

**IOWA RACING AND GAMING COMMISSION  
MINUTES  
APRIL 20, 2023**

The Iowa Racing and Gaming Commission (IRGC) met on Thursday, April 20, 2023 at Ameristar Casino Council Bluffs in Council Bluffs, Iowa. Commission members present were Julie Andres, Chair; Daryl Olsen, Vice Chair; and members Amy Burkhart, Mark Campbell and Lance Horbach.

**APPROVE AGENDA:** Chair Andres called the meeting to order at 8:30 AM and advised that HGI-Lakeside, LLC had requested the removal of Agenda Item 6, Request for Approval of Remodeling Pursuant to 491 IAC 5.4(15). Commissioner Campbell moved to approve the agenda as amended. Commissioner Horbach seconded the motion, which carried unanimously.

**WELCOME:** Paul Czak, General Manager, welcomed the Commission to Council Bluffs, and introduced Mayor Matt Walsh and Brenda Mainwaring, President of the Iowa West Racing Association.

Mayor Walsh advised his first official act after being elected to the City Council was to meet the riverboat downriver and ride the Ameristar riverboat to the current location. He stated the three Council Bluffs casinos have been vital contributors to the economy of the city, have changed the face of the community, and management and employees serve on various committees and non-profit boards, He thanked the Commission for the work they do on behalf of Council Bluffs and the State of Iowa.

Ms. Mainwaring stated in 2022 the Iowa West Foundation and Iowa West Racing Association (IWRA) embarked on a strategic visioning process, noting the qualified sponsoring organizations were created to meet the needs and goals of the community. This process started by holding seven meetings at various locations to listen and learn what mattered to various segments of the local population in order to better serve the community as a whole. The biggest take-away from the meetings was that people have a sense of belonging, hometown neighbors, small town values, and short commutes. Suggestions for improvements included mental healthcare and additions to outdoor entertainment venues. Following these meeting, the Iowa West Foundation wrote a new mission statement stating they strive for communities where families love to live and where businesses thrive. They shifted their focus to outcomes in the following areas: belonging, well-being, opportunity and financial stability. If individuals have a sense of belonging and inclusion, they will show hometown pride; financial stability is basic needs being met plus - a livable wage, housing, freedom from worry, personal success; well-being is thriving not just surviving. Ms. Mainwaring thanked the Commission for the opportunity to inform them where the IWRA is going and looks forward to being able to share what has been achieved.

**APPROVE MINUTES:** Chair Andres moved to the approval of the minutes from the March 2, 2023 Commission meeting and requested a motion. Commissioner Olsen moved to approve the minutes as submitted. Commissioner Burkhart seconded the motion, which carried unanimously.

**ANNOUNCEMENTS:** Brian Ohorilko, Administrator of IRGC, advised there would be no meeting in May. The next Commission meeting will be held at IOC Black Hawk County in Waterloo on June 15, 2023.

Mr. Ohorilko announced the following proposed meeting dates for Fiscal Year 2024:

- July 7, 2023                      Prairie Meadows Racetrack & Casino, Altoona
- August 24, 2023                Riverside Casino & Golf Resort, Riverside
- September 28, 2023          No Meeting
- October 4, 2023                Grand Falls Casino Resort, Larchwood (Dinner/Stay Overnight)  
  October 5, 2023                Hard Rock Hotel & Casino Sioux City (Meeting – 10:00 AM)
- November 16, 2023          Prairie Meadows Racetrack & Casino, Altoona
- December, 2023                No Meeting
- January 25, 2024                Q Casino, Dubuque
- February, 2024                 No Meeting
- March 6, 2024                 Prairie Meadows Racetrack & Casino, Altoona
- April 18, 2024                 Mid America Center, Council Bluffs (Harrah's)
- May, 2024                        No Meeting
- June 13, 2024                 Wild Rose Clinton, Clinton

He advised the July meeting will be held on Friday afternoon, and the Commission will observe the races after the meeting. The March 6, 2024 meeting is the license renewal meeting.

Mr. Ohorilko introduced the following staff members: Gaming Representatives Cory Ostermeyer, Bryan Crowdy, Lori Cap, and Melinda Foster. He thanked them for their work on behalf of the Commission.

**IOC BLACK HAWK COUNTY, INC.:** Chad Moine, General Manager, presented the proposed security plan for Commission approval. He requested an amendment to the hours of the Certified Peace Officers to 7:00 PM to 3:00 AM daily. Mr. Moine requested approval of the security plan.

Commissioner Campbell thanked Mr. Moine for the work put into the security plan and stated he looked forward to seeing it succeed. He moved to approve the security plan as amended. Commissioner Horbach seconded the motion, which carried unanimously.

**CO HOLDING COMPANY, INC.:** Bill Vandersand, General Counsel, requested approval for the sale and lease back of the Iowa real estate to Gaming and Leisure Properties, Inc.

Hearing no comments or questions, Chair Andres requested a motion. Commissioner Burkhart moved to approve the sale and leaseback of the Iowa real estate to Gaming and Leisure Properties, Inc. as submitted. Commissioner Campbell seconded the motion, which carried unanimously.

**REVIEW OF FACILITIES' FINANCIAL AUDITS:**

**Ameristar Casino Council Bluffs, LLC:** Mr. Czak advised the audit was clean and had no material findings. He stated 2021-2022 were the best years the casino has had with revenues up slightly last year from 2021 while EBITDA and the bottom line were flat. He attributed that to increased expenses in every area of the operation. Mr. Czak stated they did see a significant increase in non-gaming revenue last year, and are trending that way in the current year. He stated cap ex is expected to be 1.5 times what it was last year. Some of the planned cap ex is the renovation of the marquee, replacing all three of the self-service beverage stations on the boat, and a significant IT infrastructure upgrade, which is key to a number of projects. Mr. Czak advised they are making significant progress in terms of hiring, which is allowing them to open two more dining outlets in the next three months. He stated revenue numbers are 2-3% behind last year, but was expected with the opening of a casino in Nebraska about an hour's drive away.

