

KANSAS RACING AND GAMING COMMISSION

MINUTES – OCTOBER 13, 2023

CALL TO ORDER (A.)

Chairman David Moses called the October 13, 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 Larry Turnquist, and Sheryl Spalding were also present. Commissioner Jones had a previous commitment and was unable to attend. 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, Director of Security Roger Bailey, and other staff.

MOTION, APPROVE AMENDED AGENDA (B.)

Executive Director Brownlee requested that the agenda be amended to move the executive session regarding the material debt transaction to occur immediately after New Business.

Commissioner Turnquist (Spalding) moved to approve the agenda as amended. Motion carried 3-0.

MOTION, APPROVE SEPTEMBER 8, 2023 MEETING MINUTES (C.)

Chairman Moses noted that there was an error in the September 08, 2023 minutes where the motion to approve the FY '24 and FY '25 budgets was incorrectly recorded as passing 5-0. The correct record should appear as 4-0.

Chairman Moses thanked Government Relations Manager Randy Evans for the description that he provided of the activities in Wichita. Chairman Moses emphasized how accurate the review was and that it was reflected in the minutes.

Commissioner Spalding (Turnquist) moved to approve the minutes of the September 8, 2023, meeting as amended. Motion carried 3-0.

MOTION, APPROVE CONSENT AGENDA (D.)

Commissioner Turnquist (Spalding) moved to approve the consent agenda (six items). Motion carried 3-0.

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

Diane Giardine, General Manager, reported:

- September 2023 revenue numbers compared to September 2022:
 - Total gaming revenue increased 0.63%
 - Total slot revenue up 1.08%
 - Table games revenue down 2.65%
- September 2023 Sports Wagering revenue numbers
 - Retail Sportsbook Revenue \$28,439.00
 - Up 12.75% from August 2023

- Handles was up 245% from August 2023
 - Hold was down 64% from August 2023
- Digital Sportsbook Revenue: \$2,359,146.00
 - Up 35.30% from August 2023
 - Handle was up 126% from August 2023
 - Hold was down 40% from August 2023
 - Handle was up 30% compared to September '22
 - Highest handle since opening, 16% higher than the previous highest handle, which was October '22.
- September 2023 Sports Wagering
 - Largest Events
 - Brewers vs. Cubs
 - Dodger vs Giants
 - Diamondbacks vs Astros
 - Top Sports
 - College Football was 44.5% of handle
 - MLB was 32% of handle
 - NFL was about 15% of handle
- Upcoming Events and Promotions:
 - Weekly Kiosk Games
 - Weekly Food and Beverage Specials
 - Gift Promotions
 - Big Draw
 - VIP Promotions
 - Promotions for United Wireless Arena Events
 - Sportsbook Promotions
 - Season Long Pick 'Em
 - Labor Day Freeplay Frenzy
 - Chiefs vs Broncos Ticket Giveaway
 - Golf Tournament and Golf Cart Giveaway
 - Commissioner Turnquist asked if weather conditions are anticipated to affect the tournament. General Manager Giardine said that they still plan to host the tournament at this time. Commissioner Turnquist followed up asking if the tournament was a one-day event. General Manager Giardine confirmed it was.
 - Halloween \$12k Spook-tacular Slot Tournament
 - September was Responsible Gambling Education month
 - Sunday lobster brunch was changed to a Sunday brunch, lobster is no longer included in the buffet.
 - Oktoberfest Beer Pairing
- Upcoming Entertainment & Events
 - Randy Houser – September 15
 - Beach Boys – September 29
 - La India Yuridia – October 7
 - KSHSAA 1A & 2A State Volleyball
- Chairman Moses noted that a recent Sunday CBS morning program highlighted Dodge City and Western Kansas. General Manager

Giardine explained that she was not familiar with the project and stated that she would ask Marketing and Public Relations staff to look into it.

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

Doug Lang, General Manager, reported:

