

KANSAS RACING AND GAMING COMMISSION

MINUTES – MAY 12, 2023

CALL TO ORDER

(A.)

Chairman David Moses called the May 12, 2023, meeting to order at 10:00 a.m. The meeting was held at the Eisenhower State Office Building in Topeka, Kansas. Notice of this meeting was given to the public via the KRGC and Public Square websites. Commissioners Brandon Jones, Larry Turnquist, and Sheryl Spalding were also present. Others present included Executive Director Don Brownlee, General Counsel Judith Taylor, Director of Administration, Audit, and Finance Brandi White, Director of Sports Wagering and Licensing DJ Lopez, Director of IT&C-s Dennis Bachman, and other staff.

MOTION, APPROVE AGENDA

(B.)

MOTION, APPROVE April 14, 2023 MEETING MINUTES

(C.)

MOTION, APPROVE CONSENT AGENDA

(D.)

LOTTERY GAMING FACILITY REPORTS/ITEMS; BOOT HILL CASINO & RESORT

(E.1.a.)

Commissioner Spalding (Turnquist) moved to approve the minutes of the April 14, 2023, meeting. Motion carried 4-0.

Commissioner Turnquist (Jones) moved to approve the consent agenda (six items). Motion carried 4-0.

Diane Giardine, General Manager, reported:

- April 2023 revenue numbers compared to April 2022:
 - Total gaming revenue decrease 6.48%
 - This loss is partly due to losing a Friday and gaining a Sunday from year to year.
 - Total slot revenue down 7.80%
 - Table games revenue up 5.50%
- April 2023 Sports Wagering revenue numbers
 - Retail Sportsbook Revenue \$21,778.00
 - Up 34.19% from March 2023
 - Handle was down 17% from March 2023
 - Second highest revenue month of the year to date.
 - Digital Sportsbook Revenue: \$3,934,788.00
 - Down 29.99% from March 2023
 - Handle was down 35% from March 2023
- April 2023 Sports Wagering
 - Largest Events
 - Golden State vs Sacramento Kings

- Blue Jays vs Rays
- Cubs vs Dodgers
- UConn vs. San Diego State
- Top Sports
 - 60% of handle was on MLB events.
 - 28.7% of handle was on NBA events.
 - 3.4% of handle was on NCAA events.
- May 2023 Sports Wagering
 - Top Sports through May 12th
 - 67.8% of handle was on MLB events.
 - 24.5% of handle was on NBA events.
 - 3.5% of handle was on NHL events.
 - 3.5% of handle was on Boxing events.
 - The facility paid to show the Canelo vs. Ryder fight and the event did well for the retail sportsbook. The facility plans to incorporate more UFC events in the future.
 - Events and Promotions:
 - Weekly Kiosk Games
 - Weekly Food and Beverage Specials
 - Gift Promotions
 - Golf Cart Giveaway
 - Memorial Day Free Play Frenzy Promotion
 - VIP Promotions
 - Promotions for United Wireless Arena Events
 - Upcoming Entertainment & Events
 - Southwest Storm Arena Football – April 8, 15 & May 6, 20, 27
 - Marshal Tucker Band – April 21
 - Los Tigres del Norte – April 23
 - For King and Country – April 29
 - Blippi – April 30
 - Kansas Bandits Indoor Soccer – May 7 & 14
 - Night Ranger – May 12
 - Josh Turner – June 2
 - Chris Young (Dodge City Days Concert) – July 29

LOTTERY GAMING
FACILITY
REPORTS/ITEMS;
KANSAS STAR
(E.2.a.)

Doug Lang, General Manager, reported:

- April 2023 revenue numbers compared to April 2022:
 - Total gross gaming revenue up 0.6%
 - Total slot revenue down 3.7%
 - Table games revenue up 17.8%
- April 2023 Sports Wagering revenue
 - Retail Sportsbook Revenue \$123,700.00.

