

**INDIANA GAMING COMMISSION  
REGULAR MEETING**

**8:15 a.m., May 8, 1996  
Indian Creek Theatre  
Corydon, Indiana**

**PRESENT:** Commission members Alan I. Klineman, Chair; Ann M. Bochnowski, Vice-chair; Donald R. Vowels, Secretary; Thomas F. Milcarek; David E. Ross, Jr, M.D.; Robert W. Sundwick; Robert W. Swan; Staff members Jack Thar, Floyd Hannon, Kay Fleming, Jill Copenhaver and an audience.

**Call to Order, Roll Call, and Announcements**

Chairman Alan Klineman called the meeting to order noting that all commissioners were in attendance and a quorum was present.

**Approval of the Minutes**

Minutes of the April 17, 1996, Indiana Gaming Commission meeting were unanimously approved on motion by Tom Milcarek, second by Bob Sundwick.

**Report of the Executive Director**

**Litigation**

**Gary**

Executive Director Jack Thar reported that the Indiana Gaming Commission along with the Trump organization and the Barden organization were sued last Thursday by several named plaintiffs in the City of Gary. The complaint alleges, in summary, that both of the developers failed to hire along promised percentages. They further allege that the developers also failed to include the percentage of local investors which they earlier had promised to include. The Commission is included as a defendant in the lawsuit although it has not at this time been served. From an available xeroxed copy of the complaint, Commission staff have been unable to determine what cause of action has been alleged against the Commission. However, the plaintiffs' requested remedy is that the Commission be restrained from issuing a license to either developer.

**Hammond**

Mr. Thar indicated that there could be potential litigation in regard to the City of Hammond and the Empress Riverboat Casino. The issue is whether or not there is land on the area that is to be developed as the docking and land-based facility site, commonly referred to as the peninsula, that

is under port authority. Part of the land has not been deeded over to Hammond through a land-patent procedure. This will be discussed more thoroughly later in the meeting.

### **Boat Openings**

#### **Gary**

With regard to potential boat openings, Mr. Thar reported that on this past Monday, the processing of employees for Barden and Trump started in Gary, Indiana. Both boats are targeted to open either the week of June 3 or June 10. The procedure will most probably begin June 3. The processing of their electronic gaming devices should begin next Monday, May 13. The Commission is awaiting delivery of some of the machines to the area. The Trump boat has been present in Gary for approximately five days; the Barden boat is anticipated to be there the latter part of the week.

#### **Hammond**

The present status of the opening in Hammond is that if they are able to obtain the Corps permit by mid-May, they would then be in a position to try to open, as they previously indicated, by July 4 of this year. The overpass construction is ahead of schedule, and it is crossable at this time. The garage and pavilion are close to being on schedule. The boat is going to be docked at Burns Harbor when it arrives in Indiana. The dock cannot be completed until Empress Casino receives the Corps permit.

#### **Rising Sun**

The Hyatt organization at Rising Sun has advised they are very close to getting the Army Corps of Engineers permit and anticipate having it by mid-May. If that is the case, they plan to open in mid-August or no later than mid-September.

#### **Lawrenceburg**

The Corps process is still in the suspension status in Lawrenceburg. They have not yet brought or acknowledged anything publicly about the financing. To update you, Indiana Gaming Company, LP was awarded the Certificate of Suitability on June 30, 1995. They did not have an Army Corps of Engineers' permit hearing until February 1996. From an Army Corps perspective, the delay was because of continual weekly changes in permit applications being submitted by the applicant. Second, a delay has occurred because of Argosy's attempt to raise approximately \$235,000,000 in the public market through the issuance of high-yield bonds that failed because of a Grand Jury investigation concerning the issuance of the Lawrenceburg license. Mr. Thar reported there are numerous groups investigating the issuance of the license, including private investigators on behalf of banking institutions, private investigators on behalf of certain partners involved in Indiana Gaming Company, LP, as well as the one being conducted by the Marion County Grand Jury. Mr. Thar indicated he is aware there is coordination between

the Marion County Prosecutor and the Dearborn County Prosecutor. Certainly the investigation, the delay in raising the \$235,000,000, and the Corps of Engineers' hold up have contributed to any delay in the licensing process in Lawrenceburg. On June 30 of this year, the Commission will be faced with the issue of whether or not that Certificate of Suitability should be renewed.

