commissioner Arnold seconded the motion, which carried unanimously.

Chair Lamberti moved to the announcements, and called on Brian Ohorilko, Administrator of the IRGC. Mr. Ohorilko provided the following information regarding future Commission meetings:

- December 2015 – No Meeting
- January 14, 2016 – Prairie Meadows Racetrack & Casino, Altoona, IA (Submissions due by December 30, 2015)
- February 2016 – No Meeting
- March 3, 2016 – Prairie Meadows Racetrack & Casino, Altoona, IA (Submissions due by February 18, 2016)
- April 14, 2016 – Ameristar, Council Bluffs, IA (Submissions due by March 31, 2016)

Mr. Ohorilko noted Commission staff has been working on the Exchange Wagering report, which is to be submitted to the Legislature by December 1<sup>st</sup>. He recognized the following staff who have worked on the report: Andrew Pulford, Dawn Rominger, Barb Blake and Lauren Welch from the Des Moines office; Stewart Hoover and Stan McClellan from Bettendorf; Dan Martens from Davenport; Jeff Rethmeier from Harrah's, and Cory Ostermeyer from Horseshoe.

Chair Lamberti moved to the Rules before the Commission under Notice of Intended Action and called on Mr. Ohorilko. Mr. Ohorilko provided the following explanation regarding the proposed rule changes: Item 1 clarifies which qualified agreements are required to be submitted to the Commission for approval; there were two material changes – on-going contracts will need to be resubmitted every 5 years, and contracts with licensed entities (slot manufacturers) would no longer be required to be submitted; and Item 2 extends the term of the occupational license to three years.

Mr. Ohorilko stated the remaining rules, with one exception, were the result of the racing industry task force, which included the Horsemen's Benevolent and Protective Association, Iowa Thoroughbred Breeders and Owners Association, and Prairie Meadows Racetrack and Casino. Material changes from the task force include Item 8, an industry rule, which clarifies when horses can be scratched; Item 20 limits the number of claims in a race to one, and Item 21 deals with when horses can be claimed and when the claims can be voided, which brings Iowa in line with other jurisdictions. The exception is Item 6 which clarifies instances when a stewards' decision can be appealed.

Hearing no comments or questions pertaining to the proposed rule changes, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the rules as submitted under Notice of Intended Action. Commissioner Arnold seconded the motion, which carried unanimously.

Chair Lamberti moved to the contract approval portion of the agenda, and called on Ameristar Casino Council Bluffs, Inc. d/b/a Ameristar Casino Council Bluffs (Ameristar). Matthew Block, Vice President of Government Relations, presented the following contracts for Commission approval:

- AJR Equities, Inc. – Marketing Promotional Items
- Global Infrastructure – Vessel Hull Inspection; Dredging/Jetting Slip
- Wells Fargo Bank – Employee Credit Card Program (WFB-Pcard)
- Metropolitan Entertainment & Convention Authority – 5-Year Ameritrade Park Club Seat Suite Agreement

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by Ameristar. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Diamond Jo, LLC d/b/a Diamond Jo Casino (DJ). Wendy Runde, General Manager, presented the following contracts for Commission approval:

- NRT Technology – Cash Advance Services and TITO Kiosk Equipment Provider
- King Food Service, LLC – Seafood Purchases

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by DJ. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Diamond Jo Worth, LLC d/b/a Diamond Jo Worth (DJW). Kim Pang, General Manager, presented the following contracts for Commission approval:

- NRT Technology – Cash Advance Services and TITO Kiosk Equipment Provider
- KTTTC Television – Advertising on NBC Affiliate Television Station for Casino Promotions
- Wine Down, Inc. – Liquor and Wine Purchases for Casino Restaurant and Bars

- Young Plumbing & Heating – Renewal of Maintenance Agreement for Building Environmental Systems

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by DJW. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on Isle of Capri, Marquette, Inc. d/b/a Lady Luck Casino (LLC). Don Ostert, General Manager, presented the following contracts for Commission approval:

- Isle of Capri Marquette, Inc. d/b/a Lady Luck Casino/Upper Mississippi Gaming Corporation – Operating Agreement
- Wunderman Worldwide, LLC – Advertising Agency

Chair Lamberti noted the first item was an amendment to the Management Agreement, which the Commission was happy to see. He stated any motion could address both items, and requested a motion. Commissioner Mertz moved to approve the contracts as submitted by LLC. Commissioner Kramer seconded the motion.

Chair Lamberti asked if the advertising contract was put out for bid, or with any Iowa companies. Mr. Ostert stated he did not know the steps taken by corporate, but would take the Commission's concerns back to corporate for an answer. Hearing no further discussion, Chair Lamberti called for the vote. The motion carried unanimously.

Chair Lamberti called on IOC Black Hawk County, Inc. d/b/a Isle Casino Hotel Waterloo (IOC Waterloo). Bari Richter, General Manager, presented the following contracts for Commission approval:

- North American Video – New Surveillance System and Installation
- Wunderman Worldwide, LLC – Advertising Agency
- Everi Games, Inc. – Slot Machine Purchases

Commissioner Mertz noted IOC Waterloo was submitting the same advertising agency, and asked Ms. Richter if she was able to answer the question. Ms. Richter answered in the negative, but noted the process was handled by the corporate office.

