

**IOWA RACING AND GAMING COMMISSION
MINUTES
NOVEMBER 10, 2011**

The Iowa Racing & Gaming Commission (IRGC) met on Thursday, November 10, 2011 at Stoney Creek Inn and Conference Center, Johnston, Iowa. Commission members present were Toni Urban, Chair; Jeff Lamberti, Vice Chair; and members Carl Heinrich, Andrea Rivera and Greg Seyfer.

Chair Urban called the meeting to order at 8:30 AM and requested a motion to approve the agenda. She noted that agenda item 8F(9), the Pepsi Beverages contract for Prairie Meadows Racetrack & Casino (PMR&C) was being removed. Commissioner Rivera moved to approve the agenda as amended. Commissioner Lamberti seconded the motion, which carried unanimously.

Chair Urban moved to the approval of the minutes from the September 22nd meeting. Commissioner Seyfer moved to approve the minutes from the September 22nd Commission meeting as submitted. Commissioner Rivera seconded the motion, which carried unanimously.

Chair Urban moved to Announcements and called on Jack Ketterer, Administrator of IRGC. Mr. Ketterer advised that the intrastate internet poker report is in the final stages and will have it delivered to the Legislature by December 1st. He noted that it would also be posted to the Commission's website. Mr. Ketterer commended Brian Ohorilko for his work on the study, noting that he was absent today as he was presenting at an internet gaming conference in Las Vegas.

Mr. Ketterer provided the following information regarding upcoming Commission meetings:

- December – No Meeting
- January – January 12, 2012 – Stoney Creek Inn, Johnston, IA (Submissions due by December 28, 2011)
- February – No Meeting
- March – March 8, 2012 – Stoney Creek Inn, Johnston, IA (Submissions due by February 23, 2012)
- April – April 19, 2012 – Ameristar Casino, Council Bluffs, IA (Submissions due by April 5, 2012)

He noted that the excursion gambling boat and gambling structure licenses would be renewed at the March meeting.

Mr. Ketterer took a few minutes to address a “white paper” released by the American Gaming Association regarding gaming regulations. He advised that he became aware of

the paper at an International Masters of Gaming Law (IMGL) conference in May. He stated that as he heard some of the ideas that were to be covered, he felt some sounded reasonable and would merit consideration and others are already being done in Iowa. Mr. Ketterer stated that with the intrastate internet poker study and the advanced deposit wagering issue to address over the summer months, staff did not have time to look at the issue and decided to wait for the paper to be released. The paper is titled "Improving Gaming Regulations: Ten Recommendations for Streamlining Processes While Maintaining Integrity". He again noted that some have already been instituted in Iowa, others will take collaboration with the Division of Criminal Investigation, and still others will need to be considered by staff. Mr. Ketterer stated that staff will be reviewing these recommendations and administrative rules to insure that the Commission is achieving its purpose. He noted that Commission member approval will be necessary as most of the suggestions involve the Commission's policymaking authority. Mr. Ketterer also noted that the Commission would be involving the industry during the process as well.

Chair Urban moved to the rules being submitted under Emergency Filing. Mr. Ketterer advised that these rules pertain to Advance Deposit Wagering (ADW), which was passed by the Legislature during the 2011 session in Senate File 526. At that time, Commission staff began the process of gathering rules from other jurisdictions and some uniform rules from the Association of Racing Commissioners International that are available for use by member states. Additionally, input was sought from PMR&C, horsemen's groups and advanced deposit wagering companies during the rule drafting process. A final draft was formulated for Notice of Intended Action, which was passed by the Commission on September 22nd in Larchwood. Mr. Ketterer advised that the rules have been published in the Administrative Bulletin, and that he and Mr. Ohorilko appeared before the Legislative Rules Review Committee on November 1st and a Public Hearing was held on November 8th, which no one attended. He stated that under the Administrative Rules timeline sufficient time has not lapsed since the rules were filed under Notice of Intended Action to allow the Commission to final adopt them today. That will occur at the January 12, 2012 Commission meeting, providing an effective date in early March.

From the standpoint of PMR&C and the horsemen, they have entertained various ADW operators to make presentations over the summer and early fall and are now in a position to select and negotiate an agreement in order to roll out ADW in order to get the revenue coming into Iowa that has left the state in the past. This fact is the reason the Commission is taking the parallel action in the rule process of filing these rules under Emergency Adoption which will allow PMR&C to begin offering ADW the first of January if they can do so without having to wait approximately 2-2 ½ months for the rules to become effective. Mr. Ketterer noted that IRGC typically does not do emergency rule filings, but there are times when they are utilized. Some criteria to be taken into consideration when doing emergency rules are:

- Implementing rules that effectuate a Legislative statute, which is the case here.

- Limits the process for public input; however, public input has not been denied or restricted in this instance as all of the stakeholders have been included in the process. Some of their thoughts have been incorporated into the rules.
- Notice of Intended Action was passed at a public meeting in September, and a public hearing was held earlier. The Emergency Adoption action is being taken at a public meeting. Mr. Ketterer stated that to date the Commission has heard nothing in opposition to the rules.
- The rules confer a benefit on the public. Mr. Ketterer noted that PMR&C and the horsemen will begin receiving revenue earlier than has previously been going out-of-state.

Mr. Ketterer stated that when the Notice of Intended Action rules process has been completed, the Final Adopt action in January and effective date in early March 2012, the Emergency Adopt rules will be repealed. The difference between the two processes is that if there is a challenge to rules that have been Emergency Adopted, the burden of proof is with the agency to show why the rules were needed. If the rules proceed through the normal rule making process for Notice of Intended Action, the burden of proof is on anyone who challenges the rules.