- Down from March 2023's revenue of \$127,300.00.
- Handle was up compared to March
- Digital Sportsbook Revenue: \$5,400,000.00
 - Up from March 2023's revenue of \$5,138,000.00.
- April 2023 Sports Wagering
 - \$39.78 million was wagered on FanDuel online.
 - \$1.30 million was wagered in person at FanDuel retail. Of this #, 767k was bet over the counter and \$533k was bet on the kiosks.
 - There was a total of 8,591 bets made in person at FanDuel retail.
 - The largest wager in retail was \$29,700 bet on Gervonta Davis to defeat Ryan Garcia in a boxing match on April 22. This wager was a winner, and the total payout was \$41,580.
 - The largest parlay in retail was a \$13,400 two team parlay with the Toronto Blue Jays ML and the Boston Bruins ML on April 11. This was a winner, and the total payout was \$23,400.
 - Our biggest player at Sportsbook wagered a total of \$224,960.
 - The Retail Sportsbook had an increase in handle of almost 9% over March. (\$1.30 million in April vs. \$1.17 in March)
 - The increase in handle in April over March was a nice surprise due to the popularity of College Basketball in Kansas and March Madness.
 - We had 1 PPV UFC Fight in the month on April 8. There was \$50,872 bet on this fight and 257 bets made.
- Upcoming Events and Promotions:
 - Double Down | Friday and Saturdays
 - VIP Blazing Hot Seats | 30 people win \$250 in Boyd Rewards | Thursday, May 11& 25
 - Tahari Flatware Set | Friday, May 5 | 2p-9p
 - Hammock Giveaway | Friday, May 12 | 2p-9p
 - Tahari 5-pc Utensil Set | Friday, May 19 | 2p-9p
 - KUL Standing Fan | Friday, May 26 | 2p-9p
 - Slot Bonus Frenzy | Saturday, May 13 & 27 | 1 winner each hour up to \$4,000 in Boyd Play PLUS 10 consolation prizes of \$100 every hour | 5p-9pm
 - GM Cruise Drawing Event | 10 guests win a cruise with the GM | Saturday, May 20
 - VIP Slot Pull | Invited guests will receive one spin on a \$25 denomination machine | Titanium players receive two spins | Saturday, May 27 | 6p-9p
- Upcoming Entertainment & Events:
 - KSACP Banquet | Arena | May 3
 - Asian Variety Show | May 6 | Doors open 7pm | Show begins 8pm

- Kansas High School Rodeo | May 22 – May 28

LOTTERY GAMING
FACILITY
REPORTS/ITEMS;
HOLLYWOOD CASINO
AT KANSAS
SPEEDWAY
(E.3.a.)

Lydia Garvey, General Manager Manager, reported:

- Admissions were up 2.1% compared to April 2022
- April 2022 revenue numbers compared to April 2022:
 - Total gross gaming revenue decrease 1.6%
 - Slot revenue down 1%
 - Coin in was up year over year, but a softer hold.
 - Table games revenue down 6.4%
- April 2022 Sports Wagering revenue numbers
 - Retail Sportsbook Taxable Revenue: \$423,975.00.
 - Down 48.7% compared to March 2023
 - Handle was down considerably at \$4.3 million, but hold was high.
 - Platform Sportsbook Taxable Revenue: \$254,088.00.
 - Down 72.5% compared to March 2023
 - Handle was up, but hold was very low.
 - Top Events
 - NCAA Men's Basketball Championship
 - NCAA Playoffs
 - Royals MLB Games
 - Masters Tournament
- Recent/Upcoming Events and Promotions:
 - The MyChoice loyalty program has been rebranded as the PennPlay loyalty program.
 - May 7 – NASCAR Sprint Cup Series AdventHealth 400
 - The Kansas Speedway has added two VIP areas and guests were able to test out those areas.
 - May 17 – VIP Patio Event
 - May 20 – Cool Cash Giveaway
 - May 28 – Red Hot Summer
 - June 2 – \$25K PENN Play Giveaway
 - June 9 – Elite Tier Appreciation Drawing
 - June 16 – Preferred Tier Appreciation Drawing
 - June 23 – Lucky Ladies

LOTTERY GAMING
FACILITY
REPORTS/ITEMS;
KANSAS CROSSING
CASINO
(E.4.a.)

Jeff McKain, General Manager, reported:

- Admissions down 4.3% compared to April 2022
- April 2022 revenue numbers compared to April 2022:
 - Coin in down 8.7%
 - Table games drop down 2.5%
 - Net gaming revenue down 6.7%

- Retail Sportsbook Revenue: \$19,302.00
 - This is up from March 2023's revenue of 2,652.00.
- Digital Sportsbook Revenue: \$1,694,588.00
 - This is down from March 2023's revenue of \$2,720,871.00.
- Events and Promotions:
 - April
 - Casino Hot Seats Monday thru Thursdays
 - Smash and Grab promotion every Friday.
 - Casino gift on Saturdays.
 - Cash Drop promotion on Saturdays.
 - Cash is King month end promotion on the 29th.
 - Concerts in May include Texas Hippie Coalition on the 15th, Pop Evil on the 21st and the Mix Tapes on the 29th.
 - May
 - Casino Hot Seats Monday thru Friday.
 - Table Games Pick and Win promotions on Fridays.
 - Sound and the Fury concert on the 5th.
 - VIP event on Friday the 12th.
 - Casino gifts on Saturdays.
 - Conner Smith concert on Friday the 19th.
 - Mickey and the Motorcars concert on the 27th.
 - Cash is King month end promotion on the 25th.
- COVID-19
 - 0 positive case in April, 0 so far in May.