**Boyd Gaming Corporation:**

**Diamond Jo. LLC:** Wendy Runde, General Manager, advised 2021-2022 were banner years. In Quarter 1 of 2022, gross gaming revenue was up almost 4%; however, the rest of the year was soft, and revenues in Quarter 4 were down almost 9%, but the property still had the second best performance ever from a gross gaming perspective. Revenues were down approximately 3% from 2021. Admissions in all areas of the operation were up 1% year-over-year. Total economic impact for 2022 was \$47.9 million excluding specialized spend of \$1.1 million and gaming spend of \$1.9 million. She advised that of the remaining \$44.9 million, 99.5% stayed within the State of Iowa. The property continues to administer the Diamond Jo Cares Program in addition to their partnership with the Dubuque Racing Association (DRA), their qualified sponsoring organization (QSO). Ms. Runde stated they paid \$3.6 million to DRA, with \$300,000 being related to sports betting. From an audit perspective, Ms. Runde advised neither of the Diamond Jo properties have any standalone debt; the corporation, as a whole from a debt perspective, did not change year-over-year, and has approximately \$3 billion in outstanding debt. The audit opinion for both properties is clean from both the audit of the financial statements and effectiveness of internal controls over financial reporting. There were no material weaknesses at either property, and just a small impairment to note on Dubuque's books of \$100,000 related to the trade name and driven by the slight decline in projections and interest rates.

**Diamond Jo Worth, LLC:** Scott Smith, General Manager, advised 2022 was a successful year for Diamond Jo Worth, and was second best to 2021. Gaming revenue was down 1.8% in 2022 from

2021; gaming revenues were down about 5% in the second quarter. He attributed the decline to the fact the tribal casinos in Minnesota still had Covid restrictions through July 2021. Once the restrictions were lifted, there was less traffic from Minnesota. Mr. Smith stated team members continue to strive to provide the best guest service and getting the right product out for patrons. Overall economic impact was \$55.4 million; Iowa spend was just over 98%. The facility will be celebrating its 17<sup>th</sup> anniversary this year. Mr. Smith stated the labor market has improved in some areas; he indicated finding cooks and overnight staffing and stability are still a challenge. He advised the Worth County Development Association distributed just over \$6 million last year, and just over \$83 million since inception.

Commissioner Burkhart noted Diamond Jo Worth is one of two casinos that is not back to pre-Covid employment levels. She asked if that is due to staffing difficulties or because certain amenities have not reopened.

Mr. Smith advised the goal is get back to 24/7 operations yet this year. They are diligently trying to get overnight staffing stabilized; security and cage staffing are stable, but they are still having issues with slot tech staffing. He stated the weekend and overnight staffing stability has not happened yet but hopes they will see that change. Mr. Smith stated they started the restaurant remodel project two weeks ago and are excited to have it open at the end of the third quarter.

Commissioner Horbach asked about the revenue variance referenced by Ms. Runde, and what was driving that.

Ms. Runde stated December is a make-it or break it kind of month. Going into December, the year looked like it would finish fantastically, but winter weather came quickly. As the property sits on the Iowa/Illinois border, Illinois patrons have the option of going to the Rockford casino and the VGT terminals. She advised that Quarter 1 in 2023 is flat so revenues have rebounded.

Commissioner Horbach stated he was curious if it was due to something systemic or just a variance in the environment.

Caesars Entertainment, Inc.: Sally Rogers, Director of Finance at Isle of Capri Bettendorf, L.C. introduced Meagan Miller, Director of Finance at IOC Black Hawk County, Inc., and Janae Sternberg, Vice President of Financial Affairs for Harveys Iowa Management Company, LLC and Harveys BR Management Company, LLC in Council Bluffs.

Ms. Rogers advised all of the properties had a successful year. Economic impact: The facilities paid over \$36 million paid in payroll and benefits, and over \$15 million was spent with Iowa vendors. She noted Harrah's and Horseshoe both saw a major infusion of capital spend of approximately \$12 million for infrastructure, signage, slots, back of house areas, converting the Horseshoe buffet space to a multi-purpose space and remodel of the Hilton along with other items. Major projects for the upcoming year include new signage, hotel renovations at Harrah's and IOC Waterloo among other enhancements. Ms. Rogers stated they are excited to keep the momentum going at all of the properties.

Iowa West Racing Association (IWRA): Ms. Mainwaring introduced Jackie Dix, Controller, who advised IWRA had a clean audit, and there were no material weaknesses. She advised that due to timing differences on distributions, there was a 63% decrease in cash and cash equivalents from the previous year, and a decrease of just over 20% in license fees payable. Ms. Dix stated IWRA distributed \$500,000 more to the Iowa West Foundation (IWF) in 2022 than in the previous year. Riverboat revenue increased by 2%, which allowed the increased distribution to the IWF. License fee expense increased by just over 1.5%, creating a loss in net assets of \$134,000.

