

**IOWA RACING AND GAMING COMMISSION
MINUTES
APRIL 16, 2009**

The Iowa Racing & Gaming Commission (IRGC) met on Thursday, April 16, 2009 at Wild Rose Clinton (WRC) in Clinton, Iowa. Commission members present were Greg Seyfer, Chair; Diane Hamilton, Vice Chair; and members Paul Hayes and Toni Urban. Commissioner Kate Cutler was absent.

Chair Seyfer called the meeting to order at 8:30 AM, and moved to the approval of the agenda. Commissioner Hamilton moved to approve the agenda as submitted. Commissioner Urban seconded the motion, which carried unanimously.

Chair Seyfer moved to the Welcome, and called on Tim Bollmann, General Manager of WRC. Mr. Bollmann thanked the Commission for their support of the new facility in Clinton as it has provided WRC the opportunity to better serve the market and has brought economic development to Clinton.

Mr. Bollmann introduced Roger Holm, Mayor of Clinton. Mr. Holm stated that the city has a beneficial and long-standing relationship with WRC, which employs 320 individuals. The employees received \$6.8 million in wages and benefits in 2008. The city and county have received tax payments of \$358,384. Mr. Holm thanked the Commission for choosing Clinton and the Wild Rose for their meeting.

Mr. Bollmann then introduced Gerry Freudenburg, President of the Clinton County Community Development Association (CCCDA). Mr. Freudenburg thanked the Commission for visiting. He noted that CCCDA recently awarded nearly 200 grants for a total of 850 grants to date, with a monetary value in excess of \$16 million. Mr. Freudenburg stated that the improvements around Clinton County show what can be done when you give local communities control over these sums of money.

Chair Seyfer moved to the approval of the minutes from the March 5, 2009 Commission meeting. Commissioner Hayes moved to approve the minutes as submitted. Commissioner Urban seconded the motion, which carried unanimously.

Chair Seyfer called on Jack Ketterer, IRGC Administrator, for announcements. Mr. Ketterer introduced Arni Westphal, IRGC Gaming Representative at Wild Rose Clinton.

Mr. Ketterer advised that the next Commission meeting would be held on June 4th at Stoney Creek Inn in Johnston, Iowa. He read the following proposed meeting dates and locations for the Fiscal Year 2010 meetings:

<u>DATE</u>	<u>LOCATION</u>
July 16, 2009	Stoney Creek Inn, Johnston
August 27, 2009	Riverside Casino & Golf Resort
October 8, 2009	Diamond Jo Dubuque
November 12, 2009	Stoney Creek Inn, Johnston
January 14, 2010	Stoney Creek Inn, Johnston
March 4, 2010	Stoney Creek Inn, Johnston
April 15, 2010	Ameristar Casino, Council Bluffs
June 3, 2010	Stoney Creek Inn, Johnston

Commissioner Hayes moved to approve the proposed meeting dates for Fiscal Year 2010. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 09-31)

Chair Seyfer moved to the recognition of Commissioner Hamilton as this is her last meeting. Mr. Ketterer stated that Ms. Hamilton was appointed to the Commission in February 1999, and as is the case with most new Commissioners, was overwhelmed with the broad scope and responsibilities encompassed by the gaming industry and the rapid pace of its technology-driven evolution, as well as the racing industry with greyhounds and horse racing with the three breeds. Since Iowa is the only commission to preside over racing and gaming, new Commission members face a large learning curve during their first term. Mr. Ketterer noted that she did a lot of listening her first term and never succumbed to speaking out. During her second term, she served as Vice Chair, and saw that one day she would assume the leadership of the Commission. Commissioner Hamilton became comfortable with her knowledge of the industries the Commission regulates. From July 2004 to July 2006, Commissioner Hamilton served as Chair of the Commission during one of the Commission's most challenging times in its 20-year history, 25 years if the years as a racing commission only are included. The 2004 Legislative session saw a major overhaul of the gambling laws, resulting in the Commission entertaining applications from ten potential licensees. The licensing process lasted six months and several meetings, including visits to the proposed sites. There was pressure and controversy, but then Chair Hamilton did a tremendous job of guiding the Commission through the process. The staff and industry were, and remain, grateful for her leadership. Mr. Ketterer stated that Commissioner Hamilton's time on the Commission has been distinguished by her exemplary service, and doing so selflessly, taking no benefit or recognition in return. Mr. Ketterer advised Commissioner Hamilton that today was her day to be recognized for her ten years of service as a member and

Chair of the Commission. Mr. Ketterer presented Commissioner Hamilton with a plaque recognizing her service.

Commissioner Hamilton stated that the last ten years have been a great opportunity for her, with many positive experiences. She stated that she counts many staff members as friends. She noted that staff provided everything the Commission members needed in order to perform their duties.

Chair Seyfer thanked Commissioner Hamilton for her service, and particularly for the guidance provided to him during his first years on the Commission.

Chair Seyfer moved to the rules submitted under Notice of Intended Action. Mr. Ketterer advised that there are three sets of rules to be considered today, the first being 491-1.7 – Criteria for granting licenses, renewing licenses and determining race dates. He noted these rules were being submitted in accordance with the Commission's direction to staff to draft updated language for possible Notice of Intended Action at the April meeting. Mr. Ketterer stated the rule has been condensed, redundant language removed, references to boats and shore development were updated, and language was added to reflect language contained in the Request for Proposal for the gaming study. Mr. Ketterer suggested that Iowa Administrative Rule 491-1.7(c) be changed to include language that the proposed property is adequately financed.

