

INDIANA GAMING COMMISSION
REGULAR MEETING

11:30 a.m. March 11, 1994 Conference Center Auditorium
Indiana Government Center South

MINUTES

PRESENT: Commission members Alan Klineman, Gene Hensley, David E. Ross, Jr., Robert Sundwick, Donald Raymond Vowels, Ann Marie Bochnowski (arriving late at 11:45 a.m.); Staff members John J. Thar, Judy Greene, Floyd B. Hannon, Pam Ayres; from the Army Corps of Engineers, Bill Christman, Chief of Regulatory Branch; Doug Shelton, Chief of Northern Section, Regulatory Branch (Louisville); Charles Simon and Dave Gesl, Detroit Army Corps of Engineers (arriving late) and an audience.

Call to order and approval of February 11, 1994, Minutes

Chairman Alan Klineman called the meeting to order at 11:35 a.m. with the announcement that Ann Bochnowski has been delayed but was in route. Upon motion from Bob Sundwick and second by David Ross, the minutes of the February 11, 1994, meeting were approved.

Report from the Executive Director

Executive Director Jack Thar gave an update on the Porter County legal action before the Commission. On February 24, 1994, the plaintiffs filed a Motion to Correct Errors, the first step in perfecting an appeal of the Court's ruling. A response was filed on behalf of the Indiana Gaming Commission on Wednesday, March 9, 1994. A hearing on the motion and the response are scheduled for March 23, 1994, at 1:00 p.m. in the Porter County Superior Court.

During the past month, Gaming Commission staff members have met with the Army Corps of Engineers and the Coast Guard. Mr. Thar reported that the second meeting with the Louisville Army Corps of Engineers took place on February 24. Staff met with the Detroit Army Corps of Engineers on February 16. Mr. Thar introduced Bill Christman, Chief of the Regulatory Branch, and Doug Shelton, Chief of the North Section of the Regulatory Branch, Louisville Corps of Engineers, who will present a report to the Gaming Commission. In addition, Mr. Thar announced the anticipated arrival of two members of the Detroit Army Corps of Engineers, Charles Simons and Dave Gesl, to also address the Commission on their respective roles.

Several meetings have taken place with the U.S. Coast Guard at Louisville and Chicago. Staff met in Louisville on February 24 and in Chicago on March 4. Mr. Thar plans to involve each group with

the IGC at a future meeting. Several IGC staff met on February 12 in Gary concerning supplier licensing and minority and women's business enterprises. Additional meetings are scheduled for Saturday, March 19 and 26. Members of staff will be present at each of these.

Noon, March 4 was the deadline date for applicants to pay the cost of the May 4, 1994, special election on the question of riverboat gambling. The commission received four applicants and the question will appear on the ballot in three counties.

1. Crawford County - 1 Crawford Co. Casino Corporation
2. Harrison County - 1 Riverboat Development, Inc.
3. Jefferson County - 2 Madison Landing Associates, Inc.
Jefferson-Madison Limited
Liability Co.

An initial investigative team organizational supervisory meeting was held on February 28, 1994, with an expanded meeting on March 7, 1994. The teams will be in place on Monday, March 14 and training by the Illinois Gaming Board will be on March 15. Mr. Thar concluded his report.

Old business

Chairman Alan Klineman announced that there was no old business.

New business

A. Election costs for the November 2, 1994, Referendum

Chairman Klineman explained that the Indiana State Board of Accounts, under the State Examiner's Memorandum of August 31, 1993, authorized the refunding of any excess estimated special election costs. The Gaming Commission's Resolution 1993-3 provides that the first applicant pay for the referendum but anyone else subsequently filing in that county would have to reimburse the original payor on a pro rata basis. The commission had set deadlines for applicants to apply for a riverboat owner's license to be located in those counties or cities, those deadlines have passed, and, consequently, the total number of applicants is known.