Hearing no further comments or questions concerning the Emergency Filing of the rules, Chair Urban requested a motion. Commissioner Seyfer moved to approve the rules for Emergency Filing. Commissioner Heinrich seconded the motion, which carried unanimously. (See Order No. 11-111)

Chair Urban moved to the contract approval portion of the agenda, and called on IOC Waterloo. Bari Richter, General Manager, presented the following contracts for Commission approval:

- Halvorson Trane – Maintenance and Inspection Agreement for HVAC System
- Rydell Chevrolet – Purchase of Vehicles for Marketing Promotions

Hearing no comments or questions concerning the contracts, Chair Urban requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by IOC Waterloo. Commissioner Lamberti seconded the motion, which carried unanimously. (See Order No. 11-112)

Chair Urban called on IOC Bettendorf. Nancy Ballenger, General Manager, presented a contract with Prairie Dairy Farms for dairy products for use in the facility's restaurants.

Hearing no comments or questions concerning the contract, Chair Urban requested a motion. Commissioner Lamberti moved to approve the contract as submitted by IOC Bettendorf. Commissioner Seyfer seconded the motion, which carried unanimously. (See Order No. 11-113)

Chair Urban called on Harrah's. Janae Sternberg, Director of Finance, presented the following contracts for Commission approval:

- D & B Construction – Possible Construction Work for Flood Recovery Projects
- Olson Brothers Construction – Possible Construction Work for Flood Recovery Projects

Hearing no further comments or questions concerning the contracts, Chair Urban requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by Harrah's. Commissioner Seyfer seconded the motion, which carried unanimously. (See Order No. 11-114)

Chair Urban called on Diamond Jo Worth (DJW). Kim Pang, General Manager, presented a contract with Winnebago Cooperative Telecom Association for contracted telephone services for the facility.

Hearing no comments or questions concerning the contract, Chair Urban requested a motion. Commissioner Seyfer moved to approve the contract as submitted by DJW. Commissioner Rivera seconded the motion, which carried unanimously. (See Order No. 11-115)

Chair Urban called on Riverside Casino & Golf Resort (RCGR). Dan Franz, General Manager, presented the following contracts for Commission approval:

- D & K Products – Turf Products
- Neesvig's Inc. – Specialty Food Purchases

Hearing no comments or questions concerning the contracts, Chair Urban requested a motion. Commissioner Heinrich moved to approve the contracts as submitted by RCGR. Commissioner Lamberti seconded the motion, which carried unanimously. (See Order No. 11-116)

Chair Urban called on Grand Falls Casino Resort (GFCR). Joe Massa, Chief Operating Officer for Riverside and Grand Falls, presented the following contracts for Commission approval:

- AmSan – EVS Equipment and Janitorial Supplies
- Argus Leader Media – Advertising
- Chartaire, Inc. – Air Charter Service
- CJ Moyna & Sons, Inc. – Construction: RV Park & Golf Earthwork
- Fuerste, Carew, Juergens & Sudmeier, PC – Legal Fees
- Hound Dog Promotions – Promotional Items

Hearing no comments or questions concerning the contracts, Chair Urban requested a motion. Commissioner Lamberti moved to approve the contracts as submitted by GFCR. Commissioner Rivera seconded the motion, which carried unanimously. (See Order No. 11-117)

Chair Urban called on Ameristar Casino. Jane Bell, Director of Government Affairs, presented the following contracts for Commission approval:

- AmSan – Cleaning Equipment, Supplies and Services
- Hawkins Construction – Capital Construction Projects (Master Agreement Renewal)
- HGM Associates – Flood Repair Work
- US Foods – Food Provider

Hearing no comments or questions concerning the contracts, Chair Urban requested a motion. Commissioner Seyfer moved to approve the contracts as submitted by Ameristar Casino. Commissioner Heinrich seconded the motion, which carried unanimously. (See Order No. 11-118)

Chair Urban called on Wild Rose Emmetsburg. Tom Timmons, Vice President of Operations for Wild Rose Entertainment, presented the following contracts for Commission approval:

- Central Credit – Check Guarantee Service
- Imagine This – Customer Give Aways and Promotions
- Waldinger Corporation – Repairs and Maintenance

Hearing no comments or questions concerning the contracts, Chair Urban requested a motion. Commissioner Rivera moved to approve the contracts as submitted by Wild Rose Emmetsburg. Commissioner Heinrich seconded the motion, which carried unanimously. (See Order No. 11-119)

Chair Urban called on Wild Rose Clinton. Tim Bollmann, General Manager, presented a new agreement with Clinton County Development Association (CCDA). He advised that instead of submitting an amended and restated agreement, which has occurred for a number of years, the CCDA had some needs from a long-term funding standpoint, the parties agreed to sit down and renegotiate the agreement. The new agreement calls for five 3-year terms with CCDA receiving an incremental increase in their funding in each of the extended terms.

Hearing no comments or questions concerning the new agreement, Chair Urban requested a motion. Commissioner Seyfer moved to approve the Gambling Structure License and Operating Agreement between Wild Rose Clinton and CCDA as submitted. Commissioner Heinrich seconded the motion, which carried unanimously. (See Order No. 11-120)

Chair Urban called on Isle of Capri, Inc. regarding their negotiations with MSEG for the Rhythm City property in Davenport. Michael Fries, Vice President for Legal Affairs, stated that when he last spoke to the Commission in August, Isle of Capri had submitted a Purchase Agreement to MSEG, but had not received a response. Since then MSEG has returned a marked up Purchase Agreement, which IOC quickly turned around and returned to them. He stated that IOC is uncertain as to any financing arrangements made by MSEG. Mr. Fries stated that IOC will continue to work with MSEG as the City of Davenport's preferred provider, but will also continue to work with additional third parties who have expressed an interest in the property.

