

EXECUTIVE COUNCIL OF IOWA AGENDA

State Capitol - Robert D. Ray Conference Room (G09) 10:00 a.m.

JUNE 9, 2014

1. Approval of minutes of meeting held May 19, 2014
2. Personal Appearance –

Patrick Hall, Recovery Division Administrator, Department of Public Defense, Iowa Homeland Security and Emergency Management Division will be present to request the following:

1. Funds in the amount of \$13,422.73 pursuant to Iowa Administrative Code 605 – 12.5 (4)
TAB # 1
3. Outside Counsel – Page 1
TAB #'s 2 and 3
4. Emergency Allocations – Page 1
5. Payment of Cost Items – Page 2

3. Outside Counsel

- A. The Department of Justice, Attorney General's office requests retention of outside counsel to represent the Iowa racing and Gaming Commission (IRGC) in a bankruptcy proceeding filed by Belle of Sioux City, L.P. owned by Penn National Gaming, Inc. (Penn). in Pennsylvania.

Firm: Ciardi, Ciardi & Astin
Attorney: Albert Ciardi III
2005 Market Street, Suite 1930
Philadelphia, PA 19103
Rate: \$465.00 per hour

TAB # 2

- B. The Department of Justice, Attorney General's office requests retention of special counsel to provide legal advice to the Office of the Chief Information officer.

Firm: Foley & Lardner, LLP
Attorney: Mr. Christopher Cain & Mr. Aaron Tantleff
321 North Clark Street
Chicago, IL 60654
Rate: \$495.00 per hour

TAB # 3

4. Emergency Allocations

- A. Department of Public Safety is requesting an emergency allocation in the amount of \$3,305.00. On March 28, 2014 damage to Vehicle #679 as a result of hitting a deer near Marquette. Request is to cover repair costs.

The State Auditor has reviewed this request and recommends an allocation in the amount of **\$3,304.60**, the vendor estimated repair cost, subject to audit of actual invoices.

- B. Department of Natural Resources is requesting an emergency allocation in the amount of \$12,200.00. On February 14, 2014 a fire at Mines of Spain State Recreation Area in Dubuque County damaged a Wildlife Viewing Blind. Request is to cover repair costs.

The State Auditor has reviewed this request and recommends allocation, subject to audit of actual invoices.

5. **Payment of Cost Items**

- A. Gray Miller Persh, LLP.....\$4,197.40
1200 New Hampshire Ave., N.W.
Washington, D.C. 20036
Iowa Public Television

Jeffrey Thompson, Solicitor General has reviewed this invoice and recommends payment. Payment will be made from the funds of Iowa Public Television.

- B. Frandzel Robins Bloom & Csato, L.C.....\$3,555.35
6500 Wilshire Boulevard, 17th Floor
Los Angeles, CA 90048-4920
Wong v. Neutraltus Pharmaceuticals Inc. UOI Pharmaceuticals et. al

Jeffrey Thompson, Solicitor General has reviewed this invoice and recommends payment. Payment will be made from the funds of the University of Iowa.

- C. Davis, Brown, Koehn, Shors & Roberts, P.C..... \$984.00
The Davis Brown Tower
215 10th Street, Suite 1300
Des Moines, IA 50309-3993
Represent Iowa in copyright, trademark, and patent legal advice for various agencies

Jeffrey S. Thompson, Solicitor General, Iowa Department of Justice has reviewed these invoices and recommends payment. Payment will be made from the funds of the Iowa Department of Transportation.

- D. Davis, Brown, Koehn, Shors & Roberts, P.C.....\$673.90
The Davis Brown Tower
215 10th Street, Suite 1300
Des Moines, IA 50309-3993
Legal Services to state agencies on issues related to the visa status of prospective state employees

Jeffrey S. Thompson, Solicitor General, has reviewed these invoices and recommends payment. Payment will be made from the funds of the Department of Administrative Services.