Chairman Klineman introduced Brad King, Counsel for the State Election Board, who gave a report to the Commission on the referenda costs in all eleven jurisdictions where referenda were held. Mr. King referred to Resolution 1994-6, A Resolution Establishing the Pro Rata Cost of the November 2, 1993 Referendum to be Paid by Applicants for a Riverboat Owner's License, which spells out the apportionment among multiple applicants for payment

of actual election costs. At Chairman Klineman's suggestion, Mr. King read the procedures and order for payment of the pro rata share of election costs and refunds of excess payment of election costs for those counties of Clark, Dearborn, Floyd, Ohio, Switzerland, Vanderburgh, and Warrick on the Ohio River, and the counties of LaPorte and Porter on Lake Michigan, and the cities of East Chicago and Hammond on Lake Michigan. They are as follows:

<u>Clark County</u>	Estimated Cost	\$92,179.25
	Actual Cost	<u>72,651.41</u>
		\$19,527.84

The pro rata share of the actual election costs for each of the two applicants in Clark County, IN, is Thirty-six Thousand Three Hundred Twenty-five Dollars and Seventy-five Cents (\$36,325.75). Ogden Riverboat Associates, L.P. is to issue either a cashier's check or a certified check to Harrah's Southern IN Riverboat Partnership in the amount of Thirty Six Thousand Three Hundred Twenty-Five Dollars and Seventy-Five Cents (\$36,325.75). The Clark County Auditor is authorized to refund the amount of Nineteen Thousand Five Hundred Twenty-seven Dollars and Eighty-four Cents (\$19,527.84) as an excess payment of estimated election costs to Harrah's Southern Indiana Riverboat Partnership.

<u>Dearborn County</u>	Estimated Cost	\$38,526.64
	Actual Cost	<u>23,378.53</u>
		\$15,148.11

There are a total of eleven applicants for a Riverboat Owner's License in Dearborn County, IN; their pro rata share is Two Thousand One Hundred Twenty-five Dollars and Thirty-two Cents (\$2,125.32). Schilling Casino Corp., Lady Luck Lawrenceburg Development Corp., Ameristar Casinos, SES Boat L.P., Boomtown Belle II L.P., Lawrenceburg Riverboat Gaming Corp., Golden Nugget Lawrenceburg, Inc., Harrah's Indiana Investment Corp., Boyd Gaming Corp., and Imperial Palace of Indiana, Inc. are each to issue a cashier's check or a certified check in the amount of Two Thousand One Hundred Twenty-five Dollars and Thirty-two Cents (\$2,125.32) made payable to Indiana Gaming Company, L.P. The Dearborn County Auditor is authorized to refund the amount of Fifteen Thousand One Hundred Forty-eight Dollars and Eleven Cents (\$15,148.11) as an excess payment of estimated election costs to Indiana Gaming Company, L.P.

<u>Floyd County</u>	Estimated Cost	\$54,550.00
	Actual Cost	<u>43,496.96</u>
		\$11,053.04

The pro rata share of the actual election costs for each of the five applicants in Floyd County, IN, is Eight Thousand Six Hundred Ninety-nine Dollars and Thirty-nine Cents (\$8,699.39). Four applicants each paid the cost of the special election which was held on November 2, 1993, in Floyd County. The Floyd County Auditor, through the State Election Board, has advised the Commission that the Auditor has refunded to Eldorado Riverboat, L.L.C., Jackpot Indiana Riverboat, Inc., Grand Casinos, Inc., and Mount Albany Grand Casinos, Inc. the amount of Forty-three Thousand Six Hundred Seventy-five Dollars and Seventy-six Cents (\$43,675.76) each.

Pursuant to Resolution 1993-3, New Albany Landing Co., L.L.C. is to issue cashier's checks or certified checks in the amount of Two Thousand One Hundred Seventy-four Dollars and Eighty-five Cents (\$2,174.85) to each of the following: Eldorado Riverboat Limited Liability Co., Jackpot Indiana Riverboat, Inc., Grand Casinos, Inc., and Mount Albany Grand Casinos, Inc.

<u>Ohio County</u>	Estimated Cost	\$15,604.75
	Actual Cost	<u>11,183.35</u>
		\$ 4,421.50

Ohio County has a total of three applicants. As a result, the pro rata share of the actual election costs for each applicant is Three Thousand Seven Hundred Twenty-seven Dollars and Seventy-five Cents (\$3,727.75). Mystic Rose Entertainment and Gamma International, Ltd. are each to issue a cashier's check or a certified check in the amount of Three Thousand Seven Hundred Twenty-seven Dollars and Seventy-five Cents (\$3,727.75) to Alpha Rising Sun. The Ohio County Auditor is authorized to refund the amount of Four Thousand Four Hundred Twenty-one Dollars and Fifty Cents (\$4,421.50) as an excess payment of estimated election costs to Alpha Rising Sun.

