

## KANSAS RACING AND GAMING COMMISSION

### MINUTES – SEPTEMBER 8, 2023

#### CALL TO ORDER (A.)

Chairman David Moses called the September 8, 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.)

Commissioner Spalding (Jones) moved to approve the agenda. Motion carried 4-0.

#### MOTION, APPROVE AUGUST 11, 2023 MEETING MINUTES (C.)

Commissioner Turnquist (Jones) moved to approve the minutes of the August 11, 2023, meeting. Motion carried 4-0.

#### MOTION, APPROVE CONSENT AGENDA (D.)

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

#### LOTTERY GAMING FACILITY REPORTS/ITEMS; BOOT HILL CASINO & RESORT (E.1.a.)

Diane Giardine, General Manager, reported:

- August 2023 revenue numbers compared to August 2022:
  - Total gaming revenue decrease 7.57%
  - Total slot revenue down 12.08%
  - Table games revenue down 40.48%
- August 2023 Sports Wagering revenue numbers
  - Retail Sportsbook Revenue \$25,222.81
    - Up 16.37% from July 2023
    - Handles was up 105.7%
    - Hold was down 43% at 13%
  - Digital Sportsbook Revenue: \$1,743,671.87
    - Down 45.73% from July 2023
    - Handle was up 21.8%
    - Hold was down 56% at about 4%
- August 2023 Sports Wagering
  - Largest Events
    - Brewers vs Padres
    - Notre Dame vs Navy

- San Diego State vs. Ohio
- Top Sports
  - MLB was 53% of handle
  - NFL Pre-Season was 14.4% of handle
    - As of September 7<sup>th</sup>, 72% of digital bets were on the Chiefs' money line, 92% of wagered money was on Chiefs' point spread, and 81% were on the over at 53.5.
  - College Football was 10.2% of handle
- Past Events and Promotions:
  - Getting Hotter Hot Seats – Saturdays
  - Dodge City Days – July 27<sup>th</sup> - August 6<sup>th</sup>
    - Cash Money Machine
    - 10K Blackjack Tournament – August 5<sup>th</sup>
    - Ranger Palooza - August 5<sup>th</sup>
    - Sponsored Rodeo
  - Ian Munsick – August 24<sup>th</sup>
- Upcoming Entertainment & Events
  - Weekly Kiosk Games
  - Gift Promotions
  - Weekly Kiosk Games
  - Gift Promotions
  - \$100K Big Draw – Saturdays September through October
  - Ultimate Tailgater
  - Season Long Season Pick 'Em Game
  - Chief's Game Ticket Giveaway
  - Randy Houser – September 15
  - Beach Boys – September 29
  - La India Yuridia – October 7

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

Doug Lang, General Manager, reported:

- August 2023 revenue numbers compared to August 2022:
  - Total gross gaming revenue down 4.0%
  - Total slot revenue down 1.9%
  - Table games revenue down 17.2%
    - Volume was up, but hold was significantly down.
- August 2023 Sports Wagering revenue
  - Retail Sportsbook Revenue -\$4,900.00.
    - Up from Julys 2023's loss of -\$12,400.00.
  - Digital Sportsbook Revenue: \$1,570,000.00
    - Down from July 2023's revenue of \$2,400,000.00.
- August 2023 Sports Wagering

- \$24.1 million was wagered on FanDuel online.
- \$550k was wagered in person at FanDuel retail. Of this #, \$233k was bet over the counter and \$317k was bet on the kiosks.
- The \$550k wagered in person was a \$180k increase over July.
- There was a total of 4,451 bets made in person at FanDuel retail.
- The largest wager in retail was a \$11,810 single bet. It was a wager on the Seattle Mariners over the Chicago White Sox on 08/23. The wager was a loser.
- The largest winning wager in retail was a \$6,750 single bet. It was a wager on the Atlanta Braves over the New York Mets on 08/12 and paid out \$9,750.
- We had 1 PPV UFC Fight in the month on August 19. There was \$15,896 bet on this fight and 278 bets made.
- The return of football for half of the month was very good for the Sportsbook. We took 1,721 bets for a handle of \$186,864.
- The August sportsbook handle was 46% MLB, 34% was on football, and 9% MMA.
- Upcoming Events and Promotions:
  - Double Down | Friday and Saturdays
  - Sit and Go Slot Tournaments | Thursday, September 7 & 21 | 5p-8p
  - Hamilton Beach Slow Cooker Giveaway | Friday, September 1 | 4p-9p
  - 16qt. Stock Pot Giveaway | Friday, September 8 | 4p-9p
  - Waffle Maker Giveaway | Friday, September 15 | 4p-9p
  - Cordless Grooming Set Giveaway | Friday, September 22 | 4p-9p
  - Auto Emergency Kit Giveaway | Friday, September 29 | 4p-9p
  - Host Parties | Saturday, September 2,9,16,23 & 30 | \$10,000 in prizes given away each Saturday |
  - Host Invite | 6p-7:30p
  - Sunday Bonus Offer | Sunday, September 10 & 24
- Upcoming Entertainment & Events:
  - KEMA Conference | Arena | September 13-15
  - Travis Tritt Concert | Arena | September 23 | 8pm
  - KHCA Convention | Arena | September 27-29.
- Chairman Moses noted that General Manager Lang did well during his local news station interview.

