



SOUTH DAKOTA COMMISSION ON GAMING

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UNAPPROVED MINUTES

South Dakota Commission on Gaming Administrative Hearing and Quarterly Business Meeting City Hall, Deadwood, South Dakota

MINUTES

March 23, 2022

At 9:00 a.m. the meeting was called to order. Commissioner Karen Wagner, Commissioner Karl Fischer, and Commissioner Harry Christianson were present. Commissioner Bob Goetz and Commissioner Spencer Hawley participated via Zoom. Staff members present for the meeting were Douglas Abrahamson, Commission Attorney; Susan Christian, Executive Secretary; Mark Heltzel, Deputy Executive Secretary; Mark Aspess, Commission Architect; Brian Swets, Enforcement Agent; and Phil Schlieff, IT Specialist. Other persons participating in the meeting via Zoom were Jennifer Stalling, Lobbyist; Basil Hofer, BetKota; Kelly Hanson, SDCG Operations Manager; Vicki Schlieff, SDCG; Garrett Gross, BetKota; David Knight and Josh Thurmes, Tin Lizzie.

The meeting was called to order by Commissioner Wagner and a roll call was taken.

On a roll call all Commissioners were present.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Christianson	Aye
Commissioner Wagner	Aye

Conflicts of Interest Disclosure

On a roll call no conflicts of interest were disclosed.

Commissioner Goetz	Nay
Commissioner Fischer	Nay
Commissioner Hawley	Nay
Commissioner Christianson	Nay
Commissioner Wagner	Nay

Administrative Hearing

The following case was scheduled to be heard and Commissioner Wagner served as the hearing officer.

- Petition for Declaratory Ruling per 1-26-15 regarding additional building determination
KR Deadwood Sherman Street 2020, LLC

KR Deadwood Sherman Street 2020, LLC

Present for the hearing representing KR Deadwood Sherman Street 2020, LLC was Roger Tellinghuisen, Attorney and Brad Burns, Architect. The purpose of the hearing was a petition for declaratory ruling to determine whether the 3rd and 4th floor of the structure at 53 Sherman Street and the 4th floor of the structure at 55 Sherman Street constitute three (3) separate buildings for purposes of determining the number of gaming devices that can be placed within the buildings and whether thirty (30) gaming devices can be placed on the 3rd floor and on the 4th floor structure at 53 Sherman St. and whether thirty (30) gaming devices can be placed on the 4th floor of the structure at 55 Sherman St. assuming compliance with the other rules and requirements for gaming activity and whether the inner access between the 3rd and 4th floors of the structures located at 51, 53, and 55 Sherman St. would be protected by a "water curtain" qualify as inner access pursuant to ARSD 20:18:25:02. In the closing testimony, Mr. Tellinghuisen stated to correct the petition if it wasn't clear that they are asking for two (2) building designations. The 3rd floor of 53 Sherman St. and the 4th floor over 53 and 55 Sherman St. Mr. Tellinghuisen amended the petition orally to reflect that they are asking for two (2) buildings and not three (3). The decision on this matter was deferred to Executive Session.

The hearing portion of the meeting was concluded.

General Meeting

Commissioner Wagner called the general meeting to order at 10:20 a.m.

Adopt Meeting Agenda

There was one change to the agenda that Department of Revenue Secretary Jim Terwilliger was unable to attend, and Deputy Secretary David Wiest would be speaking in his place.

Commissioner Fischer made a motion to adopt the agenda with the one change. Commissioner Christianson seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Christianson	Aye
Commissioner Wagner	Aye

February 2, 2022, Special Meeting

Commissioner Hawley made a motion to adopt the minutes as drafted for the February 2, 2022, special meeting. Commissioner Goetz seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Christianson	Aye
Commissioner Wagner	Aye

Old Business

There was no old business to be discussed

Comments Executive Secretary Susan Christian

Susan Christian, Executive Secretary, gave brief comments on the following:

- Sports Wagering is at the six-month mile marker, the first three months were rocky but the last three months everything seems to be going smoothly and the interaction between the industry and the Commission has been good.
- Next for Sports Wagering is to move into the mobile application process that has already been put into rule. Staff has grouped the process in four (4) phases.
 - 1) The technical aspect which is setting up the mobile application, geo fencing, and 3rd party vendors for licensing.
 - 2) The Account Deposit Wagering which is more of a lengthy and detailed process for the accounts that you are allowed to wager.
 - 3) The Internals Controls on the technology and on the wagering accounts.
There will be a 30-day test period for everyone so that we get it right.
 - 4) The final phase will be each licensee will explain how their system works, what their responsibilities are, how they see being able to maintain compliance and that everyone understands how their mobile app works to the geo fencing and to securing the app.
This will be a long process we just need to be patient and work together.
- The agenda informal consultations for the first five (5) are not new ones for sports wagering they are from the first 90 days of last year as we were unable to get the investigation completed before the December 2021 meeting.
- Any questions on the mobile application roll out contact Susan Christian or Mark Heltzel.