### **Michigan City**

Progress is being made in Michigan City. Certificate of Suitability holder Indiana Blue Chip has met with Commission staff on several occasions. The Certificate of Suitability will be completed by next Monday, May 13, or in the near future. They have been advised that the 90-day requirement imposed on them by the Commission means that there has to be substantial compliance in certain areas which are outlined in the Certificate.

### **East Chicago**

There is nothing new to report in regard to East Chicago. Executive Director Thar noted that the anticipated opening is in December of 1996 or in the first quarter of 1997.

### **Staffing Needs**

Discussions continue with both the State Budget Agency and the State Personnel Department regarding an increase in staffing. Presently, the Commission has one field auditor and one regional auditor and would like to increase the auditing staff by nine. The plan is for a total of two supervisors, 8 field auditors and the regional auditor. Commission staff is working with the State Budget Agency to work out preliminary details in order to present the budget package to the State Legislature next January.

Chairman Alan Klineman commented that the Indiana Gaming Commission is not under investigation regarding the granting of the Lawrenceburg license. The record should note the investigation revolves around other parties. In the history of state government, he feels that there has never been a group that has worked as hard as the staff of the Indiana Gaming Commission even though it has been under-staffed since its inception. He hopes that at some point in time adequate staff is present for the duties that have been placed on the Commission. When it goes into its full regulatory mode, it will need adequate staff to maintain the operation.

Executive Director Jack Thar concluded his report.

### **Old Business**

No additional old business.

## New Business

### **Rules**

Indiana Gaming Commission Chief Counsel Kay Fleming announced that the rules will no longer be released in draft form. They will be adopted by the Commission as proposed rules to be published in the *Indiana Register* in order to shorten the time length that it takes to get rules promulgated.

**Resolution 1996-26** adopts amendments to certain rules, specifically some definitions that are set forth in 68 IAC 1-1-8, which is the definition of a bill changer; the definition of drop bucket, which is set forth in 68 IAC 1-1-25; 68 IAC 1-1-30, defining electronic gaming device drop. The Resolution also adopts amendments to 68 IAC 2-5-4 which covers the curriculum for occupational training schools; and 68 IAC 17-1-2 and 68 IAC 17-1-3 which are electronic gaming device movements and the electronic gaming device transportation log. The Resolution also adopts new rules, specifically 68 IAC 5-3, which governs the manner in which riverboat licensee and riverboat license applicants are to present their debt acquisitions and debt transactions to the Commission for approval. 68 IAC 10-5 governs the rules for conducting the Big-6 game; 68 IAC 11-8 covers handling of cash at gaming tables ; 68 IAC 15, Rule 5, Wagering Tax, Rule 12, Live Gaming Device Bills and Credits; Rule 13, Manually Paid Jackpots and a new article, Article 18, Rule 1, which governs Patron Dispute and Procedures. Ms. Fleming indicated the rules will be published in the June 1, 1996, *Indiana Register* or the next available publication date pursuant to IC-4-22. The hearing on these rules will be held the last week in June, specifically June 24. That notice will be published in the *Indiana Register* and the Marion County newspapers.

**ACTION: Resolution 1996-26, A Resolution Amending 68 IAC 1-1-8, 68 IAC 1-1-25, 68 IAC 1-1-30, 68 IAC 2-5-4, 68 IAC 17-1-2 and 68 IAC 17-1-3 and Adopting Article 5, Rule 3; Article 20, Rule 5; Article 11, Rule 8; Article 15, Rules 5, 12, and 13; Article 18, Rule 1 for Publication as Proposed Rules** was unanimously adopted upon motion by Dr. David Ross, second by Ann Bochnowski.