LOTTERY GAMING  
FACILITY  
REPORTS/ITEMS;  
HOLLYWOOD CASINO

Lydia Garvey, General Manager, reported:

- August 2023 admissions were flat compared to August 2022
- August 2023 revenue numbers compared to August 2022:
  - Total gross gaming revenue increased 3.6%

AT KANSAS  
SPEEDWAY  
(E.3.a.)

- Slot revenue increased 2.6%
- Table games revenue increased 12.3%
- August 2023 Sports Wagering revenue numbers
  - Retail Sportsbook Taxable Revenue: \$287,284.00.
    - Down 10.6% compared to July 2023
    - August was the slowest month so far, however, handle still exceeded expectations by one-million dollars.
    - MLB was 70% of handle and there was early action on football.
    - The sportsbook had a good day yesterday, holding 21.2%, despite a patron wagering \$110,000 on the Chiefs for the first half of the Lions vs Chiefs game.
      - Chairman Moses asked if during game days when local teams are playing, does business increase or decrease. General Manager Garvey responded that it is typically slow.
  - Digital Sportsbook Taxable Revenue: \$111,096.00.
    - Down 78% compared to July 2023
    - August handle was 50% MLB and 20% professional soccer
  - Top Events
    - Utah Utes vs Florida Gators
    - Royals vs Mariners
    - Cubs vs Royals
    - PGA Tournament
- Recent/Upcoming Events and Promotions:
  - August 31 – PENN Play Party
  - September 1 - \$25K Crazy 8's
  - September 8 – Race Weekend Punch Board
  - September 9 – Day of Winners
  - September 10 – Hollywood Casino 400 NASCAR Sprint Cup Race
  - September 10 – Meet and Greet with NASCAR's Kevin Harvick
  - September 17 – Chiefs Watch Party
  - October 1 – Sportsbook Scratchers

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

Jeff McKain, General Manager, reported:

- August 2023 admissions down 5.9% compared to August 2022
- August 2023 revenue numbers compared to July 2022:
  - Coin in down 8.4%
  - Table games drop up 13%
  - Net gaming revenue was down 7.7%.
    - General Manager McKain noted a lower hold percentage this

year than compared to last year.

- August 2023 Sports Wagering revenue numbers
  - Retail Sportsbook Taxable Revenue: \$23,688.00.
    - Up \$28,683 compared to July 2023
  - Digital Sportsbook Taxable Revenue: \$878,302.00.
    - Down \$237,154 compared to July 2023
- Events and Promotions:
  - August
    - Casino Hot Seats every Monday and Tuesday.
    - Camp 49 promotions every Wednesday.
    - Table Games Card Shark promotion every Friday.
    - Casino Gifts every Saturday.
    - Strike it Rich promotion every Saturday.
    - Cash is King promotion Saturday the 26th.
    - Concerts include Priscilla Block on the 4th, Pam Tillis on the 12th and Mike and the Moonpies on the 25th.
  - September
    - Casino Hot Seats every Monday and Tuesday.
    - Camp 49 promotions every Wednesday.
    - Slot Tournaments on Fridays.
    - Casino Gifts every Saturday.
    - Cash is King promotion Saturday the 30th.
    - Tech9 concert on the 9th.
- COVID-19
  - One positive case in August and one so far in September.