- Chairman Moses thanked General Manager Lang for hosting the Kansas Sports Hall of Fame induction ceremonies. General Manager Lang expressed that it was a great privilege and honor to host the ceremonies.
- September 2023 revenue numbers compared to September 2022:
 - Total gross gaming revenue down 6.9%
 - Total slot revenue down 3.3%
 - Commissioner Turnquist asked what effect sports wagering is having on slot and table game revenues. General Manager Lang responded that a large majority of sports bettors are also table game players, there is not a lot of transfer between slots players and sports betting. September's increase in table game drop is correlated with sports betting.
 - Table games revenue down 22.7%
 - Second largest volume in table game drop in the facilities history.
- September 2023 Sports Wagering revenue
 - Retail Sportsbook Revenue \$51,800.00.
 - Down from September 2022's revenue of \$207,000.00.
 - Handle is up 32% from September 2022 and up \$773,000 from August of 2023.
 - Digital Sportsbook Revenue: \$2,866,000.00
 - Up from September 2022's loss of \$2,868,000.00.
 - Much of September 2022's loss was the new acquisition marketing for FanDuel.
- September 2023 Sports Wagering
 - \$54.4 million was wagered on FanDuel online.
 - \$1.23 million was wagered in person at FanDuel retail. Of this \$, \$602k was bet over the counter and \$636k was bet on the kiosks.
 - The \$1.23 million wagered in person was a \$773k increase over August.
 - There was a total of 13,755 bets made in person at FanDuel retail, which was over triple the amount from August.
 - The largest wager in retail was a \$30,000 parlay bet. It was a parlay on the Colorado Buffaloes -23.5 and over 59.5 in the same game. The wager was a loser.
 - The largest winning wager in retail was a \$10,000 parlay bet. It was a parlay on the Buffalo Bills -4.5 and the over 36.5 in the same game. This winning parlay paid out \$23,500.
 - We had 1 PPV UFC Fight in the month on September 9. There was \$4,996 bet on this fight and 171 bets made.
 - We had the Canelo/Charlo PPV Boxing fight on Saturday, September 30. This fight brought in a handle of \$10,779 with

124 total bets.

- The first full month of football was a huge success for the Sportsbook. Our retail handle was up by 32.1 Year over Year and the total bet count was up by 34.6% Year over Year.
- Sports wagering percentages for the month of August are as follows...Football 82%, Baseball 12%, Soccer 3%, Basketball <1%, MMA <1%, Boxing <1%, Golf <1%.
- Upcoming Events and Promotions:
 - Double Down | Friday and Saturdays
 - Sit and Go Slot Tournaments | Thursday, October 5 & 19 | 5p-8p
 - Turkey Fryer Continuity Giveaway | Every Friday in October | 4p-9p
 - Luxury Gift Giveaway | Guests who earn 10,000 or 25,000 tier credits from July 17 – September 30 can come and pick out a high-end gift | Friday, October 20 | 6p-9p
 - Almost There Titanium Event | Friday, October 27 | 6pm
 - Host Party | Saturday, October 7 | \$10,000 in prizes | Host Invite | 6p-7:30p
 - Cash Grab | Saturday, October 21 | 5p-9p
 - Spooktacular Slot Tournament | \$15,000 in prizes | Saturday, October 28 | 6pm-9pm
 - Sunday Bonus Offer | Sunday, October 8 & 22
- Upcoming Entertainment & Events:
 - SWANA Convention | Arena | Tuesday, October 3 – Thursday, October 5
 - Chairman Moses asked for clarification on the meaning of the acronym SWANA. General Manager Lang responded that it stands for the Sanitary Waste Association.
 - 80's Rock Invasion Concert | Arena | Saturday, October 14 | 8pm
 - The Whispers | Arena | Saturday, October 28 | 8pm | 4-wall.

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

Lydia Garvey, General Manager, reported:

- September 2023 admissions were down 2.5% compared to September 2022
- September 2023 revenue numbers compared to September 2022:
 - Total gross gaming revenue increased 0.3%
 - Slot revenue decreased 0.6%
 - Table games revenue increased 7.2%
- September 2023 Sports Wagering revenue numbers
 - Retail Sportsbook Taxable Revenue: \$393,485.77.
 - Down 48.4% compared to September 2022
 - Held less than 3%
 - Handle was \$16 million, compared to \$4.4 million in September of 2022. A significant portion of this September 2023's handle was due to one player.
 - Retail Sportsbook: Top Sports
 - 32% of handle was on MLB
 - 32% of handle was on NFL

- 30% of handle was on NCAA
- Retail Sportsbook Top Events
 - Chiefs vs Lions
 - Chiefs vs Bears
 - Raiders vs Steelers
- The retail sportsbook is under construction with improvements for A/V, seating, and the addition of a quick serve restaurant which is anticipated to be finished by the end of October.
- Digital Sportsbook Taxable Revenue: \$528,323.50.
 - Up \$555,544.94 compared to September 2022
- Digital Sportsbook: Top Sports
 - 32% of handle was on NFL
 - 30% of handle was on NCAA
 - 14% of handle was on MLB
 - 10% of handle was on Soccer
- Recent/Upcoming Events and Promotions:
 - Responsible Gambling Education Month
 - September 10 – Hollywood Casino 400 NASCAR Sprint Cup Race
 - October 1 – Chiefs vs Jets Watch Party
 - October 6 – Smashing Pumpkins
 - October 7 – Be Wicked or be Rich
 - October 13 – Freaky Friday
 - October 27 – Halloween Lucky Ladies
 - October 28 – Trick or Treat for Free Slotplay
 - October 30 – Sportsbook Scratchers
 - November 5 – Givin’ Thanks Football Giveaway
 - November 1 -24 – Win This Ride

