

**INDIANA GAMING COMMISSION  
REGULAR MEETING**

**9:30 a.m., May 15, 1995  
Auditorium  
Indiana Government Center South**

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

**Call to Order and Roll Call**

Chairman Alan Klineman called the meeting to order at approximately 9:30 a.m., noting that all of the sitting Indiana Gaming Commission members were present except for Bob Sundwick, who is presently convalescing from recent surgery. Mr. Sundwick was able to attend the recent public presentations in Vevay, Indiana, and to view the proposed riverboat sites for Switzerland, Ohio and Dearborn Counties. Chairman Klineman indicated that the applicant presentations for Switzerland and Ohio Counties following the business meeting today and tomorrow will be video-taped for Mr. Sundwick for his review. He intends to fully participate in the final decision concerning the Certificates of Suitability to be awarded in the southeastern corner of the state.

**Approval of the Minutes of the April 27, 1995 Meeting**

The minutes of the April 27, 1995 Indiana Gaming Commission regular business meeting which took place at the Ogle Haus in Switzerland County were unanimously approved on motion by Ann Bochnowski, second by Tom Milcarek.

**Report of the Executive Director**

Executive Director Jack Thar reported on several legal actions before the Commission. He advised that a charge of discrimination had been filed against the Commission with regard to an individual who had submitted an application for a job as an attorney for the Commission. The complaint was received last Wednesday and is still being reviewed with regard to the Commission's response to the Equal Employment Opportunity Commission.

Secondly, Mr. Thar reported that the Indiana Gaming Commission was sued by Boomtown Belle and SES, Boat, L.P., both applicants for Dearborn County, Indiana. They seek a declaratory judgement, basically taking the position that what is popularly known as the "one-boat-per-county" law which recently went into effect not be applied by the Commission retroactively, but rather only to applicants who apply from now on and such time after the law comes into effect. Executive Director Thar reported that the lawsuit was served during the Indiana Gaming Commission executive session this morning.

The certificates of suitability for Trump and Barden-President are due to expire on or about June 9, 1995. Executive Director Thar indicated that both Trump and Barden-President, as per the Gaming Commission's rule, have each sent a letter requesting an extension of this period. This is one of the resolutions that will be discussed later on in the meeting.

The Commission staff has continued to draft and review rules. Mr. Thar asked Chief Counsel Kay Fleming to address the Commission on the status of the rules.

Kay Fleming indicated that the Indiana Gaming Commission staff are revising the rules that were published on March 1 in the Indiana Register and are attempting to meet the July 1 deadline for publication as final rules. The deadline for submission is June 9. She will give the commissioners packets for their review and will announce later on in the day a time for a telephone conference to adopt the rules that will be then sent to the Attorney General's Office for review and for subsequent publication in the Indiana Register. At this point in time a date and time for the conference call has not been established but will be announced later today during the presentation phase. It was announced prior to the presentation by Rising Sun Riverboat Casino that the telephone conference would be conducted on June 7, 1995, at 10:00 a.m. The public is welcome to attend in Indianapolis.

Executive Director Jack Thar reported that on Friday, May 12, he had received a telephone call that an agreement had been signed between Lehigh Cement and the Trump organization and was also to be signed by the Barden-President organization for the sale of the Lehigh property to the developers. An agreement had been reached. It was represented that it would take approximately 45 days to go to closing and would be based on certain documents being prepared for the finalization of the transaction. On Sunday, May 14, 1995, an article appeared in The Indianapolis Star indicating that the court had ruled on the condemnation suit in favor of the City of

Gary's position. Mr. Thar also indicated that this morning Gaming Commission staff received faxed orders of the court from Gary. He asked Paula Neff, one of the attorneys for Lehigh, to address the Commission on her understanding of the status of the sale of the property from LeHigh to the developers and secondly, her understanding of the condemnation action and the effect, if any, on the sale and the situation.