Casino Queen Marquette, Inc.: Sean Bateman and Robin Corbeil, General Manager and Director of Finance respectively, were present to address the financial audit. Ms. Corbeil advised there were some deficiencies noted but plans are in place to correct those. She advised the first three quarters of 2022 were strong, but weather affected the fourth quarter. Attendance was up 2% from 2021, but gaming revenues were flat compared to the previous year, which she attributed to increased gas prices and consumer pricing, causing patrons to spend less during their visits to the facility. Fubo ceased operations in October, which left the property without a sportsbook in the fourth quarter. Salaries expense increased by 5% from the previous year. Staffing levels increased 35% due to sign-on, retention and referral bonuses. She stated they continue to look for quality applicants to fill positions. The facility decided with the upcoming move to a land-based facility to focus capital spend on enhancing the customer experience by adding new marketing kiosks and determining what else could be moved to the new facility. She stated they did add some new slot machines, new purchasing and maintenance equipment, as well as some HVAC repairs.

Commissioner Horbach asked if the move to a land-based facility would increase, decrease or stabilize employee costs; and if the land-based facility would require about the same number of employees as the riverboat facility.

Ms. Corbeil stated the goal is to keep what they currently have, and they will assess employment needs after the new facility is operational.

Ms. Bateman stated they would like to have 155 at the current property and are looking at 160 for the new property. He stated they would over hire to open and then make assessments. He noted the change from a buffet to a restaurant would eliminate some positions, but they will pick up bar tending staff and servers. Mr. Bateman advised salaried staff would be similar to what it is currently. He noted the challenges of staffing three floors on the riverboat. Mr. Bateman advised the Queen Sportsbook opened on Tuesday with a soft opening and they just started marketing it online. They are still waiting on Bet365 to receive complete approval. He is hopeful all of the sportsbook operators will be fully operational by June or July. Mr. Bateman advised they are watching for flooding in the area, which could cause the casino to close.

Catfish Bend Casinos, LLC: Rob Higgins, General Manager, introduced Marty Bowen, Chief Financial Officer, and Gary Hoyer, Chief Executive Officer. He advised 2022 was the second best year for the company, with 2021 being the best year ever. He noted there is a lot going on at the facility; they are building the new court project which includes three college basketball courts; the Courtside project is the family entertainment side of the court project and will include a swimming pool, Ninja course, velocity course and eating facility. The old buffet is in the planning and design

phase to become a new restaurant, and they have finished the remodel of 39 hotel rooms in the Fun City Resort so they can reopen. They are also in the planning and design phase for the renovation of the Catfish Bend Inn & Spa. Mr. Higgins stated 2023 is off to a better start than 2022.

Mr. Hoyer advised there was a control deficiency noted, which he attributed to an unexpected change in personnel. He stated the matter has been resolved, and he sent a letter to the Commission addressing the issue.

Dubuque Racing Association, LTD (DRA): Brian Rakestraw, Chief Operating/Financial Officer, noted 2022 started off really well; however, greyhound racing came to an end in May, and they were also impacted by increased gas prices. He stated 2022 was spent thinking about the future. The audit had no material weaknesses. Mr. Rakestraw pointed out that the auditors indicated it was one of the cleanest audits DRA has had for quite some time. He introduced Alex Dixon, President of DRA.

Mr. Dixon advised the facility is hard at work on the temporary casino to help for all of the future development coming. He noted the Commission would be seeing a contract for the Schmitt Island Development Corporation for a design and architect firm to help with pre-development items for the island. Mr. Dixon stated DRA manages the Ice Arena. He noted the Finlandia University is closing, but were able to work with the University of Dubuque to land a men's and women's D3 hockey team, who will be playing at the Ice Arena in the fall. He stated they are excited to welcome the Commission to Q Casino for the Commission meeting in January 2024.

Elite Casino Resorts, LLC: Dan White, Chief Financial Officer, advised the 2022 audit, which covers Riverside Casino & Golf Resort, LLC, Grand Falls Casino Resort, LLC, Rhythm City Casino, LLC and the Elite Sportsbook, was clean with no internal control comments. Revenues were up approximately 6.2% over 2021, with the majority in non-gaming revenue. He noted operating expenses increased approximately 5% and remain at high levels; they are still experiencing some supply chain issues. Payroll expenses for the three properties were about \$70 million for 2022; fees paid to the non-profits were approximately \$16 million. Mr. White advised the employee situation has improved, and they are close to the pre-Covid employment numbers; the properties had 1,550 employees at the end of 2022. Combined spend with Iowa vendors was just under 97%. Capital expenditures for 2022 were about \$8.2 million. Grand Falls completed their casino renovation, and started renovations in public spaces, which will continue in 2023 and include food and beverage outlets. Riverside completed renovations in the Event Center in 2022. All three properties refreshed their casino floors with slot product, as well as adding or replacing equipment at all properties as needed.

Commissioner Campbell asked Mr. White to provide some information on the sportsbook. Mr. White advised they operate Elite Sportsbook under the Elite Hospitality Group, and operate as a retail operator at Rhythm City and Riverside, and online across the state.

HGI-Lakeside, LLC: Marc Estrada, Director of Finance, and David Monroe, General Manager, were present to address the audit. Mr. Estrada advised the audit was clean with no material

weaknesses. He stated 2022 was a great year for the facility, but they faced staffing challenges. Staffing is being addressed by increasing wages and offering retention bonuses. Payroll exceeded \$6 million, and total spend with Iowa vendors was over \$5 million. Capital spend for 2022 was just over \$2.8 million, which included a casino remodel to the exterior and the sign on Interstate 35. For 2023, they are planning additional casino renovations, which they hope to bring before the Commission at the June meeting.

