

**INDIANA GAMING COMMISSION  
REGULAR MEETING**

11:00 a.m., March 10, 1995  
Indiana Government Center South Auditorium  
Indianapolis, Indiana

MINUTES

**PRESENT:** Commission members Alan Klineman, Chair; Ann Marie Bochnowski, Vice-chair; Thomas F. Milcarek; David Ross, M.D.; Donald Raymond Vowels; Staff members Jack Thar, Floyd Hannon, Kay Fleming, Judy Greene, Pam Ayres, Frank Brady, Phil Beck, Joanne Yeager, Julie Bravard and an audience.

Call to Order and Roll Call

Chairman Alan Klineman called the meeting to order at approximately 11:05 a.m. noting the absence of Commissioner Bob Sundwick while indicating that a quorum was present. Mr. Klineman announced the resignation of Commission Secretary Gilmer Gene Hensley for personal reasons and indicated the Indiana Gaming Commission's great appreciation of Mr. Hensley's service on the Commission. Commissioner Hensley was a valuable asset and will be missed.

In view of Mr. Hensley's dedication to careful review of every aspect of each riverboat gaming application and his invaluable service on the Indiana Gaming Commission, Ann Bochnowski moved to send him a letter of appreciation. On second by Dr. David Ross, the motion was approved unanimously. A letter of appreciation will be directed to Mr. Hensley.

Upon motion by Ann Bochnowski, second by Dr. David Ross, Don Vowels was nominated to fill the vacated IGC secretary position. Tom Milcarek moved that the nominations be closed. Upon second by Dr. David Ross, and unanimous approval, the nominations were closed. Hearing no other nominations, Don Vowels was unanimously approved as new secretary.

Approval of the Minutes of the February 2 and February 10, 1995 Meetings

The minutes of both the February 2 meeting in Evansville and the continuation of the meeting on February 10 in Indianapolis and the minutes of the final proceedings of the Evansville, Indiana, riverboat selection of the certificate of suitability award were unanimously approved on motion by Don Vowels, second by Tom Milcarek.

Report of the Executive Director

Executive Director Jack Thar introduced Julie Bravard, the new Senior Systems Analyst for the Indiana Gaming Commission. Ms. Bravard, an employee since 1991 of the Indiana Department of Revenue, worked with their computer systems.

The deadlines for Part II of the Riverboat applications for Harrison and Crawford Counties are Monday, March 13, 1995, at 12:00 noon (Indianapolis time). Executive Director Thar also announced noon (Indianapolis time), April 10, 1995, as the deadline for Part II for Perry County.

With regard to the Indiana Gaming Commission rules, Executive Director Thar noted that the rules acted on by the Commission on February 2, 1995, during the business meeting in Evansville, Indiana, were published in the Indiana Register on March 1, 1995. Formal public comment on the rules is scheduled for Monday, March 27, 1995, commencing at 9:00 a.m. (Indianapolis time), in the Indiana Government Center South auditorium. On the same date, IGC staff will send additional rules to the Commission which will be available to the public for informal comment. The date for the expiration of the informal comment period will be announced on March 27.

In terms of updating what has transpired as far as the Certificate of Suitability holders, Mr. Thar reported that

- A) The City of Gary update is an agenda item under Old Business; nothing will be reported at this time.
- B) Evansville update:
  - 1. The U.S. Department of the Interior, National Park Service, approved the conversion of Riverfront Park on February 10, 1995;
  - 2. The City of Evansville, the vessel of Aztar, the certificate of suitability holder in Evansville, is scheduled to be launched at Jeffboat in Jeffersonville, Indiana, Sunday, March 12, 1995,

between 12 noon and 2:00 p.m. (all members of the Commission and the staff have been invited to attend);

3. The Army Corps of Engineers' hearing concerning the Aztar permit application is scheduled for April 6, 1995, at 7:00 p.m. in the Vanderburgh County Auditorium, Evansville, Indiana.

Executive Director Thar reported that the Commission has received eight applications for supplier's licenses. Initially, limited investigations will be conducted to ensure that the applicants meet all statutory requirements. Once that is verified, a temporary license will be issued so they can conduct business pending the outcome of a final, completed investigation. Once that has occurred, the names of the suppliers and the results of the investigation will be presented to the Commission for the determination of suitability for permanent licensure.

Chairman Alan Klineman reported that the legislature is still in session and the one piece of legislation that will correct some of the technical problems the Gaming Commission has been experiencing has passed the House of Representatives and is now in the Senate.

#### Old Business

##### Report to the Commission Concerning the Exploration of Alternative Sites for the Riverboat Gambling Operation for the City of Gary

Attorney Donald Tabbert, representing Trump Casinos & Resorts, reported that on February 10, 1995, the Commission gave authority to both of the Gary developers to pursue an investigation and due diligence in looking at any alternative site to Buffington Harbor. He indicated that on March 10 (current date) the developers filed an official request to the Commission to withdraw their original request to explore alternative sites. They have signed a letter of intent with the Lehigh Portland Cement Company and are currently prepared to proceed with the Buffington Harbor site.