Hearing no further comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by IOC Waterloo. Commissioner Arnold seconded the motion, which carried unanimously.

Chair Lamberti called on Isle of Capri Bettendorf, L.C. d/b/a Isle Casino Hotel Bettendorf (IOCB). Nancy Ballenger, General Manager, presented the following contracts for Commission approval:

- Wunderman Worldwide, LLC – Advertising Agency

- Architectural Engineering Associates, Inc. – Commissioning Agent for Land-Based Casino Project

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Arnold moved to approve the contracts as submitted by IOCB. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on SCE Partners, LLC d/b/a Hard Rock Hotel & Casino Sioux City (HRHCSC). Todd Moyer, General Manager, presented the following contracts for Commission approval:

- The Rosebud Touring Group Company – Entertainment Act
- Kone, Inc. – Elevator Maintenance
- Mark-It Smart, Inc. – Promotional Items
- Buzz Analytics Group, LLC – Marketing Consultation (RP)
- Reinhart Foodservice, LLC – Food Supplier
- The Printer, Inc. – Printing Services
- Sioux Laundry – Laundry Services
- Bally Gaming, Inc. d/b/a Bally Technologies – Gaming Equipment

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by HRHCSC. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Rhythm City Casino, LLC d/b/a Rhythm City Casino (RCC). Mo Hyder, General Manager, presented the following contracts for Commission approval:

- Allied Construction Services, Inc. – Construction – Labor, Material, Equipment and Service for Access Flooring
- Bally Gaming, Inc. – Purchase of Gaming Equipment
- Elite Casino Resorts, LLC – Goods and Services Cost Allocations from Elite (RP)
- Rapids Foodservice Contract and Design – Construction – Labor, Material, Equipment and Service for Food Service/Buffer
- Ulster Carpet Mill – Purchase of Carpets

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by RCC. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Riverside Casino and Golf Resort, LLC d/b/a Riverside Casino and Golf Resort (RCGR). Dan Franz, General Manager, presented the following contracts for Commission approval:

- Ainsworth Game Technology, LTD – Purchase of Slot Machines

- Aristocrat Technologies, Inc. – Purchase of Slot Machines
- Bally Gaming, Inc. – Purchase of Slot Machines
- Bally Gaming, Inc. – Purchase of Table Games
- Biometrica Systems, Inc. – Surveillance Information Network Software License
- Cummins-Allison Corp. – Count Machine Replacement
- Elite Casino Resorts, LLC – Goods and Services Cost Allocations from Elite (RP)
- IGT – Purchase of Slot Machines
- Konami Gaming, Inc. – Purchase of Slot Machines
- Konami Gaming, Inc. – Maintenance and Support Agreement
- Mercy Iowa City – Medical Health Plan Costs
- North Country Business Products – Micros POS Terminals Purchase
- Rhythm City Casino, LLC – Support Services (RP)
- University of Iowa Hospitals and Clinics – Medical Health Plan Costs

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by RCGR. Commissioner Arnold seconded the motion, which carried unanimously.

Chair Lamberti called on Grand Falls Casino Resort, LLC d/b/a Grand Falls Casino and Golf Resort (GFCGR). Sharon Hasselhoff, General Manager, presented the following contracts for Commission approval:

- Elite Casino Resorts, LLC – Goods and Services Cost Allocation from Elite (RP)
- Zimco Supply Company – Golf Course Products and Supplies

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by GFCGR. Commissioner Heinrich seconded the motion, which carried unanimously.

Commissioner Lamberti called on Dubuque Racing Association, Ltd. d/b/a Mystique Casino (Mystique). Dustin Manternach, Chief Financial Officer, presented a contract with Guest Supply for Hilton In-Room Guest Supplies.

Hearing no comments or questions concerning the contract, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contract as submitted by Mystique. Commissioner Kramer seconded the motion, which carried unanimously.

Chair Lamberti called on Harveys Iowa Management Co., Inc. d/b/a Harrah's Council Bluffs Casino and Hotel (Harrah's). Janae Sternberg, Director of Finance, presented the following contracts for Commission approval:

- Engineered Controls – HVAC Vendor
- Lawn Wizards – Lawn & Snow Vendor

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by Harrah's. Commissioner Arnold seconded the motion, which carried unanimously.

Chair Lamberti moved to the license renewal for Iowa West Racing Association/Horseshoe Casino-Bluffs Run Greyhound Park (IWRA/HC-BRGP). Bo Guidry, General Manager, stated Pete Tulipana, President of IWRA, was unable to attend, but felt he would agree the parties have a great relationship and look forward to continuing it for many years to come. He advised the casino would operate 24 hours a day, seven days per week, for 365 days per year. The facility did not request any live racing or simulcast dates for calendar year 2016. He stated the facility spent \$1.9 million on capital projects in 2015, with additional projects to occur yet this year or early 2016. Mr. Guidry stated long-term capital plans include re-purposing the area vacated by current racing operations. The kennel compound area is in the early stages of a potential hotel development. He requested approval of the license renewal.