Hearing no questions for Mr. Fries, Chair Urban called on Iowa West Racing Association/Horseshoe Casino-Bluff Run Greyhound Park. Bo Guidry, General Manager, addressed their request to renovate and change the designated gaming area on the third floor. He indicated that Horseshoe Casino-Bluffs Run is proposing to change 1,100 square feet of unused space in the club house and remove five pari-mutuel teller stations that have not been used in over 5 years in order to make additional space for the growing marketing area. Caesar's is combining all of the marketing services into a centralized location; the Bluffs' marketing department will go from six individuals to 60. Mr. Guidry indicated there would be no changes in the racing area.

Commissioner Heinrich stated that he felt the proposed changes would make good use of the space.

Jim Quilty, representing the Iowa Greyhound Association (IGA), stated that their concerns have already been resolved.

Hearing no further comments or questions, Chair Urban requested a motion. Commissioner Heinrich moved to approve the request to renovate and change the designated gaming area on the third floor at Horseshoe Casino-Bluffs Run Greyhound Park. Commissioner Lamberti seconded the motion, which carried unanimously. (See Order No. 11-121)

Chair Urban moved to the approval of the Arbitration Decision. Mr. Quilty and Lorraine May, representing the Iowa West Racing Association (IWRA), were present to address the Commission.

Hearing no comments or questions concerning the Arbitration Decision, Chair Urban requested a motion. Commissioner Seyfer moved to approve the Arbitration Decision as submitted. Commissioner Heinrich seconded the motion, which carried unanimously. (See Order No. 11-122)

Ms. May moved to IWRA's 45-day plan submission. She stated that since there is going to be an overage in the point money for 2011, they would like to prevent that from occurring in 2012. To that end, the parties have had some discussions as to what the points should be worth. Ms. May advised that Rory Santiago, Director of Racing at

Bluffs Run has reviewed the Iowa-bred points and regular points and has come up with an increase in the point values: regular points would increase from \$125 to \$130 and Iowa-bred point would increase from \$165 to \$175. Ms. May advised that the Arbitration Decision contains a provision that in the event there is an overpayment, the funds would be withdrawn from the escrow account, which has been true since the inception of the escrow account. The escrow account was created to supplement purses.

Mr. Quilty stated that IGA agreed with the goal of avoiding reconciliations of points at the year end, but would rather not have to withdraw funds from the escrow account. He stated that he is going to trust in Mr. Santiago's work and hope that they are close to being square on the point payments. Mr. Quilty indicated that if this experiment did not work out, the IGA would be asking for the Commission's assistance next year.

Chair Urban called for any questions. Mr. Ketterer advised that the Ms. May and Mr. Quilty had addressed the season approvals, item 7E. He stated that the staff has the following conditions to be included in any motion:

- The import and export contracts should continue to have the review and approval by staff to insure regulatory compliance.
- Continuous review of racetrack maintenance issues and monitoring of injuries in cooperation with the IGA and IRGC representatives.

He stated that any motion should indicate approval of the request for season approvals.

Mr. Quilty noted that there was an issue last year about what the kennel contracts would provide, and whether Bluffs would continue the long standing practice of withholding the 2% IGA check off funds. He stated that it is his understanding that Bluffs is again taking the stance that they will not continue the check off process as they did last year. Mr. Quilty asked that the Commission require Bluffs to continue to withhold the 2% check off as one of the conditions of the license renewal, subject to the IGA's willingness to pay for whatever additional accounting costs Bluffs incurs as was done last year based on their estimate, which was capped at \$2,500.

Chair Urban stated that the Commission would address the issues separately, and returned to the granting of the race dates. Ms. May stated that IWRA is requesting live racing dates for January 1, 2012 through December 31, 2012 with six performances per week for a total of 302 performances. Post time will be at 4:00 PM on Tuesday through Sunday with 15 races per performance. No races will be held on the following dates: January 23-27; April 8-10; and November 22, and December 23-27. The wagering format and takeout rates will remain the same for 2012. Ms. May stated that they have changed their start times and time off in order to maximize simulcast and export handle. IWRA also requested the continuation of year-round simulcasting.

Hearing no comments or questions concerning the requested race dates, Chair Urban requested a motion. Commissioner Rivera moved to approve the race dates as requested

by IWRA, including year-round simulcasting. Commissioner Heinrich seconded the motion, which carried unanimously. (See Order No. 11-123)

Chair Urban moved to the renewal of the pari-mutuel and racetrack enclosure gambling licenses for 2012 and the contracts contained within the license renewal. Jerry Mathiasen, Interim Executive Director of IWRA, requested the Commission's support of the license renewal application. He stated that IWRA's relationship with Harrah's and Ameristar has been excellent and has proven to be valuable to the community, noting that the 2010 referendum passed with an 80% approval. Mr. Mathiasen informed the Commission that the October 24th publication of Business Insider named 20 American counties that could become the next Silicon Valley; Pottawattamie County was number four on the list. He stated that he believes the efforts of the Community Economic Development, Community Development and the non-profit sector have played a role in receiving the designation. Mr. Mathiasen stated that a top priority of the Iowa West Foundation (IWF), which receives funds from IWRA, is education, and they have funded such programs as summer school, technology updates and a college access program. Another area has been neighborhood transformation, with the addition of twelve new neighborhood associations in the Council Bluffs area. He pointed out that IWF is playing a major role in the restoration of Council Bluffs' historical downtown district; noting that an Omaha restaurant in the Old Market area had elected to move to the area. With regard to social needs, Mr. Mathiasen stated that IWRA provided over \$500,000 to the Red Cross to assist families with the clean up of the homes and businesses get back on track as well. He concluded his remarks by introducing Bo Guidry, Senior Vice President and General Manager of Horseshoe Casino and Harrah's, for any comments that he might like to add.