### **Surety Bond for Trump Indiana, Inc.**

Executive Director Thar introduced **Resolution 1996-27, A Resolution Approving the Bond that is to be Posted by Trump Indiana, Inc.** Since April 12, 1996, Trump Indiana, Inc. has had a bond posted in the amount of \$25,000,000, including a cash deposit with the State of Indiana, which satisfies the statutory requirements of IC 4-33-6-9. The amount of \$25,000,000 is sufficient to satisfy the legal and financial obligations of Trump IN. Trump IN has now posted Surety Bond and Guaranty, Bond Number 12-0110-31492-96-4, in the amount of \$25,000,000 with the United States Fidelity and Guaranty Company. Mr. Thar indicated the Surety Bond and Guaranty, Bond Number 12-0110-31492-96-4, is being presented to the Commission for final approval. Upon approval by the Commission, the cash deposit posted by Trump IN will be

replaced and released.

**ACTION: Resolution 1996-27, A Resolution Approving the Bond that is to be Posted by Trump Indiana, Inc.,** was unanimously adopted upon motion by Donald Vowels, second by Tom Milcarek.

### **Renewal of Certificate of Suitability for Empress Casino Hammond Corporation**

Executive Director Jack Thar explained that on November 17, 1995, the Indiana Gaming Commission issued a Certificate of Suitability to Lake Michigan Charters, Ltd. for a riverboat owner's license for a riverboat to be docked in Hammond, Indiana. The Certificate of Suitability is valid for a period of one hundred and eighty days until May 16, 1996. At the Commission meeting on March 20, 1996, it was acknowledged that the applicant had changed its name to Empress Casino Hammond Corporation. Empress Casino requests that the Commission grant an extension of its Certificate of Suitability until either the earlier of November 16, 1996, or the date a permanent riverboat owner's license is issued. Mr. Thar indicated that representatives from both Empress Hammond and the City of Hammond are present at today's meeting. The Indiana Gaming Commission has also received three letters from the law firm of Hinshaw and Culbertson (on the land-permit issue), urging that the extension not be renewed. Commissioners have been notified of all of the various legal reasons for this request. Commission staff have also received a letter from Bally Entertainment Corporation indicating that they agree with particular points brought forth by Hinshaw and Culbertson. A letter from C. J. Manion insists that the Commission should issue a stop-work order at the Hammond Marina.

Mr. Thar reported all of those requesting that the Commission not renew the Certificate of Suitability focused upon the land-patent issue. Maps have been provided to the Commissioners, which show in simplistic form the following: some years ago, one could create land by filling in parts of Lake Michigan if one received a permit (the lake bed was owned by the State) from the State; once the lake was filled in or re-claimed, you then applied for a land-patent, a deed from the State granting the municipality or governmental entity title to the land or property that has now been created. When the Indiana Riverboat Gambling Act passed, people checked the files of the Department of Natural Resources to determine whether or not the Water Works or Port Authority area of Hammond, where the riverboat will be located, was covered correctly under the land-patent issue. It was initially determined that it was. Files from the City of Hammond also indicated concurrence. Subsequently, in more closely checking the various plats against the legal descriptions, Mr. Thar reported, it has been noted that there has been an administrative or scrivener's error and approximately 1.3 acres of the peninsula were omitted, although all the land around it was included. The Department of Natural Resources has advised the procedure to correct this is underway and should be completed in a couple of weeks. The land in fact will be deeded over to the City of Hammond. From their perspective, it is simply an administrative error and will be corrected administratively.

Project Coordinator for Empress Casino-Hammond Michael Hanson addressed the Commission.

He introduced Phil Bayt from Ice Miller Donadio and Ryan, Jim Bennett, the project coordinator for the City of Hammond, and David Lauther Johnson from Baker and Daniels, attorney for the City of Hammond. He expressed appreciation for the opportunity to address the Commission and requested an extension for their Certificate of Suitability. They are on target for a July 4 (if not earlier) opening date. They believe they have been faithful in all of their commitments. They have worked with the Indiana Gaming Commission staff who have been extremely helpful and cooperative. They have kept the IGC staff advised at all times via telephone calls, personal telephone calls, and weekly status reports with respect to their progress at Hammond. They have also worked with the mayor, the town council, the Hammond Port Authority, and other various bodies and people interested in and around the City of Hammond to keep everyone advised and to bring all into the process. Mr. Hansen has given the Commission a series of pictures that were taken over the week-end so that commissioners can visually see the progress that has been made since construction began in early 1996.