Hearing no comments or questions concerning the license renewal application, Chair Lamberti requested a motion. Commissioner Arnold moved to approve the renewal of the pari-mutuel racing license with no live dates or simulcasting requested; the racetrack enclosure license to conduct gambling games; and the security plan contained in the application. Commissioner Mertz seconded the motion, which carried unanimously.

Mr. Guidry presented the following contracts for Commission approval:

- American Lift – Electronic Sign Vendor
- Lawn Wizards – Lawn & Snow Vendor

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Kramer moved to approve the contracts as submitted by HC-BRGP. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Prairie Meadows Racetrack & Casino, Inc. d/b/a Prairie Meadows Racetrack & Casino (PMR&C). Gary Palmer and Derron Heldt, General Manager and Director of Racing respectively, were present to address agenda items.

Mr. Heldt advised the quarter horse meet ended on October 10<sup>th</sup>. He indicated the meet was very positive: field size was 7.9 entries per race compared to 7.6 in 2014; on track handle increased 5%, or approximately \$35,000; and off-track handle increased about 25% or \$725,000. Mr. Heldt attributed the increase to Los Alamitos, one of the largest quarter horse racetracks in the country simulcasting more races from the very start of PMR&C's live race meet. He stated another highlight of the meet was the number of catastrophic injuries – one on the quarter horse side. There were 1,700 unique starters. The industry standard is 1.2 horses per 1,000 starters. There were two catastrophic injuries during the thoroughbred meet. There were 4,300 starters. With over 6,000 horses competing, there were only three catastrophic injuries. Mr. Heldt credited the track superintendent and his staff. He stated the facility has put an emphasis on training, education, and brought in new technology and equipment which allows the track

superintendent and staff to react to any circumstances that may occur over the race season. He noted the importance of the track surface for the quarter horse races. Mr. Heldt stated the trainers were very happy with the track surface. He noted PMR&C hosted the Regional Challenge Championships in September in advance of the finals held at Lone Stone Park. One of the qualifiers from these races won a Grade 1 race at the finals.

Tom Lopic, President of the Iowa Quarter Horse Racing Association (IQHRA), stated Iowa quarter horse racing has made a name for itself around the country because of what PMR&C does for quarter horse racing in Iowa. He noted a few years back he addressed the Commission about the importance of the IQHRA and PMR&C working together to find additional owners and breeders and bringing them to Iowa in order to race at PMR&C. Mr. Lopic stated several records had been set over the past year. This year's meet started with two races called the Double Gold Futurity and Double Gold Derby. For these races, the IQHRA goes to breeding farms across the country and asks them to donate a stallion breeding to the IQHRA, which are then sold at auction. Those offspring are eligible to run in these races. By putting the auction online this year, the IQHRA raised \$123,000, with net proceeds of \$70,000. This money is put back into horse racing in Iowa to offset purse money being used by PMR&C for horse racing outside of the country. This year and next, IQHRA will pay for about 80% of the purse, which is \$110,000 between the two races. There were 46 starters in those two races this year; the horses come from all over the country. Mr. Lopic stated an Iowa bred won one of the races. The quarter horse meet had the highest number of Iowa bred 2-year old starters ever in the State of Iowa; there were 135 foals in 2013 and 63%, or 80, of them started this year at PMR&C. Mr. Lopic advised the national average for 2-year olds is 40% - 50%.

Mr. Lopic advised the largest number of 2-year olds participated in the state-bred race called the Germinator Futurity, which had a record purse in excess of \$200,000. He indicated these are the kinds of things that draw more people to the industry. Additionally, there were 48 Iowa-bred races run this year, or approximately 18% of all races run at PMR&C this year. They held a Championship Night for the first time this year that included Iowa-breds and the big races that were open to other horses from around the country. The purse exceeded \$850,000. Some other highlights from the season: an Iowa-bred led the nation with three Stakes wins, two of which were against open company and horses from around the country. The same horse currently leads the country with the most wins in one season with six wins. Mr. Lopic advised the horse would be racing at a Florida racetrack on December 27<sup>th</sup> in a \$500,000 Derby.

Mr. Lopic noted the IQHRA has been recruiting new owners and trainers. He stated the IQHRA submitted an application for the 2017 Bank of America Challenge Championships. When the races were held at PMR&C three years ago, the IQHRA invited some show horse people to see the races. One of the larger owners and breeders had so much fun, he decided to buy and breed racehorses. That individual set a new record for the most wins in one season at PMR&C – thirteen. He has been named the champion owner for all horses.