Chair Seyfer stated that he liked the idea that the rules would coincide with what has been requested in the gaming study. Hearing no further discussion, Chair Seyfer requested a motion.

Commissioner Urban moved to approve Iowa Administrative Rule 491-1.7 – Criteria for granting licenses, renewal licenses and determining race dates as submitted under Notice of Intended Action. Commissioner Hayes seconded the motion, which carried unanimously. (See Order No. 09-32)

Chair Seyfer moved to the second set of rules submitted under Notice of Intended Action. Mr. Ketterer advised that Items 1-5 amend language regarding occupational licenses, eligibility for a license, and added a clause regarding summary suspension, noting that since the individual is being suspended prior to their hearing, the Commission does not want to deprive the individual of their right to due process without good reason. Items 6-18 make updates to Iowa Administrative Code Chapters 11 and 12. Brian Ohorilko, Director of Gaming for IRGC, updated the rules to reflect the technology changes within the industry. Mr. Ketterer noted these particular rules had not undergone a comprehensive update for some time. He stated that Mr. Ohorilko met with many of the general managers of the facilities prior to the March Commission meeting and sought feedback, some of which was incorporated into the rules. Mr. Ohorilko recently met with the IGA and representatives from two of the licensees. Mr. Ketterer stated that some of the suggestions were not being incorporated at this time, but may be considered in the future. He stated that he felt the proposed rules were to the point that the Commission

could consider them for Notice of Intended Action as interested parties would still have the opportunity to submit comments during the Public Hearing within the Administrative Rules process. Mr. Ketterer recommended that the rules be approved as submitted for Notice of Intended Action.

Hearing no discussion concerning the rules, Chair Seyfer requested a motion. Commissioner Urban moved to approve the rules as submitted for Notice of Intended Action. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 09-33)

Chair Seyfer moved to the rules submitted for Final Adopt. Mr. Ketterer advised that these rules were approved for Notice of Intended Action at the January Commission meeting, and that the Commission did not receive any public comments.

Hearing no comments or questions concerning the rules, Chair Seyfer requested a motion. Commissioner Urban moved to approve the rules as submitted for final adoption. Commissioner Hayes seconded the motion, which carried unanimously. (See Order No. 09-34)

Chair Seyfer moved to the review of the licensee's financial audits and called on Ameristar Casino (Ameristar). Jane Bell, Director of Government Affairs, and Joe Giordano, Chief Financial Officer (CFO), were present to answer any questions.

Commissioner Hayes noted that the balance sheet reflected a large receivable from an affiliate in the amount of \$49 million, and asked if it was a temporary item. Mr. Giordano advised that it was a carryover from a 2003 tax adjustment. He stated that in 2007 the Iowa property reduced notes to the parent company. The liability side will increase on the 2009 audit.

Chair Seyfer called on Argosy Casino-Sioux City (Argosy). Kees Eder, General Manager, was present to answer questions concerning the audit.

Commissioner Hayes noted there was no Statement of Cash Flow at the casino level included in the audit. Mr. Eder stated that he would get one to the Commission.

Hearing no further questions or comments concerning the Argosy audit, Chair Seyfer called on Catfish Bend Casino (CBC). Gary Hoyer, Chief Executive Officer, and Donald Spears, Controller, were present to answer any questions.

Commissioner Hayes noted that an "Other Receivable" in the amount of \$1.3 million was reflected in the audit. He asked if it was to a related party or if it had been paid. Mr. Spears advised that the amount was related to a rent payment made in 2005, and will remain on the books until the funds are returned from the state.

Commissioner Hayes stated that the Internal Control letter identified a weakness this year that was similar to last year's letter, and asked how the situation was being addressed and how the processes are being reviewed on an overall basis. Mr. Hoyer advised that internal controls are reviewed on an on-going basis. He indicated that CBC representatives met with the auditors following the conclusion of the audit, and to his knowledge, all issues had been resolved. Commissioner Hayes stressed the importance of internal controls from the Commission's standpoint.

Hearing no further comments or questions for CBC, Chair Seyfer called on Diamond Jo (DJ). Todd Moyer, General Manager, and Wendy Runde, Director of Finance, were present to answer any questions. Mr. Moyer stated that DJ approached 2008 anxious to commence construction of the new facility, which was scheduled to open the end of the year. At the same time, DJ was focused on driving growth and an increase in gaming revenues. To help them attain these goals, DJ used a very successful marketing theme of "Come see her before she's gone". Mr. Moyer also stated that during the first quarter of 2009, DJ has seen a 100% increase in revenues, or over \$10 million. DJ's market share has increased by 27%. Mr. Moyer stated DJ spent \$82 million on the new facility. He also noted the recently completed renovation of the Mystique Casino/Dubuque Greyhound Park has added to the market.

Commissioner Hamilton asked when the new facility opened. Mr. Moyer stated that the new facility opened on December 11th, or just over four months ago.

Commissioner Hayes noted there was an accounts receivable of \$3 million. Ms. Runde stated the receivable is a rebate due from DRA. DRA agreed to pay DJ 33 cents for every dollar of lost revenue commencing the end of November when DJ started moving slot machines off the riverboat to transition to the land-based facility.

Hearing no additional questions for DJ, Chair Seyfer called on Diamond Jo Worth (DJW). Kim Pang, General Manager, was present to answer any questions. Mr. Pang advised that 2008 represented the first full year of operations following the expansion, and noted that it was very successful. DJW saw an increase in gaming revenue of approximately \$4.7 million, the facility is seeing continued success in attracting visitors from Minnesota, food and beverage revenues increased by \$900,000, and a \$5.8 million decrease in debt.