- E. Davis, Brown, Koehn, Shors & Roberts, P.C.....\$432.00
The Davis Brown Tower
215 10th Street, Suite 1300
Des Moines, IA 50309-3993
Legal Services to state agencies on issues related to the visa status of prospective state employees

Jeffrey S. Thompson, Solicitor General, has reviewed these invoices and recommends payment. Payment will be made from the funds of the Department of Administrative Services.



EXECUTIVE COUNCIL
2014 JUN -2 AM 8:07

STATE OF IOWA

TERRY E. BRANSTAD
GOVERNOR

KIM REYNOLDS
LT. GOVERNOR

IOWA HOMELAND SECURITY AND
EMERGENCY MANAGEMENT DEPARTMENT
MARK J. SCHOUTEN, HOMELAND SECURITY ADVISOR
AND EMERGENCY MANAGEMENT DIRECTOR

May 30, 2014

Ms. GeorgAnna Madsen, Executive Secretary
Executive Council of Iowa
LOCAL

Subject: Executive Council Agenda for June 9, 2014

Dear Ms. Madsen:

I respectfully request time on the Executive Council Agenda for Monday, June 9, 2014. Please find enclosed the following item for the agenda:

- Response and recovery deployment for three-alarm fire at historic building in Des Moines, Iowa – March 29, 2014, incident
 - Request for Approval to reimburse the Cedar Rapids Fire Department (Emergency Response Team) pursuant to Iowa Administrative Code 605—12.5(4) – **new request**
 - Total state liability is \$13,422.73
 - Amount requested to transfer at this time is \$13,422.73

I appreciate your approval of this action, and look forward to our continued joint partnership in protecting the citizens of our state.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick J. Hall".

Patrick J. Hall
Recovery Division Administrator

Enclosures

Specialty Team Activation Order
Iowa Urban Search and Rescue Team (IA-TF1) (C. R. Div.)
March 29, 2014

WHEREAS, on March 29, 2014 a three alarm fire severely damage a historic building in downtown Des Moines with collateral damage to other buildings; and

WHEREAS, A. J. Mumn, Emergency Manager, Polk County, Iowa, in Polk County, has indicated that local resources have been disrupted and overburdened because of this event and that the services of an Iowa homeland security and emergency response team are needed to assist local authorities; and

WHEREAS, the Iowa Urban Search and Rescue Team (IA-TF1) Cedar Rapids Division is an Iowa homeland security and emergency response team as defined by Iowa Code § 29C.8 (f) (1) and 605 Iowa Administrative Code Chapter 12, has been approved and recognized by Iowa Homeland Security and Emergency Management Department (HSEMD) as capable of providing services during an event of this nature, and has entered into a Memorandum of Agreement with HSEMD to do so.

THEREFORE, IT IS HEREBY ORDERED under the authority of Iowa Code § 29C.8 (f) that the Iowa Urban Search and Rescue Team (IA-TF1) Cedar Rapids Division is activated to assist in the response to and recovery from this event and that it is specifically deployed and authorized to perform the following mission: to conduct structural assessments, shoring, and bracing operations in order to enable the fire investigation and safe overhaul of the destroyed building.

Dated March 29, 2014, at Johnston, Iowa.



Mark Schouten, Director
Iowa Homeland Security and
Emergency Management Department



May 21, 2014

The City of Cedar Rapids Fire Department is submitting **\$13,422.73** for expenses associated with the Des Moines Deployment. All expenses occurred have been validated and authorized by the City of Cedar Rapids Finance Department.

Des Moines Deployment

Equipment/Consumables	981.85
Payroll/Mileage	12,440.88
	<hr/>
	\$13,422.73



Mark A. English
Chief, Cedar Rapids Fire Department

5-21-14
Date

EXECUTIVE COUNCIL
2014 JUN -5 AM 10:29

THOMAS J. MILLER
ATTORNEY GENERAL

JEFFREY S. THOMPSON
SOLICITOR GENERAL



Iowa Department of Justice

ADDRESS REPLY TO:
1305 E. Walnut Street
Des Moines, IA 50319
www.iowaAttorneyGeneral.org