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

Jeff McKain, General Manager, reported:

- September 2023 admissions down 7.9% compared to September 2022
- September 2023 revenue numbers compared to July 2022:
 - Coin in down 6.9%
 - Table games drop up 11%
 - Net gaming revenue was down 4.2%.
- September 2023 Sports Wagering revenue numbers
 - Retail Sportsbook Taxable Revenue: \$23,526.00.
 - Up 7.8% compared to August 2023
 - The retail sportsbook opened in May of 2023, so a year-to-year comparison is not possible.
 - Digital Sportsbook Taxable Revenue: -\$255,528.00.
 - Down \$1,133,830.00 compared to August 2023
- Events and Promotions:
 - September
 - Casino Hot Seats every Monday and Tuesday.

- Camp 49 promotions every Wednesday.
- Slot Tournaments on Fridays.
 - Chairman Moses inquired about the logistics of holding a slot tournament. General Manager McKain explained that they use a Bally system on their slot machines to load a thematic tournament onto specified machines. A timer is set, and whomever can accrue the greatest number of credits on the specified machines wins the tournament.
- Casino Gifts every Saturday.
- Cash is King promotion Saturday the 30th.
- Tech9 concert on the 9th.
- October
 - Casino Hot Seats every Monday and Tuesday.
 - Casino Hot Seats every Monday.
 - *Camp 49* promotions every Wednesday.
 - *Monster Match* promotion every Friday.
 - VIP event on Friday the 20th.
 - Casino Gifts every Saturday.
 - *Cash is King* promotion Saturday the 28th.
 - Concerts include Hairball on the 7th and Drew Green on the 14th
- COVID-19
 - Two positive cases in September and none so far in October.

HISTORICAL HORSE
RACING FACILITY
LICENSEE
REPORTS/ITEMS;
GOLDEN CIRCLE
(E.5.a.)

No representative of Golden Circle was present.

Chairman Moses requested that staff follow-up with R. Scott Beeler.

COMMISSION ITEMS
– OLD BUSINESS (F.)

There was no old business.

COMMISSION ITEMS
– NEW BUSINESS;
KANSAS STAR
CASINO/BOYD
GAMING
CORPORATION
MATERIAL DEBT

Uri Clinton, Executive Vice President, General Counsel, and Secretary of Boyd Gaming Corporation presented the Kansas Star Casino/Boyd Gaming Corporation's material debt transaction approval request.

Commissioner Turnquist asked to confirm that a 10-day notice would be provided to the Executive Director. Mr. Clinton confirmed that Boyd Gaming Corporation would be required to provide a 10-day notice to the Executive Director. Commissioner Turnquist followed-up asking if the 10-

TRANSACTION
APPROVAL REQUEST
(G.1)

day notice establishes a timeframe by which the Executive Director must respond or provide tacit approval. Mr. Clinton responded that the notice allows a presumption of approval, but there is nothing stopping the Executive Director from asking for additional information. Executive Director Brownlee confirmed that the 10-day timeframe is not a deadline by which approval is automatically granted. Rather it is meant as an indication that the KRGC need move quickly when reviewing the request.

Commissioner Spalding asked why Boyd Gaming Corporation was seeking this policy adoption. Mr. Clinton explained that this policy would allow Boyd Gaming Corporation to take advantages of time-sensitive interest rate fluctuations.

Chairman Moses noted that in the past material debt transactions are required to contain what is referred to as "magic language" regarding the ability to leverage equipment that is not one's property. Chairman Moses stated that he believed the "magic language" to appear in the *Statement to Creditors and Investors by Boyd Gaming Regarding the Pledging of Kansas Star Casino Assets* but asked that General Counselor Judith Taylor confirm this. General Counsel Taylor confirmed that was accurate and that the language would need to be built into each material debt transaction.

