

## KANSAS RACING AND GAMING COMMISSION

### MINUTES – FEBRUARY 12, 2010

CALL TO ORDER:  
(A.)

Chair Sader called the February 12, 2010, meeting to order at 10:04 am at 700 SW Harrison, Auditorium A, Suite 450, Topeka, Kansas. Commissioners Sader, Braun, and Falstad were present at the meeting. Commissioner McKechnie participated by phone. Commissioner Schwan was absent. Others present included Executive Director Stephen Martino; Assistant Attorney General Patrick Martin; Deputy Director of Audit/Electronic Security Charles LaBoy; Deputy Director of Security Don Brownlee; Deputy Director of Administration Don Cawby; Director of Communications/ Responsible Gaming Mike Deines; Recording Secretary Linda Pendarvis and other staff.

MOTION, APPROVE  
AGENDA:  
(B.)

Commissioner Falstad (McKechnie) moved to approve the agenda as presented. Motion passed unanimously.

MOTION, APPROVE  
JANUARY 15, 2010,  
MEETING MINUTES:  
(C.)

Commissioner Falstad (Braun) moved to approve the minutes of the January 15, 2010, commission meeting as presented. Motion passed unanimously.

MOTION, APPROVE  
CONSENT AGENDA:  
(D.)

Commissioner Falstad (Braun) moved to approve the consent agenda as follows:

1. Electronic Gaming Machines and Electronic Lottery Facility Games (spreadsheet of machines and games attached)

Motion passed unanimously.

KANSAS LOTTERY  
COMMISSION REPORT:  
(E.)

The commission heard Keith Kocher, director of gaming facilities for the Kansas Lottery, report on the current status of casinos:

- South Central Zone: Negotiations with Chisholm Creek are 99% complete, and it is anticipated that an amended contract will be returned to the review board. The Lottery Commission meets on Wednesday, February 17, and will either approve the amended contract or seek additional bids.
- The Boot Hill Casino and Resort continues to do well financially.
- Southeast Zone: No applications were received prior to the deadline, so the new deadline is mid-April.

LOTTERY GAMING  
FACILITY  
REPORTS/ITEMS:  
(F.1.)

The commission heard a report from Clark Stewart, president of Butler National Service Corp. d/b/a Boot Hill Casino and Resort.

- Casino is doing well; Butler National continues to become familiar with their market.
- Payments to the KRGC are up-to-date.
- A new hand-held electronic device is being used on a trial basis to test drivers' licenses in an effort to identify and eliminate under-age customers.

DISCUSSION, BOOT HILL  
CASINO AND RESORT  
INTERNAL CONTROL  
WAIVERS/ AMENDMENTS:  
(G.1.)

The commission heard Mr. LaBoy present five waivers/amendments submitted by the Boot Hill Casino and Resort relating to its internal control plan. Due to the confidential nature of the information, he recommended that they be discussed in executive session.

MOTION, EXECUTIVE  
SESSION:  
(G.1.)

Commissioner Braun (Falstad) moved that the commission recess into executive session for a period of 20 minutes, from 10:20 to 10:40 am, for the purpose of receiving confidential data to protect the financial affairs, security, and other trade secrets of the certified manager. Included in the executive session were the commission, Mr. Martino, Mr. Martin, Mr. LaBoy, and other KRGC staff. Motion passed unanimously.

RECONVENE:

The commission meeting reconvened at 10:40 am with all members present as previously noted.

MOTION, APPROVAL OF  
BOOT HILL CASINO AND  
RESORT INTERNAL  
CONTROL WAIVERS/  
AMENDMENTS:  
(G.1.)

Commissioner Falstad (Braun) moved to approve the requests to the Boot Hill Casino internal control plan as follows:

- Approve waivers BH48, BH56, BH57, BH58, and BH59.

Motion passed unanimously.

DISCUSSION,  
AMENDMENT TO CODE OF  
CONDUCT'S POST-  
EMPLOYMENT  
RESTRICTIONS:  
(G.2.)

The commission heard Stephen Martino discuss a proposed amendment to the Code of Conduct's post-employment restrictions as follows:

- Reduce the current five-year restriction on working for or having a financial interest in "any licensee, applicant, their affiliates, key personnel or representatives," to one year with a provision to allow for a good cause waiver. This in no way impacts the prohibition on working for a lottery gaming facility manager or racetrack gaming facility manager, which is outlined in legislation and cannot be amended by KRGC.

MOTION, AMENDMENT TO  
CODE OF CONDUCT'S  
POST-EMPLOYMENT  
RESTRICTIONS:  
(G.2.)

Commissioner Falstad (Braun) moved to amend the Code of Conduct's post-employment restrictions to read as follows:

B.11.a. Commission members, employees or agents shall comply with the post-employment restrictions in K.S.A. 74-8762. Those restrictions generally provide that, for five years immediately subsequent to the termination of the office or employment of the commissioner or employee, the commissioner or employee may not hold an interest in, be employed by or represent, appear for or negotiate on behalf of any person who was then submitting a proposal for a lottery gaming facility or racetrack gaming facility, or on behalf of any lottery gaming facility manager or racetrack gaming facility manager.