Mr. Hansen gave an update on Empress-Hammond's current status with respect to their Certificate of Suitability. Mr. Thar was correct in reporting about the three main components of their project: 1) the overpass, 2) the guest center, and 3) the parking garage. The overpass will in fact be completed early and is driveable even now. It should be completed within a couple of weeks. The guest center is phenominally ahead of schedule; they will be occupying it on a temporary basis for the opening, with the first two floors completed. Empress has been informed by their general contractor that the entire facility should be completed in late-September (ahead of schedule). The parking garage is the one component that is now on schedule. Slack time is in the schedule should there be adverse weather. The sewer is nearly completed. The Empress boat has been berthed in Sturgeon Bay, Wisconsin, over the winter. It will be traveling down Lake Michigan (an 18-hour cruise) to the Port of Indiana in Portage, where it will be for one month until approximately June 15, when it will be taken to Hammond Marina in preparation for the opening. The gaming equipment will be installed at the Port of Indiana, as well as installing more sprinkler systems, hand rails and items of that nature to make it a much better gaming facility.

Mr. Hansen reported that the second part of their Certificate addresses off-site issues such as the hotel, housing, and commercial development. Despite discussions with city officials regarding these, no concrete agreements have been developed. These areas will be their major focus after they open in July.

Empress-Hammond officials have met with the City of Whiting and have an agreement concerning the distribution of the \$1.25 million over the five years. Discussions have been held with the city with respect to how the not-for-profit will be disbursed, how in fact their incubator will work and how the public safety monies will be distributed. They are in the process of setting up their MBE/WBE program. The Milwaukee Clipper has left the marina. They entered into an agreement with the Port Authority prior to its leaving, that of the \$5 million that they had committed to the Clipper, \$2.75 million would be allocated to the Port Authority for the construction of a new administration building for offices and a resource center for the City of

Hammond.

With respect to the development agreement, Mr. Hansen reported that process is nearing completion. They met with the City of Hammond this week and have one more meeting with the city officials before meeting with the mayor and principals of Mr. Hansen's corporation. They anticipate no problems. Out of that agreement will come the lease agreements for the land and for the marina. These are in draft form and will be finalized by the end of this month.

Mr. Hansen indicated they have been in constant contact with the Army Corps of Engineers and have had many meetings with Corps personnel. Approximately a week ago, the Corps indicated they had had all of their questions answered and had all of the information they needed, and were standing firm on their commitment to have the permit issued by mid-May. They have also been in contact with the U.S. Coast Guard with respect to their certification and that process is ongoing and in good hands. They have filed their Emergency Response Plan with the Gaming Commission and have put up their cash bond in the amount of \$15,000,000. They have obtained all of their insurance and complied with all the rest of the requirements of staff with respect to filing the internal controls, the various plans and designs, and other matters that are necessary. In October of 1995 Empress' presentation theme was, "We're ready!" To date they have complied with that theme. They will be ready by the July 4 opening date.

Commissioner Ann Bochnowski inquired as to the expense allocated for the Milwaukee Clipper. Mr. Hansen explained that currently the Clipper is in the Calumet River and negotiations are under way with the Port Authority and various cities on Lake Michigan in the hope that some time this summer it may be moved to another site. Lake Michigan Charters-Empress will pick up this cost. Mr. Hansen indicated that Empress has already spent \$500,000 on the Milwaukee Clipper. Once the vessel is moved out of the Calumet River, and the sum of those relative costs is known, this total can be added to the 2.75 million dollars already allocated to the Hammond Port Authority and the balance allocated totally to the social services. He anticipates a minimum figure will be \$1,000,000 to \$1,500,000.

**ACTION: Resolution 1996-28, A Resolution Concerning an Extension of the Certificate of Suitability Issued to Empress Casino Hammond Corporation on November 17, 1995,** was unanimously approved till August 30, 1996, on motion by Ann Bochnowski, second by Dr. David Ross.

#### **Surety Bond for Empress Casino Hammond Corporation**

Executive Director Jack Thar introduced **Resolution 1996-29, A Resolution Approving the Bond that is to be Posted by Empress Casino Hammond, Corp.** On May 2, 1996, Empress posted \$15,000,000 in cash with the State of Indiana. The Indiana Gaming Commission has been notified by Special Counsel Virginia Dill McCarty that this amount and the present way it has been posted satisfy the statutory requirements and requirements of this Commission. Mr. Thar reported that at some point in time Empress' intention is to substitute a surety bond in lieu

of the cash which is temporarily on deposit. It is the Indiana Gaming Commission staff's recommendation that this be approved.