Mr. Lopic stated the quarter horse industry is excited. Kentucky announced they will be building a quarter horse-only track south of Lexington which will open for racing in 2017. He noted the Kansas Legislature is working hard to bring quarter horse racing back to The Woodlands,

hopefully in 2017. He stated the IQHRA has been working with both states, and if that comes to pass, the seasons will line up perfectly for Iowa. Texas will run after Oklahoma ends the end of May until the start of the Iowa meet, and then Kansas will have their meet.

Commissioner Heinrich asked where the track was in Kansas. Mr. Lepic advised it is in the Kansas City area. Commissioner Mertz thanked Mr. Lepic for his report.

Chair Lamberti moved to the approval of the 45-day plan for the 2016 meet. Hearing no comments or questions concerning the 45-day plan, Chair Lamberti requested a motion.

Commissioner Mertz moved to approve the application for the Season Approvals contingent upon the immediate written notification of any change in racing official positions; and the completion of necessary IRGC licensing and DCI background checks of officials. Commissioner Kramer seconded the motion, which carried unanimously.

Mr. Palmer presented the following contracts for Commission approval:

- American Gaming Systems – Gaming Equipment and Supplies
- Atlantic Bottling – Soft Drink Supply Agreement
- EMC Risk Services, LLC – Worker’s Compensation Insurance

Hearing no comments or questions concerning the contracts, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the contracts as submitted by PMR&C. Commissioner Arnold seconded the motion, which carried unanimously.

Chair Lamberti moved to the hearings before the Commission, and called on RCGR. He called on Mr. Ohorilko for a summary. Mr. Ohorilko advised staff had entered into a proposed Stipulated Agreement with RCGR for a violation of Iowa Code § 99F.4(22) (Self-Exclusion). Mr. Ohorilko stated the individual completed the Iowa Statewide and Lifetime Self-Exclusion Form at Isle Casino Hotel Waterloo on March 16<sup>th</sup>; and the self-exclusion status was added to the player database at RCGR by flagging her retired player’s club account. On or about August 18<sup>th</sup>, the individual went to the cage area at RCGR and requested a player’s club card, providing the cashier with the same name, social security number and birth date as on the self-exclusion form. The individual was issued a new player’s club account and proceeded to gamble at several machines. The individual returned to RCGR on August 31<sup>st</sup> and requested a duplicate card. She again gambled at several slot machines, which qualifies for Commission referral. Later that morning, the cage department gave the player’s services department a list of the player’s cards issued. While reviewing the list, staff discovered the issuance of a card to an individual on the statewide self-exclusion list. Mr. Ohorilko advised RCGR acknowledges the violation, and has agreed to an administrative penalty of \$3,000. He indicated this is the first violation of this nature in the past 365 days.

Mr. Franz expressed regret that the incident had occurred; that RCGR takes these kinds of issues very seriously. He stated the employee simply did not follow policy, and ignored the warning on the computer screen that the individual was banned. Mr. Franz indicated he feels RCGR has an

adequate process in place. He stated the situation has been discussed with the employee, who has been issued a performance development plan and issued a two-day suspension.

Hearing no comments or questions concerning the Stipulated Agreement with RCGR, Chair Lamberti requested a motion. Commissioner Mertz moved to approve the Stipulated Agreement and administrative penalty as presented. Commissioner Heinrich seconded the motion, which carried unanimously.

Chair Lamberti called on RCC. He asked Mr. Ohorilko for a summary. Mr. Ohorilko advised staff had entered into a proposed Stipulated Agreement with RCC for a violation of Iowa Code § 99F.4(22) (Self-Exclusion). He stated the individual completed the Iowa Statewide and Lifetime Self-Exclusion Form at RCC on April 12, 2010. The individual was added to Riverside's player tracking system on or about April 16, 2010; and was added to RCC's player tracking system when the facility opened under new management in February 2014. In January 2015, the individual went to RCC and was issued a player's club with her new last name by facility staff. The new card was obtained using the same information as her previous account. The individual used her account to gamble at RCC at least four times during the month of January 2015. On June 23<sup>rd</sup>, the individual won a taxable jackpot in the amount of \$1,200, and was paid the jackpot by a cage supervisor. RCC conducted an audit on or about August 21, 2015, and discovered the payment, which was reported to Commission staff. Due to the circumstances, the facility has agreed to an administrative penalty of \$3,000. Mr. Ohorilko noted this is the first offence of this nature in the past 365 days for RCC.

Mr. Hyder advised the facility takes compliance issues very seriously, and is disappointed by the sequence of events that occurred. He stated the facility has taken appropriate measures and added procedures to insure the situation does not occur again.

Hearing no comments or questions concerning the Stipulated Agreement with RCC, Chair Lamberti requested a motion. Commissioner Heinrich moved to approve the Stipulated Agreement and administrative penalty as submitted. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on HGI-Lakeside, LLC d/b/a Lakeside Casino (Lakeside). Mr. Ohorilko noted staff had entered into a proposed Stipulated Agreement with Lakeside for a violation of Iowa Code § 99F.9(5) (Minor). He stated between the dates of August 19 and 25, 2015, a minor entered the gaming floor on six different occasions. On each occasion, the minor was able to enter the floor unchallenged, was on the floor for over 30 minutes and gambled each time, which triggered the Commission referral. The matter was further aggravated by the fact that six different security officers were involved. On August 25<sup>th</sup>, local surveillance notified the Division of Criminal Investigation (DCI) that a female had been denied entry three separate times. After a thorough review, it was discovered that the individual had gained entrance to the gaming floor on six prior occasions. As a result of the violations, the facility has agreed to pay an administrative penalty of \$60,000. In addition, Lakeside has agreed to provide additional training to the security staff on the issue of estimation of age based on appearance and complete a test, documenting each employee's comprehension of the training.