EXPECTED FACILITY  
LICENSEE  
REPORTS/ITEMS;  
GOLDEN CIRCLE  
(E.5.a.)

R. Scott Beeler, Representative of Golden Circle, reported:

- The annexation of the historical horse racing (HHR) facility was approved by Park City. It then had to go through a legal process where it is submitted to the Sedgwick County Election Commission and the Sedgwick County Register of Deeds, that process is now complete. The fully signed and approved document has been submitted and the HHR facility is officially within Park City. This also triggers a 180-day timeline under statute for the HHR facility to submit a rezoning application.
- There is a whirlwind of activity on the development scene. Staff are meeting weekly with the development team. An in-house construction manager was hired to oversee the actual construction process. A design manager has also been hired for the Gilley's, this is the same person who designed the Gilley's at Treasure Island and all the restaurant and entertainment venues at Treasure Island. Gilley's is going to be a 20,000 sq. ft. facility.

- Yesterday, Mr. Beeler attended a meeting with over 25 representatives from the Park City government. That included the mayor, city manager, all the planning directors, public works, city engineer, local law enforcement, and firefighters. Also in attendance, was the Golden Circle development team; the architects, the construction managers, and the engineers. The purpose of the meeting was to put all the plans up and let the city have an opportunity to provide their input. Based upon the design, city officials indicated that they would like to rezone this as an entertainment district.
- During the meeting, it was asked when construction would begin on the Golden Circle project. Mr. Beeler told Park City officials that a proposed contract had been submitted to the Kansas Racing and Gaming Commission for review. Golden Circle is waiting for approval of the submitted contract and issuance of a facility manager license before beginning construction.
  - Chairman Moses asked if construction would begin once the facility manager license is issued or if Golden Circle considers both issuance of the license and approval of the contract as prerequisites to beginning construction. Mr. Beeler responded that he believes that both are prerequisites. Golden Circle cannot make a development or rezoning application without the facility manager license. Chairman Moses asked if Golden Circle would be able to make those applications once a facility manager license is issued regardless of whether the contract was approved. Mr. Beeler responded that it would be unusual to submit those kinds of applications without a contract in place.
  - Chairman Moses asked if Golden Circle's position that both the license issuance and contract approval are prerequisites to construction had been shared with KRGC staff. Mr. Beeler responded that they have not had that specific discussion, but that both the proposed contract and license application were submitted together so staff know both are pending review. Chairman Moses asked if Mr. Beeler would be present for the rest of the meeting in case further discussion regarding the contract was necessary. Mr. Beeler responded that he would need to leave early. Executive Director Brownlee commented that staff is not ready to recommend the contract to commissioners for approval today. Chairman Moses asked Mr. Beeler in the event the commission approves a license will Golden Circle delay progress on the project until the contract is approved? Mr. Beeler responded that Golden Circle would not delay the projects' progress. Meetings with Park City officials

will continue so that bids can be submitted, and this is all included in the 14-month projected completion date. A concern would be that in the future, we are not on the same page with the contract and the project's progress may hit an anchor. Chairman Moses stated he was confident that staff are doing what is needed to move the contract along at a proper pace.

- Chairman Moses asked if Wichita GC Charities, Inc. had met, and if so, have there been any additions to the charity board or a discussion about the process to add members. Mr. Beeler confirmed that the charity board has met and that the chair directed the other members to begin collecting nominees for consideration of appointment to the charity board. The board expects to expand to five members at their next meeting. Chairman Moses followed up asking if the charity board meets monthly. Mr. Beeler said that the board does meet monthly and does not currently have their next meeting scheduled.

COMMISSION ITEMS –  
OLD BUSINESS (F.)

There was no old business.

COMMISSION ITEMS –  
NEW BUSINESS; (G.)

Brandi White, Director of Administration, Finance and Budget presented the fiscal year 2024 and 2025 annual budgets on behalf of KRGC and the Kansas State Gaming Agency.

MOTION – APPROVE  
FISCAL YEARS 2024  
AND 2025 BUDGETS  
(G.2)

Commissioner Jones (Spalding) moved to approve the Kansas and Racing Gaming Commission fiscal year 2024 and 2025 budget, as well as the State Gaming Agency fiscal year 2024 and 2025 budget, subject to technical changes to be made upon entering the budget into IBARS, the state budget system, and potential future changes made by the Division of Budget, the Governor, and the Legislature. Motion passed 4-0.

