

KANSAS RACING AND GAMING COMMISSION

MINUTES – MARCH 12, 2010

CALL TO ORDER:
(A.)

Chair Sader called the March 12, 2010, meeting to order at 10:04 am at 700 SW Harrison, Auditorium A, Suite 450, Topeka, Kansas. Commissioners Sader, Falstad, and Schwan were present at the meeting. Commissioner McKechnie participated by phone. Commissioner Braun 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 (Schwan) moved to approve the agenda as presented. Motion passed unanimously.

(Note: Representatives of the Hollywood Casino [F.1.b.] will speak prior to representatives of the Boot Hill Casino and Resort [F.1.a.], which represents a change in order but no change in the agenda contents.)

MOTION, APPROVE
FEBRUARY 12, 2010,
MEETING MINUTES:
(C.)

Commissioner Falstad (McKechnie) moved to approve the minutes of the February 12, 2010, commission meeting as submitted. Motion passed unanimously.

MOTION, APPROVE
CONSENT AGENDA:
(D.)

Commissioner Schwan (Falstad) moved to approve the consent agenda with updates as indicated by Mr. LaBoy to include approval of the 23 listed electronic gaming machine hardware components and electronic lottery facility games and the revocation of the two listed electronic gaming machine software components that will be replaced within 90 days:

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:

- The Lottery has been working the past week with The Boot Hill Casino and Resort on getting their bar-top video poker machines in.
- The format for posting revenue for The Boot Hill Casino has changed on the Lottery's website. It is now a monthly amount with cumulative totals.
- Through the end of February 2010, Boot Hill Casino has

realized \$2.63 million in net revenues, which is exactly \$40 million per year and in line with projections.

- South Central zone: The Kansas Lottery Gaming Facility Review Board met two weeks ago to consider the amended contract for the Chisholm Creek Casino and Resort applicant. The board is awaiting information from its consultants and will be scheduling another meeting.
- Northeast zone: The Hollywood Casino and Lottery officials have met, and plans are moving forward.
- Southeast zone: One potential applicant continues to call, but it is unknown whether a proposal will be in hand by April 16. If no applications are filed, it is anticipated that an additional extension will be granted.

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

The commission heard a report from Jeff Boerger, president of Kansas Speedway, a partner in the Hollywood Casino at Kansas Speedway:

- Mr. Boerger introduced Carl Yaeger with the design group Berger Devine Yaeger, the lead architect on the project. Mr. Yaeger distributed a site plan and floor plan of the casino. The design team consists of Marnell Architects, Las Vegas, which will be in charge of the exterior construction; Genesis, Los Angeles, will be handling the interior architecture and design; and Berger Devine Yaeger, Overland Park, KS, is the architect of record on the project. Turner Construction will serve as the construction manager.
- Mr. Boerger also introduced Marty Naumann, V.P. of Operations at the Hollywood Casino at Kansas Speedway, and Latoria Chinn, who is in charge of compliance pertaining to minority and women owned business for the project.
- The ceremonial groundbreaking for the Hollywood Casino is planned for Friday, April 30, at 11 am. That is a race weekend at Kansas Speedway. Further information will be forthcoming.

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

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

- Boot Hill Casino and Resort is currently on target with the original planned gaming revenue.
- Fifteen video poker games are currently in the bar and have been popular with patrons. Twenty more are expected to be online within the next 30 days or so.

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

The commission heard Mr. LaBoy present two waivers/amendments (BH60 and BH61) submitted by the Boot Hill Casino and Resort relating to its internal control plan. Staff submitted two waivers (KRG1 and KRG2) dealing with shipping notices for electronic

gaming devices and table games. The December 2009 and January 2010 financial statements were also presented. Due to the confidential nature of the information, he recommended that it be discussed in executive session.

MOTION, APPROVE
STAFF SUBMITTED
WAIVERS:
(G.1.)

Commissioner Falstad (Schwan) moved to approve waivers KRGC1 [K.A.R. 112-107-5(a)] and KRGC2 [K.A.R. 112-108-55(a)]. Motion passed unanimously.

MOTION, EXECUTIVE
SESSION:
(G.1.)

Commissioner Schwan (Falstad) moved that the commission recess into executive session for a period of 15 minutes, from 10:55 to 11:10 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 11:10 am with all members present as previously noted.