<u>Switzerland</u>	Estimated Cost	\$20,000.00
<u>County</u>	Actual Cost	<u>8,996.98</u>
		\$11,003.02

The pro rata share of the actual election costs for each of the three applicants in Switzerland County, IN, is Two Thousand Nine Hundred Ninety-eight Dollars and Ninety-nine Cents (\$2,998.99). Switzerland Riverboat Gaming Corp. and Swiss Par-A-Dice L.P. are each to issue a cashier's check or a certified check in the amount of Two Thousand Nine Hundred Ninety-eight Dollars and Ninety-nine Cents (\$2,998.99) to Pinnacle Gaming Development Corp. The Switzerland County Auditor is authorized to refund the amount of Eleven Thousand Three Dollars and Two cents (\$11,003.02) as an excess payment of estimated election costs to Pinnacle Gaming Development Corp.

<u>Vanderburgh</u>	Estimated Cost	\$198,665.00
<u>County</u>	Actual Cost	<u>135,240.00</u>
		\$ 63,425.00

Vanderburgh County had a total of six applicants. As a result, the pro rata share of the actual election costs for each applicant is Twenty-two Thousand Five Hundred Seventy Dollars (\$22,570.00). Pursuant to Resolution 1993-3, Player's International, Inc., Jumer's of Evansville, Inc., Aztar Indiana Gaming Corp., Riverfront Station, Inc., and River City Casino, L.L.C. are each to issue a cashier's check or a certified check in the amount of Twenty-Two Thousand Five Hundred Seventy Dollars (\$22,570) made payable to Evansville Landing (formerly Gold Strike Resorts). The Vanderburgh County Auditor is authorized to refund the amount of Sixty-three Thousand Four Hundred Twenty-five Dollars (\$63,425) as an excess payment of estimated election costs to Evansville Landing.

<u>Warrick County</u>	Estimated Cost	\$38,670.00
	Actual Cost	<u>29,538.36</u>
		\$ 9,131.64

Ameristar Casinos Inc. applied for a Riverboat Owner's License in Warrick County, Indiana. The Warrick County Auditor is authorized to refund the amount of Nine Thousand One Hundred Thirty-one Dollars and Sixty-four Cents (\$9,131.64), as an excess payment of estimated election costs to Ameristar Casinos, Inc.

<u>LaPorte County</u>	Estimated Cost	\$75,944.00
	Actual Cost	<u>56,381.47</u>
		\$19,562.53

There are a total of six applicants in LaPorte County, IN. The pro rata share of the actual election costs for each applicant is Nine Thousand Three Hundred Ninety-Six Dollars and Ninety-One Cents (\$9,396.91). Pursuant to Resolution 1993-3, Joint Venture between Hilton Michigan City Corp. and Caesar's Indiana Resorts Corp., Players Michigan City, Inc., Indiana Blue Chip Hotel & Riverboat Casino Resort Corp., and CHC Ltd., L.L.C., and Players Michigan City, Inc. are each to issue a cashier's check or a certified check in the amount of Nine Thousand Three Hundred Ninety-Six Dollars and Ninety-One Cents (\$9,396.91) to Michigan City Casino & Lodge, Inc. The LaPorte County Auditor is authorized to refund the amount of Nineteen Thousand and Five Hundred Sixty-two Dollars and fifty-three Cents (\$19,562.53) as an excess payment of estimated election costs to Michigan City Casino & Lodge, Inc.

<u>Porter County</u>	Estimated Cost	\$104,000.00
	Actual Cost	<u>88,948.93</u>
		\$ 15,051.07

Circus, Circus Enterprises, Inc. applied in Porter County, Indiana and paid One Hundred Five Thousand Dollars (\$105,000). The actual payment exceeded the actual cost of the November 2, 1993, election by Sixteen Thousand Fifty-one Dollars and Seven Cents (\$16,051.07)*. The Porter County Auditor is authorized to refund this amount to Circus, Circus Enterprises, Inc. as an excess amount.

<u>East Chicago</u>	Estimated Cost	\$40,000.00
	Actual Cost	<u>33,205.77</u>
		\$ 6,794.23

Showboat Marina Partnership applied in East Chicago and paid the \$40,000.00 special election costs. The Lake County Auditor is authorized to refund the amount of Six Thousand Seven Hundred Ninety-four Dollars and Twenty-three Cents (\$6,794.23), as an excess payment of estimated election costs to Showboat Marina Partnership.