Mr. Tabbert reported that both developers have done an outstanding job working day and night to negotiate this agreement. They complied with the Commission's 30-day deadline to explore alternate sites and are ready to go forward with regard to the Buffington Harbor location. Mr. Tabbert indicated representatives of both developers are available for Commission questions or comments.

Chairman Klineman commended the developers for diligently working

out this solution. Anything to move the project forward is wonderful. The citizens of Gary will be most appreciative of this happy resolution.

In response to Ann Bochnowski's question to verify that the original intent of awarding the licenses to Barden/President and Trump would thus be fulfilled, attorney Tabbert reiterated that indeed it would. Responding to a question by Dr. David Ross, Ed Ellers, President Casino, indicated that the developers are anticipating closure as early as 30 to 45 days. They believe they can be in operation in the water by August or September of 1995. Attorney Tabbert predicted that the Trump boat will be in the water by the end of the year.

The Indiana Gaming Commission has received correspondence from the City of Gary dated March 9, 1995, that representatives of the city would like to address the Commission at today's meeting. Mr. Klineman indicated that Gary Deputy Mayor Richard Comer would like to speak.

Deputy Mayor Comer indicated that uppermost on the minds of the Gary representatives is that the City of Gary reap any economic development from the riverboat licenses in the area. Deputy Mayor Comer likened the city's relationship with the licensees to a "marriage" that was experiencing "some difficulties" over the transaction. He added that based on their most current data, city officials now believe Buffington Harbor is not the best place, that a viable alternative might increase revenue production for the city. He asked for more time to work out an alternate site deal.

Deputy Mayor Comer indicated that in the beginning Gary did agree the Buffington Harbor site was the best location. However, in time they were forced to look at alternate sites because of the ongoing litigation with the Buffington property owners. They saw some tremendous advantages to the Little Calumet site. Mayor Comer wanted the record to note that from an economic development standpoint the city officials felt that there would be an opportunity for a revenue-producing infrastructure and also the potential for permanency. He indicated their feeling that if at some point "the marriage goes sour," the City of Gary would have something left out of the marriage. They felt that they would have more of an endowment from that (Little Calumet) site. Gary feels that this is a viable alternative to the Buffington site and one that they feel offers greater opportunities for Gary for potential revenues. The Calumet site sits right in the corridor of three major highways. The City of Gary has some objections to the

Buffington site. But if it is the Commission's desire to select Buffington, Deputy Mayor Comer indicated that that is fine. However, there are some stipulations the Mayor would like satisfied up front as a guarantee to the City of Gary.

Gary is stressing their main emphasis is with revenue enhancement and economic development. Deputy Mayor Comer indicated strong objections to Buffington and the city feels there are options to this site. In the meeting the City is having on Tuesday, March 14 with the developers, Mr. Comer hopes that everyone can come together for the mutual benefit of all.

Commissioner Dr. David Ross questioned the Deputy Mayor on the location of all their data during the Commission hearings in the fall and again in December. At that time, the City was backing Buffington. Dr. Ross asked if they had taken into account the loss of time by staying with the Little Calumet site.

Mr. Comer answered that at that time they were stuck with the Buffington site. Subsequently, when other sites were being considered, there appeared to be viable options. He indicated that the City of Gary had not heard of the new Buffington negotiations until Wednesday, two days before today's meeting. He added that the selection of Buffington amounted to a "quick-fix" that fails to take into account the city's best long-term interests.

Indiana Gaming Commission Executive Director Jack Thar expressed surprise that Gary officials after backing the Buffington Harbor site for so long are now calling its selection a "quick fix." He outlined the legal pitfalls associated with the Little Calumet site. The riverboat gaming applications are required to state the body of water on which the boats would cruise. They had cited Lake Michigan. There would likely be litigation from spurned suitors who want the process reopened due to the substantial changes in sites and the added negative reaction of Indiana legislators if the riverboats do not end up cruising on Lake Michigan itself.

Deputy Mayor Comer expressed his concern with a Buffington option which recently had been brought to city officials which they found to be very offensive. The chosen site is far smaller than the one originally contemplated, and he feels it is more associated with the City of East Chicago than Gary. Deputy Mayor Comer expressed concern that the applicants would deal with East Chicago on a temporary site build-out, as the property is directly adjacent to East Chicago. He reiterated that Gary's primary concern is that any economic development in the area be for Gary's benefit.

