

## KANSAS RACING AND GAMING COMMISSION

### MINUTES – DECEMBER 15, 2023

#### CALL TO ORDER (A.)

Chairman David Moses called the December 15, 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, Director of Security Roger Bailey, Government Relations Manager Randy Evans, and other staff.

#### MOTION, APPROVE AGENDA (B.)

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

#### MOTION, APPROVE NOVEMBER 17, 2023 MEETING MINUTES (C.)

Commissioner Turnquist (Jones) moved to approve the minutes of the November 17, 2023 meeting. Motion carried 4-0.

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

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

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

Diane Giardine, General Manager, reported:

- November 2023 revenue numbers compared to November 2022:
  - Total gaming revenue increased 3.66%
  - Total slot revenue was up 0.08%
  - Table games revenue was up 42.07%
- November 2023 Sports Wagering revenue numbers
  - Retail Sportsbook Revenue -\$1,062.00
    - Down 146.95% from November 2022. The month began with a loss of \$67,000 and the facility was able to recoup \$66,000.
    - Handle was up 252%, hold was very low.
  - Digital Sportsbook Revenue: \$4,206,003.00
    - Down 8.56% from November 2022
    - Handle was up 43%, hold was down 36%.
  - Top Sports
    - 36% of handle was College Basketball
    - 24% of handle was NFL
    - 21% of handle was College Football
- Upcoming Events and Promotions:

- Weekly Kiosk Games
- Weekly Kiosk Games
- Continuity Gift Promotions
- Home for the Holidays
- VIP Promotions
- 14th Anniversary Promotions
- New Year's Eve Promotions
- Holiday Donation Drive
- Hero Tree
- Upcoming Entertainment & Events
  - Tournament of Champions – January 18-20
  - SPIAA Basketball Tournament – January 22 – 27
  - The Greatest Love – Whitney Houston Tribute – February 9
  - KSHSAA State Basketball – March 4 – 9
  - Harlem Globetrotters – March 21
  - Roots & Boots – April 13

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

Doug Lang, General Manager, reported:

- November 2023 revenue numbers compared to November 2022:
  - Total gross gaming revenue was down 4.2%
  - Total slot revenue down 0.9%
  - Table games revenue down 25.8%
  - General Manager Lang noted that until the last week of November revenue was up by 2% but then seven inches of snow hit the area and depressed facility admissions.
- November 2023 Sports Wagering revenue
  - Retail Sportsbook Revenue \$57,000.00.
    - Up from November 2022's loss of \$44,500.00.
  - Digital Sportsbook Revenue: \$2,000,000.00
    - Down from November 2022's revenue of \$5,020,000.00.
- November 2023 Sports Wagering
  - \$67.46 million was wagered on FanDuel online.
  - \$80.18 million was wagered on FanDuel online. This was up over \$13 million from October.
  - \$1.7 million was wagered in person at FanDuel retail. This was also an increase over October. Of this \$, \$859k was bet over the counter and \$843k was bet on the kiosks.
  - There was a total of 14,864 bets made in person at FanDuel retail.
  - The largest wager in retail was a \$20,000 parlay. The parlay was 7 legs and was all college football. This wager was not a winner.
  - The largest payout in retail was a \$10,000 Same Game Parlay with 10 legs in the NFL. This winning wager paid out \$93,589.49.
  - Our largest customer in retail wagered \$319,664 for the month of November.
  - Football continues to carry the torch for overall handle, but basketball is growing.

- Sports wagering percentages for the month of November are as follows...Football 74%, Basketball 22%, Hockey 3%, Tennis <1%, MMA <1%, Golf <1%, Soccer <1%.
- Upcoming Events and Promotions:
  - Double Down | Friday and Saturdays
  - Sit and Go Slot Tournaments | Thursday, December 14 & 28 | 5p-8p
  - Inflatable Penguin Gift Giveaway | Friday, December 8 | 4p-9p
  - Loyalty Luxury Gift Pickup | Saturday December 9 2p-4p & 6p-9p
  - Table Games and Slot Holiday Hot Seats | Every Saturday in December | 5:30p-10p
  - Inflatable Santa Claus Gift Giveaway | Friday, December 15 | 4p-9p
  - Stanley Power Hub Gift Giveaway | Friday, December 22 | 4p-9p
  - Grab Bag Gift Giveaway | Friday, December 29 | 4p-9p
  - New Year's Eve Offer | Sunday, December 31
- Upcoming Entertainment & Events:
  - Wichita Flea Market | Arena | Saturday December 16 9a-5p & Sunday December 17 10a-4p
    - Chairman Moses asked if the Wichita Flea Market is the same event that in the past has been held at the Hartman Arena. General Manager Lang responded that he believes they are different events as Kansas Star has been hosting this annual flea market for years.

