

**INDIANA GAMING COMMISSION  
REGULAR MEETING**

**9:00 a.m., December 4, 1995**

**Old Federal Courtroom  
Old Post Office  
100 NW Second Street  
Evansville, Indiana**

**PRESENT:** Commission members Alan Klineman, Chair; Ann Marie Bochnowski, Vice-chair; Donald Vowels, Secretary; Thomas F. Milcarek; Robert W. Swan; Robert W. Sundwick; Staff members Jack Thar, Floyd Hannon, Kay Fleming, Jill Copenhaver, Janine Hooley, Michelle Marsden, Pam Ayres and an audience.

**Call to Order and Roll Call**

Chairman Alan Klineman called the meeting to order at approximately 9:00 a.m. (Evansville time), indicating that all commissioners were present with the exception of Dr. David Ross. He mentioned that the Indiana Gaming Commission is happy to be in Evansville again and after the business meeting will go cruising on a very beautiful vessel, *The City of Evansville*. He indicated everyone's excitement and pleasure in the boat and in the wonderful weather.

**Approval of the Minutes of the November 17, 1995 Meeting**

The minutes of the November 17, 1995 Indiana Gaming Commission business meeting held in Indianapolis, Indiana, were unanimously approved on motion by Bob Sundwick, second by Don Vowels.

**Report of the Executive Director**

**Temporary Supplier's Licenses for Beer Wholesalers**

Executive Director Jack Thar reported one of the items that will be brought before the Commission in **New Business** is whether to approve temporary suppliers' licenses for beer wholesalers. The beer wholesalers have come to the Commission on numerous occasions basically taking issue with the fact that they have been focused on as suppliers of goods that are to be licensed per Gaming Commission rules. There is also an indication in the statute that they are to be suppliers.

Their basic premise is that they are already regulated by the Alcoholic Beverage Commission in the State of Indiana and also regulated by the Bureau of Alcohol, Tobacco and Fire Arms by the

federal government. Consequently, the third layer of regulations, as well as the background investigations, etc., by the Indiana Gaming Commission, would be redundant. The Indiana Gaming Commission doesn't want to regulate the industry of beer wholesaling, but rather wants to regulate the riverboat business for its integrity, honesty, etc., both in the games and the people who do business with them. The beer wholesalers feel they are already regulated. To that end, they have approached legislators.

Legislators have met with the Indiana Gaming Commission (IGC) staff and have also proposed, at their legislative reorganization day in November, a legislative cure that will take the alcohol beverage wholesalers out of the IGC regulatory process. In order then to not have confusion, the staff has agreed to do a background check with regard to the alcoholic beverage suppliers in terms of criminal checks, tax checks, and other regulatory checks by whom they are licensed and to stop all further investigations (assuming that is okay to recommend to the Commission that they be licensed as suppliers and to do nothing further pending the discussion of the proposed legislation by the Legislature). In the event that this legislation passes, it carries the provision that money paid in the form of fees would be refunded to them. In the event that it does not pass, the beer wholesalers will be charged the same fees as everyone else and the Commission will continue with the background investigation. This legislation will be heard in early January. The Indiana Gaming Commission can obtain ownership information from the Alcoholic Beverage Commission.

#### **Waivers Granted to Supplier Licenses**

Executive Director Thar reported that since the last IGC business meeting, two waivers have been granted. The Commission should be advised of these to determine whether or not they want to accept them.

First is a request by Paul-son Gaming, a manufacturer of playing cards, dice, etc., and a supplier of gaming equipment under the Commission's rules and regulations. Paul-son has requested they be treated as the manufacturer of roulette wheels that are being supplied to Casino Aztar. The company that is the actual manufacturer of the roulette wheel currently is not a supplier under the Indiana Gaming Commission's system. They are an extremely small company that sells the wheels to Paul-son, who in turn sell them to the gaming company. Paul-son has notified the Indiana Gaming Commission they will stand behind the integrity of the roulette wheel, as if they were the manufacturers themselves. Based upon that representation, Executive Director Thar indicated that they have been granted an exception to allow the roulette wheels to be sold to Aztar Indiana Gaming Company, without the necessity of it actually being supplied from the manufacturer.

The second item is in regard to International Gaming Technologies (IGT), which supplied all of the electronic gaming devices to Aztar including slot machines and video poker machines. Indiana Gaming Commission rules require that all electronic gaming devices have a computer system capable of a five-game recall. Mr. Thar reported that no supplier to the knowledge

of the Gaming Commission nor IGT has the capability of a five-game recall on a video game or video poker. They do for slot machines. In regard to their video games, IGT has asked for a waiver of this particular rule. Video games comprise about 12% of the total electronic gaming devices on the boat. IGT has advised that within the next 90 days, they will have technology in reliable form. They will then retrofit the machines so the video machines have five-game recall. Because of these representations, Gaming Commission staff has agreed to waive the five-day recall system and to allow Aztar to go ahead with the present two-game recall video machines until such time as the technology is available for the five-day recall.

### **November 27, 1995 Draft Rules**

Certain draft rules were made available by the Commission staff on November 27, 1995. The informal public comment is due in the Commission office by close of business on December 18, 1995. These rules are in the initial stage of the process putting them out before they are given to the Commission to put in the formal publication-type process.