Mr. Guidry advised that the Horseshoe, IWRA and IWF teams work very well together.

Commissioner Rivera asked the name of the restaurant that was moving from Omaha. Mr. Mathiasen advised that it was Dixie Quicks, which has an art gallery attached to it, which plays into the Association's efforts in the area of public art in the community.

Chair Urban asked if there were staff recommendations. Mr. Ketterer advised that they would similar to the recommendations he set forth earlier. Chair Urban requested a motion regarding the license renewal. Commissioner Lamberti moved to approve the pari-mutuel and racetrack enclosure gambling licenses for 2012 and the contracts contained with the application, and included the staff recommendations previously set forth. Commissioner Heinrich seconded the motion, which carried unanimously. (See Order No. 11-124)

Chair Urban returned to the season approvals. Ms. May stated that she would like to further address the point values and the 2% check off and the requirement of the Commission last year that Bluffs Run withhold from the payment of purses and pay to it to the IGA. She stated that Bluffs Run is the only track in the nation that is required to do that; and that they are trying to find a way to get out of the requirement that would still

provide the opportunity and the ease of collection. She suggested that instead of paying out the owners individually from Bluffs Run, they would pay the 15 kennels who would then pay the dog owners. Under this scenario, IGA would only have 15 kennels to collect the 2% withholding from, and most of the kennels are on the IGA board. Ms. May stated she did not feel that would be a significant challenge for the IGA.

Commissioner Seyfer asked Ms. May how long the current process of withholding the check off has been in place. Ms. May indicated that she did not know the exact time frame, but that it has been in place for years. Commissioner Seyfer noted that the Commission capped any additional Bluffs Run accounting expenses at \$2,500 for the year. He asked if there was any indication of what the actual cost for the year might be. Ms. Sternberg indicated that the costs would be close to the \$2,500.

Mr. Quilty stated that there are two issues Ms. May addressed in her proposal, one of which they discussed the previous evening. He stated that what is contemplated by paying the fifteen kennels all purses, including the 2%, is an elimination of direct pay, which has been a part of racing since its inception in Iowa and is the template that is followed nationally. Mr. Quilty stated that he had previously reviewed the minutes from the late 1980s or early 1990s when the Commission held a discussion as to whether Iowa should require direct pay through regulation or not; however, the Commission did not have to take action at that time as every racing facility in Iowa agreed, as did every track in the country, that direct pay was the way to go. He clarified that by “direct pay” he was referring to payments for the purse percentages that are due the kennel owners go to the kennel; and payments due the dog owners go directly to the dog owners for the ease of accounting purposes. He stated that if all the money goes to the kennel owner and the kennel owner goes bankrupt or disappears, the owner would be without their funds; direct pay insures dog owners and small breeders in Iowa and elsewhere that they are going to receive the funds that their dogs have won. He indicated if Bluffs’ were allowed to abandon direct pay, they would be on an island of their own; that it would be bad practice and would endanger some owners in receiving their purses. Mr. Quilty stated that by funneling the 2% check off out to the kennel owners every week instead of one check going to the IGA, now they would be receiving 15 and they would be dependent on small business owners to become accountant. The proposed situation creates the potential for headaches and mistakes and is unnecessary when Bluffs has been doing this for years and IGA is willing to foot the bill for the additional costs.

Chair Urban asked Mr. Ketterer if Horseshoe/Bluffs Run was asking to modify their season approval submission. Mr. Ketterer answered in the negative; that the parties were asking the Commission to clarify what they want to do on this issue – continue as last year or incorporate the alternative proposed by Horseshoe/Bluffs Run. He noted that the motion would need to include the staff recommendations as well.

Hearing no further comments or questions, Chair Urban requested a motion. Commissioner Seyfer moved to approve the season approvals as submitted, incorporating the following staff recommendations:

- Continue to submit simulcast schedule requests for approval by IRGC staff to insure compliance with all regulatory requirements.
- Applicant shall work with Commission staff on an ongoing basis to review procedures related to housing, management, care, infectious disease control and welfare of racing greyhounds; including periodic review with staff members and IGA members on track maintenance and safety issues.

Commissioner Seyfer also stated that the 2% check off procedure should continue under the current format. Commissioner Rivera seconded the motion, which carried unanimously. (See Order No. 11-125)

Ms. May asked if the revised point structure was included in the previous motion. Commissioner Seyfer answered in the affirmative.

Chair Urban called on Dubuque Racing Association (DRA)/Mystique Casino. Roger Hoeger, Assistant General Manager; Jesús Avilés, President of DRA and General Manager; and Brian Carpenter, Director of Racing, were present to address any questions. Mr. Hoeger stated that DRA/Mystique Casino is requesting live race dates from April 28, 2012 through October 28, 2012 with six performances per week for a total of 161 performances. Evening performances and post times requested are Thursday, Friday and Saturday at 7:00 PM. Matinee performances and post times requested are Wednesday, Saturday and Sunday at 1:00 PM. DRA has requested additional performances and post times for the following holidays: Monday, May 28 at 1:00 PM and Monday, September 3 at 1:00 PM. DRA/Mystique Casino also requested the continuation of year-round simulcasting.