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

Lydia Garvey, General Manager, reported:

- November 2023 admissions were down 5.1% compared to November 2022
- November 2023 revenue numbers compared to November 2022:
  - Total gross gaming revenue increased 2.5%
  - Slot revenue increased 1.7%
  - Table games revenue increased 9.4%
- November 2023 Sports Wagering revenue numbers
  - Retail Sportsbook Taxable Revenue: \$455,964.00
    - Down 42.9% compared to November 2022
    - The decline in year-over-year revenue is due to a 10% drop in handle which is attributed to the ongoing remodel of the retail sportsbook area. There was also a 4.1% drop in hold.
    - Sportsbook construction is scheduled to wrap-up on December 22<sup>nd</sup>. Grand re-opening activities are planned for December 27<sup>th</sup> with a media event from 1pm – 3pm, and then a VEP sneak peek from 3pm – 5pm. Total capital invested in this phase of the sportsbook will be close to \$5M. Improvements include a video wall, mini jumbotron, new furniture, flooring, memorabilia, and a new permanent bar with nine video poker bar-top machines.

- Chairman Moses asked if the commission would be able to meet at the facility sometime in the Spring. General Manager Garvey confirmed that would be possible.
- Retail Sportsbook: Top Sports
  - 37% of handle was NFL
  - 30% of handle was NCAA Football
  - 15% of handle was NCAA Basketball
  - 15% of handle was NBA
- Digital Sportsbook Taxable Revenue: -\$3,729,147.00
  - The Platform Sportsbook had gross gaming revenues in November of approximately \$2.6M which were offset by promotional expenses of \$6.3M related to the launch of ESPN Bet.
  - Penn Interactive successfully launched ESPN Bet. ESPN Bet set a record with the most downloads in a two-day span immediately following the launch of a sports betting app.
  - The wagers were just shy of \$22M, up 237% from the prior month and 175% year-over-year.
- Digital Sportsbook: Top Sports
  - 35% of handle was NFL
  - 19% of handle was NCAA Football
  - 15% of handle was NCAA Basketball
  - 15% of handle was NBA
- Recent/Upcoming Events and Promotions:
  - November 24 – Win This Ride
  - December 1 – Merry Matchmas
  - December 7 – Present Palooza
  - December 15 – Night of Gifts
  - December 22 – December Pie Giveaway
  - December 23 – VIP Happy Hollydays
  - December 29 - \$25K Almost New Years Giveaway
  - December 30 – Pick, Pull, & Win

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

Jeff McKain, General Manager, reported:

- November 2023 admissions up 1.8% compared to November 2022
- November 2023 revenue numbers compared to November 2022:
  - Coin in down 1.5%
  - Table games drop down 2.5%
  - Net gaming revenue was down 1.6%
- November 2023 Sports Wagering revenue numbers
  - Retail Sportsbook Taxable Revenue: \$37,042.00
    - Up 4.6% compared to October 2023
  - Digital Sportsbook Taxable Revenue: \$1,278,562.00.
    - Up 179% compared to November 2022
- Events and Promotions:

○ November

- Casino Hot Seats every Monday and Tuesday.
- *Camp 49* promotions every Wednesday.
- *Card Shark* promotion on Fridays.
- VIP event on Friday the 17<sup>th</sup>.
- Casino gifts every Saturday.
- *Cash is King* promotion Saturday the 25<sup>th</sup>.

○ December

- *Jingle Bells Smash + Grab* promotions on Mondays
- *Camp 49* promotions every Wednesday.
- VIP event on Thursday the 14<sup>th</sup>.
- *Cash is King* promotion Saturday the 30<sup>th</sup>.
- Casino gifts every Sunday.

● COVID-19

- Zero positive cases in November and three so far in December.