Telephone: 515/281-4419
Fax: 515/281-4209
Jeffrey.Thompson@iowa.gov

June 5, 2014

GeorgAnna Madsen
Executive Secretary
Executive Council
State Capitol
LOCAL

Re: Request for Outside Counsel

Dear GeorgAnna:

Our office is requesting Executive Council approval to retain outside counsel to represent the Iowa Racing and Gaming Commission (IRGC) in a bankruptcy proceeding currently pending in the Eastern District of Pennsylvania. The IRGC, after a contested case proceeding, ruled that the Belle of Sioux City L.P., the operator of the Argosy river boat casino in Sioux City, was not statutorily eligible to maintain its operator's license for the Argosy location. The Commission further ordered that "the conduct of gambling games at the Argosy Casino - Sioux City shall cease on or before July 1, 2014." This decision is the latest round in a series of protracted litigation arising from the IRGC's decision to accept applications for a land-based casino in Woodbury County and the Commission's subsequent decision to award a license to conduct gambling games to Missouri River Historical Development, Inc., and an operator's license to its partner Sioux City Entertainment to construct a Hard Rock branded hotel and casino in Sioux City.

Rather than pursuing Iowa Code chapter 17A judicial review of agency action in the Iowa District Court to challenge the IRGC's contested case ruling and closure order, Belle of Sioux City, L.P., has instead attempted to invoke the protections of a federal bankruptcy court in Pennsylvania to block the IRGC's regulatory actions. Belle of Sioux City, L.P., is ultimately owned by Penn National Gaming, Inc. (Penn), a corporation headquartered in Pennsylvania. On May 14, 2014, a bankruptcy petition and a multitude of ancillary pleadings were filed in the federal bankruptcy court in the Eastern District of Pennsylvania. As part of those initial filings Penn requested an immediate determination as to whether the filing of the bankruptcy petition would stay the IRGC's regulatory proceedings in Iowa. Penn has also requested that, in the event bankruptcy's automatic stay provisions do not stay the Iowa proceedings, an injunction be

entered ordering such a stay. The IRGC and the State of Iowa have a very significant interest in being able to regulate gaming in the state of Iowa as set forth in Iowa's statutes. Penn is essentially asking the bankruptcy court to nullify and/or rewrite Iowa's gaming laws. Thus, the State of Iowa needs representation in the Pennsylvania bankruptcy proceeding to protect its ability to regulate gambling in Iowa in accordance with Iowa's legislatively enacted statutes.

Initial hearings were scheduled in bankruptcy court on May 16, two days after the filing of the petition, thus necessitating immediate intervention on behalf of the State. Further, our office does not have staff with sufficient experience in bankruptcy matters to represent the State in this matter nor are any licensed in the Pennsylvania jurisdiction. Additionally, Penn has involved a multitude of attorneys from around the country to pursue its vigorous efforts to avoid the jurisdiction of the State of Iowa and Iowa's gaming regulations in this matter.

Based on recommendations from other counsel a well-respected bankruptcy specialist in Philadelphia, Albert Ciardi III, was contacted, and Mr. Ciardi agreed to represent the IRGC's and the State's interests in this matter. Because of the extremely expedited initial hearing process, the IRGC was unable to obtain Executive Counsel approval prior to having Mr. Ciardi appear on its behalf. Mr. Ciardi did represent the IRGC at the May 16 hearing at which the judge order a two day trial on the matters raise which is scheduled for June 9th and 10th. Since May 16th Mr. Ciardi and other lawyers in his firm have performed substantial additional work on the IRGC's behalf in resistance to the materials filed by Penn, including facilitating the filing of significant dispositive motions as well as depositions and other discovery allowed by the court in advance of the upcoming hearing.