<u>Hammond</u>	Estimated Cost	\$85,000.00
	Actual Cost	<u>68,927.06</u>
		\$16,072.94

There are a total of four applicants for a Riverboat Owner's License to be located in Hammond, Indiana. The pro rata share of the actual election costs for each applicant is Seventeen Thousand Two Hundred Thirty-one Dollars and Seventy-seven Cents (\$17,231.77). Mirage Riverboats of Indiana, Boyd Indiana, Inc., and Bally's Indiana Limited Partnership are to each issue a cashier's check or a certified check in the amount of Seventeen Thousand Two Hundred Thirty-one Dollars and Seventy-seven Cents (\$17,231.77) made payable to Lake Michigan Charter Ltd. The Lake County Auditor is authorized to refund the amount of Sixteen Thousand Seventy-two Dollars and Ninety-four Cents (\$16,072.94) as an excess payment of estimated election costs to Lake Michigan Charter Ltd.

*NOTE: The Commission has been advised that the figures of the actual election costs submitted by the Porter County Auditor, through the State Election Board, were incorrect due to a scrivener's error. The actual cost of the election was Eighty-nine Thousand Two Hundred Ninety-nine dollars and Forty-eight Cents (\$89,299.48). Therefore, the estimated payment exceeded the actual cost of the November 2, 1993, election by Fifteen Thousand Seven Hundred Dollars and Fifty-two Cents (\$15,700.52). The Commission ORDERS the Porter County Auditor to refund the amount of Fifteen Thousand Seven Hundred Dollars and Fifty-two Cents (\$15,700.52), as an excess payment of estimated election costs to Circus, Circus Enterprises, Inc.

The Commission resolved that the applicants in a given jurisdiction must reimburse the applicant who paid the costs of the election the pro rata amount by noon, March 25, 1994. The applicant who paid the costs of the election is to notify the Commission by noon, March 31, 1994, that it has or has not received the appropriate funds from each applicant.

Resolution 1994-6 unanimously passed on motion by Dr. David Ross, second by Gene Hensley (Resolution attached).

B. Authorization of Executive Director to Amend Indiana Riverboat Owner License Application Part II for the Indiana Gaming Commission

Chairman Klineman noted that some of the questions outlined on the Riverboat Applications have caused a need for further clarification. The Application is divided into both public and private/confidential areas and there has been a question as to whether or not some of this private material should be made public. Some matters that should remain private are tax returns, trade secrets, and copies of security and surveillance procedures which gaming applicants are going to use in the operation of riverboats. It would serve no useful purpose for the public to be involved in these. The Commission has re-evaluated Part II of the Application and has decided that it should amend Part II before applicants file and to notify those who have already filed. The Commission wants to authorize Executive Director Jack Thar to investigate what should be made public.

Ann Bochnowski indicated that what was clear to the drafters of the Application was not necessarily the case to those applying. There is definitely a need to ensure that questions are clearly stated and understood. There have been other viewpoints expressed that additional areas should be made public.

There was general consensus that newspaper reports have provided valuable input and that the Commission certainly wants to be very open. Chairman Klineman related that 95% of the information on the riverboat applications will in fact be made available to the public; very little will be private.

Executive Director Jack Thar read aloud **Resolution 1994-7--A Resolution Authorizing the Executive Director to Amend Indiana Riverboat Owner License Application Part II for the Indiana Gaming Commission.**

Discussion followed regarding applicant economic assessments. Mr. Thar reported that the SPEA report will include an economic assessment of each applicant and SPEA's report to the Gaming Commission will be made public in some form. Gene Hensley asked

the significance of the July 1, 1994, date as a deadline for expiration of interim written guidelines. Mr. Klineman added that the explanation is that new rules will actually be promulgated by this date. Mr. Thar added that the Commission should have the initial set of rules and regulations available at the Commission's next meeting.

The resolution was adopted on unanimous vote upon motion by Don Vowels, second by Ann Bochnowski (Resolution attached).

C. April 4, 1994 deadline date for Part II of the Owner's License Application

Alan Klineman explained that because April 1, 1994, is a holiday, the Indiana Gaming Commission office will be closed. Staff wanted to allow more time for filing Part II of the Application. In light of the previous resolution, the Indiana Gaming Commission recommends that the deadline of April 4, 1994, be extended to noon, April 13, 1994.