Hearing no comments or questions concerning the request for race dates, Chair Urban requested a motion. Commissioner Rivera moved to approve the granting of race dates as set forth by DRA/Mystique Casino, including year-round simulcasting. Commissioner Heinrich seconded the motion, which carried unanimously. (See Order No. 11-126)

Chair Urban moved to DRA/Mystique Casino's application for renewal of the pari-mutuel and racetrack enclosure gambling licenses for 2012 and the contracts contained within the application. Mr. Avilés noted that the DRA is funded by Mystique Casino and the Diamond Jo. He advised that DRA helped fund the building of a new arena for youth hockey, and the club proceeded to win the Clark Cup in their first year. Mr. Avilés stated that DRA is going to assist with the development of Smith Island, which is the gateway to Dubuque and Iowa from Wisconsin. He noted that the island is home to a hotel, several restaurants, a baseball park, three veterans' memorials, and a number of activities, including the racetrack and casino. Mr. Avilés stated that DRA was successful in getting the development of the island a priority for the city; the project will proceed in small increments over a period of five to ten years. He advised that grant projects are funding in conjunction with Diamond Jo Casino. He further advised that additional projects are funded from the operations of the two facilities. Mr. Avilés stated that the city was

successful in bringing IBM and 1,350 jobs to the Dubuque area. Mr. Avilés requested the approval of the license renewal application.

Chair Urban noted that the Commission had the opportunity to tour the ice arena last October, and stated that it was a very beautiful facility.

Hearing no further comments or questions for Mr. Hoeger or Mr. Avilés, Chair Urban requested a motion. Commissioner Rivera moved to approve the renewal of the pari-mutuel and racetrack enclosure gambling licenses for DRA/Mystique Casino. Commissioner Heinrich seconded the motion, which carried unanimously. (See Order No. 11-127)

Mr. Hoeger distributed copies of 2010 Annual Report for DRA/Mystique Casino. He directed the Commission's attention to the middle of the book which shows that since 1985 DRA has returned \$621,251,204 to the community.

Chair Urban called on Prairie Meadows Racetrack & Casino (PMR&C), and requested an update on the hotel. Gary Palmer, General Manager, and Ann Atkins, Vice President of Operations were present to address the agenda items. Mr. Palmer advised that the hotel project is still on schedule and under budget. He stated that all of the outside work should be completed in the next two weeks provided the weather cooperates. They hope to be able to open prior to April 1st.

Chair Urban requested an ADW update from PMR&C's perspective. Mr. Palmer advised that PMR&C had been working with the horsemen and inviting Commission staff to sit in on the meetings to make a determination of where they want to go; that this is a new venture for all of them. He stated that PMR&C has invited several ADW companies to the facility to make presentations to showcase their wares and what they do. Mr. Palmer indicated that the horsemen and PMR&C management team have mutually decided to hire and split the cost of a consultant from California that has been involved with ADW for a significant amount of time. The company will help with the selection process. Mr. Palmer advised that it has been a very interesting and exciting process; that everyone is learning a lot. He stated that they hope to be able to meet the January 1 deadline.

Chair Urban stated that the Commission gave them a little boost/push with the approval of emergency filing for the rules.

Chair Urban moved to the review of the quarter horse and standardbred meets. Ms. Atkins advised that the on track handle for the quarter horse meet was down somewhat but the off track simulcast handle was up approximately 38% based off of prior years. Starters were down somewhat, 7.7 compared to 8.7 last year. The Iowa-bred horses performed favorably in all stakes categories. She stated there were two or three great Iowa-bred horses that went on to the races in California. Ms. Atkins stated that the overall changes in the cost revenue gap, using the same accounting principal practices that have been utilized in the past, was down 14%. She indicated that should not be

construed as bad news as there were several new trainers that had never been to PMR&C before. Ms. Atkins stated that PMR&C worked with the Iowa Quarter Horse Racing Association (IQHRA) and had several different groups and individuals associated with racing at the track, which attracted a different crowd of individuals to the track to watch the races. She stated that even though revenues were down, the quarter horse meet was a great meet.

With regard to the standardbred meet, she noted that they are much smaller group of individuals, but the numbers were up for them this year. The on track handle was up approximately 19%; off track handle was also up. The number of starters was up 3% with approximately 7.75 horses per race. Ms. Atkins stated there were several festival horses that were Iowa-bred. She stated that the overall changes in the cost revenue gap, using the same accounting principal practices utilized in the past, were up 2%.

Ms. Atkins stated that all three meets were very successful.

Mr. Ketterer asked to what she attributed the decrease in the number of starters per race for the quarter horse meet. Ms. Atkins stated that PMR&C staff is working the IQHRA staff to determine why the number of starters decreased. She feels the number will increase next year due to the number of new trainers that were at PMR&C for the first time this year.

Chair Urban moved to the granting of race dates. Mr. Palmer stated that PMR&C is again requesting that the thoroughbred meet commence on April 20th and conclude on August 11, 2012 with four performances per week for a total of 603 performances. Evening performances would begin at 6:30 PM on Thursday, Friday and Saturday. A Sunday matinee performance would begin at 1:00 PM. Mr. Palmer noted this is different than what they have submitted in the past, but feel there are significant opportunities with the addition of the hotel to draw additional patrons to the facility for the weekend and provide them with the ability to create a fun family atmosphere on Sunday afternoons. He stated that PMR&C has tried Sunday racing in the past, but only for a year at a time. Mr. Palmer stated that the issue is consistency and that they believe the hotel will make a difference. He stated that PMR&C did conduct some research and found that the larger successful tracks race on Sunday, and believe that it is worth trying again over the next 3-4 years. PMR&C requested the continuation of year-round simulcasting.