SCE Partners, LLC: Andrew Limoges, Director of Finance, noted the property was purchased by Churchill Downs in October, which is why there are two audits in front of the Commission. He advised neither audit firm found any material weaknesses or deficiencies in their reporting. While 2022 was a good year, admissions were down 10.5% compared to 2021 and revenue remained relatively flat. Total economic impact for 2022 was \$65.1 million, with 95% being spent with Iowa vendors. Capital expenditures in 2022 were \$2.5 million, maintaining their commitment to keep the facility in pristine condition to deliver a one-of-a-kind experience for patrons. Mr. Limoges stated staffing continued to be an issue; they implemented referral and sign-on bonuses, increased spending for recruitment campaigns, offered premium pay for team members that did not call in or were not late for their shift. The transition to Churchill Downs ownership provided additional employment benefits such as better health plans, increased 401K, an employee stock purchase program and tuition reimbursement, which have helped with retention. The property is optimistic about 2023, and have committed almost \$3 million to capital expenditures to help drive patrons to the property. Since opening, approximately \$38 million has been reinvested into the property.

Commissioner Burkhardt requested additional information on wages as the audit shows the expense is up 39%.

Mr. Limoges advised there are a lot of manufacturing companies in the area who are increasing their wages exponentially to insure they maintain their employees, which allows them to run more than one shift. Before Covid, a large pork processing plant opened and were unable to run two full shifts at that time. Since that time, the company has increased wages to try and attract employees from the other processing plants in the area, which causes everyone else to increase wages.

Wild Rose Entertainment, L.L.L.P.: Brian Diver, President and Chief Executive Officer, introduced Scott Ivers, Chief Financial Officer, and Rick Gilson, Vice President of Operations. Mr. Diver stated 2022 was the second best year for the Wild Rose properties, with revenues down slightly from 2021. He stated their biggest challenge was labor, but with more investment in recruiting, a bonus structure, and other incentives, they have been able to recover to the point the properties have been able to open up amenities. The properties are almost back to full operations. Mr. Diver advised income is down slightly due to increased wages and the costs of goods. He stated since Covid the properties have reinvested approximately \$19 million, and plan approximately \$6 million in cap ex with 70% of the spend going toward items the customer will see. They are planning a Grand Re-opening at the newly refreshed Emmetsburg property. He noted they are off to a great start this year, and see cashless applications and investment in

technology on the horizon, additional refresh of the properties and hotels. Mr. Diver stated there were no deficiencies noted and all internal controls are in place and strong.

Commissioner Campbell asked if there are any amenities that have not reopened.

Mr. Diver advised all amenities are open. Emmetsburg has two restaurants, one downstairs and one upstairs. They are going to get the upstairs restaurant open on weekends.

Chair Andres asked if the upstairs restaurant was the Irish Pub. Mr. Diver answered in the affirmative. He indicated staffing levels will allow them to open it on weekends.

Prairie Meadows Racetrack & Casino, Inc. (PMRC): Gary Palmer, General Manager, introduced Michele Wilkie, Sr. Vice President of Administration. Mr. Palmer stated 2022 was their best year ever. They have distributed over \$50 million back to the community. In 2022, PMRC had eight record months, the other four were second best. Mr. Palmer stated the audit was clean. This is the 26<sup>th</sup> year the property will be debt free. Economic impact for 2022 was over \$180 million with 97% of the spend in Iowa. For 2023, the first two months were record months and March just missed being a record month. Capital improvements for the year include the completion of the hotel renovation of \$13 million; 2023 expenditures will be around \$10.9 million which includes painting the exterior and replacing escalators.

**CONTRACT APPROVALS (OSV = OUT OF STATE VENDOR; RP = RELATED PARTY):**

Riverside Casino & Golf Resort, LLC: Sharon Haselhoff, General Manager at Grand Falls Casino Resort, LLC, presented a contract with Video Security Specialists for Genetec Advantage Support Renewal (OSV).

Hearing no comments or questions, Chair Andres requested a motion. Commissioner Burkhardt moved to approve the contract as submitted by Riverside Casino & Golf Resort, LLC. Commissioner Olsen seconded the motion, which carried unanimously.

Rhythm City Casino, LLC: Ms. Haselhoff presented the following contracts for Commission approval:

- Builders Sales & Service Company – Materials/Labor for Hotel/Spa Repairs due to Water Damage (OSV)
- Video Security Specialists – Genetec Advantage Support Renewal (OSV)

Hearing no comments or questions, Chair Andres requested a motion. Commissioner Campbell moved to approve the contracts as submitted by Rhythm City Casino, LLC. Commissioner Horbach seconded the motion, which carried unanimously.

Grand Falls Casino Resort, LLC: Ms. Haselhoff presented the following contracts for Commission approval:



- Lyon County, Iowa – Resort Agreement with Lyon County
- Mark-It-Smart – Continuity and Promotion Agreements (OSV)
- Video Security Specialists – Genetec Advantage Support Renewal (OSV)

Hearing no comments or questions, Chair Andres requested a motion. Commissioner Olsen moved to approve the contracts as submitted by Grand Falls Casino Resort, LLC. Commissioner Campbell seconded the motion, which carried unanimously.

Ms. Haselhoff advised that Riverside's golf course has been open for a couple of weeks, and the course at Grand Falls will open on Friday. At the beginning of May, the course will be hosting the Women's NCAA Division 2 outings.