Commissioner Seyfer asked how the first quarter went. Mr. Pang indicated DJW had a strong first quarter; that they met plan, as well as last year's numbers. He indicated that April has been good to date.

Hearing no further questions for DJW, Chair Seyfer called on Harrah's. Janae Sternberg, Director of Finance, for Harrah's and Horseshoe Casino/Bluffs Run Greyhound Park was present to answer questions. She requested the Commission's approval to cover both properties at this time. The Commission agreed.

Commissioner Hayes noted that separate reports have been submitted for the properties in the past, but a consolidated report was submitted this year. He wondered why the change, and noted that there were some statements that were not included in the audit. Ms. Sternberg advised that consolidated reports are done in other areas of the company; they had just never been done here. The consolidated reports represented a cost savings for the company, and the auditors were able to streamline the audit process somewhat. Ms. Sternberg indicated that she would get the missing statements from the audit team and submit them to the Commission.

Commissioner Hayes noted there was a substantial change in "Good Will", but that it did not go through the Income Statement. Ms. Sternberg advised that all of the "Good Will" was absorbed in the purchase.

Hearing no further questions concerning the audit for Harrah's or Horseshoe/Bluffs Run, Chair Seyfer called on Lakeside Casino (Lakeside). Prior to addressing the audit, Bob Thursby, General Manager, advised the Commission that prior to the filing of the bankruptcy petition, Herbst Gaming spent a great deal of time, effort and money making sure that all of the vendors were paid. He indicated there may be four or five vendors that have not received payment, and that those payments may be delayed 120 days.

Commissioner Hayes noted that the Commission did not receive a copy of the Internal Control letter from the auditors with the audit. Mr. Thursby indicated he would see that the Commission received a copy.

Hearing no further comments concerning the Lakeside audit, Chair Seyfer called on WRC. Tom Timmons, Vice President of Operations for Wild Rose Entertainment, and Scott Ivers, Corporate Controller, were present to answer questions.

Commissioner Hayes referencing the deficiencies noted in the internal control letter, asked whether any of those cited have occurred in the past, and what is being done to resolve the issues. Mr. Ivers stated that the segregation of duties matter has come up in the past, but is an area that is difficult for them to resolve due to the small staff. He indicated that McGladrey has offered some solutions which should help to relieve that issue.

Hearing no further questions concerning the WRC audit, Chair Seyfer moved to Wild Rose Emmetsburg (WR Emmetsburg). Mr. Timmons and Mr. Ivers were present to answer questions concerning this audit.

Commissioner Hayes indicated he had the same question as for WRC. Mr. Ivers indicated the answer would be the same as stated above.

Hearing no additional comments or questions, Chair Seyfer called on Riverside Casino & Golf Resort (RCGR). Joe Massa, General Manager and Dan Franz, Controller, were present to answer any questions.

Mr. Massa advised that RCGR has total assets of \$16 million, which is down slightly from last year due to a \$6 million cash reduction to reduce debt, and an increase in depreciation of approximately \$10 million. Current assets include about \$1 million in receivables for the business interruption insurance relating to revenue loss last year during the flood. The payment has been received from the insurance company.

Mr. Massa stated that as of December 31, 2008, RCGR had invested \$125 million in the property and equipment, and added around \$1.7 million in total assets in 2008, including improvements to the golf course. Liabilities were reduced by \$4.8 million, which included \$2 million of the \$10 million of the original licensing fee. RCGR has \$88 million in long-term debt from the original financing of the project, which was originally \$100 million.

Mr. Massa stated that 2008 revenues increased 2.3%, or by \$2.5 million, gaming revenue decreased 1% but food and beverage revenue increased by approximately 8%, and hotel revenue increased by 28%. He indicated that despite the increased competition from Waterloo and Burlington and the floods of last year gaming revenues are holding steady this year, and that food and beverage revenues are about double what was originally projected. Hotel revenues are also higher than originally projected. Operating expenses reflect an increase between 80-84% of revenue, or a \$6 million increase, with \$3 million attributable to depreciation and amortization. Payroll expenses increased by \$2 million; with \$1 million of that going to the employee profit sharing program. Property taxes have increased. RCGR ended 2008 with a net income of approximately \$4 million. Mr. Massa stated that payroll and related expenses totaled approximately \$20 million for the 845+ employees; gaming taxes and related fees were \$19 million in 2008, or approximately \$45 million in the 28 months RCGR has been open. That figure does not include the \$8 million paid in license fees.

Mr. Massa noted that RCGR has paid \$4 million to the City of Riverside, which includes the \$1 million guaranteed to the city if a license was granted. Expenditures with Iowa vendors are at 97.5%. The not-for-profit licensee holder received \$3.3 million in 2008 for a total of \$7.5 million since the facility opened. RCGR made distributions totaling \$250,000 to area charities in 2008, for a total of \$500,000 since opening.

Mr. Massa made reference to the GIVE Foundation, which was established in 2007 to help veterans learn the game of golf.

Mr. Massa noted that Riverside is owned by over 700 Iowa residents, and advised that over the past year the company was able to pay those investors a return of 22.5% on their investment after tax. To date in 2009, the investors have received another 7.5% return after taxes.

