

MINUTES

SPECIAL MEETING KANSAS LOTTERY COMMISSION Tuesday, May 27, 2008 9:00 a.m. Pioneer Room, Capitol Plaza Hotel Topeka, Kansas

Call to Order

A special meeting of the Kansas Lottery Commission was called to order on Tuesday, May 27, 2008, at approximately 9:20 a.m. by Chairperson Harold Nye. **The purpose of the special meeting was to consider entering into contracts with the casino applicants who presented overviews to the Kansas Lottery Commission on May 19 and 20, 2008.** No other business was scheduled to be conducted. The meeting was conducted in the Pioneer Room at the Capitol Plaza Hotel in Topeka, Kansas, and was open to the public. Enterprise Security Director Joe Sellens determined compliance with the *Open Meetings Law*. Minutes were recorded by Mary Metzler, Executive Secretary.

Attendance

Commissioners Present	Commissioners Absent
Harold Nye, <i>Chairperson</i> - Hays	
Jeanine McKenna - Reading	
Joni Franklin - Wichita	
Robert Van Cleave - Overland Park	
Robert Wunsch - Kingman (via phone)	

Participating

Staff: Ed Van Petten, Executive Director
Keith Kocher, Director of Gaming Facilities
Stephen Durrell, Assistant Attorney General
Bob Krehbiel, Chief Gaming Officer
Dan Biles, Attorney at Law

Joe Sellens, Security Director
Sally Lunsford, Director of Communications
Stephen Crabtree, Telecommunications Manager
Mary Metzler, Executive Secretary

Visitors: A list of signed-in visitors is attached to the official minutes.

Special Business:

EXPANDED GAMING Director of Gaming Facilities Keith Kocher

Following opening remarks by Director of Gaming Facilities Keith Kocher, at 9:28 a.m. Commissioner Franklin moved that in order to protect attorney client privilege, the Commission recess into executive session for the purpose of discussing several legal issues surrounding these contracts with the Lottery's attorneys. The parties to be included in the executive session were: the Commission, Lottery attorneys, the Executive Director of the Kansas Lottery, Director of Gaming Facilities, Chief Gaming Officer, Enterprise Security Director, and Dan Biles, outside counsel. The Commission would reconvene at 9:45 a.m.

Executive Session

At 9:45 a.m., Chairman Nye called the regular meeting back to order.

Commissioner Jeanine McKenna made the following motion:

Based upon the information received by the Commission during the past several weeks regarding applications to become Lottery Gaming Facility Managers pursuant to the Kansas Expanded Lottery Act, I move to approve the following contracts negotiated by the Executive Director, his counsel, his staff, and the Chief Gaming Officer, as follows:

- (1) Sumner Gaming Joint Venture, LC (Harrah's)
- (2) Penn Sumner, LLC
- (3) Marvel Gaming, LLC
- (4) Butler National Service Corporation
- (5) Dodge City Resort and Gaming Company, LLC
- (6) Golden Heartland, Inc.
- (7) Kansas Entertainment, LLC
- (8) PNK Kansas, LLC (Pinnacle)
- (9) Legends Sun, LLC
- (10) Sands Kansas, LLC

The Commission's approval is based on the following findings that each applicant:

- (1) **Has sufficient financial resources to support the activities required of a lottery gaming facility manager;**

- (2) Has at least three consecutive years gaming experience in the management of gaming, which would be considered “Class III” gaming;**
- (3) Is current in filing of all applicable tax returns and in payment of all taxes, interest and penalties owed to the State of Kansas and any taxing subdivision where such prospective manager is located in the State of Kansas;**
- (4) The proposed investment in infrastructure by each applicant meets the minimum investment mandated by statute in their respective zones;**
- (5) An endorsement for each applicant was received from the city or county in which the lottery gaming facility is proposed to be located; and,**
- (6) Each applicant has complied with all planning and zoning requirements of the city or county in which the lottery gaming facility is proposed to be located.**

In addition to those factors, the Commission’s approval of each contract is based upon the information provided about and by each applicant regarding:

- (1) The size of each lottery gaming facility;**
- (2) The geographic area in which each facility is to be located;**
- (3) The location of each facility as a tourist and entertainment destination;**
- (4) The number of tourists expected at each facility;**
- (5) The numbers and types of games to be offered and operated at each facility;**
- (6) The types of ancillary services to be offered at each facility, and any agreements regarding those ancillary services;**
- (7) As well as other relevant information regarding each application and proposed facilities.**

Having found that each contract contains all provisions required by the Kansas Expanded Lottery Act, the Executive Director should be authorized and directed to forward all of these contracts to the Lottery Gaming Facility Review Board for further review under the Kansas Expanded Lottery Act.

Commissioner Wunsch seconded the motion; motion passed unanimously with the abstention of Commissioner Van Cleave in the Northeast Gaming Zone.

Dan Biles, outside counsel on behalf of the Lottery, took the floor and discussed Penn National’s request to amend their application in the South Central Gaming Zone, which was presented to Lottery staff two weeks ago. Mr. Biles indicated that the request was problematic, citing issues of legality, ambiguity, and timeliness. Mr. Biles informed the Commission that in order to consider the proposed amendment to Penn National’s application would require further action by the Commission; likewise, no action was necessary if the Commission did not intend to permit

the amendment. Mr. Biles then turned the floor over to John Petersen, attorney representing Penn National, who presented his client's request for amendment.

At 10:17 a.m., Commissioner Franklin moved to recess into executive session for the purpose of consulting with Lottery staff members retained in previous executive session, reconvening in 10 minutes. Commissioner McKenna seconded; motion approved.

Executive Session

At 10:27 a.m., Chairman Harold Nye called the regular meeting back to order. No further action was taken by the Commission.

Director of Gaming Facilities Keith Kocher extended his gratitude to all those who supported and worked towards the implementation of contracts with the Lottery Gaming Facility Managers pursuant to the Kansas Expanded Lottery Act.

Adjournment

There was no other business. **Commissioner Franklin expressed her thanks to the staff and counsel, applicants, and fellow commissioners, and moved to adjourn the meeting. Commissioner McKenna seconded, reiterating the gratitude.** Chairman Nye expressed gratitude on behalf of all commissioners and declared the meeting adjourned at approximately 10:35 a.m.