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

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

- Approve waiver amendment application BH61
- Deny waiver amendment application BH60

Motion passed unanimously.

DISCUSSION, LOTTERY
TABLE GAME – THREE
CARD POKER:
(G.2)

The commission heard Mr. LaBoy discuss the suggested rules for Three Card Poker in accordance with K.A.R. 112-108-4(a)'s requirement that the commission approve any table game rules before their use at a lottery gaming facility. The rules are a standard set from Shuffle Master and have been formatted and approved as temporary regulations by the Kansas Lottery Commission. In addition, they have been analyzed by KRGC's independent testing laboratory.

MOTION, APPROVAL OF
LOTTERY TABLE GAME –
THREE CARD POKER:
(G.2)

Commissioner Falstad (Schwan) moved to approve the Three Card Poker rules as stated in K.A.R. 111-305. Motion passed unanimously.

DISCUSSION,
COMPLIANCE AUDIT OF
ANTHONY DOWNS FOR
2009:
(G.3.)

The commission heard David Schultz, Chief Audit Officer, discuss the Anthony Downs 2009 compliance audit conducted on January 21, 2010, and the financial report included therein. Staff does not believe requirements were met for Order No. One that states that any profits from the horse meet should be used to pay down the debt or refund entry fees on a pro rata basis. Since Anthony Downs had a profit of over \$51,000 on the horse meet, staff believes that amount is

payable to the horsemen. Staff at Anthony Downs was given a week to comment on the situation. No comment has been received to date.

MOTION, TABLE UNTIL
APRIL 9, 2010, MEETING:
(G.3.)

Commissioner Falstad (Schwan) moved to table approval of the Anthony Downs compliance audit until the April 9, 2010, meeting pending further communication with Anthony Downs. Motion passed unanimously.

PRESENTATION OF
ANNUAL REPORTS FOR
2007 AND 2008:
(G.4.)

The commission heard Mr. Martino discuss the KRGC Annual Reports for the years 2007 and 2008. It is anticipated that the 2009 Annual Report will appear on the April 9 commission agenda. Future annual reports will be posted on the KRGC website rather than distributed in paper form.

MOTION, APPROVAL OF
ANNUAL REPORTS FOR
2007 AND 2008:
(G.4.)

Commissioner Schwan (Falstad) moved to approve the 2007 and 2008 Annual Reports as submitted. Motion passed unanimously.

DISCUSSION, SEMI-
ANNUAL ACTIVITY
REPORT OF BINGO
OPERATIONS:
(G.5.)

The commission heard Mr. Martino present the semi-annual activity report of inspections and investigations of bingo operations submitted by the director of Alcoholic Beverage Control, for the last six months of calendar year 2009. The commission expressed dissatisfaction with the substance of the report and questioned whether it is necessary that the report come before the commission. The executive director will express to the Department of Revenue that the commission desires to either be released from the obligation to receive the report or to receive a report with more substantive information than it customarily contains.

MOTION,
ACKNOWLEDGE RECEIPT
OF SEMI-ANNUAL
ACTIVITY REPORT OF
BINGO OPERATIONS:
(G.5.)

Commissioner Schwan (Falstad) moved to acknowledge receipt of the semi-annual activity report of bingo operations. Motion passed unanimously.

DISCUSSION, TRAVEL TO
NORTH AMERICAN
GAMING REGULATORS
ASSOCIATION
CONFERENCE:
(G.6.)

The commission heard Mr. Martino discuss travel to the North American Gaming Regulators Association Conference. This year's NAGRA meeting is in Vancouver, Canada. Mr. Martin and Mr. Brownlee have expressed a willingness to attend on behalf of KRGC. Commission approval is required for any travel outside the United States.

MOTION, APPROVAL OF
TRAVEL TO NORTH
AMERICAN GAMING
REGULATORS
ASSOCIATION
CONFERENCE:
(G.6.)

Commissioner Falstad (Braun) moved to approve the request for Mr. Martin and Mr. Brownlee to attend the NAGRA conference in Vancouver, Canada. Motion passed unanimously.

CALL FOR PUBLIC
COMMENTS:
(H.)

Chair Sader called for public comments. There were none.

STAFF REPORT,
MARTINO:
(I.1.)