Hearing no comments or questions for Mr. Massa, Chair Seyfer called on the Iowa West Racing Association (IWRA). Jerry Mathiason, Associate Executive Director, and Tim Miller, CFO, were present to answer questions. Mr. Mathiason took a moment to thank

Commissioner Hamilton for her service. Moving to the audit, he advised that the licensing fees received were down slightly, \$50,000 or 1%. He noted there was a line showing license fees payable, which Mr. Mathiason attributed to timing; those fees have now been received. Mr. Mathiason referenced license fees payable to IWRA that are then distributed to the Iowa West Foundation (IWF). This entry was again attributed to timing and have been received.

Mr. Mathiason noted that previously a Commission member mentioned the Sarbanes-Oxley Act to the licensees during the audit review. He advised that IWRA started a Governance Task Force at that time, which has now turned into a Governance Standing Committee of the IWRA and IWF. This committee has passed a new Code of Conduct and Conflict of Interest policy.

Hearing no questions concerning the IWRA audit, Chair Seyfer called on the Dubuque Racing Association (DRA). Roger Hoeger, Assistant General Manager for Mystique Casino/Dubuque Greyhound Park, stated there was a substantial change in the net assets of the DRA from the previous year. He advised that there were no distributions in 2008, which was offset by an increase in depreciation and amortization due to fluctuations from 2007 and 2008.

Commissioner Hayes noted there was a significant increase in professional fees. Mr. Hoeger stated that DRA had utilized the services of some consulting groups to gather ideas and possibilities relating to the renovation of the casino.

Hearing no further questions regarding the DRA audit, Chair Seyfer called on Prairie Meadows Racetrack & Casino (PMR&C). Gary Palmer, General Manager, and Brian Wessels, CFO, were present to answer questions.

As there were no questions, concerning the PMR&C audit, Chair Seyfer moved to the next agenda item, a review of the audit for the escrow account held by the IWRA and the Iowa Greyhound Association (IGA). Jim Quilty, legal counsel for the IGA, was present to answer any questions.

Commissioner Hayes noted there was a substantial decrease in the value of the investments due to the current economic situation. He asked how the losses will impact how the funds are utilized in the future.

Mr. Quilty advised that the IGA had visited with both of the fund managers. He noted that a large part of the decrease was due to the current market situation, and the managers are going to try to position the funds in such a way that they can weather the current situation and grow as the market improves. Mr. Quilty also noted there was a significant withdrawal, as reflected in the audit, last year to fund several stakes races at Bluffs Run.

Hearing no further questions concerning the escrow audit, Chair Seyfer called on WR Emmetsburg. Mr. Timmons and Amy Williams, General Manger, presented an Amended

and Restated Management Agreement, and the following contracts for Commission approval:

- Shuffle Master, Inc. – Equipment and Game Lease
- CDW – Software Licenses and Computer Equipment
- Shuffle Master, Inc. – Equipment and Game Lease

Mr. Timmons advised that there were two changes in the management agreement presented and the agreement previously approved. The original agreement was designed for a third party to manage the property, not the parent company. Secondly, Wild Rose Entertainment is preparing to do a stock offering in Emmetsburg and the Management Agreement is referenced and they felt the Agreement should reflect what the parent company is providing to the subsidiary. Mr. Timmons indicated these are not substantial changes.

Commissioner Hayes asked about the timeline for the stock offering. Mr. Timmons indicated that the paperwork has been submitted to the necessary state agency for approval. Wild Rose Entertainment hopes to hear back within 2-3 weeks, at which time they will start holding the public meetings, and the public offering will occur sometime during the summer.

Chair Seyfer stated the Commission would take up the approval of the Management Agreement and contracts simultaneously. Hearing no questions concerning the contracts, he requested a motion. Commissioner Hamilton moved to approve the Amended and Restated Management Agreement and the contracts as submitted by WR Emmetsburg. Commissioner Hayes seconded the motion, which carried unanimously. (See Order No. 09-35)

Chair Seyfer moved to the contract approval portion of the agenda, and called on Mr. Ketterer regarding a contract submission issue. Mr. Ketterer advised that a situation had come up where a parent company is making purchases and then billing the subsidiary licensee for the costs associated with the transaction, but the transaction is not coming before the Commission for approval in some of those situations. He noted there are some licensees who are submitting those transactions for Commission approval. Mr. Ketterer asked the Commissioners if they wanted these transactions submitted for Commission approval. He stated that he did not have any reason to believe the licensees were trying to avoid the approval process.

Commissioner Hayes stated that he felt the transactions should be submitted for Commission approval, noting there are some situations in which there are Iowa vendors that could provide the services. Additionally, the Commission does track the percentage of purchases made from Iowa vendors, and if these transactions don't come before the Commission for consideration, the Commission is not seeing the true economic impact. Chair Seyfer called on Ameristar Casino. Ms. Bell presented a contract with Tai Ping Carpets Americas, Inc. for casino carpet. Ms. Bell noted that while the carpet has been

purchased from an out-of-state vendor, Ameristar is in the process of soliciting bids for the installation from local companies. She indicated that contract would probably come before the Commission at the June meeting.