Chair Urban stated that the Commission would be anxious to get the results after the next racing season to see the results of the change. She called for any comments or questions concerning the race dates.

Jon Moss, Executive Director of the Iowa Horsemen's Benevolent and Protective Association (IAHBPA), stated that he was asked by the IAHBPA Board and membership to address the Commission regarding their concerns on the requested race dates. He stated that Sunday race dates have not been successful in the past due to a lack of large bettors and ADW as the larger tracks are racing, not because of inconsistency.

Additionally, the IAHBPA does not believe the hotel will have any effect on Sunday attendance as that is typically a transition day for travel, regrouping from the weekend, etc. Mr. Moss stated that the family atmosphere aspect is a great idea, but the IAHBPA does not feel PMR&C is set up that way.

Mr. Moss stated that the IAHBPA feels the Monday-Tuesday race days have been very successful for PMR&C, especially in brand development. He stated that the IAHBPA understands many of the opportunities PMR&C sees to increase revenues through simulcasting and ADW. Mr. Moss pointed out that the ADW bettor likes to see consistency. He stated that if PMR&C's request to race on Sunday and Thursday is granted, the IAHBPA would like to have PMR&C maintain a statistical comparison of the days: Sunday for Monday, Thursday for Tuesday, Friday to Friday, and Saturday to Saturday. Mr. Moss requested that the race days be returned to Friday, Saturday, Monday and Tuesday if greater participation is not evident on Sunday and Thursday.

Mr. Moss advised the Commission that two horses that ran at PMR&C this year also raced in the Breeders Cup this year.

Mr. Moss requested clarification in two areas. The application indicates four performances per week for a total of 603 races. He indicated the IAHBPA would like that to say 67 days as their current contract with PMR&C indicates that they could run up to nine or ten races per day for a total of 607 races. Mr. Moss stated the IAHBPA is trying to avoid issues down the road regarding the number of performances.

Chair Urban thanked Mr. Moss for his comments and called for any comments or questions from the Commission members.

Commissioner Heinrich asked Mr. Moss if the IAHBPA is willing to try the proposed Thursday-Friday-Saturday-Sunday race schedule over a period of 3-4 years to obtain an historical evaluation, or if they wanted to revert to the previous race schedule after one year. Mr. Moss stated that it would depend on the outcome of the first year; if participation and revenues are down significantly the IAHPBA would request that the race dates be changed back to the current schedule of Friday-Saturday-Monday-Tuesday.

Commissioner Heinrich stated that it is necessary to make the change and give it some time in order to determine if it would be successful. Mr. Moss stated there are usually benchmarks to help determine if a meet is successful. Commissioner Heinrich asked Mr. Moss if he had any benchmarks in mind. Mr. Moss stated that the meets would break even or even show a slight increase, it would help ease some of the concerns of the IAHBPA.

Commissioner Rivera noted that Mr. Moss had indicated that the IAHBPA did not feel that the setup at PMR&C at this time was conducive to family activities. She asked if the other tracks that have been successful at racing on Sunday have the necessary atmosphere. Mr. Moss answered in the affirmative, and used Monmouth Park as an

example, indicating that they have various activities for the families, not necessarily relating to the races.

Commissioner Rivera asked what type of safety precautions are in place at these other facilities in the event of bad weather. Mr. Moss stated that the grandstand is open at these other facilities as they typically are not combined with a casino.

Commissioner Heinrich noted that previous attempts to race on Sunday had been called a disaster; he asked in what way. Mr. Moss indicated that he was not racing at PMR&C at that time. He indicated it was his understanding that part of the issue was the post times.

Chair Urban asked Mr. Moss if the motion was changed to state “with a minimum of four performances per week for a minimum of 603” if that would address the concerns of the IAHBPA. Mr. Moss answered in the affirmative. Mr. Palmer advised that PMR&C had already agreed to that request.

Commissioner Lamberti stated that it was his understanding that some time has passed since Sunday racing was held. Mr. Palmer answered in the affirmative. Commissioner Lamberti pointed out that PMR&C has provided their reasons for wanting to try it again and stated that it seems reasonable to him to allow PMR&C to do so but also agrees that the Commission needs to see numbers comparing the 2012 race meeting with 2011 prior to the license renewal for 2013.

Mr. Palmer advised that the horsemen get paid from the adjusted gross revenue; their pay has nothing to do with the handle. He stated that PMR&C wanted the opportunity to race on Sunday as they feel they can make more money for the thoroughbred owners and for themselves by having the races on Sunday when individuals come out to gamble, eat, etc. Mr. Palmer stated that PMR&C management is of the opinion that it won't take anything to beat the Monday and Tuesday numbers when no one was coming out. He reiterated that the horsemen are paid off the gaming revenues, not the betting revenues. Mr. Palmer stated that PMR&C will need two or three years to see if that was the right move. With regard to the family atmosphere, Mr. Palmer stated that because PMR&C has a problem with children and underage individuals gaining entrance to the casino floor they have to have security officers there to keep that from occurring. He advised that if Sunday racing is successful, PMR&C would look at ways to expand the grandstand area to accommodate more patrons. Mr. Palmer stated that they feel it is a win-win situation for everyone.