Chairman Alan Klineman agreed that the licenses must be site specific. The Commission has made the awarding of licenses site specific to Buffington. The only authority the Gaming Commission gave the applicants at the February 10, 1995, meeting was to explore something else. The Commission did not allow them to move -- that was not their request. Donald Tabbert, attorney for Trump Casino, stated that Buffington is the site. The Commission has nothing before it at the present time but that it did allow the two developers the thirty-day period to let it know about the other site. The body of water must also be site specific.

Executive Director Jack Thar added that the Farahi brothers who represent Dunes Marina Resorts and Casinos have written the Gaming Commission inquiring about the possibility of being re-considered for any new site. There is an organization that currently does not have an application on file, Rainbow Casinos, of which a Mr. Dibble and Mr. Morgan Murphy are present at today's meeting, who had originally suggested to the Commission that the Little Calumet site be explored. With regard to now looking at another site, these gentlemen feel they also should be considered. Any workable project at Buffington Harbor that this Commission can sanction is far better than any alternative site which is not included in an application and that the Commission has not put into a certificate of suitability.

Consequently, Chairman Alan Klineman added, the Gaming Commission does not have anything to consider in regard to Gary at today's meeting. He indicated pleasure with the recent development by the two operators. He noted that a number of people have already applied for employment and is glad to hear that the riverboats may be up and running by the end of the year. The Commission cannot continually go back and re-visit issues; it needs to go forward.

Upon question by Dr. David Ross regarding who will be the owner of the property, Ed Ellers, President president, answered that the ultimate owner will be the City of Gary.

Subsequent to questions and discussion among commissioners, it was decided that no further action is required at this time as the certificates of suitability specify the Buffington Harbor site.

#### New Business

##### A. Request of Swiss Par-A-Dice to Withdraw its Application for a Riverboat Owner's License in Switzerland County

Commissioner Alan Klineman explained that Swiss Par-A-Dice has

requested that their application be withdrawn and for the Swiss Par-A-Dice entity itself to not be considered at this initial point in time in any rounds regarding Switzerland County, and that it be held as a pending application and subject to a substitution at some later date if there is a second or subsequent round in that area.

Executive Director Jack Thar reported that the agenda item statement itself is in error because the Gaming Commission received a letter this morning from Priority Investors, part of the partnership, that Swiss Par-A-Dice wishes to go ahead with the application, but as Chairman Klineman has explained it -- that first, the request of Par-A-Dice to withdraw be granted or denied, and secondly, allowing the application to not be considered during the hearings that will occur sometime in the near future. Should Switzerland County be included in any further hearings after this first round, they then be given the opportunity to have their application heard. Swiss Par-A-Dice would be responsible for any additional costs that this action might incur. From a staff point of view, there is no problem with granting either of the requests.

Executive Director Thar read from Resolution 1995-5, A Resolution Concerning the Request of Par-A-Dice Gaming Corporation to Withdraw from the Swiss Par-A-Dice, L.P. Application for a Riverboat Owner's License and the Request that the Swiss Par-A-Dice, L.P. Application Not be Considered in the Initial Round of Hearings Involving Switzerland County, But Rather, in Any Second or Subsequent Rounds Involving Switzerland County, from Section 2. Request to Withdraw and forward. Upon motion by Ann Bochnowski, second by Dr. David Ross, the word "grant" was inserted in both blanks. The motion carried unanimously.

B. Request of Alpha Rising Sun, Inc. to Amend its Application for a Riverboat Owner's License in Ohio County in Either or Both of the Following Two (2) Ways:

1. By allowing Bally's Rising Sun, Inc., a subsidiary of Bally Entertainment Corporation, to Acquire a 9.5% Interest in Alpha Rising Sun, Inc. with an Option to Acquire up to a 50% Interest After Licensure;
2. By allowing Bally's Casino Holdings, Inc., a subsidiary of Bally's Entertainment Corporation, to be the Gaming Operation's Manager of the Gambling Operation Along with the Other Operations of the Riverboat and Ancillary Facilities Proposed to be Constructed by Alpha Rising Sun, Inc.

Executive Director Jack Thar explained that to allow Alpha Rising Sun, Inc. to amend its application to allow Bally's to acquire a 9.5% interest in Alpha Rising Sun, Inc. with an additional option, should they be awarded a license, to acquire up to a 50% interest is a substantive amendment to the application which requires, among other things, Gaming Commission approval and investigation of Bally Rising Sun, Inc. and Bally Entertainment Corporation. From a staff point of view, this requires re-investigation, re-affirmation of or a change in project numbers, all of which have already been finalized. The Gaming Commission staff does not support this particular application for substantially the identical reasons set forth at the last Gaming Commission meeting with regard to the request of Swiss Par-A-Dice to bring in Hollywood Casino as a part of its application. Mr. Thar advised that if the Commission allows this to occur, there would be no need to vote on item #2, or Resolution 1995-7, A Resolution Concerning the Request of Alpha Rising Sun, Inc. to Substantively Amend Part I and Part II of its Indiana Riverboat Owner's License Application by Amending the Application to Incorporate a Potential Management Agreement because it would be absorbed as a part of Resolution 1995-6. In any event, for the reasons put forth with regard to the delays, if the Commission were to grant this, it would also be the staff's position to re-visit Par-A-Dice's request to have Hollywood come in, Golden Nugget's request to have its application re-opened, etc. Mr. Thar pointed out that Mr. David Frick, attorney for Alpha Rising Sun, as well as representatives of Alpha Rising Sun and Bally, are in attendance to answer any questions the Commission might have. A large Rising Sun contingent is also in the audience.