Dubuque Racing Association, Ltd.: Mr. Rakestraw presented the following contracts for Commission approval:

- Chubb Insurance Company – Property, Crime & Management Liability Insurance
- Creative Artist Agency – Entertainment - Artist Booking Agent (OSV)
- DCR Production Inc. – Entertainment – Artist – Darius Rucker (OSV)
- Long Road Touring Company – Entertainment – Artist – 3 Doors Down (OSV)
- RDG Planning & Design, Inc. – Chaplain Schmitt Island Development Plan
- William Morris Endeavor Entertainment, LLC – Entertainment – Artist Booking Agency (OSV)
- Wired Production Group – Entertainment – Production Services

Mr. Rakestraw advised the majority of the contracts are for entertainment. The concerts are part of the Backwater concert series, which are currently held in the back parking lot on concrete. The concert series was started to attract tourism to the community. He noted the facility partnered with the City of Dubuque, who applied for and received a Destination Iowa grant. The funds will be used to build an amphitheater where the greyhound kennels and track were located. They are hopeful construction will start this summer. Mr. Rakestraw stated this year's concert series will be the biggest ever as there are ten shows scheduled.

Commissioner Burkhardt congratulated Mr. Rakestraw on the concert series and thanked the facility for providing the entertainment options.

Hearing no comments or questions, Chair Andres requested a motion. Commissioner Campbell moved to approve the contracts as submitted by Dubuque Racing Association, Ltd. Commissioner Horbach seconded the motion, which carried unanimously.

Wild Rose Clinton, L.L.C.: Steve Cody, General Manager at Wild Rose Emmetsburg, L.L.C., presented the following contracts for Commission approval:

- Century Link Business – Internet Services/Phone Service
- Clinton Auto Group – Purchase Promotional Vehicles for Giveaways

- Clinton National Bank – Bank Services and Credit Cards
- Ecolab – Lease of Dishwashing Machines/Purchases of Chemicals
- The Printer, Inc. – Printing Company for Mailers
- US Postal Service – Postage for Mailers from The Printer, Inc.

Hearing no comments or questions, Chair Andres requested a motion. Commissioner Burkhart moved to approve the contracts as submitted by Wild Rose Clinton, L.L.C. Commissioner Olsen seconded the motion, which carried unanimously.

Wild Rose Emmetsburg, L.L.C.: Mr. Cody presented the following contracts for Commission approval:

- Mark-it-Smart – Continuity Gifts for Patrons
- USA Security – Surveillance Equipment Upgrades and Yearly Maintenance Fees

Hearing no comments or questions, Chair Andres requested a motion. Commissioner Burkhart moved to approve the contracts as submitted by Wild Rose Emmetsburg, L.L.C. Commissioner Campbell seconded the motion, which carried unanimously.

Wild Rose Jefferson, L.L.C.: Travis Dvorak, General Manager, presented the following contracts for Commission approval:

- USA Security – Surveillance Equipment
- Morton Building – Event Center Storage Building for Chairs; Tables and Banquet Equipment

Hearing no comments or questions, Chair Andres requested a motion. Commissioner Campbell moved to approve the contracts as submitted by Wild Rose Jefferson, L.L.C. Commissioner Horbach seconded the motion, which carried unanimously.

SCE Partners, LLC: Doug Fisher, General Manager, presented the following contracts for Commission approval:

- Toucan Productions – Battery Park State Production and Replacement of Anthem Lighting (OSV)
- Data Business Equipment Inc. – Purchase Currency Counter & Cash Recycler
- Saturday in the Park, Inc. – Donation for Saturday in the Park Event (RP)
- C3 Booking, LLC – Talent Booking Agency (OSV)
- LinPepCo d/b/a Pepsi-Cola of Siouxland – Beverage Supplier
- LDW Entertainment, LLC – Lainey Wilson Performance in Battery Park (OSV)

Commissioner Burkhart commented on the information being received regarding the amenities and concerts planned for the facility this summer. She thanked Mr. Fisher for getting everything back to pre-Covid levels.

Hearing no further comments or questions, Chair Andres requested a motion. Commissioner Horbach moved to approve the contracts as submitted by SCE Partners, LLC. Commissioner Olsen seconded the motion, which carried unanimously.

Ameristar Casino Council Bluffs, LLC: Mr. Czak presented the following contracts for Commission approval:

- Vital Signs Unlimited – Marquee Replacement
- M & L Housing Services – Housing in Council Bluffs for International Exchange Students
- Slot Cycle – Purchase of Intelligent Cash Boxes for Slot Machines (OSV)

Hearing no comments or questions, Chair Andres requested a motion. Commissioner Olsen moved to approve the contracts as submitted by Ameristar Casino Council Bluffs, LLC. Commissioner Horbach seconded the motion, which carried unanimously.

HGI-Lakeside, LLC: Mr. Estrada presented the following contracts for Commission approval:

- Baker Group – Casino Floor Cabling/Repairs and Maintenance for Surveillance Projects
- Coremark International – Purchase of C-Store Items
- Creal Clark & Seifert – Architect and Engineering Services for Lakeside (OSV) Renovation and Ongoing Repairs and Maintenance
- Edge Commercial, LLC – Lakeside Casino Renovations/Repair and Maintenance Projects
- Sapphire Manufacturing, Inc. – Purchase of Lighting Fixtures for Lakeside Renovation Project (OSV)
- The Printer, Inc. – Printing Cost in connection with Marketing Mail House

Hearing no comments or questions, Chair Andres requested a motion. Commissioner Campbell moved to approve the contracts as submitted by HGI-Lakeside, LLC. Commissioner Burkhart seconded the motion, which carried unanimously.

Harveys Iowa Management Co., Inc.: Thomas Roberts, General Manager, presented the following contracts for Commission approval:

- Miller & Co. LLC – Purchasing Agent for FF&E for Guy Fieri (OSV)
- Pinnacle Construction – Construction Vendor
- Sure Sound and Light – STIR Cove Concert Production (OSV)

Hearing no comments or questions, Chair Andres requested a motion. Commissioner Horbach moved to approve the contracts as submitted by Harveys Iowa Management Co., Inc. Commissioner Burkhart seconded the motion, which carried unanimously.