**ACTION: Resolution 1996-29** was unanimously approved and adopted upon motion by Don Vowels, second by Tom Milcarek.

### **Approval of Financing for Majestic Star Casino**

Chairman Alan Klineman introduced Majestic Star Casino spokesperson, Frank Zinn, who is available to answer any questions.

Executive Director Jack Thar outlined discussions with both Mr. Zinn and Mr. Don Barden for some time concerning financing for Majestic Star Casino. The Indiana Gaming Commission staff have reviewed a Confidential Preliminary Offering Memorandum, subject to completion, dated April 30, 1996, whereby The Majestic Star Casino, L.L.C. seeks permission to offer Senior Secured Notes due 2003 in an amount not less than \$105,000,000.

Mr. Frank Zinn expressed his appreciation for the Indiana Gaming Commission's help through this process. All of the offering money is to go toward the project.

Chairman Alan Klineman added that a letter from Barnes and Thornberg indicates that the requested financing does not in any way hypothecate or pledge Majestic Star Casino's Certificate of Suitability or the license which may follow. He noted that the project will still have an equity investment of \$28,000,000, which is the pure equity minimum.

**ACTION: Resolution 1996-30** was unanimously adopted upon motion by Bob Swan, second by Dr. David Ross.

### **Occupational License Issues**

Deputy Director Floyd Hannon explained that several issues regarding occupational licenses have arisen that the Commission did not originally anticipate. **Resolution 1996-31, A Resolution Concerning Occupational License Policies to be Implemented by the Commission**, addresses this problem. Specifically, it covers instances where people have been promoted from one level to another, instances where people have lost their badges or have moved from one boat to another. Policies need to address these circumstances. A 60-day cut off has been established to cover the return of an employee to a boat. Mr. Hannon explained the Resolution addresses omissions in the promulgated rules with respect to occupational licenses .

**ACTION: Resolution 1996-31** was unanimously adopted on motion by Don Vowels, second by Bob Swan.

### **Waiver of Temporary License Requirement for Installation of Computer Equipment for**



### **Trump Indiana, Inc. and Majestic Star Casino**

IGC Chief Counsel Kay Fleming explained that Logical Solutions International Inc. (LSI) supplies the accounting equipment that both the Trump and Majestic Star riverboats wish to utilize to track the adjusted gross revenue, the amount on which the riverboat licensee pays wagering taxes. LSI submitted its application for a supplier's license late. Commission rules require that LSI be licensed before it can install the accounting package on a riverboat. The Commission will be unable to complete the preliminary background investigation necessary to issue a temporary supplier's license before the accounting software can be installed.

Trump and Majestic Star have agreed the accounting software will be removed if LSI is not suitable for licensure. Trump and Majestic Star have also agreed the accounting software program will not be relied upon until approved by the Commission staff. As a result, Commission staff recommends LSI be allowed to install the accounting software based on the conditions outlined.

**ACTION: Resolution 1996-32, A Resolution Granting Logical Solutions International Inc. the Ability to Install its Accounting system on The Majestic Star and Trump Riverboats Prior to Receipt of a Temporary Supplier's License**, was unanimously adopted by Tom Milcarek, second by Ann Bochnowski.

### **Other Business**


No other business.

### **Adjourn Business Meeting to Continue Public Hearings Concerning Applicants for a Riverboat License at Harrison County, Indiana**

Chairman Alan Klineman indicated that at the conclusion of the public hearings portion of today's meeting, the next business meeting of the Indiana Gaming Commission will be announced. Upon unanimous vote, the business meeting was adjourned. The continuation of the public hearings concerning applicants for a riverboat license at Harrison County, Indiana, will continue after a 15-minute break

The meeting was subsequently scheduled for May 20, 1996, at 11:00 a.m. in Indianapolis, exact location to be announced.

Respectfully submitted,

  
Pamela S. Ayres

**THE INDIANA GAMING COMMISSION:**

  
Alan I. Klineman, Chair

**ATTEST:**

  
Donald R. Vowels, Secretary