Bob Thursby, General Manager, stated he was mortified by this transgression, and the fact that it was not the result of the failure of one individual employee to be properly trained or motivated, and to have it occur multiple times within a week. He advised the facility has completed the required training; they brought in Donald Sharr from the Bureau of Investigations. Each of the individuals involved in not checking IDs has served a three-day suspension. The manager of the security department has been retrained. The facility is increasing the frequency of ID training from bi-annually to quarterly; and has also added it into the pre-shift meeting notes on a daily basis. Due to the fact the situation involved so many employees and occurred over a significant period of time, the facility has also looked for ways to better motivate the employees. Mr. Thursby stated he has added a couple of game-type scenarios where security personnel are asked questions and will receive a small reward if they get the answer right. They will be subject to additional training if they are not proficient in the subject matter. Mr. Thursby stated the facility has taken some extraordinary steps to correct the situation to insure it won't happen going forward.

Commissioner Heinrich stated he knows none of the facilities want these types of situations to occur. He noted Mr. Thursby had answered one of his questions with regard to the frequency of training. Commissioner Heinrich asked Mr. Thursby if he felt quarterly training was sufficient. Mr. Thursby answered in the affirmative, in combination with the motivational efforts and the pre-shift notes.

Commissioner Arnold stated that Mr. Thursby should have been mortified that the situation occurred. He indicated he found it difficult to believe six different people let the individual onto the gaming floor; he could understand one. With six, he believes something is lacking and is glad to see the facility provided educational training to the security staff. Commissioner Arnold stated he felt the \$60,000 penalty was fair, but if it happens again, he would go for the full amount of \$120,000 as the Commission could have assessed \$20,000 for each violation.

Commissioner Mertz stated she concurred with Commissioner Arnold's comments. She stated she could have excused one or two different individuals, but not six. While she is happy to see they have provided additional training, she suggested perhaps the facility needed better oversight. Commissioner Mertz stated she felt the facility should have been assessed \$20,000 per violation. She noted Lakeside has been before the Commission for these types of situations before and believes something is not going well. She requested better oversight going forward.

Chair Lamberti stated the Commission was pleased the facility brought in outside expertise to conduct additional training as requested as it appears there was a systematic failure in the training to have six different individuals who did not handle the situation properly. Chair Lamberti moved to approve the proposed Stipulated Agreement with an administrative penalty of \$60,000. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Harrah's. Mr. Ohorilko advised staff had entered into a proposed Stipulated Agreement with Harrah's for a violation of Iowa Code § 99F.9(5) (Minor). Mr. Ohorilko advised on September 24<sup>th</sup> an underage male entered the gaming floor unchallenged, gambled and was on the floor for over 30 minutes, which triggered the Commission referral.

The individual left the gaming floor and was caught trying to re-enter the floor. At that time, Harrah's reported the incident to Commission staff. Harrah's has agreed to an administrative penalty of \$20,000 due to the circumstances of this incident.

Bo Guidry, General Manager, assured the Commission Harrah's takes underage gambling very seriously, and this is an isolated incident. He stated the team at Harrah's does a phenomenal job; noting the facility has approximately one million visitors per year. There was one individual that did not do his job and he has been disciplined. The facility goes straight to suspension and a final written warning for this type of issue.

Chair Lamberti called for any questions. Commissioner Heinrich asked if Harrah's has periodic training for the security staff. Mr. Guidry answered in the affirmative, noting checking IDs is one of the topics every day. He noted other departments are also trained to identify underage individuals.

Hearing no further comments or questions, Chair Lamberti moved to approve the proposed Stipulated Agreement with an administrative penalty of \$20,000. Commissioner Mertz seconded the motion, which carried unanimously.

Chair Lamberti called on Horseshoe. Mr. Ohorilko advised Commission staff had entered into a proposed Stipulated Agreement with Horseshoe for a violation of Iowa Code § 99F.9(5) (Minor). He stated on June 28<sup>th</sup> an underage male entered the non-gaming portion of the facility, and received a wristband, which he later removed and placed in his pocket. The individual and his group approached the doors leading to the clubhouse elevator. The security guard posted at the location did not request identification from anyone in the group. The individual made his way on to the floor, gambled and consumed alcohol in excess of 30 minutes. The minor was later identified by a security officer who recognized the individual as underage and removed him from the floor. Mr. Ohorilko advised Horseshoe self-reported the incident. The facility has agreed to an administrative penalty in the amount of \$20,000.