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 August 2023.

Executive Director Brownlee reported:

- Commercial gambling revenue in Kansas during the second quarter of 2023 was up 37% compared to last year. This is due primarily to the addition of sports wagering.
- Construction on a new Vegas-style casino in Grand Island, Nebraska is scheduled to start in October.

- Last month, there were questions regarding the City of Wichita's gambling ordinance. Randy Evans, Government Relations Manager, provided an overview of the minutes from Wichita City Council's August meeting and the discussion he had with the city's Department of Law.
  - Commissioner Spalding asked how the city defines games of skill and if for example a skee-ball machine would be considered a violation of the ordinance. Mr. Evans responded that the ordinance specified games of skill that took currency in and paid currency out, so traditional skee-ball machines would not be considered a violation. Commissioner Spalding asked if Mr. Evans could elaborate on the kind of game of skill machines the City of Wichita is interested in. Mr. Evans explained that manufacturers and distributors of the machines claim that they are skill based and lead establishment owners to believe that the machines are legal.
  - Commissioner Turnquist asked for clarification if it was the City of Wichita or Sedgwick County that was establishing this new policy. Mr. Evans confirmed that it was the City of Wichita. Commissioner Turnquist followed up asking if the city had any discussion regarding a pre-approval process. Mr. Evans confirmed that the city did have discussions regarding the possible licensure or approval, tax, and regulation of these games of skill.
  - Commissioner Turnquist asked how the city discussed the relationship between games of skill and games of chance. Mr. Evans responded that the city does not have a definition for what is a game of skill.
  - Commissioner Spalding asked for an example of what the city would consider to be a game of skill and not a game of chance. Mr. Evans responded that city councils' members and the city's Department of Law do not know.
  - Chairman Moses asked if the City of Wichita contacted the Kansas Racing and Gaming Commission for input. Mr. Evan's responded not that he knew of.
  - Chairman Moses explained that the state has an established agency for policing illegal gaming, and he is concerned that one of thousands of cities within Kansas has decided to create a pocket within the state of what they believe illegal gaming is. Chairman Moses noted that general counsel may advise that the city is allowed to take this action, however his larger concern is that the city may not have reached out to the KRGC for assistance with definitions, history, and drafting policy to where they want it to be without potentially creating an inconsistent "playing field" on



gaming between the cities of Kansas.

- Chairman Moses asked who brought this issue before the Wichita city council, what was their reasoning, did they reach out to an agency like the KRGC or why are they going off on a tangent. Mr. Evans responded that KRGC has agents have assisted the City of Wichita, however the city has 800 – 1,000 machines that need to be determined games of skill or chance and KRGC only has one agent who can do this.
- Chairman Moses asked if the City of Wichita decides a game is a game of chance and wants to seize it, but it is one that the KRGC has previously reviewed and it did not meet the state's definition for a game of chance, does this mean the city can go ahead with the seizure on their own. Mr. Evans responded that he believes so. Chairman Moses noted that this could potentially lead to each city having their own definition of what a gaming device is and would be able to seize these machines whether the KRGC believes the machines are illegal or not.
- Chairman Moses asked Mr. Evan's if during discussions with city staff, did they ask for the commission to work with them between now and their October meeting to come up with some consistently defined approach so that there are not possible inconsistencies across the state. Mr. Evan's responded that city staff indicated they were looking for action from the legislature to define games of skill.
- Chairman Moses summarized that City of Wichita passed the ordinance regarding games of chance but took out for further consideration the games of skill. Mr. Evans confirmed that was accurate. Chairman Moses noted that what is left on the table for the City of Wichita is what should be done with the games of skill.
- Chairman Moses stated that he has real concerns, as the chair of a statewide commission that is authorized to enforce illegal gaming issues, that there will be confusion in the future because once a sticker is put on a machine that brands the machine as legal, that will be used in all other jurisdictions, and there will be a problem, especially if it is a game the KRGC believes is illegal. It may be too late, but the commission needs to reach out to the city and try to get this back to a state definition and not individual local definitions. Chairman Moses also expressed concern that local government did not reach out to the commission and work this up with the commission so that there could be consistency with definitions, and that he learned of this proposed ordinance through the news once it had passed as well as that the commission was

unaware until he had asked staff about what was being reported. Chairman Moses also stated that he is bothered that the largest city in Kansas would go off like this, without taking advantage of an agency that is specifically authorized and approved by the state legislature to police illegal gaming.