Hearing no comments or questions concerning the contract, Chair Seyfer requested a motion. Commissioner Urban moved to approve the contract as submitted by Ameristar. Commissioner Hayes seconded the motion, which carried unanimously. (See Order No. 09-36)

Chair Seyfer called on Harrah's. Jeanne Magdefrau, Vice President of Finance, presented the following contracts for Commission approval:

- Constellation New Energy Gas – Natural Gas Supplier
- Council Bluffs Water Works – Water Service
- Liberty Fruit – Food Supplier
- Burton Plumbing – Emergency Repair to Plumbing
- RR Donnelley – Printer of Marketing Material
- Farmers Bros. – Coffee and Beverage Supplier

Hearing no comments or questions concerning the contracts, Chair Seyfer requested a motion. Commissioner Hamilton moved to approve the contracts as submitted by Harrah's. Commissioner Hayes seconded the motion, which carried unanimously. (See Order No. 09-37)

Chair Seyfer called on DJ. Mr. Moyer presented the following contracts for Commission approval:

- Peninsula Gaming, LLC – Corporate Expenses (RP)
- Platinum Holdings, LLC – Lodging at the Grand Harbor Resort & Waterpark
- Reliable Technologies – Computer Network Hardware, Software & Consulting

Hearing no comments or questions concerning the contracts, Chair Seyfer requested a motion. Commissioner Hayes moved to approve the contracts as submitted by DJ. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 09-38)

Chair Seyfer called on DJW. Mr. Pang presented the following contracts for Commission approval:

Hearing no comments or questions concerning the contracts, Chair Seyfer requested a motion. Commissioner Hamilton moved to approve the contracts as submitted by DJW. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 09-39)

Chair Seyfer called on RCGR. Ms. Massa presented the following contracts for Commission approval:

- Gretter Autoland, Inc. – Car Give-away Purchases
- KK&B Real Estate, LLC/B&R Realty, LLC – Lease Agreement (RP)
- Larry Rice and Beth Broman – Real Estate Purchases

Chair Seyfer asked about the real estate contract. Mr. Massa stated that it is for 14 acres north of the golf course, which could be used to expand the golf course and replace some of the holes located along the river.

Hearing no further comments or questions concerning the contracts, Chair Seyfer requested a motion. Commissioner Urban moved to approve the contracts as submitted by RCGR. Commissioner Hayes seconded the motion, which carried unanimously. (See Order No. 09-40)

Chair Seyfer called on Argosy. Mr. Eder presented the following contracts for Commission approval:

- NRT – Purchase of New Kiosks, Software and Service Agreement
- Ernst & Young – Audit Services

Hearing no comments or questions concerning the contracts, Chair Seyfer requested a motion. Commissioner Hamilton moved to approve the contracts as submitted by Argosy. Commissioner Hayes seconded the motion, which carried unanimously. (See Order No. 09-41)

Chair Seyfer called on Rhythm City (RC). Nancy Ballenger, General Manager of IOC Bettendorf (IOCB), presented the following contracts for Commission approval:

- Principal Trust – 401K Plan Administration
- Coventry Health Care – Health Care Insurance
- Advantage IQ – Consolidates Utility Bills & Remits Payment on Facilities' Behalf
- Willis of Nevada – General Liability Insurance
- Captive Management Services – Insurance Coverage
- Kuhlmann Design – Professional Design Services

Hearing no comments or questions concerning the contracts, Chair Seyfer requested a motion. Commissioner Hayes moved to approve the contracts as submitted by RC. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 09-42)

Chair Seyfer called on IOCB. Ms. Ballenger presented the following contracts for Commission approval:

- Intermedia Marketing – 800 Line Access & Services for Hotel Reservations
- Principal Trust – 401K Plan Administration
- Coventry Health Care – Health Care Insurance
- Advantage IQ – Consolidates Utility Bills & Remits Payment on Facilities' Behalf
- Willis of Nevada – General Liability Insurance
- Captive Management Services – Insurance Coverage
- Delta Dental – Dental Insurance Provider
- Kuhlmann Design – Professional Design Services

Hearing no comments or questions concerning the contracts, Chair Seyfer requested a motion. Commissioner Hamilton moved to approve the contracts as submitted by IOCB. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 09-43)

Chair Seyfer called on The isle casino and hotel at waterloo (The isle). Bari Richter, General Manager, presented the following contracts for Commission approval:

- Principal Life Insurance Co. – 401K Administration
- Willis HRH – General Liability Insurance
- Avista Advantage, Inc. – Consolidates and Remits Utility Payments
- Captive-Marsh Management – Insurance Coverage
- Intermarketing Media – Provides 800 Line Access and Hotel Reservation Services
- Verizon – Provides Land Line Phone and Satellite Services

Hearing no comments or questions concerning the contracts, Chair Seyfer requested a motion. Commissioner Hamilton moved to approve the contracts as submitted by The isle. Commissioner Hayes seconded the motion, which carried unanimously. (See Order No. 09-44)

Chair Seyfer called on Lady Luck Marquette (LLM). Todd Steffens, General Manager, presented the following contracts for Commission approval:

- Farner-Bocken Co. – Pre-packaged Items for Snack Bar
- Kuhlmann Design Group – Architectural Design Firm for Lady Luck
- Purchasing Management International L.P. – Procurement and Payment to Vendors for Lady Luck Interior Remodeling
- Coventry Health Care – Employee Health Insurance
- Willis of Nevada – Liability Insurance

Chair Seyfer asked if the facility was already in the process of remodeling. Mr. Steffens advised that remodeling will commence the end of May. Commissioner Urban asked where the architect firm was located. Mr. Steffens stated the firm is out of St. Louis, MO, and is currently working on two other properties.

Hearing no further comments or questions concerning the contracts, Chair Seyfer requested a motion. Commissioner Hayes moved to approve the contracts as submitted by LLM. Commissioner Hamilton seconded the motion, which carried unanimously. (See Order No. 09-45)

Chair Seyfer called on WRC. Mr. Bollmann presented a contract with Aristocrat Technologies for the purchase of slot machines, conversions and parts.