Mr. Guidry advised the individual's father helped him get through, and the facility is pursuing charges against the father as well. He stated he is glad the racing side of the business is being closed down December 18<sup>th</sup> as there were some holes in that area. He indicated steps have been taken to insure the situation does not occur again.

Hearing no comments or questions concerning the proposed Stipulated Agreement, Chair Lamberti moved to approve the proposed Stipulated Agreement with an administrative penalty of \$20,000. Commissioner Kramer seconded the motion, which carried unanimously.

Following a short break, Chair Lamberti moved to the final hearing before the Commission, the Board of Stewards vs. William D. McCarty, which is an appeal of a Proposed Decision of an Administrative Law Judge (ALJ). He advised each side would be provided ten minutes to present their case, and an additional five minutes for rebuttal if needed. Assistant Attorney General Gretchen Kraemer served as Conflict Counsel for the Commission.

Jeff Peterzalek, Assistant Attorney General assigned to the Commission, stated the matter before the Commission is an appeal of a Board of Stewards' Decision which subsequently became a contested case proceeding before an ALJ. The issue is whether the ALJ was correct in determining that a unanimous Board of Stewards' Decision disqualifying a horse based on a collision between horses and that the collision interfered with the outcome of the race was an abuse of their discretion. Mr. Peterzalek advised the Board of Stewards is comprised of three individuals; two appointed by the Commission and one by the facility. In this instance, the Chief Steward, Ralph D'Amico, has decades of experience in the horse racing industry, not only as a steward but as a Hall of Fame jockey. Rick Evans, the other Commission steward, also has decades of experience as a steward. Dan Fick, the facility-appointed steward, is a Stewards' steward; and sits on an accreditation committee for stewards. Mr. Peterzalek stated the stewards were selected for their expertise in horse racing. He noted the stewards have to watch every race, and make it official prior to the commencement of the next race. There are two things that could slow down the process: if the Stewards notice something and "hang an inquiry", or if some of the participants of the race file an objection or protest. In this case, both happened. The Stewards, during the running of the race, noticed something amiss and started reviewing the video and some of the jockeys involved filed a protest based on the No. 7 horse coming in and colliding with the No. 4 horse, which then veered into the No. 3 horse. Mr. Peterzalek advised the Stewards went through the process and determined there was interference by the No. 7 horse, which affected the outcome of the race. He pointed out that the hearing transcript reflects a substantial amount of time was devoted to establishing the expertise of the Stewards. He noted the Commission is generally happy to have this particular ALJ, but during the introductory comments, she states: "As you'll find out, Ms. Moss, I am a novice; I've never stepped foot in a horse racing facility." He stated it puts the ALJ in an awkward position when there are people with decades of experience and are paid to judge the races to then judge what they have decided.

Mr. Peterzalek stated he has found it beneficial to have the Commission look at the race in question. He noted that during the hearing, the video was able to be shown in slow motion, but he does not have the ability to do so today. He advised the video is taken from three different angles; the first doesn't show the incident very well, but the second two views do. In watching the video, Mr. Peterzalek advised the No. 7 horse was orange, the No. 4 was yellow, and the No. 3 horse is blue. He noted the incident occurs about half way through the race. He indicated one of the reasons for showing the race at full speed is to show that the race goes quickly and there is a lot going on. One steward will be watching the race through binoculars, and another will be watching it on the monitors. He noted the No. 7 horse won the race, the No. 4 horse came in 5<sup>th</sup> and the No. 3 horse came in last. Mr. Peterzalek stated decisions have to be made quickly as there are only about 20 minutes between races. During that time, the stewards review the video and talk to jockeys. Should they determine there is interference sufficient to affect the outcome of the race, the stewards have the ability to put that horse in last place or behind the horse they believe was interfered with to the extent that it affected the outcome of the race.

The second view shows the No. 7 horse veering into and colliding with the No. 4 horse. The No. 4 horse pulls up, and then veers toward the No. 3 horse, which also has to pull up. Everyone acknowledged that based on the strength of the No. 7 horse, the other two did not have a chance of winning, but the jockeys of the No. 4 and No. 3 horses indicated they could have finished

better than they did had their horses not been interfered with. Mr. Peterzalek indicated this is what the stewards' saw in real time, in watching the video and then made the determination that not only was there interference, but interference sufficient to affect the outcome of the race.

Mr. Peterzalek said the issue is an "abuse of discretion" standard. He noted his brief set forth some abuse of discretion cases and the standards for those cases. He indicated that in order for a decision to be an abuse of discretion, it has to be clearly unreasonable, irrational, made against reasonable evidence, or not based on substantial evidence. Mr. Peterzalek stated the ALJ focused on the substantial evidence component. He indicated this matter got off track when the question was asked if there was evidence to support the decision not made instead of if there was evidence to support the decision rendered. Mr. Peterzalek stated the ALJ substituted her judgement based on her review of the material and video for that of the stewards. Under the substantial evidence standard, if the evidence can support more than one conclusion, as a matter of law, it cannot be abuse of discretion. Therefore, even if the Commission determined the evidence supports what the ALJ determined or it supports what the stewards decided, as a matter of law, it cannot be abuse of discretion.