COMMISSION ITEMS –
OLD BUSINESS (F.)

There was no old business.

COMMISSION ITEMS –
NEW BUSINESS; (G.)

There was no new business.

PUBLIC COMMENTS
(H.)

There were no public comments.

STAFF REPORTS
(I.1. and I.2.)

Garrett Rogers, Paralegal, reported on the Voluntary Exclusion Program statistics for the month of April 2023.

Executive Director Brownlee reported:

- James Bain has joined the KRGC legal staff.
- The legislation regarding an increase in pay for some state employees was passed. The KRGC Human Resources Director is evaluating how that legislation will affect KRGC employees.

- Neither Missouri nor Oklahoma passed sports wagering this legislative session.
- Nebraska has announced the opening of the WarHorse Casino in Lincoln, Nebraska by the end of May. Another WarHorse Casino is close behind in Omaha, Nebraska and are several others planned.
- Governor Kelly's administration has agreed to a compact amendment with the Prairie Band tribe, allowing the tribe to provide sports wagering statewide. There is an ongoing federal court case to determine whether remote wagering is compliant with Indian Gaming Regulatory Act. The Prairie Band sports wagering will be regulated by the Tribal Gaming Commission. The compact still needs to be approved by the U.S. Department of the Interior.
 - Commissioner Spalding asked for elaboration on the compact changes. Executive Director Brownlee explained that the compact with the tribe was amended to allow the tribe to conduct sports wagering. It appears at this time, that those amendments would allow the tribe to offer on-site sports wagering and remote sports wagering. However, before the tribe offers sports wagering there are a couple other hurdles that need to be cleared, the federal court case and federal approval of the compact. Commissioner Spalding asked if the tribe would be able to establish sports wagering kiosks off-site. Executive Director Brownlee clarified that the remote sports wagering would be done online and that on-site they could choose to have sportsbook.
 - Commissioner Spalding clarified that this was only regarding tribal sports wagering and no other forms of gaming. Executive Director Brownlee affirmed that was correct.
 - Chairman Moses asked if the statutory guidelines that apply to non-tribal sports wagering were adopted, or are required to be followed, by the amended compact. Executive Director Brownlee said that his understanding is that there were attempts to make those amendments within the compact as to not give any advantage to tribal sports wagering over state lottery sports wagering. However, because KRGC is not involved with compact negotiations he cannot be sure how that resolved, or the exact language used.
 - Chairman Moses asked if the tribal casino located in Sedgwick County will be able to provide tribal sports wagering once the Department of the Interior has approved the compact. Executive Director Brownlee explained that re-negotiated compact only applies to the Prairie Band tribe and that Park City is not a

compacted state in Kansas. Chairman Moses asked what regulations are currently applied to Park City. Director Brownlee explained that the Indian Gaming Regulatory Act is the regulatory authority and that his understanding is the act bars sports wagering. Chairman Moses noted that the Indian Gaming Regulatory Act could be amended in the future.

- Investigations are underway in Iowa regarding sports wagering issues involving the Iowa University and Iowa State University. The issues center around athletes at those universities placing bets either illegal or at least in violation of NCAA rules. Investigations are being conducted by the Iowa Division of Criminal Investigations and the NCAA. Between the two universities there are alleged to be over 40 athletes from various sports involved in the investigation.
- There is an investigation going into whether the Alabama baseball program coach provided inside information to a bettor regarding the LSU game. When that information was discovered, several jurisdictions suspended wagering on that particular game, some jurisdictions have suspended wagering on all Alabama baseball. Kansas is among the jurisdictions that suspended wagering on all Alabama baseball. If the integrity of a game or a sporting event comes into questions, betting for that event can be suspended. That took place following the concerns of the Alabama vs. LSU game. However, the Iowa concerns were not believed to affect the integrity of any specific events. Alerts are built into the sports wagering system to provide notice of unusual, abnormal, and irregular betting activity so that the commission can review any questionable activities centered on sports wagering. To date the commission has not been made aware of any concerns involving Kansas athletes.
 - Commissioner Turnquist asked who in Kansas makes the decision to suspend wagering on an event. Executive Director Brownlee explained that the Kansas State Lottery makes that determination. KRGC and the Lottery work closely together, especially in these instances. Once KRGC was notified of the situation, they provided the information to the Lottery who acted.
- Historical Horse Racing regulations have been moving through the Kansas Department of Administration. Out of all the regulations submitted, only two are currently still being worked through the approval process.
 - Chairman Moses asked if the two pending regulations are substantive enough that they need to be known by the public and applicants for the purposes of the meeting. Executive Director

Brownlee assured that the contents of the pending regulations are not material to the meeting.