B.11.b. In addition to the restrictions in K.S.A. 74-8762, former Commission members, employees or agents shall not for a period of one year after termination of their Commission appointment or employment engage in any employment or contractual relations with, or have any financial interest in, any gaming supplier licensee or its affiliates, key

personnel or representatives.

B.11.c. A Commission member, employee or agent may apply to the Commission in writing for a waiver to section 11.b., and the same may be granted upon a finding of good cause by the Commission.

Motion passed unanimously.

CALL FOR PUBLIC  
COMMENTS:  
(H.)

Chair Sader called for public comments.

- Shirley Ikerd spoke in support of a casino in Wyandotte County.
- Jerry Johnson, Kansas Thoroughbred Association, inquired as to the status of horse racing in the state.

STAFF REPORT, MARTINO:  
(I.1.)

The commission heard a staff report from Mr. Martino:

- Introduced Richard Baldwin, interim executive director of the State Gaming Agency.
- Budget Committee hearings have started and appear to be proceeding well.
- There is a gaming bill in the legislature that staff is monitoring. Hearings have taken place, but the committee has yet to decide whether to work the bill.
- Jay Hall, KRGC counsel, is monitoring legislative issues that might impact the KRGC.
- Mr. Martino and Mr. Martin traveled to Dodge City on February 9 and 10 and, along with Mr. Brownlee, met with Terry Malone, Ford County Attorney.
- Through the end of January the State of Kansas received \$1.126 million from the operation of the Boot Hill Casino and Resort.

STAFF REPORT, CAWBY:  
(I.2.)

The commission heard a staff report from Mr. Cawby:

- Conflicts have arisen with some upcoming commission meeting dates. As a result, the meeting originally scheduled for April 16 is being moved to Friday, April 9. The meeting originally scheduled for June 11 will be moved to Thursday, June 3.
- Meeting dates from June through the end of the calendar year will be considered final – the first Friday following the 10<sup>th</sup> of each month – with the exception of the September meeting, which will be held on September 10 for budget purposes. Meeting dates through the end of 2010 are:
  - March 12
  - April 9
  - May 14
  - June 3
  - July 16
  - August 13
  - September 10
  - October 15
  - November 12
  - December 17

STAFF REPORT, DEINES:  
(I.3.)

The commission heard a staff report from Mr. Deines:

- Two people have registered for the voluntary self-exclusion program. Outreach in that area continues.
- 386 calls came in on the helpline in January, the majority of which were “inappropriate,” meaning that the calls were not related to responsible gambling issues. The Responsible Gambling Alliance has formed a work group to look into what can be done to minimize inappropriate calls. Most of the legitimate calls obtained the phone number either from billboards or casinos. Casino slots appear to be the game of choice for the majority of people placing legitimate calls to the helpline. Most of those people were referred to either Gamblers Anonymous or another provider. All of the appropriate calls have come either from counties that either have casinos or are contiguous to counties with casinos.
- The new ksgamblinghelp.com website is averaging just under 200 unique visitors per month with traffic expected to increase as more people learn about the website.
- March 7 begins National Problem Gambling Awareness Week. As part of that, on March 10 the Responsible Gambling Alliance will hold a press conference to make an official announcement of the new website. They will also unveil a new 30-second TV public service announcement.
- KRGC continues to be active in the Dodge City community. Carol Spiker, responsible gambling coordinator, was in Dodge City earlier in the week to conduct training for the school district and the mental health center there. The next round of training is scheduled for late March.

MOTION, EXECUTIVE  
SESSION:  
(J.1.)

Commissioner Falstad (Braun) moved that the commission adjourn into executive session for 20 minutes from 11:15 until 11:35 am for the purpose of attorney-client communication. Those included in the executive session were the commission, Mr. Martino, Mr. Martin, and Tim Riemann, assistant attorney general with the Kansas Attorney General’s office. No action is to be taken in executive session, and the subjects discussed are to be limited as previously described. A full record of this motion is to be maintained as a part of the permanent record of the Kansas Racing and Gaming Commission. At the conclusion of the executive session, the meeting is to be continued in open session. Motion passed unanimously.

RECONVENE:

The commission meeting reconvened at 11:35 am with all members present as previously noted.

MOTION, EXTEND  
EXECUTIVE SESSION:  
(J.1.)

Commissioner Falstad (Braun) moved to extend the previous executive session for an additional 15 minutes until 11:50 am. Those included in the executive session were the commission, Mr. Martino, and Mr. Martin. No action is to be taken in executive session, and the subjects

discussed are to be limited as previously described. A full record of this motion is to be maintained as a part of the permanent record of the Kansas Racing and Gaming Commission. At the conclusion of the executive session, the meeting is to be continued in open session. Motion passed unanimously.

RECONVENE:

The commission meeting reconvened at 11:50 am with all members present as previously noted.

MOTION, EXECUTIVE  
SESSION:  
(J.2.)