Mr. Peterzalek moved to the evidence presented in the case. He stated the ALJ incorrectly noted the only evidence of interference in the outcome of the race was the severity of the contact. The record shows evidence was presented regarding the experience and expertise of the stewards, the video of the race, and more significantly, the participants in the race – the jockeys that were on the Nos. 7, 4 and 3 horses. The jockey on the No. 3 horse indicated he was intimidated as the No. 4 horse got hit so hard and checked his horse, which stopped his forward movement; and while he did not feel he could have won the race, he did feel he could have finished better than last place. The jockey on the No. 4 horse gave similar testimony. Mr. Peterzalek stated the day after the race, the stewards and jockeys have a "movie day" where they review the video from the races and discuss any issues. In this particular case, Chief Steward D'Amico noted that the jockey on the No. 7 horse stated to the stewards that "he had messed up and they made the right decision in disqualifying him". The ALJ discounted the comment, indicating he made the comment in order to get along with the stewards. Mr. Peterzalek stated those were the notes taken by the stewards; they were present when the comment was made and were in the best position to determine if what he was saying was accurate. He stated the comment was accurate as it was exactly what the other jockeys were saying about the race. Mr. Peterzalek stated there was more than substantial evidence presented to support the stewards' decision in this case. He indicated if the Commissioners' were to review the transcript and the exhibits at best there is a situation where the evidence could support one or two decisions – the one made by the ALJ and the one made by the stewards. As previously noted, as a matter of law, that scenario cannot be an abuse of discretion. Mr. Peterzalek requested that the Commission reverse the ALJ's decision and affirm the stewards' decision.

Allison Steuterman, from the Brick Gentry Law Firm, represented William D. McCarty, the owner of the No. 7 horse, which had been fouled and disqualified back to fifth place. She stated the issue in the appeal is Racing & Gaming Rule 491-10.4, which deals with fouls and disqualifications during a race. The rule requires interference, and that the interference affects the outcome of the race. Ms. Steuterman pointed out there is no question that interference

occurred; however, as the ALJ found, there is no substantial evidence that the interference affected the outcome of the race for the No. 4 horse. She stated that when the Commission assigns the appeals to an ALJ, they are giving them the authority and power to determine the facts and apply those facts to the law, which is what occurred in this case. There was a half-day hearing during which the video was played over and over; the ALJ had the benefit of having counsel as well as the testimony of witnesses explaining the video as it was played in slow motion, and having live testimony from the witnesses, including Chief Steward D'Amico, the jockey of the No. 7 horse, and the horse's trainer. Ms. Steuterman noted the ALJ also had the ability to consider all documentary evidence that was presented. After doing so, the ALJ then had the time to make a reasoned decision applying the law, and applying the abuse of discretion standard which the ALJ expressly sets forth in her opinion. Ms. Steuterman stated the ALJ was the best person to determine the credibility of the witnesses and weigh all of the evidence in the case and apply it to the law as she had the time and expertise to do so. Ms. Steuterman stated the stewards based their decision on the interference between the No. 7 horse and the No. 4 horse. She pointed out that a viewing of the video shows the No. 7 horse bore the brunt of the impact as the horse's legs almost go out from under her but goes on to win the race. The video provides no indication that the No. 4 horse lets up, slows down or in any way is affected or has the outcome of his race affected. Ms. Steuterman stated the parties agree on the law and what abuse of discretion is; even taking the higher standard into consideration, the ALJ found there was no substantial evidence to support that prong of the rule. After having the opportunity to review everything, Ms. Steuterman stated the ALJ did not insert her opinion in over the stewards, but stated there was no indication the contact between the horses affected the outcome of the race for the No. 4 horse.

Ms. Steuterman noted that Mr. Peterzalek talked about the testimony that was placed into evidence at the hearing. She stated the jockey for the No. 7 horse testified and denied making any comments at the movie viewing about admitting the disqualification was accurate. She pointed out the testimony of the other jockeys was not live testimony, but Chief Steward D'Amico telling the judge what the jockeys had previously told him. She called that a mischaracterization that testimony was presented from those jockeys. Ms. Steuterman also stated that Chief Steward D'Amico testified there was no way the No. 4 horse could have won even if it hadn't been hit by the No. 7 horse, nor could the No. 3 horse have won.

Ms. Steuterman stated they disagreed with Mr. Peterzalek about whether the ALJ asked if there was any substantial evidence to support the Stewards' decision, not if there was substantial evidence to support a different position. In doing so, the ALJ found there was not. Ms. Steuterman asserted the ALJ was in the best position to make this decision; is an excellent ALJ, knows the law very well and applied it accordingly in this case. She requested the Commission uphold the ALJ's decision and that the No. 7 horse be returned to first place and awarded the purse money associated with that position.