As there were no comments or questions concerning the contract, Chair Seyfer requested a motion. Commissioner Hayes moved to approve the contract as submitted by WRC. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 09-46)

Chair Seyfer called on Bluffs Run Greyhound Park/Horseshoe Casino (BRGP/HC). Ms. Magdefrau presented the following contracts for Commission approval:

- Constellation New Energy Gas – Natural Gas Supplier
- Council Bluffs Water Works – Water Service
- RR Donnelley – Marketing Supplier
- Liberty Fruit – Food Supplier
- Farmer Bros. – Coffee and Beverage Supplier

Hearing no comments or questions concerning the contracts, Chair Seyfer requested a motion. Commissioner Hamilton moved to approve the contracts as submitted by BRGP/HC. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 09-47)

Chair Seyfer called on Dubuque Greyhound Park/Mystique Casino (DGP/MC). Mr. Hoeger presented the following contracts for Commission approval:

- Alpha Video – Audio/Video/Media System for Casino
- Cottingham & Butler Insurance Inc. – Property & Casualty Insurance
- Premier Linen & Uniform Rental – Linen & Uniform Supply Company (RP)
- The Friedman Group, Inc. – Directors & Officers Liability Insurance

As there were no comments or questions concerning the contracts, Chair Seyfer requested a motion. Commissioner Hamilton moved to approve the contracts as submitted by DGP/MC. Commissioner Hayes seconded the motion, which carried unanimously. (See Order No. 09-48)

Chair Seyfer called on PMR&C. Mr. Palmer presented the following contracts for Commission approval:

- On Media – Advertising
- Reinhart Food Service – Food Equipment, Service and Supplies
- Waldinger Corporation – Mechanical & Electrical Contractor

Hearing no comments or questions concerning the contracts, Chair Seyfer requested a motion. Commissioner Urban moved to approve the contracts as submitted by PMR&C. Commissioner Hayes seconded the motion, which carried unanimously. (See Order No. 09-49)

Before proceeding with the racing plan update, Mr. Palmer informed the Commission that live racing will commence on Friday, April 24th, and that PMR&C has an ancillary agreement with the Iowa Quarter Horse Racing Association. They have not yet reached an agreement with Iowa Horsemen's Benevolent and Protection Association. Mr. Palmer indicated the parties have been working on the agreement the past several days and felt that an agreement would be in place by Monday, April 20th.

With regard to the racing plan, Mr. Palmer advised that several weeks ago four board members and three staff members visited Oaklawn and Remington Park, visiting with HBPA members, management, and breeders, seeking information that would be beneficial to the racing committee in making their decision on the future of racing at PMR&C. He noted that PMR&C sponsored a public input meeting on April 18th, commencing at 8:30 AM when they met with the horsemen, and then it was opened to the public at 10:00 AM. Mr. Palmer stated that approximately 200 people attended, and that everyone conducted themselves very professionally. He indicated PMR&C intends to have one more public forum after making their recommendations to the Commission at the June 4th Commission meeting.

Chair Seyfer asked Mr. Palmer if PMR&C was having a study conducted on their behalf. Mr. Palmer answered in the affirmative, advising that it should be received the following week from Dr. Martha Ray and Mr. Doug Reed. Chair Seyfer asked if the study would be delivered to other interested parties. Mr. Palmer stated that the racing committee wants to review the study and have time to digest the information, and then make their recommendations to the full PMR&C board at their May meeting prior to presenting it to the Commission at the June meeting. Mr. Palmer stated that he felt it would be made available to other interested parties.

Commissioner Urban asked what mandates were set out for Dr. Ray and Mr. Reed in the performance of the study. Mr. Palmer stated they were asked to cover a number of topics, some of which are:

- What is racing doing nationwide?

- What does the racing program look like at tracks similar to PMR&C – number of breeds, racing days, etc., and
- How does PMR&C's purse structure compare to the rest of the nation?

Mr. Palmer noted that the racing industry is having problems right now; and just like a lot of other industries, a number of things are changing. He stated that the PMR&C board wants to have correct and up-to-date information when they make their decision concerning the racing program at PMR&C.

Mr. Palmer provided a brief update on the proposed hotel. He advised that the hotel committee and staff members have just finished drafting the Request for Proposal, and it has been placed on the agenda for approval at the next Board of Directors meeting. If the Board of Directors approves the RFP as submitted, it will be sent out to interested parties.

Chair Seyfer moved to the distribution of the Horse Racing Promotion Fund. Dr. Keith Soring, Director of Racing for IRGC, advised that Iowa Code Section 99D.12 provides two-percent funding for a horse racing promotion fund. The statute reads:

Two percent shall be deposited by the commission into a special fund to be known as the horse racing promotion fund. The commission each year shall approve a nonprofit organization to use moneys in the fund for research, education, and marketing of horse racing in the state, including public relations, and other promotional techniques. The nonprofit organization shall not engage in political activity. It shall be a condition of the allocation of funds that any organization receiving funds shall not expend the funds on political activity or on any attempt to influence legislation.

Mr. Soring advised that Legacy Harness Horse Foundation was the only non-profit to apply for the \$3,846.00 that is available for FY 2009. Legacy Harness Horse Foundation did submit the required accounting of how the funds received in FY 2008 were utilized. Mr. Soring recommended that Legacy Harness Horse Foundation be approved to receive the Horse Racing Promotion Fund in the amount of \$3,846.00 for FY 2009.