Chairman Moses noted that it is not specified whether the 10-day prior notice be determined by calendar days or state-business days. Mr. Clinton responded that it would be calendar days. Chairman Moses asked if General Counselor Taylor was also under the impression that the 10-days be determined by calendar days. General Counsel Taylor responded she believed it is Boyd Gaming Corporation's understanding that the timeline is based on calendar days, however the commission can express a desire to see the timeline determined differently. Chairman Moses voiced his concern that because of weekends and/or state-holidays that 10-calendar days may not allow for proper review. Chairman Moses asked if Mr. Clinton had any angst to the timeline being changed to state-business days. Mr. Clinton responded that he had no concerns with that change.

Chairman Moses asked if there was a provision in the policy that would allow KRGC to delay or stop a material debt transaction if the Executive Director determined it necessary. Mr. Clinton responded that the last sentence of the second paragraph states, "Kansas Star and Boyd will submit such other documentation in support of its request as may be requested by the Executive Director subsequent to receipt of such written application". Chairman Moses thanked Mr. Clinton for bringing that section to his attention. Chairman Moses inquired if this should not also trigger a halt of the transaction. Mr. Clinton explained that the first paragraph details how

the Executive Director will be authorized to provide approval and that he must approve the transaction for it to be consummated. Executive Director Brownlee explained Kansas state law requires that Boyd attain the commission's approval of material debt transaction prior to its consummation. This proposed policy streamlines the commissions reviewal process by vesting authority in the Executive Director to approve material debt transactions that meet the criteria outlined in the first paragraph of the proposed policy. Chairman Moses summarized that this proposed policy would allow specific material debt transactions to bypass full commission review unless the Executive Director determined a full commission review was necessary. Executive Director Brownlee confirmed that was accurate. Mr. Clinton noted that paragraph three may contain the language the Chairman is looking for as it requires affirmative approval of the transaction.

Commissioner Spalding asked if shelf application/financing is something particular to Kansas because of the state's gaming laws. Mr. Clinton responded that other jurisdictions (Louisiana, Iowa, Nevada, Mississippi) have the exact same approach. Jurisdictions that have large public companies who move in debt markets quickly would have this type of an approach.

Commissioner Turnquist noted in the proposed policy the figure of \$6 billion and asked how this figure was determined. Mr. Clinton explained that it is a limit that makes sure that certain guard rails are in place. If Boyd Gaming Corporation sought a transaction larger than \$6 billion, the transaction would not fit into this policy and would have to be reviewed in by the full commission. Executive Director Brownlee noted that this can be discussed in more detail during the executive session. Commissioner Turnquist followed up asking if the figure is similar to what is used in the other jurisdictions. Executive Director Brownlee confirmed that Financial Investigator Todd Allen would discuss that during executive session.

MOTION, EXECUTIVE
SESSION; KANSAS
STAR CASINO/BOYD
GAMING
CORPORATION
MATERIAL
DEBT TRANSACTION
(G.2)

Commissioner Turnquist (Spalding) moved that the Commission go into executive session for the purpose of conducting a confidential review and discussion of the Kansas Star Casino/Boyd Gaming Corporation material debt transaction approval request, specifically considering whether the transaction would deprive the facility manager of financial stability, the financial condition of the affiliate, and the potential impact of any default on the gaming facility manager for fifteen (15) minutes until 11:02 a.m. In addition to the commissioners, the confidential review and discussion of the Kansas Star Casino/Boyd Gaming Corporation material debt transaction approval request will include the executive director, general counsel, and financial investigator, Todd Allen, and Uri Clinton will remain on standby

for commissioner questions. 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 3-0, and the meeting was adjourned to executive session at 10:47 a.m.

RECONVENE
(G.3)

The commission meeting returned to open session at 11:04 a.m. with Chairman Moses, Commissioner Turnquist, and Commissioner Spalding present.

Chairman Moses noted that the executive session did end at 11:02am but it took a few minutes for everyone to re-enter the room.

MOTION FOR
APPROVAL OF
KANSAS STAR
CASINO/BOYD
GAMING
CORPORATION
TRANSACTION (G.4)

Commissioner Turnquist (Spalding) moved to approve the Kansas Star Casino/Boyd Gaming Corporation material debt transaction request identified as policy resolution No. 2023-01, subject to the changes discussed; where "day" appears will be changed to state-business day.

A roll-call vote was taken. Motion to adopt the policy carried 3-0

PUBLIC COMMENTS
(H.)

There were no public comments.

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

Garrett Rogers, Paralegal, reported on an inter-agency meeting regarding problem gambling prevalence studies, both the Voluntary Exclusion Program and Sports Wagering Exclusion Program statistics for the month of September 2023, and the third quarter illegal gambling report.