Mr. Peterzalek informed the Commission that while they do assign ALJs to hear these cases initially, the ALJ issues a Proposed Decision to the Commission, which has the ultimate authority to determine the issue. The decision is subject to the Commission's review. With respect to the outcome of the race, Mr. Peterzalek stated it is important to note, by rule, that

when the stewards make a decision and make the race final and do what they did here, that is final for purposes of the betting public. Bets are paid out in accordance with that decision; it is after the fact that the situation affects the purse as much as anything. Mr. Peterzalek stated it isn't whether the horse finished in the money or determining whether it interfered with the outcome of the race, it is how they finished. He noted there are all kinds of notations for the betting public to view in determining how to place their bets; the last place finish due to intimidation will be noted and affects the pari-mutuel betting pool and public and falls into the definition of interfering with the outcome of the race. He stated there was a misconception that interference with the outcome of the race only applied to situations where the horse would have finished in the money or clearly could have finished better than what they did and did not take into account all of the things that the people in the horse racing industry take into account when they are reporting on how horses participate and function in a race.

Ms. Kraemer asked if Mr. Peterzalek had requested some practical guidance. Mr. Peterzalek answered in the affirmative. He noted that the betting public has been paid based on the stewards' decision at the time of the race. He stated that if the ALJ's decision is affirmed, it changes the outcome of the race; the fourth place horse will now be fifth and finishing out of the money. By affirming the ALJ's decision, the Commission will have taken money from the betting public without providing them an opportunity to be heard. He said he is seeking advice on what actions should be taken in this situation and future situations – Should the Commission be sending out hearing notices to every participant in the race initially so that everyone can have their say. He noted it is the owner of the horse that filed the appeal, not the trainer or jockey; but the person who gets the largest share of the purse. Mr. Peterzalek stated the Commission should provide some guidance on the issue, particularly to Commission staff as they initiate the appeal hearings so they know who should be receiving notices and who should be participating in the hearings. He noted there was a possibility of twenty different hearings in this particular situation. Ms. Kreamer asked if the purse was still being held. Mr. Peterzalek answered in the affirmative.

Commissioner Heinrich asked if the horses were not to touch at all. Mr. Peterzalek stated that is not necessarily the case, noting there was some initial contact right out of the gate. He stated the rules state the horses are to stay in their lane, but there is usually a little bit of bumping at the start of the race. If it is incidental, it is not declared a foul; if it is significant, then it is a foul.

Commissioner Heinrich stated that if the one horse was affected and had to slow down, he was unable to see that, but noted he is not trained to see those types of things. Mr. Peterzalek indicated that was one problem with not being able to show the video in slow motion. He reiterated that the No. 7 horse veered in and collided with the No. 4 horse, which not only impeded its forward progress, but drove it into the No. 3 horse. Mr. Peterzalek stated that he would not be able to see the hesitation either when viewing the video at full speed. Commissioner Heinrich stated the stewards are trained to see and watch for these types of issues. Mr. Peterzalek concurred.

Ms. Steuterman stated it is important to note the stewards are trained to look for these types of situations during a race; however the ALJ is trained to weigh the evidence, weigh its credibility

and apply the law. Ms. Steuterman stated the ALJ is equally trained and experienced to answer the questions and make this determination, which is why the Commission sends these situations to the ALJs to be reviewed. She stated she did not want anyone to forget that is what has occurred in this situation. Ms. Steuterman stated she wanted everyone to remember the ALJ's expertise. She stated she concurred with Mr. Peterzalek that the issue is not just the purse money, but that it is important where the horses finished; which is another reason for Mr. McCarty to be challenging the decision that the collision did not impact or alter the outcome of the race for the No. 4 horse but is altering the outcome for the No. 7 horse. Ms. Steuterman noted the No. 7 horse beat the No. 4 horse by 4 lengths and a neck. Ms. Steuterman requested that the Commission uphold the Proposed Decision issued by the ALJ.

Commissioner Heinrich stated he understood what Ms. Steuterman was saying; however, the key factor for him is whether the horses coming together affected the outcome of the race. Ms. Steuterman concurred, and noted the ALJ had indicated that was the key factor in the appeal and that there was not substantial evidence to show that the contact affected the outcome of the race.

Hearing no further comments or questions for the attorneys, Chair Lamberti stated the matter was considered submitted to the Commission. He requested a motion to go into Executive Session to consider their decision. Commissioner Heinrich 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 Mertz seconded the motion, which carried unanimously on a roll call vote.

Upon returning to open session, Chair Lamberti noted the Commission had discussed the matter and indicated his belief that there was sufficient evidence to support the decision of the Stewards' under the abuse of discretion standard. He moved to reverse the decision of the ALJ and reinstate the decision of the stewards. He directed the Commission's conflict counsel, Ms. Kraemer, to prepare a draft opinion consistent with the Commission's deliberations. Commissioner Mertz seconded the motion, which carried unanimously.

As there was no Public Comment or Administrative Business to come before the Commission, Chair Lamberti requested a motion to adjourn. Commissioner Mertz so moved. Commissioner Kramer seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

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JULIE D. HERRICK