Paula Neff indicated that Lehigh's position in terms of the condemnation is that they will appeal the decision. The Trump and Barden-President organizations would like to go through with the purchase of the land. The survey of the agreed-upon land area has not been completed. She indicated that it includes approximately 85 to 90 acres including the lake-front area and allows the continuation of the present industrial activities that have taken place on that property for many years. The condemnation suit is for 125 acres. Lehigh currently employs approximately 100 people. Upon a question by Don Vowels, Ms. Neff indicated that the 85 acres which the developers want to purchase is partially within the 125 acres the city is asking the courts to condemn.

Upon Don Vowel's question regarding whether the court when it ruled on the condemnation suit was aware of the Trump, Barden-President, LeHigh Agreement, Ms. Neff indicated that she had no idea of what the court was aware. Her recollection was that the final paperwork had not been concluded for the purchase agreement at the time of LeHigh's briefing to the court.

Executive Director Jack Thar explained that presently an agreement has been signed between Trump and LeHigh. He queried as to what remains to be accomplished between now and the date of closing. Is there anything of major significance?

Ms. Neff reported that a typical requirement is that there be no condemnation against the property. She added that her understanding is that additional negotiations have taken place and Barden is now ready to sign the LeHigh-Trump Agreement. All the property that Trump and Barden-President have agreed to buy is in Gary; none is in East Chicago.

Trump Attorney Don Tabbert indicated that counsel for the City of Gary was in fact informed about the signed Trump-LeHigh Agreement before the court made its decision last Friday. He reported that secondly, the City of Gary was updated last week on a daily basis regarding the impending negotiations. He added that it was his understanding that Barden-President is prepared to also sign by the end of this week. Upon a question by Ann Bochnowski, Mr. Tabbert indicated that once the agreement negotiations are finalized, the

developers will turn the land over to the City of Gary and then lease it back. The only problem was the acquiring of the land. Gary Mayor Barnes was informed by mail long before the court made the decision on the condemnation suit that the developers were in the process of acquiring acreage sufficient enough to carry out the riverboat projects. Mr. Tabbert reported that as soon as all the principals have signed the agreement, Trump is going forward full speed ahead.

Dr. David Ross inquired as to whether Lehigh is agreeable to go along with the agreement as long as the condemnation suit is pending. Mr. Tabbert responded that Lehigh is agreeable but as Paula Neff had previously indicated that at the time of closing, which is approximately 45 days, the condemnation suit would in fact be dismissed. Ms. Neff indicated that Lehigh would prefer to complete the purchase agreement. Everyone has put in a great deal of effort toward resolution of the purchase. Mr. Tabbert added that an extension of their Certificate of Suitability has been requested.

Chairman Alan Klineman asked for comment on their behalf from any representatives of the City of Gary. There being none, he requested that the meeting continue.

Indiana Gaming Commission Chief Counsel Kay Fleming gave an Evansville riverboat update. Certificate of Suitability riverboat holder Aztar is proceeding along nicely. Dealer schools have been set up for craps and blackjack. They have reportedly met all their promised minority hiring goals. They are in the process of hiring their upper managerial staff and are in the process of completing their occupational license applications. Dealers they have agreed to hire are in the process of filling out their applications, and they should forward those to us in June. The Jeffboat strike is settled. It looks like the boat will be completed near the end of July and will probably arrive in Evansville some time in August. They have a meeting with the Corps of Engineers this Wednesday, May 17. From the time Aztar begins construction, they should be operational within four months. The present time line is the end of September to the end of October to be operational. There was a lawsuit filed in federal court by Earl Harp challenging the conversion. He sued the National Park Service and other parties for converting Riverfront Park as the site for Aztar's riverboat development project. Aztar is not named in the suit. The Gaming Commission has a copy of the complaint. No answer has been filed.

Executive Director Jack Thar concluded his report.

**Old Business**

There was no old business.