- The meeting included a statistical analyst from Greenbush and a KDADS problem gambling specialist and KDADS problem gambling manager.
- KDADS staff confirmed that KDADS had requested and paid for the 2012 and 2017 problem gambling prevalence studies and that KDADS may commission a problem gambling study when it determines it is needed and funding is available.
- KDADS staff confirmed that Problem Gambling and Other Addiction Grant Fund monies were used to pay for the problem gambling prevalence studies.
- Greenbush is currently working to provide a quote for conducting a new prevalence study.
- KDADS staff expressed that they would not be able to commission a problem gambling prevalence study for FY '24 as funds have already

been earmarked for a statewide media campaign and to hire two problem gambling specialists.

- Chairman Moses noted that sports wagering advertisements list problem gaming helpline numbers with abbreviated states next to them, but he did not recall seeing KS listed in a recent advertisement. Chairman Moses asked what guidance sports wagering platforms are given on this matter. Mr. Rogers responded that the State Lottery is the entity that reviews and approves sports wagering advertisements and that they have directed platforms to use either the national problem gambling helpline number (1-800-GAMBLER) and/or the state helpline number (1-800-522-4700). Mr. Rogers said that he would need to investigate what, if any, guidance is provided regarding the inclusion of the state abbreviation.
- Chairman Moses asked if completed Voluntary Exclusions means that they completed their term or completed the program. Mr. Rogers specified that completed Universal Wagering Exclusions and Facility Wagering Exclusions would be individuals who have completed their exclusion period and the removal process, completed Sports Wagering Exclusions only require the individual to have completed their exclusion period.
- Chairman Moses asked if a person who enrolls into a sports wagering exclusion via a sports wagering platform is barred from wagering only on that platform. Mr. Rogers explained that an exclusion with one sports wagering platform is required to be honored by all operating platforms within Kansas.
- Chairman Moses asked if the Quarterly Illegal Gambling report is made available for the public. Mr. Rogers confirmed that it is.

Executive Director Brownlee reported:

- The Legislative Budget Committee met a few weeks ago and invited KRGC and Lottery to report on gaming. Most questions were directed towards the lottery management and questions about sports wagering. Director of Administration, Audit, and Finance Brandi White and Government Relations Manager Randy Evans attended on the KRGC's behalf. The Lottery reported during the meeting that revenues from FY '23 were \$407 million from casino gaming and \$58.7 million from sports wagering.
 - Commissioner Turnquist asked if the revenue numbers are what was received by the state. Executive Director Brownlee clarified that the revenue figures were the gambling revenue, not the state's share.
- The next commission is scheduled for November 17, 2023, in Topeka,

KS.

- Chairman Moses asked if there was any update regarding the City of Wichita ordinance. Executive Director Brownlee said that there was nothing new to report.

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

Commissioner Spalding (Turnquist) 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. The total time for the executive session was anticipated to be ten (10) minutes until 11:37 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 3-0, and the meeting was adjourned to executive session at 11:27 a.m.

RECONVENE
(J.2.)

The commission meeting returned to open session at 11:37 a.m. with Chairman Moses, Commissioner Turnquist, and Commissioner Spalding present.

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

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, and staff attorney James Bain upon request. After discussion, the total time for the executive session was anticipated to be sixty (60) minutes until 12:38 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 3-0, and the meeting was adjourned to executive session at 11:38 a.m.

RECONVENE
(K.2.)

The commission meeting returned to open session at 12:42 p.m. with Chairman Moses, Commissioner Turnquist, and Commissioner Spalding present.

Chairman Moses noted that the executive session did end at 12:38 p.m. but that open session was delayed due to schedule coordination.

MOTIONS ON
LICENSE
APPLICATIONS
(L.)

Commissioner Turnquist (Spalding) moved to *deny one* license application and *approve the remaining 149* license applications from the October 13, 2023, list of background reports referred to the commission for action. The motion carried 3-0.

OTHER BUSINESS
(M.)


There were no other items for discussion or motion.

ADJOURNMENT
(N.)

Chairman Moses stated that the November 17, 2023, commission meeting will begin at 10:00 a.m. for an in-person meeting at the Eisenhower State Office Building in Topeka, Kansas.

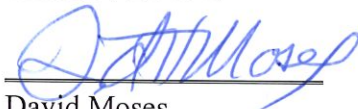
Commissioner Spalding (Turnquist) moved to adjourn the meeting. Motion passed 3-0. The meeting was adjourned at 12:44 p.m.

SUBMITTED BY:



Larry Turnquist
Secretary

APPROVED BY:



David Moses
Chairman