- Government Relations Manager Randy Evans will coordinate the logistics of the HHR selection process. The selection for historical horse racing organizational license has been scheduled for July 11-13. Those presentations will take place in Wichita, at the Drury Inn Broadview Conference Center.
- Government Relations Manager Randy Evans on May 11th sent notices to the area government entities informing them about the process and soliciting any comments from them. He is also in the process of notifying county media outlets. His press release will include instruction on how interested parties can submit information in writing to the commission or appear in-person. This information will also be posted on the KRGC agency website and social media.
 - Chairman Moses thanked Randy for keeping the commissioners apprised of the media releases and asked if anyone planning to provide public comment needs to provide notice. Executive Director Brownlee said that KRGC has asked the area government entities to provide notice if they are planning to present. Regarding members of the public, they do not need to provide any notice. Chairman Moses asked if there is a deadline for written comment. Executive Director Brownlee said there is not an established deadline, but one could be included in future releases.
- The next commission meeting is scheduled to be in Topeka, KS on June 16th, 2023, starting at 9:00am.

MOTION, EXECUTIVE
SESSION;
CONFIDENTIAL
BACKGROUND
REPORTS
(J.I.)

Commissioner Jones (Spalding) moved that the Commission go into executive session for the purpose of reviewing confidential background reports presented today by the commission's security division. In addition to the commissioners, the confidential background reports portion included the executive director, general counsel, and director of security. The total time for the executive session was anticipated to be twenty (20) minutes until 11:05 a.m. 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 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. The motion carried 4-0, and the meeting was adjourned to executive session at 10:45 a.m.

RECONVENE
(J.2.)

The commission meeting returned to open session at 11:05 a.m. with Chairman Moses, Commissioner Jones, Commissioner Turnquist, and Commissioner Spalding present.

MOTION, EXECUTIVE
SESSION; ATTORNEY-
CLIENT PRIVILEGE
(J.3.)

Commissioner Spalding (Turnquist) moved that the Commission go into executive session for the purpose of consulting with the agency's attorney on attorney-client privileged communications. In addition to the commissioners, the attorney-client privileged communications will include the executive director, general counsel. After discussion, the total time for the executive session was anticipated to be forty-five (45) minutes until 11:50 p.m. 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 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. The motion carried 4-0, and the meeting was adjourned to executive session at 11:06 a.m.

RECONVENE
(J.4.)

The commission meeting returned to open session at 11:45 a.m. with Chairman Moses, Commissioner Jones, Commissioner Turnquist, and Commissioner Spalding present.

MOTIONS ON LICENSE
APPLICATIONS
(K.1)

Commissioner Turnquist (Jones) moved to *deny three* license application and *approve the remaining 175* license applications from the May 12, 2023, list of background reports referred to the commission for action. The motion carried 4-0.

OCCUPATIONAL
LICENSE DENIAL
APPEAL HEARING
(K.2)

James Bain appeared on behalf of the Kansas Racing and Gaming Commission. Kendra Davis appeared by phone pro se to request reconsideration of her March 17, 2023 license denial. Plaintiff and appellant presented their arguments to the Commission.

Chairman Moses (Spalding) moved that the Commission go into executive session for the purpose of discussing the information presented during the occupational license denial appeal hearing. In addition to the commissioners, executive session will include the general counsel. After discussion, the total time for the executive session was anticipated to be ten (10) minutes until 12:58 p.m. 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 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. The motion carried 4-0, and the meeting was adjourned to executive session at 12:58 p.m.

The commission meeting returned to open session at 12:58 p.m. with Chairman Moses, Commissioner Jones, Commissioner Turnquist, and Commissioner Spalding present.

Commissioner Moses (Jones) moved to grant the request for reconsideration and issue an occupation license to appellant. The motion carried 4-0.

- Chairman Moses said the motion to grant the request for reconsideration was made because the investigator did not provide the applicant's background information to the applicant and allow the applicant to comment, respond and/or weigh in on the information.
- Chairman Moses told the Appellant that she had been approved for an occupation license, but she needed to follow-up with the employer regarding her employment.

OTHER BUSINESS

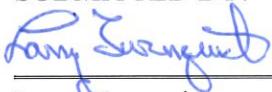
There were no other items for discussion or motion.

ADJOURNMENT (L.)

Chairman Moses stated that the June 16, 2023, commission meeting will begin at 9:00 a.m. for an in-person meeting at the Eisenhower State Office Building in Topeka, Kansas.

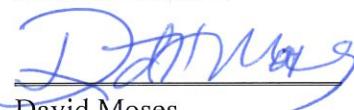
Commissioner Jones (Spalding) moved to adjourn the meeting. Motion passed 4-0. The meeting was adjourned at 1:09 p.m.

SUBMITTED BY:



Larry Turnquist
Secretary

APPROVED BY:



David Moses
Chairman