Horseshoe Casino Council Bluffs: Mr. Roberts presented a contract with Absolutely Fresh Seafood as a Fresh Seafood Vendor (OSV).

Hearing no comments or questions, Chair Andres requested a motion. Commissioner Burkhart moved to approve the contract as submitted by Horseshoe Casino Council Bluffs. Commissioner Olsen seconded the motion, which carried unanimously.

**PUBLIC COMMENT**: Jon Moss, President of the Iowa Horsemen's Benevolent and Protective Association (IHBPA), advised the IHBPA, among others, have filed a lawsuit against the Federal Trade Commission and HISA stating it is unconstitutional, and requested a preliminary injunction, which has not been approved at this point in time. He stated the lawsuit was filed in the District Court of Arkansas. He asked the Commission to consider filing an Amicus Brief.

Mr. Moss stated the IHBPA is happy to see the Commission is again looking to have a horse racing study conducted. On another note, he advised that Dennis Albaugh has the potential to have three horses running in the Kentucky Derby on May 6<sup>th</sup>. One of his horses, Angel of Empire, will be running; however, the other two still need to accumulate points in order to qualify. Lastly, Mr. Moss stated the Iowa Quarter Horse Racing Association (IQHRA) and the IHBPA have formed a new committee, Backside Enrichment Committee, to encourage more comradery. There is going to be a welcome back party, and have established a food pantry for those needing some additional assistance.

**HEARINGS**:

Diamond Jo Worth, LLC (DJW): Mr. Ohorilko advised Commission staff and Diamond Jo Worth, LLC have entered into a Stipulated Agreement for a violation of Iowa Code § 99F.9(5) (Minor). He stated an individual entered the gaming floor at DJW on September 13, 2022 with an adult companion. The individual was allowed onto the gaming floor unchallenged, was on the floor in excess of 30 minutes, and participated in a gambling activity by pressing the "Spin" button. The individual was later identified when they attempted to re-enter the gaming floor. The individual was asked for identification at that time, and was turned away when they could not produce identification. Mr. Ohorilko stated the facts constitute a violation of the Iowa Administrative Code. He stated the parties have agreed to an administrative penalty of \$20,000.00 consistent with the Resolution on underage gambling.

Mr. Smith stated the facility takes these underage and problem gambling issues seriously at the facility level, as well as at the corporate level. He stated they use each incident as an opportunity to provide retraining to staff. All staff members were required to sign off that they have been retrained in this area with the documentation being placed in their file. Mr. Smith stated they are also looking at ways to provide additional assistance to those employees stationed at the turnstiles, such as rotating them out more often, have additional staff at the turnstiles on the weekends, added stanchions to narrow the space available for entry, and added signage stating they request identification from those individuals appearing to be 35 or under.

Hearing no comments or questions, Chair Andres requested a motion. Commissioner Campbell moved to approve the Stipulated Agreement with an administrative penalty of \$20,000.00. Commissioner Olsen seconded the motion, which carried unanimously.

BetMGM, LLC: Mr. Ohorilko advised Commission staff and BetMGM, LLC have entered into a Stipulated Agreement for violations of Iowa Code § 99F.4(22) (Self-Exclusion) and 491 IAC 13.2(7)“e”. On March 25, 2021, a customer contacted Commission staff with a complaint that they were unable to access their BetMGM account. BetMGM had advised the customer their account was frozen as they were self-excluded. Staff confirmed the individual was self-excluded and was improperly allowed to open an account. The Commission also reviewed suspicious activity that was reported in April. During the course of both investigations, it was noted there were a number of issues that would be in violation of the Statewide Self-Exclusion Resolution: 17 individuals were able to register for an account that had been on the list prior to signing up, 38 individuals that had signed up to participate in the Statewide Self-Exclusion program while having an account were not restricted, and marketing material was sent to 36 individuals while on the Statewide Self-Exclusion list. During the course of the investigation, Commission staff also noted that BetMGM failed to timely report the issues to the Commission as required by administrative rules. Mr. Ohorilko stated BetMGM has made a number of corrections to their processes and controls, and Commission staff is satisfied with the actions taken. He advised BetMGM has sent a check to the State of Iowa General Fund in accordance with the statute for winnings self-excluded individuals received. As a result of the violation, Mr. Ohorilko stated BetMGM has agreed to an administrative penalty in an amount between \$5,000 and \$20,000 consistent with the resolution.

Richard Taylor, Sr. Manager for Responsible Gambling for BetMGM, stated the company accepts full responsibility for the unfortunate series of events and has made significant corrections to their processes, procedures and training to ensure this situation does not occur again, including manual reviews of all uploads, additional audits – quarterly as well as random audits throughout the year, and making sure all staff are fully trained on self-exclusion and responsible gambling principles, policies and procedures and that they understand the importance of these areas. He stated this has been a painful experience for the company, but they have taken the opportunity to address the issues.

Commissioner Burkhart expressed her appreciation for the mitigation steps taken as a result of the events, but the Stipulated Agreement was painful for her to read as there were over 80 self-excluded Iowans who were allowed to gamble or received marketing materials.

Commissioner Burkhart moved to approve the Stipulated Agreement with an administrative penalty of \$20,000.00. Commissioner Olsen seconded the motion, and stated that had this occurred at one of the licensed casinos, the Commission would have been up in arms and feels the Commission needs to hold everyone to the same standards. He stated he felt the penalty should have been higher.

Hearing no further comments, Chair Andres called for the vote, which carried unanimously.