Hearing no comments or questions for Mr. Soring, Chair Seyfer requested a motion. Commissioner Hamilton moved to approve the distribution of the FY 2009 Horse Racing Promotion Fund in the amount of \$3,846.00 to Legacy Harness Horse Foundation. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 09-50)

Following a short break, Chair Seyfer moved to the Hearings before the Commission, and called on Ameristar Casino. Mr. Ketterer advised that this matter was resolved via a Stipulated Agreement, and presented the following facts: On January 6, 2009, an underage female and two companions entered through the main entrance. No identification was requested. Surveillance records show that the individual gambled for two hours, but do not show her purchasing or consuming alcohol. The individual and her

companions left the casino at 3:00 PM, returned an hour later and attempted to re-enter the casino. The security posted at the entrance this time did request identification, which showed her to be 19 years of age. In further discussion with the security officer, the individual admitted being in the casino earlier that day. Mr. Ketterer stated that Ameristar does acknowledge these facts constitute a violation of Iowa Code 99F.9, subparagraph 5, and has agreed to pay an administrative penalty of \$20,000. Mr. Ketterer recommended approval of the Stipulated Agreement as submitted.

Hearing no comments or questions for Mr. Ketterer or Ameristar, Chair Seyfer requested a motion. Commissioner Urban moved to approve the Stipulated Agreement as submitted. Commissioner Hayes seconded the motion, which carried unanimously. (See Order No. 09-51)

Chair Seyfer moved to the hearing on the Petition for a Declaratory Order filed by the IGA and IWRA. Mr. Ketterer advised that counsel for both parties have been instructed to keep their arguments to ten minutes and rebuttal remarks to approximately three minutes.

Mr. Quilty was joined by Brad Boeckenstedt, an IGA board member and owner of a breeding operation, to address this issue. Mr. Quilty stated that the issue before the Commission is very simple; Iowa Administrative Rule 491-5.5(2) states that each licensee shall provide and maintain totalizators and electronic boards showing odds, results and other racing information located in plain view of racing patrons. He noted that Bluffs Run had submitted documentation to the Commission which presented the following questions:

- What does the rule require?
- What was intended when the legislation was passed in 1984?

Mr. Quilty stated that he was going to address what he feels is required by the rule. He presented the following analogy based on a radio conversation regarding baseball: What would the reaction of baseball fans be if they went to a ballgame and did not see a scoreboard in the outfield? He indicated the same analogy could be applied to the sport of greyhound racing. Mr. Quilty stated that in 1984 when the Commission set forth the rules as they relate to the three racing facilities in Iowa, the Commission had the vision to require a tote board at each facility. He stated that for as long as greyhound and horse racing has been an organized sport, the tradition has included a tote board. The first recognized tote board was created in New Zealand; and has been a fixture at every racetrack in the United States since approximately 1933. Mr. Quilty stated that in preparation for this hearing the IGA tried to locate a greyhound or horse track that did not have a tote board. They also surveyed their membership; none knew of a track that did not have a tote board. Additionally, they contacted random tracks by phone and conducted an internet search. Mr. Quilty noted that they received some incredulous responses when it was even remotely suggested that they might not have a tote board.

Mr. Quilty stated that when this rule was enacted the Commission had the wisdom to recognize that amongst other things they wanted the racetracks in the state to look like a racetrack. He pointed out that when the rule was enacted in 1984, televisions and large screens were in existence; however, they were not provided for in the rule. Mr. Quilty noted that Bluffs Run has suggested the use of flat screens and some other large screens to provide the same information and to compensate for the fact that they do not have a tote board. He commended them for those options, but noted they do not replace the integral nature of the tote board, nor do they change the language of the rule requiring a tote board.

Mr. Quilty stated that the submissions of both the IGA and Bluffs Run could be thrown out, and the Commission could simply look at 25 years of history in Iowa, and what was intended by the rule. He noted that each and every pari-mutuel facility has a tote board, except for Bluffs Runs since mid-2008. Mr. Quilty stated that the spirit of the rule is not being met by Bluffs Runs' substitution of TV screens and possibly some big projection screens during warm weather. He stated that the rule requires a tote board be available for the following reasons:

- The racing patron expects the tote board will be in the traditional location;
- Accessibility and availability of information like no other whether you are indoors or out.

If you are indoors at Bluffs Run, the tote board would be directly in front of you as you look out at the track. It would prominently display all of the information for the individual watching the race. Mr. Quilty concluded his remarks by noting that the patrons outside on the apron at Bluffs Run are disenfranchised as they do not have the ability to view instant results.

Lorraine May, legal counsel for IWRA, commenced her comments by stating that the matter before the Commission is not analogous to baseball, as all the patrons are seated outside, and the scoreboard is also used for advertising and to lead cheers, none of which is true at a racetrack. Ms. May challenged the Commissioners to find the word "tote board" in the rule; and then pointed out that it is not contained in the rule. She then read the rule. She advised that the phrase "tote board" comes from totalizator, which is a computerized mechanism that condenses the calculation of bets, odds, and results. Ms. May stated that Bluffs Run has to provide and maintain a computerized totalizator; provide and maintain electronic boards showing odds and results of the races. She stated that Bluffs Run has installed 400 electronic LED (Lighted Electronic Display) boards, which are located in plain view of the patrons. Ms. May noted that the location of the LED board, by virtue of the rule, is not geographic; it is functional, with the whole point being to serve the betting public. She stated that the current system in place serves the betting public. Ms. May pointed out that if the Commission were to review statistics and information regarding betting on live races at Bluffs Run before and after the destruction of the tote board, they would find that betting has decreased less after installation of the

new system than before. She also noted that the tax dollars going to the State are better with the new system than under the tote board.