Comments Department of Revenue Deputy Secretary David Wiest

Deputy Secretary David Wiest gave a brief report on the 2022 Legislative Session, Department of Revenue, and that it was announced that Secretary Jim Terwilliger was appointed the Commissioner of Bureau of Finance and Management and the appointment will occur on April 1, 2022.

Stipulation of Assurance and Voluntary Compliance

1) Joseph Gasper

A monetary penalty of \$350.00 to be paid not later than December 14, 2021, was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action in that the Defendant had issued a single wager in the amount of \$1,300.00 in violation of SDCL 42-7B-14. An informal consultation was held, and licensee agreed to the penalty and paid the fine.

Commissioner Goetz made a motion to accept the Stipulation of Assurance and Voluntary Compliance and the imposed penalty. Commissioner Christianson seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Christianson	Aye
Commissioner Wagner	Aye

2) Sara Stone

A monetary penalty of \$150.00 to be paid not later than January 14, 2022, was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action in that the Defendant had issued a single wager in the amount of \$1,500.00 in violation of SDCL 42-7B-14. An informal consultation was held, and licensee agreed to the penalty and paid the fine.

Commissioner Hawley made a motion to accept the Stipulation of Assurance and Voluntary Compliance and the imposed penalty. Commissioner Fischer seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Christianson	Aye
Commissioner Wagner	Aye

3) Internet Sports International

A monetary penalty of \$3,000.00 to be paid not later than March 23, 2022, was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action in that the Defendant made available through their sports wagering system a prohibited event and an unapproved wager type. An informal consultation was held, and licensee agreed to the penalty and paid the fine.

Commissioner Christianson made a motion to accept the Stipulation of Assurance and Voluntary Compliance and the imposed penalty. Commissioner Fischer seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Christianson	Aye
Commissioner Wagner	Aye

4) Mustang Sally

A monetary penalty of \$3,000.00 to be paid not later than March 23, 2022, was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action in that on December 14, 2021, the Defendant allowed two (2) future wagers on a NCAA basketball tournament to be placed and accepted at the sports wagering kiosk operated by the Defendant. An informal consultation was held, and licensee agreed to the penalty and paid the fine.

Commissioner Fischer made a motion to accept the Stipulation of Assurance and Voluntary Compliance and the imposed penalty. Commissioner Christianson seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Christianson	Aye
Commissioner Wagner	Aye

5) Gold Dust

A monetary penalty of \$3,000.00 to be paid not later than March 23, 2022, was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action in that on November 23, 2021, the Defendant accepted two (2) wagers on a South Dakota State University basketball game in violation of SDCL 42-7B-82-(4). On December 14, 2021, the Defendant accepted four (4) future wagers on a NCAA basketball tournament. This wager type was not approved by the South Dakota Commission on Gaming and is in violation of ARSD 20:18:35:04. An informal consultation was held, and licensee agreed to the penalty and paid the fine.

Commissioner Goetz made a motion to accept the Stipulation of Assurance and Voluntary Compliance and the imposed penalty. Commissioner Hawley seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Christianson	Aye
Commissioner Wagner	Aye

6) Danny Burr

A monetary penalty of \$100.00 to be paid not later than January 14, 2022, was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action in that the Defendant conducted a poker game with an extra Queen of Diamonds in the active poker deck in violation of ARSD 20:18:16:06. An informal consultation was held, and licensee agreed to the penalty and paid the fine.

Commissioner Goetz made a motion to accept the Stipulation of Assurance and Voluntary Compliance and the imposed penalty. Commissioner Hawley seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Christianson	Aye
Commissioner Wagner	Aye

7) Gold Country Inn

A monetary penalty of \$2,500.00 to be paid not later than March 4, 2022, was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action by failing to inspect recording equipment daily and maintain a written record of the inspection per ARSD 20:18:29:14. An informal consultation was held, and licensee agreed to the penalty and paid the fine.

Commissioner Christianson made a motion to accept the Stipulation of Assurance and Voluntary Compliance and the imposed penalty. Commissioner Fischer seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Christianson	Aye
Commissioner Wagner	Aye

8) DHIH, LLC dba Hickok's

A monetary penalty of \$500.00 to be paid not later than March 25, 2022, was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action in that on March 1, 2021, the Defendant entered into a contract in which an individual purchased shares in DHIH, LLC in violation of SDCL 42-7B-66. This was a repeat finding within the last year. An informal consultation was held, and licensee agreed to the penalty.