Upon question by Commissioner Ann Bochnowski, if the Commission doesn't accept this change, does this take them completely out of the running, Executive Director Thar answered they still have a viable application on file. If Alpha Rising Sun brings in a major gaming partner, that would certainly improve their application. With regard to Swiss Par-A-Dice bringing in Hollywood as a partner, that was also an improvement. Commissioner Bochnowski indicated the Commission must make a decision to allow all of these and set new deadlines for that area and re-open the entire process, or to not allow and to go forward.

Chairman Klineman asked that the minutes show that the Indiana Gaming Commission has also received written communication from the Mayor of Rising Sun, who does not support anything that would delay the proceeding and allow Ohio and Kentucky to catch up. Pinnacle Gaming has also filed a letter through its attorney that if a decision by the Commission would cause a slowdown in the consideration of their application in Switzerland County, they



would like an opportunity to oppose it.

Attorney David Frick, Baker and Daniels, gave a background of the reasons for Alpha Rising Sun's request. Alpha Rising Sun representatives Tom Aro, President of Alpha Rising Sun, and Mack Dodson, Vice-President of Casino Holding for Alpha Rising Sun, gave brief presentations.

Upon motion by Dr. David Ross, second by Tom Milcarek, the resolution concerning the requested amendment of Alpha Rising Sun, Inc. reflecting the acquisition by Bally's Rising Sun, Inc., a subsidiary of Bally Entertainment Corporation, of a 9.5% ownership interest in Alpha Rising Sun, Inc. submitted February 28, 1995, was unanimously adopted with the word "denied" inserted.

Regarding **Resolution 1995-7**, Executive Director Jack Thar indicated that if at some point during the course of Alpha Rising Sun's presentation (if they choose to), they could say they would bring Bally in as the gaming operation manager, subject to the approval of the Gaming Commission. What benefit that would bring is unsubstantiated by any background investigation or analysis by IU-PUI. More discussion followed regarding the potential management agreement. The gaming manager issue is a supplier license issue not an amendment to a gaming license issue.

Upon motion by Dr. David Ross, second by Ann Bochnowski, it was unanimously adopted that **Resolution 1995-7** not be considered at this time. The minutes of the meeting will be attached to it to indicate that it was not considered.

#### Other Business

Chairman Alan Klineman announced the Indiana Gaming Commission will be in Vevay, Indiana, on April 27, 1995, for the regular business meeting at 8:30 a.m.; at 9:30 a.m., will receive public comments for Switzerland County; at 11:15 a.m., the public comment period for Ohio County; and at 1:45 p.m., the public comment period for Dearborn County. Those persons wishing to address the Commission should notify it in writing by the close of the business day, April 15, 1995. They should submit their names, addresses, and topics which they wish to address. Those persons will then be notified as to their allotment of time. Written comments from those who do not want to speak can also be submitted.

On April 28, 1995, at 8:30 a.m., the Commission will, without formal proceedings however, tour the Switzerland County sites; at 10:00 a.m., tour the Ohio County sites; at 12:45 p.m., tour the Dearborn County sites.

Executive Director Jack Thar pointed out that the times for the public comments portion of the agenda are tentative, subject to the requests the Gaming Commission receives from the public. Contrary to some of the media reports, no person or group has ever been denied an opportunity to be included in the public comment period.

Chairman Klineman announced that on May 15 and 16 the Indiana Gaming Commission will meet in Indianapolis to hear the presentations for Switzerland and Ohio Counties. On June 19, 20, 21, 22, and 23 the Commission also will meet in Indianapolis to receive presentations for Dearborn County. The Commission will have further proceedings after those dates. The full agendas for May and June will be available when the Commission meets in April.

#### Next Meeting

Upon question by Don Vowels regarding the regular 2nd-Friday-of-the-month Indiana Gaming Commission business meeting date, Chairman Klineman indicated that the Commission would not be meeting in Indianapolis on April 14, but rather on April 27 at 8:30 a.m. in Vevay at the Ogle Haus.

#### Adjourn

Upon motion by Ann Bochnowski, second by Dr. David Ross, the meeting was adjourned at approximately 12:30 p.m.