**New Business**

A. **A Resolution Concerning an Extension of the Certificates of Suitability Issued to Trump Hotels and Casino Resorts and Barden/President Riverboat Casino-Gary, LLC on December 9, 1994**

Chairman Klineman reported that the 180-day period from the December 1994 issuance of the certificates of suitability to both Trump and Barden-President will fall due in June 1995. The Indiana Gaming Commission will not be meeting again prior to this expiration date.

Executive Director Jack Thar read from **Resolution 1995-11, A Resolution Concerning an Extension of the Certificates of Suitability Issued to Trump Hotels and Casino Resorts and Barden/President Riverboat Casino-Gary, LLC on December 9, 1994** indicating that both Trump Hotels and Casino Resorts and Barden-President Riverboat Casino have made progress toward complying with the conditions set forth in the Certificate of Suitability. They both have requested a hearing in regard to extending their certificates of suitability and time constraints are such that the Indiana Gaming Commission cannot conduct a hearing until after June 1995. Mr. Thar indicated that Section 1 of the Resolution sets forth the definitions; Section 2 extends the expiration date to July 31, 1995. When acted upon, the Resolution will be effective immediately.

Chairman Klineman added the first possible date to take any action on the issuance of the two extensions is in July. Mr. Thar indicated that they will probably have Army Corps of Engineer approval in July. Upon motion by Ann Bochnowski, second by Dr. David Ross, **Resolution 1995-11** was unanimously adopted.

B. **A Resolution to Give Effect to Section 3 of Senate Enrolled Act No. 572 and Section 15 of House Enrolled Act No. 1722**

The second resolution to be introduced gives effect to the expanded cruising language found in Senate Enrolled Act 572. Mr. Thar gave an overview of **Resolution 1995-12**. Section 15, which became law the first part of last week, spoke to when riverboats will be allowed to have gambling while the boat is at the dock site.

Section 15 of House Enrolled Act 1722 allowed for that to occur when water conditions necessitated it, weather conditions necessitated it, or traffic conditions necessitated the boat staying at the dock as determined by the master.

Subsequently over the weekend, Mr. Thar reported, Senate Enrolled Act of 572 became law and Section 3 thereof also addressed the same issue -- that is, when may a boat be at dockside and still allow gaming to occur. In that particular instance it was expanded beyond weather and water conditions, and also, when in the eyes of the master there are mechanical problems with the vessel at dock or the master has been notified that a condition could cause a violation of federal law if a riverboat were to cruise. As these sections of these two different statutes are not consistent but they are not irreconcilable, legal research was conducted by Ms. Fleming which indicated that the major rule of law in the State of Indiana is that when two statutes differ but they can be harmonized, that they should both be given in fact. In essence, then **Resolution 1995-12** merges the statutes together and for practical purposes says that the language contained in Section 3 of Senate Enrolled Act 572 is the language the Commission will use. Mr. Thar explained the necessity for the resolution. The applicants need to know what the Gaming Commission's position on cruising is.

Executive Director Thar read forward from Section 2 of the resolution explaining the effect of Section 15 of House Enrolled Act 1722 and Section 3 of Senate Enrolled Act 572. Upon adoption, the resolution will be effective immediately this day, May 15, 1995.

Upon motion by Don Vowels, second by Dr. David Ross, **Resolution 1995-12** was unanimously adopted.

#### **Other Business**

No other business.

#### **Next Meeting**

The next meeting of the Indiana Gaming Commission will be in Indianapolis in the Auditorium of the Government Center South, 402 West Washington Street, on Monday, June 19 at 9 a.m. At the conclusion of the business portion of this meeting, the Commission will go into the formal applicant presentations for Dearborn County. These presentations are scheduled through Friday, June 23, 1995, at the same location. Chairman Klineman indicated the applicants will be notified of the order.

**Adjourn**

The business portion of the Indiana Gaming Commission adjourned at 10:11 a.m., upon motion by Don Vowels, second by Ann Bochnowski, with the application presentations for Switzerland and Ohio Counties to follow after a short recess.