9) DBUH, LLC dba The Bullock

A monetary penalty of \$1,500.00 to be paid not later than March 25, 2022, was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action in that on February 9, 2021, March 3, 2021, and March 4, 2021, the Defendant entered into contracts in which individuals purchased shares in DBUH, LLC in violation of SDCL 42-7B-66. This was a repeat finding within the last year. An informal consultation was held, and licensee agreed to the penalty.

Commissioner Christianson made a motion to defer the decision for Stipulation and Assurance of Voluntary Compliance 8) DHIH, LLC dba Hickok's and 9) DBUH, LLC dba The Bullock to Executive Session. Commissioner Fischer seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Christianson	Aye
Commissioner Wagner	Aye

Approval of new event to Sports Event and Wagering Catalog

A request was made to add USFL (United States Football League) which is a new league to the Sports Event and Wagering Catalog.

Susan Christian, Executive Secretary, recommended that the USFL (United States Football League) be added to the Sports Event and Wagering Catalog.

Commissioner Christianson made a motion to the approve USFL to the Sports Event and Wagering Catalog as staff recommended. Commissioner Hawley seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Christianson	Aye
Commissioner Wagner	Aye

Deadwood Licensing Matters

Key License Approvals

Deputy Executive Secretary Mark Heltzel recommended approval of the following:

Jace Linderman
Brandi Martin
Brandon Flanagan
Jason Kimler
Sean Lyons
Lark Taylor
Jared Kerber
Lindsey Lottes

Commissioner Fischer made a motion to approve the key license approvals as staff recommended. Commissioner Christianson seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Christianson	Aye
Commissioner Wagner	Aye

Key License Renewals

Deputy Executive Secretary Mark Heltzel recommended approval of the following:

Thomas Frank
Ashley Mack

Commissioner Hawley made a motion to approve the key license renewals as staff recommended. Commissioner Goetz seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Christianson	Aye
Commissioner Wagner	Aye

Business License Approval

Deputy Executive Secretary Mark Heltzel recommended approval of the following:

- Approval of an Operator's license **(12695-OP)** for Dakota Gaming Group, Inc. dba BetKota.

Commissioner Hawley made a motion to approve the business license approval as staff recommended. Commissioner Goetz seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Christianson	Aye
Commissioner Wagner	Aye

Public Comment

There was no participation for the comment period of the meeting.

A brief recess was taken at 11:00 a.m.

The meeting resumed at 11:09 a.m.

Executive Session

Commissioner Christianson made a motion to go into Executive Session. Commissioner Hawley seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Christianson	Aye
Commissioner Wagner	Aye

At 11:09 a.m. the Commissioners went into Executive Session pursuant to SDCL 1-25-2 (3).

The Executive Session concluded at 12:23 p.m.

Action Items

Exclusion List

Commissioner Christianson made a motion that the Notice of Exclusion in reference to Rick Burleson and the Notice of Exclusion of Benjamin Palmer be accepted and served upon the two. Commissioner Fischer seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Christianson	Aye
Commissioner Wagner	Aye

Decision on Administrative Hearing

KR Deadwood Sherman Street 2020, LLC

Commissioner Hawley made a motion to approve the additional building determination for the 3rd floor and 4th floor so would have two (2) buildings as per Mr. Tellinghuisen's clarification at the end of his testimony. Commissioner Goetz seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Christianson	Aye
Commissioner Wagner	Aye

Decision 8) DHIH, LLC dba Hickok's

Commissioner Christianson made a motion that the fine for the Stipulation and Assurance of Voluntary Compliance be increased to \$2,000.00. Commissioner Fischer seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Christianson	Aye
Commissioner Wagner	Aye

Decision 9) DBUH, LLC dba The Bullock

Commissioner Christianson made a motion to increase the fine from \$500.00 to \$2,000.00 per violation for a total of \$6,000.00 for the Stipulation and Assurance of Voluntary Compliance. Commissioner Fischer seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Christianson	Aye
Commissioner Wagner	Aye

The Executive Secretary asked the Commissioners when the payments would be due. Commissioner Wagner stated that the payments are to be paid not later than March 28, 2022.

Adjournment

With no further business to be discussed Commissioner Fischer made a motion to adjourn the meeting. Commissioner Christianson seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz
Commissioner Fischer
Commissioner Hawley
Commissioner Christianson
Commissioner Wagner

The meeting was adjourned at 12:29 p.m.

Respectfully Submitted,

Kathy Beringer

Karen Wagner, Madam Chairman

Susan Christian, Executive Secretary