Executive Director Jack Thar read Resolution 1994-8--A Resolution Extending the April 4, 1994, Deadline for Filing Part II of the Owner License Application Form. He encouraged applicants to file early if at all possible.

Resolution 1994-8 was adopted by unanimous vote on motion by Don Vowels, second by Gene Hensley (Resolution attached).

Other Business

Presentation by the Army Corps of Engineers

Doug Shelton from the Louisville district thanked Mr. Thar for inviting the Army Corps to speak. They always enjoy talking about the regulatory process and procedures. He discussed the Rivers and Harbors Act and the Clean Waters Act. Each single operation will need a permit to operate a casino. Each operation will need a full public review. At the completion of gathering information, they will make a decision. The Detroit District will process Lake Michigan and the Louisville district, Patoka Lake and the Ohio River. He invited any questions that commissioners might have regarding processing procedures. (Mr. Thar indicated that the Army Corps of Engineers representatives would be available after the Commission meeting to answer questions from the media and audience.)

Detroit Army Corps Engineer Charles Simon indicated that these various bodies of water are entirely different in character. Any structure in any waterway will require some kind of a permit, if it requires any dredging, any shore-line alteration and dockage, and

any mooring pilings additions. Any wetlands areas development will require approval.

Other governmental agencies are also involved in any decision-making: the U.S. Fish and Wildlife Service, the Department of Agriculture, the U.S. Environmental Protection Agency, and the State Historic Preservation Offices, and within each of these agencies, some divisions with which the Army Corps of Engineers will coordinate for technical support.

It was stressed that although each area of an application is investigated, the entire application is approved or denied. There are not different permits for separate areas.

Director Thar asked about the Corps's policy on Patoka Lake. He didn't recall whether they were governed by an Army policy or one from the U.S. Corps of Engineers. Louisville Corps personnel explained that Patoka Lake was built by the Corps of Engineers, Department of the Army. It is their policy not to allow gambling on Corps developed lakes. Their intention was to design it toward more family-related activities. It would definitely require a change in policy at the Washington D.C. level as the gaming concept violates the policy.

Upon a question from Ann Bochnowski regarding a timetable of events, Charlie Simon explained that some initial contact from applicant representatives has already been made. There was Commission concern that a license would be granted and then the site would not be feasible. Alan Klineman reiterated that Commission staff have met with U.S. Coast Guard and Army Corps staff to alleviate such a possibility. Mr. Simon explained that the Corps process is set up to evaluate on an individual basis, depending upon what is proposed.

Director Thar said there has been discussion regarding at what point the Army Corps will review proposals. There are 30 plus applicants on the Ohio River alone. The Army Corps of Engineers would not be able to process 30 plus applications.

Doug Shelton explained that they have met with approximately 40 applicants in the Louisville district and these applicants have begun to understand what the Corps process is, what data they need, etc. He indicated that consultants can be hired to work with them. Bill Christman added that they encourage people to talk with them about their plans before they commit themselves and Army Corps staff are able to tell them what they will need--soil samples, etc. He indicated the importance of any pre-application meeting.

Gene Hensley inquired about how long the time-line process is. The Army Corps explained the process of putting notices out to

everyone who has expressed an interest in the project. Oftentimes other people's comments highlight things of which the Corps was not aware. Their goal is to complete the bulk of the work within 120 days.

Dave Gesl indicated that as yet there have been no formal inquiries regarding the Lake Michigan area, although the Corps has been involved for about six years with the U.S.X site. He encouraged applicants to begin dialogue with them on the permit process right away.

Chairman Klineman thanked the Army Corps of Engineers representatives and indicated they would be staying after the Commission meeting to answer any further questions.

Next Meeting

The next meeting will be held in Evansville, Indiana, on April 8 at 11:00. Mr. Thar announced the possibility that he would not be in attendance. The site will be announced.

The Commission adjourned at 12:45 p.m. on motion by Ann Bochnowski, second by Dr. David Ross.

Note: Due to lodging complications, the next regular meeting of the Indiana Gaming Commission will again be held in the Conference Center Auditorium, Indiana Government Center South, Indianapolis, at 11:00 a.m., April 8, 1994. The Commission is sorry for any inconvenience this change in plans may have caused.