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

Scott Beeler and Jason Watkins, Golden Circle Representatives, reported:

- Progress is being made on the Golden Circle project, but the facility manager is running into some problems. One example is that Park City did not have the appropriate zoning regulation to allow for what the facility manager plans to do at the facility. City officials had to adjust their paperwork so that the facility manager could move forward with permitting. That action was taken in November and the facility manager has since filed for the re-zoning that was necessary.
- The architectural and engineering teams have had some delays. During review, it was determined the elevator shaft was in the wrong place and would need to be redesigned and rebuilt. This will mean a pushback on the projected opening date. A new timeline has been issued with an early completion date of mid-July and final completion date of September.
  - Chairman Moses asked what year the timeline was referring to. Mr. Beeler clarified that it was September of 2025.
  - Chairman Moses asked if there were any factors causing delay that were not mentioned. Mr. Beeler responded that he believes a comprehensive list of factors would be as long as his leg, but that the principal/main factors have been reported.
- The Wichita GC Charities have identified and named a new board member, Tony Porter. Tony Porter has a background in corporate communications and real estate, she was a district director for a United States congressman, she worked for the CIA, she worked for the United States Department of State working directly for the Secretary of State, she is currently the Vice President of Government Relations for the Wichita Regional Chamber of

Commerce, and is a long time Wichita resident. The process has begun to officially add Ms. Porter to the Wichita GC Charities board.

- Chairman Moses asked Mr. Beeler if the Wichita GC Charities board anticipates adding a fifth member. Mr. Beeler responded that he believes that is on the horizon. Mr. Watkins commented that the board's goal is to go to five members. With the selection of Ms. Porter, the board has begun a second round of applications with an intentional focus on making sure the board is diversified.
- Subject to commission approval, Golden Circle has hired Courtney Barnaby, former Director of Operations for Treasure Island in Las Vegas, he is targeted to serve as a General Manager.
- The third version of the management agreement contract has been submitted to the commission for review. Both the Wichita GC Charities and Golden Circle have agreed to sign contingent on commission approval.
- Chairman Moses asked Mr. Watkins if he used to work for the Wichita Regional Chamber of Commerce. Mr. Watkins confirmed that he did previously work at the Chamber of Commerce. Chairman Moses asked if Mr. Watkins worked with Tony Porter during that time. Mr. Watkins confirmed that he did work with Ms. Porter and added in full disclosure that the Wichita Regional Chamber of Commerce is a current client of his.

COMMISSION ITEMS  
– OLD BUSINESS (F.)

There was no old business.

COMMISSION ITEMS  
– NEW BUSINESS  
(G.1)

Commissioner Spalding thanked KRGC staff member Dan Lake for all of the technical assistance he has provided. Chairman Moses joined in thanking staff for their assistance

Scott Beeler, Golden Circle Representative, presented the Wichita GC Charities and Golden Circle, Inc., management agreement approval request. Mr. Beeler stated that if commissioners had any questions regarding the management agreement, Jason Watkins or himself would be able to answer but there was nothing new to report.

MOTION, EXECUTIVE  
SESSION; WGCC &  
GOLDEN CIRCLE,  
INC. MANAGEMENT  
AGREEMENT  
(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 Wichita GC Charities and Golden Circle, Inc., management agreement approval request, specifically considering whether the agreement: violates any provision of the Kansas Parimutuel Racing Act or rules and regulations of the commission, provides for payment of money or other valuable consideration which is clearly in excess of the fair market

value of the goods, services or facilities being purchased or leased, or would not protect the organization licensee from incurring losses due to contractual liability for forty-five (45) minutes until 11:15a.m. In addition to the commissioners, the confidential review and discussion of the Wichita GC Charities and Golden Circle, Inc., management agreement approval request will include the executive director and general counsel, and upon commissioner request Scott Beeler and/or Jason Watkins. 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 10:30 a.m.

RECONVENE  
(G.3)

The commission meeting returned to open session at 11:15 a.m. with Chairman Moses, Commissioner Jones, Commissioner Turnquist, and Commissioner Spalding present.

MOTION, EXECUTIVE  
SESSION; WGCC &  
GOLDEN CIRCLE,  
INC. MANAGEMENT  
AGREEMENT  
(G.4)

Commissioner Turnquist (Spalding) moved that the Commission go into executive session for the purpose of conducting a confidential review and discussion of the Wichita GC Charities and Golden Circle, Inc., management agreement approval request, specifically considering whether the agreement: violates any provision of the Kansas Parimutuel Racing Act or rules and regulations of the commission, provides for payment of money or other valuable consideration which is clearly in excess of the fair market value of the goods, services or facilities being purchased or leased, or would not protect the organization licensee from incurring losses due to contractual liability for fifteen (15) minutes until 11:30a.m. In addition to the commissioners, the confidential review and discussion of the Wichita GC Charities and Golden Circle, Inc., management agreement approval request will include the executive director and general counsel, and upon commissioner request Scott Beeler and/or Jason Watkins. 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 11:15 a.m.

RECONVENE  
(G.5)

The commission meeting returned to open session at 11:30 a.m. with Chairman Moses, Commissioner Jones, Commissioner Turnquist, and Commissioner Spalding present.