The commission heard a staff report from Mr. Martino:

- The Kansas Lottery Gaming Facility Review Board met by phone on March 3 to consider the amended Chisholm Creek Casino and Resort contract in Sumner county. The review board has requested some consultant work and are likely to meet in person in early April to consider the amended contract.
- The budget process is substantively finished for this year. Both the House and the Senate adopted the governor's recommendation on the KRGC budget.
- Staff next week will attend the GLI Regulators Roundtable.

STAFF REPORT, DEINES:
(I.2.)

The commission heard a staff report from Mr. Deines:

- On March 10, the Kansas Responsible Gambling Alliance held a press conference to unveil new resources for problem gamblers in the State of Kansas – a new website and a public service announcement that will be airing on radio and television stations across the state. All of the air time has been donated by the stations, and the Association of Gaming Equipment Manufacturers donated \$10,000 to pay for the production costs.
- Five individuals have now registered for the voluntary exclusion program.
- During the month of February 2010, the Problem Gambling Helpline received 29 appropriate calls. Most people who utilize the number have received information about it at the casino.
- During February 2010, the website *ksgamblinghelp.com* received 261 visitors, 219 of which were unique visitors. Since the press conference on March 10, traffic on the site has tripled.

STAFF REPORT, CAWBY:
(I.3.)

The commission heard a staff report from Mr. Cawby:

- All upcoming commission dates through the end of the calendar year are on the calendar.

MOTION, EXECUTIVE
SESSION:
(J.1.)

Commissioner Schwan (Falstad) moved that the commission take a 5-minute break followed by an executive session for 30 minutes from noon until 12:30 pm for the purpose of attorney-client communication. Those included in the executive session were the commission, Mr. Martino, Mr. Martin, and Mr. LaBoy. 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 11:55 am.

RECONVENE:

The commission meeting reconvened at 12:30 pm with all members present as previously noted.

MOTION, EXECUTIVE
SESSION:
(J.2.)

Commissioner Falstad (Schwan) moved that the commission adjourn into executive session for 45 minutes, from 12:35 until 1:20 pm, for the purpose of discussing 33 confidential background investigations performed by KRGC agents on various applicants. Those included in the executive session were the commission, Mr. Martino, Mr. Martin, Mr. Brownlee, and security 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 1:22 pm with all members present as previously noted.

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

Commissioner Schwan (Falstad) moved to extend the previous executive session until 1:30 pm. Those included in the executive session were the commission, Mr. Martino, Mr. Martin, Mr. Brownlee, and security 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 1:30 pm with all members present as previously noted.

MOTION, APPROVE
LICENSES:
(K.2.)

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

- a. Level II Gaming Licenses
 - i. Deborah Behee
 - ii. Essie Cheatham
 - iii. James Donato

- iv. Guadalupe Galindo
- v. Craig Gates
- vi. Dung Lai
- vii. Sterling McPhaul
- viii. Kelcie Miller
- ix. Jeffrey Myers
- x. Gregory Nicholson
- xi. Brandon Olive
- xii. Christina Richardson
- xiii. Gina Richardson
- xiv. Jean Scali
- xv. Melissa Schulte
- xvi. Eric Randle
- xvii. Jean Saint Louis
- xviii. Bonnie Simmons
- xix. Julie Southard
- xx. Jennifer Tindall
- xxi. Samantha Torrez
- b. Level III Gaming Licenses
 - i. Brittainy Kaiser
 - ii. Shakari Pendleton
 - iii. Jacquelyn Soltero
 - iv. Craig Stewart
 - v. Guadalupe Zuniga

Motion passed unanimously.

MOTION, DENY
LICENSES:
(J.2.)

Commissioner Falstad (Schwan) moved to deny the following licenses:

- a. Level II Gaming Licenses
 - i. Brandy Clinton
 - ii. Brenda Davis
 - iii. Arturo Espinoza
 - iv. David Ferrante
 - v. Gilbert Ponce
 - vi. Scott Smith
- b. Level III Gaming License
 - i. Claudia Castelli

Motion passed unanimously.

ADJOURN: Commissioner Schwan (Falstad) moved to adjourn at 1:35 pm.
Motion passed unanimously.

SUBMITTED BY:

(Signature on File)

William Falstad
Secretary

APPROVED BY:

(Signature on File)

Carol H. Sader
Chair