Commissioner Rivera asked Mr. Palmer if it was management's belief that the proposed changes would be more successful this time due to the hotel. Mr. Palmer stated that it was a piece of the puzzle. Commissioner Rivera asked what the other piece was. Mr. Palmer stated that they feel people will come out on Sundays with their families to eat and gamble. Commissioner Rivera stated that her question was how PMR&C was going to accomplish that. Mr. Palmer stated that Sunday is currently their best day of the week so they feel it makes sense to offer racing on a day when they already have a large

number of people coming to the facility. They are hopeful that the handle from simulcast will also increase but it is not a factor in what is paid to the horsemen for purses.

Commissioner Rivera stated that while it is great that PMR&C is trying something different, she is concerned that there isn't anything in place that wasn't there before when Sunday racing was not successful. She asked what steps PMR&C was going to take to make Sunday racing successful this time. Mr. Palmer advised that at one time PMR&C had great simulcast revenues out of New York on Mondays and Tuesdays. He indicated that live handle may not have been very good, but they could do a million dollars per day on simulcast from New York or \$20,000 for PMR&C. Mr. Palmer stated that amount was sufficient to take care of the light bill for the day, and PMR&C received some good exposure but not a lot of money compared to the ability to have more people come out and enjoy the sport and the atmosphere at PMR&C.

Hearing no further comments or questions concerning the race dates, Chair Urban requested a motion incorporating the minimum of four performances per week and a minimum of 603 races. Commissioner Heinrich moved to approve the race dates as submitted by PMR&C, incorporating the above changes, and the continuation of year-round simulcasting. Commissioner Seyfer seconded the motion. The motion carried unanimously. (See Order No. 11-128)

Chair Urban, noting that two separate plans have been submitted for the Quarter Horse Meet, suggested that any decision regarding race dates for the Quarter Horse Meet be deferred until the January meeting as she does not feel there is any urgency to decide the issue today. Mr. Palmer requested the opportunity to explain the reasoning behind the two plans and called on Ms. Atkins. She advised that Plan A would be the normal quarter horse meet. Plan B would run approximately three weeks longer with racing occurring three days per week. Ms. Atkins advised that PRM&C has applied to have the Quarter Horse Challenge Races, and a decision will not be made until sometime in December. If they are successful in securing the Challenge Races, the Iowa Races would be moved to Friday night, and have the Challenge Races on Saturday night making it a festival weekend. Mr. Palmer explained that the Challenge Races are the equivalent of the Breeders' Cup races for the thoroughbreds; that it would be a huge event for PMR&C.

Chair Urban stated that the Commission understands, but still does not see any urgency in deciding the matter today; that it can wait until PMR&C knows whether or not it will be hosting the Challenge Races.

Chair Urban moved to PMR&C's request for renewal of their pari-mutuel and racetrack enclosure gambling licenses for 2012, the contracts contained within the application and the following additional contracts:

- Atlantic Bottling Company – 5-Year Soft Drink Supply Agreement
- Bally Gaming, Inc. – Leased Slot Games

- Blytheco, LLC – Financial Accounting Software
- Brewer Meats, Inc. – Meat Supplier
- G&K Services – Linen Service
- Hawkeye Foodservice Distribution – Food, Equipment and Supplies
- Loffredo Produce, Inc. – Food Products
- Martin Brothers Distributing Co., Inc. – Food, Equipment and Supplies
- Reinhart Food Service – Food, Equipment and Supplies
- RSM McGladrey, Inc. – Financial Accounting Software

Hearing no comments or questions for Mr. Palmer regarding the license renewal application or contracts, Chair Urban requested a motion. Commissioner Seyfer moved to approve the renewal of the pari-mutuel and racetrack enclosure gambling licenses for PMR&C for 2012, contingent upon the following conditions:

- The import and export contracts should continue to have the review and approval by staff to insure regulatory compliance.
- All marketing promotions that may affect live racing, particularly the racing schedule and post times, shall have **prior approval** from the IRGC.
- Ongoing updates to staff on track surface safety measures and improvements.
- An audit that covers the entire racing season as well as a yearly overall operations audit as provided by Iowa Code 99D.20.

Commissioner Heinrich seconded the motion, which carried unanimously. (See Order No. 11-129)

As there was no Administrative Business or Public Comment, Chair Urban moved to the Hearings and called on Mr. Ketterer. The first hearing, resolved by a Stipulated Agreement, was for HG-Lakeside Casino for a violation of Iowa Code §99F.4(22), the self-exclusion policy. Mr. Ketterer advised that on January 28th of this year an individual completed the Iowa Statewide and Lifetime Self-Exclusion Form at PMR&C. The individual's status was added to Lakeside's player reward system. On June 16th, the individual approached a guest service center employee and requested to cash a credit card cash advance check. The employee discovered that the individual was on the statewide self-exclusion list and reported their findings to the security department, who approached the individual and advised him of his status. The individual recalled signing the self-exclusion paperwork, but believed it only pertained to PMR&C. At that time, the individual stated he had been gambling at Lakeside during the previous 3-4 weeks and had cashed other credit card cash advance checks and completed a tax form and had not been confronted previously. Further investigation revealed that the individual had provided his drivers license and signed a W-9 form in order for Lakeside to complete a Currency Transaction Report (CTR) for the individual to purchase \$15,900 worth of chips and his redemption of \$11,400 in chips. The Commission has a resolution in place, agreed upon by the licensees through the Iowa Gaming Association, which requires CTR transactions to be screened for self-excluded patrons since July 2008. Lakeside did not

have a procedure in place for this required screening. As a result of this incident, Lakeside has implemented a written procedure to begin checking the self-exclusion list as part of their CTR process and has provided training for all appropriate personnel on the function. Mr. Ketterer noted that Lakeside acknowledges the violation and has agreed to pay an administrative penalty of \$3,000 to \$20,000 to the Commission. Mr. Ketterer advised that staff recommends approval of the Stipulated Agreement.