MOTION FOR  
APPROVAL OF WGCC  
& GOLDEN CIRCLE,  
INC. MANAGEMENT  
AGREEMENT  
(G.6)

Commissioner Turnquist (Jones) found that the management agreement did not violate any provision of the Kansas Parimutuel Racing Act or rules and regulations of the commission, provide for payment of money or other valuable consideration which is clearly in excess of the fair market value of the goods, services or facilities being purchased or leased, or would not protect the organization licensee from incurring losses due to contractual liability, and moved to approve the Wichita GC Charities and Golden Circle, Inc., management agreement.

Chairman Moses thanked staff for their efforts on this project, specifically highlighting the work done by staff attorneys Eleazar Rundus and James Bain. Chairman Moses also thanked those from the charity and the facility manager for their efforts as well.

A roll-call vote was taken. Motion to approve the management agreement carried 4-0.

PUBLIC COMMENTS  
(H.)

There were no public comments.

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

Garrett Rogers, Paralegal, reported on both the Voluntary Exclusion Program and Sports Wagering Exclusion Program statistics for the month of November 2023.

- Commissioner Spalding asked if a VEP violates the exclusion agreement and has winnings seized, is all of the money on the person seized or only what is considered winnings. Mr. Rogers explained that any money exchanged into chips, vouchers, tickets, or some form of token is seized, no cash is taken from the VEP. General Counsel Judith Taylor commented that they are not required to empty their pockets to scout for more money.

Executive Director Brownlee reported:

- Governor Kelly has appointed a new commissioner the Kansas Racing and Gaming Commission. His name is Mike Fleming from Johnson County. The Confirmation Oversight Committee approved his appointment a couple of weeks ago and he will attend a KRGC orientation this next week. He was unable to attend the December meeting but plans to join our meeting moving forward beginning with the January 12<sup>th</sup> meeting.
- At the first meeting of each year, the commission is required to elect a Vice Chair and Secretary.
  - Chairman Moses asked who the current Vice Chair is. Executive Director Brownlee confirmed that Commissioner Jones was elected to serve as Vice Chair.



- Executive Director Brownlee asked how frequently commissioners would like to meet at one of the lottery gaming facilities. Chairman Moses voiced that he would like hold meetings at the lottery gaming facilities but wants to remain aware of the additional effort this requires on staff's part. Chairman Moses noted that Commissioner Jones has a full-time job outside of the commission. Commissioner Jones commented that he has been to each facility but would like to visit one or two a year. Commissioner Spalding noted that it may best to wait for Mike Fleming to join so that he can also provide input before deciding. Commissioner Turnquist noted that he would like to visit the Kansas Crossing as it is the only facility he has not visited.
- The next commission is scheduled for January 12, 2024, at 10:00am in Topeka, KS.

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, director of sports wagering and licensing. The total time for the executive session was anticipated to be ten (10) minutes until 11:50 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 11:40 a.m.

RECONVENE  
(J.2.)

The commission meeting returned to open session at 11:50 a.m. with Chairman Moses, Commissioner Jones, Commissioner Turnquist, and Commissioner Spalding present.

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

Commissioner Jones (Jones) 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 fifteen (15) minutes until 12:10 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 11:55 a.m.

RECONVENE  
(K.2.)

The commission meeting returned to open session at 12:10 p.m. with Chairman Moses, Commissioner Jones, Commissioner Turnquist, and Commissioner Spalding present.

MOTIONS ON  
LICENSE  
APPLICATIONS  
(L.)

Commissioner Turnquist (Spalding) moved to *deny three* license application, *conditionally approve one* license application, and *approve the remaining 189* license applications from the December 15, 2023, list of background reports referred to the commission for action. The motion carried 4-0, with Commissioner Jones abstaining on the vote for Amy Singleterry.

OTHER BUSINESS  
(M.)

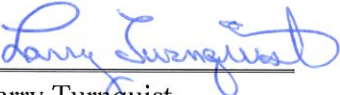
There were no other items for discussion or motion.

ADJOURNMENT  
(N.)

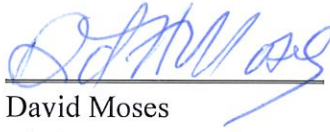
Chairman Moses stated that the January 12, 2024, commission meeting will begin at 10:00 a.m. for an in-person meeting at the Eisenhower State Office Building in Topeka, Kansas.

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

SUBMITTED BY:

  
Larry Turnquist  
Secretary

APPROVED BY:

  
David Moses  
Chairman