Ms. May then addressed whether the LED boards provide sufficient information. She stated that they display more information than the tote board did due to the new system and mechanisms that were not available previously. She stated that the concept that what existed when the track was built in the early to mid-1980s should forever be frozen in time is an unfortunate reflection of the history of this industry. Ms. May noted that at the present time, more than 5½ times more is bet on simulcast races than live races. Based on that statistic, the tote board would actually be used by a very small percentage of the patrons. She advised that she has been at the track three times in the last six months and never saw anyone outside during the live races. She pointed out that there are no betting windows outside; therefore, all bets have to be made inside. Ms. May stated that the original concern of the IGA was that Bluffs Run was not serving the patrons out on the apron; to that extent, Bluffs Run has offered to make a large LED available outside when it is reasonable to assume patrons will be outside so that the information would be readily available to those patrons as well.

Ms. May stated that for all of the above reasons, in addition to those stated in their submission, Bluffs Run feels they are in full compliance with the rule.

Commissioner Urban asked Ms. May if she was aware of any tracks across the country that do not have a tote board. Ms. May answered in the negative, but noted that no tracks have been constructed in the past two decades. Ms. May stated that she was unable to find any information as to how many new tote boards have been placed in back stretches over the past ten years.

Commissioner Urban clarified her understanding that no new tracks had been built. Ms. May stated that in doing her research she was unable to locate any new greyhound tracks that have been built; noting that there were 45 greyhound tracks in the mid-1980s but the number has dwindled to 20.

Commissioner Hayes asked if all tote boards look the same. Mr. Quilty stated they do not, but predominately greyhound tracks have located the tote board in the backstretch area. He indicated that the tote boards at greyhound tracks are typically much smaller than those at horse tracks. Mr. Quilty stated the tracks have some flexibility and discretion as to what the board will look like; nor is the IGA suggesting there is a cookie cutter format for the tote board. He noted that the tote board can serve as another way to distinguish one track from another.

Hearing no further questions for Ms. May or Mr. Quilty, Chair Seyfer stated that the issues before the Commission were as follows:

1. Is Bluffs Run in compliance with Rule 491-5.5(2); and

2. Must the tote board be located in the backstretch or infield in order to be in compliance with Rule 491-5.5(2)?

Chair Seyfer requested comments from the other Commission members. At a request from Commissioner Hamilton, Chair Seyfer read the rule.

Chair Seyfer stated this matter has been before the Commission for a number of months, providing the Commission members with sufficient time to read and digest all of the information, and review the Code and administrative rules. The Commission is charged with interpreting rules as they appear before them, and to the best of their ability, make sure all of the information is consistent. Chair Seyfer noted that within Chapter 10 of the Administrative Rules there is a provision that states: "At the end of a race, the timer shall post the official running time on the infield totalizator board on instruction by the stewards." He stated that he is aware the rule is contained within the horse provisions of the rules, but stated that the Commission is to interpret the rules as consistently as possible. He pointed out that totalizator boards are identified by various names throughout the rules. Chair Seyfer stated that the rules make it clear that the Commission intended that there be a totalizator board located in the infield. He stated that the parties have asked the Commission to interpret the rules as they currently exist, and it is his belief that they require a tote board be located outside. Chair Seyfer stated that his answer to the first question before the Commission would be "No", and "Yes" to question 2.

Commissioner Hayes stated that he does not feel the term "electronic board" is crystal clear; it can mean a number of different things. On one hand there is the question of what constitutes an electronic board, and on the other is the idea of consistency amongst the racing facilities in Iowa, let alone all the racing facilities around the country. He stated that the location and appearance is just as important as consistency at racing venues. Commissioner Hayes stated that consistency was important to him and feels the tote board should be located in the backstretch or infield. He indicated that it is OK to utilize new technology to achieve greater efficiencies. Commissioner Hayes stated he was inclined to say Bluffs Run is in violation; but that doesn't prevent this question from being revisited in the future.

Commissioner Urban stated that she agreed with both Chair Seyfer and Commissioner Hayes in reading the rule which states in part: "...that each licensee shall provide and maintain totalizators and electronic boards ..."; however, she believes that over a 25-year period it is probable that various racetracks have lost their totalizator boards. She found it interesting that none of them had been replaced by any other kind of electronic devices. She stated that she does not feel Bluffs Run is in compliance with the rule.

Commissioner Hamilton stated that she read the information provided by the Assistant Attorney General. She pointed out that in her years as a horse co-owner, the tote board was absolutely essential; it is the first thing everyone looks at when the race is over to

determine the order of the finish. Commissioner Hamilton stated that she believes Bluffs Run is in violation and that the tote board has to go back up.

Chair Seyfer asked the other Commission members if they felt the two issues before them go hand and hand; that if the Commission determines that Bluffs Run is not in compliance with Administrative Rule 491-5.5(2) then it would be reasonable to expect the tote board to be located in the backstretch or infield so that the answer to Question 2 above would be "Yes".

Hearing no comments, Chair Seyfer requested a motion, which would set forth the Commission's answers to the questions posed to the Commission; "No" to question 1 as to whether Bluffs Run is in compliance with Administrative Rule 491-5.5(2), and "Yes" to question 2 as to whether the tote board must be located in the infield or backstretch.

Commissioner Hamilton so moved, and requested that the Assistant Attorney General draft an Order for the Commission. Commissioner Urban seconded the motion, which carried unanimously. (See Order No. 09-52)

As there was no Administrative Business or Public Comment, Chair Seyfer requested a motion to adjourn. Commissioner Hamilton so moved. Commissioner Urban seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

JULIE D. HERRICK