PointsBet Iowa LLC: Mr. Ohorilko advised the third Stipulated Agreement is with PointsBet Iowa, a licensed Advance Deposit Sports Wagering entity, for violations of Iowa Code § 99F.1(28) (Sports Wagering) and 491 IAC 13.3(1). This is a three-count violation related to impermissible wagers being offered in the state. The first count is related to a series of negative outcome wagers, which did settle. PointsBet was able to go back and correct the action with the customers as all of the wagers were placed online. Counts two and three were very similar and involved impermissible wagers that were not prohibited by statute but are prohibited by rules and policies. In both counts, the impermissible wagers were identified prior to the event taking place; PointsBet was able to void the wagers prior to the activity. Mr. Ohorilko stated PointsBet has agreed to an administrative penalty for Count 1 up to \$10,000.00; Count 2 up to \$1,000.00 and Count 3 up to \$1,000.00 as a result of these violations.

Andrew Moreno, Director of Compliance for PointsBet USA, stated the company has been moving toward a more automated system, which requires less manual interaction with the traders. When reviewing these violations, they found the trader was manually uploading the market and incorrectly included Iowa when it should have been excluded by regulation. As they have moved to the automated system, they have seen a significant downtick in those instances in Iowa as well as other jurisdictions. Additionally, they have put a “Blacklist” in place which is an instant notification system so that when an incident occurs traders are notified instantly. This system checks the site every one minute and is notifying traders when it discovers an impermissible wager, league or team on the site.

Hearing no comments or questions, Chair Andres requested a motion. Commissioner Olsen moved to approve the Stipulated Agreement with PointsBet Iowa with the following administrative penalties: Count 1 - \$10,000.00; Count 2 - \$1,000.00, and Count 3 - \$1,000.00. Commissioner Campbell seconded the motion, which carried unanimously.

Xpressbet, LLC: Mr. Ohorilko advised Commission staff and Xpressbet, LLC, a licensed Advance Deposit Wagering operator, have entered into a Stipulated Agreement for violations of Iowa Code § 99D.7(23) (Self-Exclusion) and 491 IAC 8.6(3)“a”. Mr. Ohorilko advised this is a two-count violation. The first count involves a series of instances between May and July when there were some untimely downloads. The Statewide Self-Exclusion Resolution requires a download within seven days; in some instances, the downloads occurred within 14 days but outside the seven day window. Mr. Ohorilko advised that while negotiating this stipulation, there was an additional count that occurred on January 16<sup>th</sup> where Xpressbet downloaded the information from the statewide self-exclusion database with the second download occurring on January 26<sup>th</sup>, which is outside the seven day window. He noted Xpressbet has taken corrective action and is working on a technology solution to hook into the Statewide Self-Exclusion system to automate the process. If they are able to do so, Xpressbet would be the first company to do so. Mr. Ohorilko stated Xpressbet has agreed to an administrative penalty between \$5,000 and \$20,000.

Gene Charbrier, Vice President of Regulatory Affairs and Business Development, stated the company takes this issue very seriously and have taken measures to prevent this from happening again, and look forward to working with Mr. Poundstone to get the API to automate the process.

Hearing no comments or questions, Chair Andres requested a motion. Commissioner Horbach moved to approve the Stipulated Agreement with Xpressbet, LLC with an administrative penalty of \$5,000.00 for Count 1, and \$10,000.00 for Count 2. Commissioner Campbell seconded the motion, which carried unanimously.

Sports Information Group, LLC: Mr. Ohorilko advised Commission staff and Sports Information Group, LLC d/b/a Daily Racing Form Sportsbook (DRF Sportsbook) have entered into a Stipulated Agreement for violations of Iowa Code § 99F.4(22) (Self Exclusion) and 99F.1(29) (Impermissible Wagers). He indicated this is a three count violation. The first count involves an untimely download. On December 6, 2022, DRF Sportsbook downloaded the updated information, but did not complete the next download until December 14, 2022, one day outside of the allotted time in the resolution. Counts two and three involve impermissible wagers. Both wagers settled. Count two involves a prop bet on Iowa collegiate athletes, which is prohibited by statute. The wager was for \$2.00; and occurred at a retail license. On the Advance Deposit Sports Wagering license, there was additional action on that particular prop bet, which did settle; however, DRF was able to go back and correct those due to a log created in the online environment. Mr. Ohorilko stated Sports Information Group, LLC has agreed to an administrative penalty between \$5,000.00 and \$20,000.00 for Count 1; up to \$5,000.00 for Count 2, and up to \$5,000.00 for Count 3.

Erin Barnett, Sr. Vice President & General Counsel for Affinity Gaming on behalf of subsidiary DRF, stated DRF takes the matter very seriously with regard to the untimely download of the self-exclusion database, which was due to a misunderstanding on the part of DRF's compliance team. The DRF compliance team now has a pre-scheduled weekly meeting where the information is downloaded as a group so more people have access and to ensure that if someone is out, the information is still downloaded timely. With regard to the impermissible wagers, Ms. Barnett advised it was DRF's own review of wagers on the system that discovered the impermissible wagers on the Iowa Hawkeyes and Michigan Wolverine's game. Further investigation of the actual settled wagers from March led to additional impermissible wagers being found by the Commission. She stated DRF has worked with the platform provider to ensure that such wagers are not available on their platform and to update their technology to prevent a reoccurrence of this issue.

Hearing no comments or questions, Chair Andres requested a motion. Commissioner Horbach moved to approve the Stipulated Agreement with the following administrative penalties: Count 1 - \$5,000.00; Count 2 - \$5,000.00 and Count 3 - \$5,000.00. Commissioner Campbell seconded the motion, which carried unanimously.