Mr Quilty advised that Bob Thursby, General Manager of Lakeside, was unable to attend today's meeting. He noted that while everyone makes mistakes, Lakeside is making an effort to learn from the mistakes and has implemented written procedures and provided the necessary training to the appropriate personnel so that they have a better understanding of their responsibilities in this area. Mr. Quilty stated that the employee has been disciplined due to these events. He stated that Lakeside will do everything possible to ensure that this does not occur again.

Commissioner Seyfer asked if this was Lakeside's first violation. Mr. Ketterer answered in the affirmative.

Hearing no further comments or questions concerning the Stipulated Agreement, Chair Urban requested a motion. Commissioner Seyfer moved to approve the Stipulated Agreement with an administrative penalty of \$3,000.00. Commissioner Heinrich seconded the motion, which carried unanimously. (See Order No. 11-130)

Randy Bechtel, Director of Slot Operations, provided a quick update on the hotel construction. He stated that windows were delivered on Monday, room structures are being installed and the hotel should be fully enclosed within the next two weeks. Mr. Bechtel advised that the project is on schedule and under budget.

Chair Urban moved to the hearing for Mystique Casino. Mr. Ketterer advised that this incident was also resolved with a Stipulated Agreement. He stated that an underage female gained access to the gaming floor of Mystique unchallenged on four occasions and gambled at Pai Gow tables and slot machines in August. Mr. Ketterer stated that Mystique acknowledges the above-mentioned facts constitute a violation of Iowa Code 99F.9, subparagraph 5, and has agreed to pay an administrative penalty in the amount of \$20,000 to the Commission. Mr. Ketterer recommended approval of the Stipulated Agreement.

Mr. Hoeger stated that he was in attendance at a Commission meeting in August or September when some penalties were assessed. Upon his return to Dubuque, employees were provided with extensive retraining in this area prior to this incident. Mr. Hoeger advised that Mystique has two certified TIPS trainers on staff, and have also brought in a DCI agent to provide additional training. He noted that the situation is slightly different in Dubuque as they do allow minors in the pari-mutuel area; however, this individual did go through the casino area. Mr. Hoeger stated that all individuals involved in this situation have again gone through training and have been disciplined. He advised that

Mystique has systems and processes in place, which were upgraded about three months ago based on the earlier hearings. He stated that Mystique does have a zero-tolerance policy.

Hearing no comments or questions regarding the Stipulated Agreement or for Mr. Hoeger, Chair Urban requested a motion. Commissioner Heinrich moved to approve the Stipulated Agreement as presented. Commissioner Rivera seconded the motion, which carried unanimously. (See Order No. 11-131)

Following a short break, Chair Urban moved to the Rehearing on the Commission's Decision RE: Disqualification of "Navajo Woman" in a Race at Prairie Meadows Racetrack and Casino on July 12, 2010. Rick Olson, representing the trainer of "Navajo Woman", stated that he would like the Commission to reverse its decision and affirm the decision of the Administrative Law Judge (ALJ); however, should the Commission elect not to do so, he requested that the Commission establish the standard for the case as abuse of discretion and remand the case to the Administrative Law Judge.

Jeff Peterzalek, Assistant Attorney General for the Commission, stated that in light of the limited circumstances under which the situation could occur and no prior clarification has been provided to the ALJs on this issue, concurred with Mr. Olson's request to remand the case to the ALJ to determine what was done factually on the dispute. He pointed out that the Commission could also adopt the facts and remand the case to the ALJ and be in the same position. Mr. Peterzalek noted that both he and Mr. Olson agreed during the first hearing that the rules were unclear in this situation. He stated that if the Commission wanted to hear additional arguments, both were prepared to do so. Mr. Peterzalek also noted that Julie Burger from the Attorney General's Office has been brought in as conflict counsel to assist the Commission in this matter. Mr. Peterzalek stated that he and Mr. Olson would be happy to answer any questions from the Commission or Ms. Burger. Hearing no comments or questions for Mr. Olson or Mr. Peterzalek, Chair Urban suggested the Commission go into Executive Session with Julie Burger to provide them with an opportunity to ask any questions that they might have. Noting that Mr. Peterzalek is an advocate for the case, Chair Urban stated that he would not be able to stay for the Executive Session. She indicated that she did not believe Executive Session would take very long.

Chair Urban requested a motion to go into Executive Session. Commissioner Lamberti so moved. Commissioner Heinrich seconded the motion, which carried unanimously on a roll call vote. (See Order No. 11-132) Commissioner Lamberti amended his motion to state that the Commission was going into Executive Session to deliberate with legal counsel. Commissioner Heinrich concurred with the amendment. The amended motion carried unanimously on a roll call vote. (See Order No. 11-133) Chair Urban requested that everyone clear the room.

Upon reconvening in Open Session, Chair Urban requested a motion to leave Executive Session. Commissioner Heinrich so moved. Commissioner Rivera seconded the motion, which carried unanimously. (See Order No. 11-134)

Chair Urban requested a motion with regard to the rehearing. Commissioner Lamberti moved to grant the request for the rehearing for the purpose of remanding the matter to the ALJ with the instructions that the Commission believes the appropriate standard of review is abuse of discretion. Commissioner Rivera seconded the motion, which carried unanimously. (See Order No. 11-135)

As there was no further business to come before the Commission, Chair Urban requested a motion to adjourn. Commissioner Rivera so moved. Commissioner Lamberti seconded the motion, which carried unanimously.

MINUTES TAKEN BY:

JULIE D. HERRICK