Commissioner Braun (Falstad) moved that the commission take a 10-minute break followed by a one-hour executive session, from noon until 1 pm, for the purpose of discussing confidential background investigations performed by KRGC agents on Kansas Entertainment LLC. Those included in the executive session were the commission, Mr. Martino, Mr. Martin, Mr. Brownlee, and other KRGC staff. No action is to be taken in executive session, and the subjects discussed are to be limited as previously described. A full record of this motion is to be maintained as a part of the permanent record of the Kansas Racing and Gaming Commission. At the conclusion of the executive session, the meeting is to be continued in open session. Motion passed unanimously.

RECONVENE:

The commission meeting reconvened at 1 pm with all members present as previously noted.

CONSIDERATION AND  
POSSIBLE ACTION ON  
KANSAS ENTERTAINMENT  
LLC BACKGROUND AND  
CONTRACT:  
(K.1.)

Chair Sader introduced Jeff Boerger, president of Kansas Speedway, and Tom Burke, senior vice president of operations for Penn National Gaming, and invited them to address the commission. Mr. Boerger thanked the commission and KRGC staff for their work and expressed excitement about the opening of the Wyandotte County casino and their partner, Penn National Gaming. Mr. Burke echoed Mr. Boerger's thanks to all concerned. Mr. Burke also introduced Morton "Marty" Naumann, vice president of operations for the joint venture. Mr. Boerger introduced Kelly Hale, senior manager of public relations for Kansas Speedway and Latoria Chinn, compliance officer.

MOTION, APPROVE  
KANSAS ENTERTAINMENT  
LLC BACKGROUND AND  
CONTRACT:  
(K.1.)

Commissioner Braun (Falstad) moved to approve the character and fitness background investigation for Kansas Entertainment LLC and the contract between the Kansas Lottery Commission and Kansas Entertainment LLC. Motion passed unanimously.

MOTION, EXECUTIVE  
SESSION:  
(K.2.)

Commissioner Falstad (Braun) moved that the commission adjourn into executive session for 20 minutes, from 1:10 until 1:30 pm, for the purpose of discussing confidential background investigations performed by KRGC agents on various applicants. Those included in the executive session were the commission, Mr. Martino, Mr. Martin, and Mr. Brownlee. No action is to be taken in executive session, and the subjects discussed are to be limited as previously described. A full record of this motion is to be maintained as a part of the permanent record of the Kansas Racing and Gaming Commission. At the conclusion of the

executive session, the meeting is to be continued in open session.  
Motion passed unanimously.

RECONVENE:

The commission meeting reconvened at 1:30 pm with all members present as previously noted.

MOTION, EXTEND  
EXECUTIVE SESSION:  
(K.2.)

Commissioner Braun (Falstad) moved to extend the previous executive session for an additional 10 minutes until 1:40 pm. Those included in the executive session were the commission, Mr. Martino, Mr. Martin, and Mr. Brownlee. No action is to be taken in executive session, and the subjects discussed are to be limited as previously described. A full record of this motion is to be maintained as a part of the permanent record of the Kansas Racing and Gaming Commission. At the conclusion of the executive session, the meeting is to be continued in open session. Motion passed unanimously.

RECONVENE:

The commission meeting reconvened at 1:40 pm with all members present as previously noted.

MOTION, APPROVE  
LICENSES:  
(K.2.)

Commissioner Braun (Falstad) moved to approve the following licenses:

- a. Level II Gaming Licenses
  - i. Kathleen Koehn
  - ii. Henry Marquina
  - iii. Justin Meissner
  - iv. George Ross
- b. Level III Gaming Licenses
  - i. Edgar Del Real
  - ii. Amy Durr
  - iii. Eddie Fitzgerald
  - iv. Valerie McPhail
  - v. Sylvia Suarez

Motion passed unanimously.

MOTION, TABLE  
LICENSES:  
(K.2.)

Commissioner Braun (Falstad) moved to table approval of the following:

- a. Boot Hill Casino employee licenses
  - i. Brenda Davis
  - ii. Claudia Castelli

Motion passed unanimously.

MOTION, DENY LICENSE:  
(K.2.)

Commissioner Falstad (Braun) moved to deny approval of the following:

- a. Boot Hill Casino employee license
  - i. Brandy Murray

Motion passed unanimously.

MOTION, EXECUTIVE  
SESSION:  
(J.3.)

Commissioner Falstad (Braun) moved that the commission adjourn into executive session for 15 minutes, from 1:45 until 2 pm, for the purpose of discussing personnel issues. Those included in the executive session were the commission and Mr. Martino. No action is to be taken in executive session, and the subjects discussed are to be limited as previously described. A full record of this motion is to be maintained as a part of the permanent record of the Kansas Racing and Gaming Commission. At the conclusion of the executive session, the meeting is to be continued in open session. Motion passed unanimously.

McKECHNIE EXITS  
TELECONFERENCE

Commissioner McKechnie exited the teleconference at 1:45 pm.

RECONVENE:

The commission meeting reconvened at 2 pm with all members present as previously noted with the exception of Commissioner McKechnie.

ADJOURN:

Commissioner Braun (Falstad) moved to adjourn at 2:01 pm. Motion passed unanimously.

SUBMITTED BY:

*Signature on File*

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William Falstad  
Secretary

APPROVED BY:

*Signature on File*

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Carol H. Sader  
Chair