**ADMINISTRATIVE BUSINESS:**

Approval of Horse Racing Promotion Fund: Mr. Ohorilko advised there was one applicant for the Horse Racing Promotion Fund – the Iowa Thoroughbred Breeders and Owners Association (ITBOA). There is \$2,174.71 available for distribution. Mr. Ohorilko requested approval of the distribution of the funds to the ITBOA.

Hearing no comments or questions, Chair Andres requested a motion. Commissioner Burkhart moved to distribute the Horse Racing Promotion Fund to the ITBOA. Commissioner Campbell seconded the motion, which carried unanimously.

Approval of Voluntary Implementation Agreement with the Horseracing Integrity and Safety Authority (HISA): Mr. Ohorilko stated the agreement is between HISA and the Iowa Racing and Gaming Commission. The agreement allows Commission staff to execute the responsibilities directed by HISA, and specifically, for the state racing stakeholders to receive the \$400,000 assessment credit being offered by HISA. He noted there have been concerns expressed; and while this is not a perfect situation, it is the only way for the racing stakeholders to receive the assessment credit. Mr. Ohorilko stated Commission staff is already doing the work required in the agreement. In discussions with industry representatives, they have made it clear they would prefer Commission employees do the work rather than HISA. Without this agreement, there would be an impact that would trickle down to the starters to pay for the assessment in the amount of \$100 - \$250 per start. Mr. Ohorilko stated that while it is not the best option, he is requesting approval to move forward with the Voluntary Implementation Agreement.

Commissioner Burkhart noted there is a lot of uncertainty about the federal regulation, which is currently under a 30-day injunction. She expressed some hesitation to approve an agreement on an enjoined federal regulation, but due to the timing of Commission meetings, that if the discussion is tabled until June and the injunction is lifted, HISA would immediately bring in their own staff.

Mr. Ohorilko stated if there is a new injunction or an extension of the current injunction, HISA will not enforce or expect the Commission to move forward with the Voluntary Implementation Agreement. An injunction would mean that state rules and regulations would be in place. He stated Commission staff will be there and will be able to make the transition easily, which has happened. Prior to this latest injunction, HISA rules were in effect for four days prior to the injunction occurring, at those racetracks that were running. The State Commissions then had to come back to do the work if they were not already doing so. With regard to timing, the next Commission meeting is in the middle of June; racing starts in the middle of May. If the injunction expires on May 1<sup>st</sup>, Mr. Ohorilko feels HISA will come in and do the work and does not feel there will be an opportunity to come back at a later date and enter into the Voluntary Implementation Agreement once HISA staff are on site.

Commissioner Olsen stated whether the Commission liked it not, he feels they need to move forward to save the stakeholders \$400,000 and to have procedures in place with the racing season approaching.

Hearing no further comments or questions, Chair Andres requested a motion. Commissioner Olsen moved to enter into the Voluntary Implementation Agreement with HISA. Commissioner Campbell seconded the motion, which carried unanimously.

Horseracing Study: Mr. Ohorilko stated Commission staff has received an exemption from the Department of Administrative Services to allow for a more public process in terms of conducting



the Request for Proposal. He advised this is the same study that was discussed last summer which is to look at a number of factors related to the horse racing industry, which could affect the health and sustainability of the industry. Mr. Ohorilko requested permission to move forward with the study.

Hearing no comments or questions, Chair Andres requested a motion. Commissioner Campbell so moved. Commissioner Horbach seconded the motion, which carried unanimously.

Mr. Ohorilko stated this would be Commissioner Horbach's last meeting. He noted he has the opportunity to meet some special and talented people in his role, and is grateful for those individuals that volunteer to serve on the Commission. Mr. Ohorilko presented Commissioner Horbach with a plaque which read "Lance Horbach – In Appreciation of your Service to the Iowa Racing and Gaming Commission – May 1, 2020 through April 30, 2023" and made some comments recognizing Mr. Horbach for his service.

Commissioner Horbach noted he served on the Commission at the pleasure of the Governor, and is grateful for the opportunity to put his fingerprint on the racing and gaming industry in Iowa. He stated he was walking away with three things he is very proud of and one huge regret:

- 1) When he came on the Commission, he felt the meetings were "cookie cutter" and there were no questions asked during the meetings. While the Commission staff and Commissioners were aware of the behind the scene interactions, the public does not see that interaction. The current Commission implemented a strong engagement, which is why the industry representatives are getting more questions.
- 2) Stakeholder meetings. He wondered how the Commission could regulate or know what the industry needs or the industry meet their expectations if there is no communication on the issues.
- 3) He stated he is proud of the industry. He noted that he knew approximately five people when he joined the Commission, but now knows all of them. He stated the integrity of the Iowa gaming industry is high, and the right people are in the right places.
- 4) Directing his comments to Wes Ehrecke of the Iowa Gaming Association, he state his one regret is that the Iowa Racing and Gaming Commission placed first in the second flight at the Iowa Gaming Association golf tournament, which was a first for any Commission team. His regret is usually the team finishing first in the second or third flight gets a couple of dollars, but the Commission team received huge trophies. He stated it would probably be better if the Commission did not receive such large trophies in the future from a public relations standpoint.

Commissioner Horbach stated what occurs in the future is up to everyone else, but has confidence in everyone. He stated they have a stigma from those who don't know gaming, but he has never met one person who didn't try to do the right thing. He noted the communities in which the facilities operate also depend on them. He expressed appreciation for his time on the Commission.

Hearing no further business to come before the Commission, Chair Andres adjourned the meeting.

MINUTES TAKEN BY:

  
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JULIE D. HERRICK