- Commissioner Turnquist asked if there was a copy of the ordinance. Mr. Evans responded that he has a copy of the ordinance, and the city council meeting was recorded. Commissioner Turnquist followed up asking if the city's ordinance seem logical regarding games of chance, does it reference any existing state statute or regulation. Mr. Evans responded that he does not know. Mr. Evans stated that it appears to him that since the definition of a game of skill is so grey, the city has decided administratively to go after the business's alcohol and tobacco licenses to stop these machines from preying on low-income citizens. Commissioner Turnquist noted that by doing this, the intent of the city may be to urge the legislature to enact a state statute to address the issue. Mr. Evans stated that he believes the city council has seven members and only two were proponents of issuing a city license or sticker for approved machines.
- Chairman Moses stated that he appreciates the fact that the City of Wichita recognizes that there is a problem where the citizens of Wichita are being preyed upon and that the city is focusing on alcohol and tobacco licenses because the city does issue those. Chairman Moses followed up stating he is concerned about the horrible risk of inconsistency from city to city in Kansas. As difficult as illegal gaming cases are to work now, they have now created a situation where manufacturers and distributors of these machines can point to these local decisions on what is and what is not a game of chance and use that against the commission when the commission tries to fulfill its duties.
- Chairman Moses stated that the commission needs to, as the statewide commission responsible for policing illegal gambling, reach out to the City of Wichita to work with them to accomplish their goals while maintaining the consistency that we should have with illegal gaming issues. Executive Director Brownlee responded that staff would follow-up on the concerns shared.
- The next commission is scheduled for October 13, 2023, in Topeka, KS.
  - Commissioner Jones noted that he may have a schedule conflict for that day.
  - Commissioner Turnquist noted that he may have a schedule conflict

for the 12<sup>th</sup> and the 13<sup>th</sup>.

MOTION, EXECUTIVE  
SESSION;  
CONFIDENTIAL  
BACKGROUND  
REPORTS  
(J.1.)

Commissioner Spalding (Jones) 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 sports wagering and licensing, KRGC agent Todd Allen, and KRGC agent Joe Crough. The total time for the executive session was anticipated to be forty-five (45) minutes until 11:55 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 11:10 a.m.

RECONVENE  
(J.2.)

The commission meeting returned to open session at 11:55 a.m. with Chairman Moses, Commissioner Jones, Commissioner Turnquist, and Commissioner Spalding present.

MOTION, AMEND  
AGENDA  
(K.)

Commissioner Jones (Turnquist) moved to amend the agenda to move item K, Other Business/Further Commission Action, up from after the second executive session to now. Motion carried 4-0.

MOTIONS ON LICENSE  
APPLICATIONS  
(L.1)

Commissioner Turnquist (Spalding) moved to *deny five* license application and *approve the remaining 237* license applications from the September 08, 2023, list of background reports referred to the commission for action. The motion carried 4-0.

MOTION, FACILITY  
MANAGER/OWNER  
LICENSE  
APPLICATION  
(L.2)

Commissioner Turnquist (Spalding) moved to approve a facility manager/owner license for Golden Circle, Inc. Motion carried 4-0.

MOTION, EXECUTIVE  
SESSION; ATTORNEY-  
CLIENT PRIVILEGE  
(M.1)

Commissioner Jones (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

12:45 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 12:00 p.m.

RECONVENE  
(M.2.)

The commission meeting returned to open session at 12:45 p.m. with Chairman Moses, Commissioner Jones, Commissioner Turnquist, and Commissioner Spalding present.

OTHER BUSINESS  
(L.)

There were no other items for discussion or motion.

ADJOURNMENT  
(M.)

Chairman Moses stated that the October 13, 2023, commission meeting will begin at 10:00 a.m. for an in-person meeting at the Eisenhower State Office Building in Topeka, Kansas, unless otherwise notified.

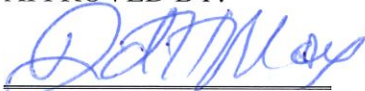
Commissioner Spalding (Jones) moved to adjourn the meeting. Motion passed 4-0. The meeting was adjourned at 12:47 p.m.

SUBMITTED BY:



Larry Turnquist  
Secretary

APPROVED BY:



David Moses  
Chairman