Mr. Ciardi practices with the law firm of Ciardi, Ciardi & Astin in that firm's Philadelphia office, 2005 Market Street, Suite 1930 Philadelphia, PA 19103. His hourly rate, and the rate of other senior partners, is \$465 per hour. The rate for associate attorneys and junior partners range from \$250 to \$385 per hour. Legal assistant time is charged at the rate of \$120 to \$180 per hour. All of the rates are extremely competitive for the market involved especially considering Mr. Ciardi's bankruptcy expertise. Accordingly, our office requests Executive Council approval to retain Albert Ciardi III and the law firm of Ciardi, Ciardi & Astin to represent the IRGC in the bankruptcy proceedings at the rates noted above. It is also requested that approval be given to pay for Mr. Ciardi's fees for attending the hearing on May 16 as well as pre-hearing and post hearing work that he has done to date. It is anticipated that the IRGC will be able to contribute some of its funds to these legal expenses but will not be able to fund the entirety of such fees and expenses.

Sincerely,



JEFFREY S. THOMPSON
Solicitor General

EXECUTIVE COUNCIL

THOMAS J. MILLER
ATTORNEY GENERAL

2014 JUN -5 AM 9:32

JEFFREY S. THOMPSON
SOLICITOR GENERAL

Iowa Department of Justice

ADDRESS REPLY TO:
1305 E. Walnut Street
Des Moines, IA 50319
www.IowaAttorneyGeneral.orgTelephone: 515/281-4419
Fax: 515/281-4209
Jeffrey.Thompson@Iowa.gov

June 4, 2014

GeorgAnna Madsen
Executive Secretary
State Capitol
L-O-C-A-L

Re: Retention of Special Counsel

Dear GeorgAnna:

Our office requests Executive Council approval to retain special counsel to provide legal advice to the Office of the Chief Information Officer, Robert von Wolfradt ("OCIO"). The OCIO was created under Senate File 396 during the last legislative session as an independent agency attached to the Department of Administrative Services ("DAS"). The OCIO plans to use special counsel to assist with cloud-based and other highly specialized information technology transactions. These transactions usually involve complex business and legal issues and substantial risks, including risks relating to: (a) data security, privacy, integrity, ownership, use, availability, and disposal; (b) compliance with certain federal and state laws (e.g., privacy and personal information security breaches) and payment card industry standards; (c) service availability and performance; (d) disaster recovery and business continuity; (e) transition at contract end; and (f) limitation of liability.

If approved, special counsel would likely assist the OCIO and DAS with the RFP and contracting process associated with migrating the State's email system to a cloud-based provider. That system is the State's largest enterprise IT platform, and many issues and risks would need to be addressed during the due diligence and contracting phase. In addition to providing guidance on complex IT transactions, special counsel may be involved in the development and enhancement of specialized contract templates and provisions. Our office currently lacks the necessary expertise and contract forms for these highly technical matters.

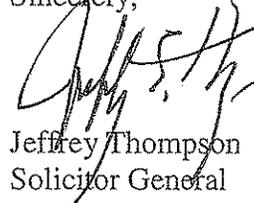
Mr. von Wolfradt has interviewed four law firms and would like to retain Foley & Lardner, LLP, 321 North Clark Street, Chicago, Illinois 60654. Mr. Christopher Cain and Mr. Aaron Tantleff would be the primary attorneys working on these matters, although they would utilize the assistance of associates in the firm when feasible to minimize costs. The hourly rate for both lawyers would initially be \$495 per hour, and for associates in the range of

GeorgAnna Madsen
Page 2

\$270-\$330 per hour. These hourly rates reflect a significant discount off the firm's standard rates of \$640 per hour for Mr. Cain, \$600 per hour for Mr. Tantleff and in the range of \$375-\$500 per hour for associates. The discounted hourly rates would be locked in until December 2014. A senior partner, Mr. James Kalyvas, would serve in a total project oversight role at no charge (even though his standard hourly rate is \$955). The firm's hourly rates were comparable to the rates quoted by the three other firms interviewed. The attorney fees and costs would be paid by the Office of the Chief Information Officer in combination with DAS.

The attorneys interviewed at Foley & Lardner are leaders in their field and qualified to represent the interests of the OCIO. Accordingly, our office recommends that Foley & Lardner, LLP, be approved as special counsel with all attorney fees and costs to be paid by the OCIO and DAS.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey Thompson", with a long horizontal line extending to the right.

Jeffrey Thompson
Solicitor General