### **Casino Aztar - Evansville**

Casino Aztar has submitted a schedule for riverboat cruises. They have submitted a seven-day schedule in their normal-day operation. This includes the following:

9:00 a.m. cruise - 2 hours  
11:00 a.m. cruise - 2 hours  
1:00 p.m. cruise - 2 hours  
3:00 p.m. cruise - 3 hours  
6:00 p.m. cruise - 3 hours  
9:00 p.m. cruise - 3 hours  
12:00 midnight - 3 hours

Cruises will end at 3:00 a.m. The Gaming Commission has approved this schedule. Aztar has also submitted two proposed alternatives to the schedule for Christmas Day and New Year's Eve. They have proposed to not have a 9-11 and an 11-1 cruise on December 25. They will begin cruising at 1:00 p.m., thus eliminating the morning cruises. Commission staff has also approved this request. For December 31, Aztar has proposed to have a 9:00 a.m., 11:00 a.m., 1:00 p.m. cruise and have a 3:00-5:00 p.m., a 5:00-8:00 p.m., an 8:00-11:00 p.m., an 11:00 p.m.-2:00 a.m., and a 2:00-4:00 a.m. cruise. Mr. Thar reported this schedule has also been approved.

The long-cruise route has also been approved. Mr. Thar indicated that this will be used only if a dispute between Kentucky and Indiana is resolved. The short-cruise route has Aztar departing the berth at the 792.5 mile marker, back out of the slip, and drift with the current to mile 793. At this point the Kentucky border comes within close proximity to the bank. The master of the riverboat will ensure that the vessel stays parallel to the bank. When the boat reaches mile 793,

the master will come ahead on the main engines and cruise up river to approximately mile 792. He will then keep the vessel parallel to the riverbanks and drift back to the berth and dock the riverboat. This type of maneuver will not require the master to turn the boat around. Mr. Thar reported that this short cruise route has been approved.

### New Business

#### **Request of Indiana Gaming Company, L.P. And Rising Sun Riverboat Casino and Resort, LLC for an Extension of Their Certificates of Suitability**

The Indiana Gaming Commission issued a Certificate of Suitability to both Indiana Gaming Company, L.P. in Lawrenceburg, Indiana, and Rising Sun Riverboat Casino and Resort, LLC in Rising Sun, Indiana, on June 30, 1995. Both certificates were valid for a period of one hundred eighty days. Chairman Alan Klineman indicated that since the Indiana Gaming Commission will not be meeting again until after December 27, 1995, the end of the 180-day period, both the Indiana Gaming Company, L.P. and Rising Sun Riverboat Casino and Resort, LLC have requested an extension of their Certificates of Suitability.

Executive Director Jack Thar indicated that both companies have progressed ahead fairly well with their projects. They are going to need more time with their Army Corps of Engineers' permits. There is no reason at this particular point in time to extend either of these certificates with the proviso that generally after 180 days the Indiana Gaming Commission has been calling on the companies to step forward and in a public forum advise the Commission about where they are and where they expect to be. Because of the recent busy schedule of the Gaming Commission, it is the staff's recommendation that these be taken up in a more lengthy fashion at the January meeting and that at today's meeting the Commission extends the Certificates of Suitability until the end of February, which will give an opportunity to set a meeting whereby the Gaming Commission can hear from each company. Both companies can be put on the agenda for the January meeting.

Chairman Klineman indicated that attached to each of the requests for extensions of their respective certificates of suitability, Indiana Gaming Company, L.P. and Rising Sun Riverboat Casino and Resort, LLC have listed the accomplishments of each. These are very extensive; they have certainly been moving forward.

**ACTION: Resolution 1995-43, A Resolution Concerning an Extension of the Certificate of Suitability Issued to Indiana Gaming Company, L.P. on June 30, 1995, was approved on motion by Bob Sundwick, second by Ann Bochnowski. The Certificate of Suitability issued to Indiana Gaming Company, L.P. was extended until February 29, 1996.**

**ACTION: Resolution 1995-44, A Resolution Concerning an Extension of the Certificate of Suitability Issued to Rising Sun Riverboat Casino and Resort, LLC on June 30, 1995, was approved on motion by Tom Milcarek, second by Don Vowels. In a like manner, the Certificate**

of Suitability issued to Rising Sun Riverboat Casino and Resort, LLC was extended until February 29, 1996.

### **Suppliers' Licenses**

Chairman Alan Klineman reported that Working Distributors, Inc. and Central Beverage Co., Inc. have requested temporary suppliers' licenses. Robert Swan and Don Vowels may have an indirect possibility of a conflict with one of the two suppliers; therefore, they will not be participating in the vote.

Deputy Director Floyd Hannon indicated that in the preliminary background investigation conducted by the Indiana State Police, Gaming Enforcement Section, it was noted that these companies meet the criteria set forth in IC 4-33-7-3 for licensure as a supplier. The Indiana State Police, Gaming Enforcement Section, has conferred with the Alcoholic Beverage Commission and found both had ABC licenses in good standing. A tax check is ongoing. If the Commission votes to approve the temporary suppliers' licenses, the Gaming Commission will postpone the full investigation until the Legislature has considered the proposed changes regarding licensing of alcoholic beverage suppliers..

**ACTION:** Resolution 1995-45, A Resolution Granting Temporary Supplier's Licenses to Working Distributors, Inc. and Central Beverage Co., Inc., was approved on motion by Bob Sundwick, second by Tom Milcarek. Robert Swan and Don Vowels abstained from voting.

### **Rules**

Executive Director Jack Thar explained that IC 4-33-2-9 defines "gambling game" as any of the following, if approved by the Commission, as a wagering device:

- (1) Baccarat, (2) Twenty-one, (3) Poker, (4) Craps, (5) Slot machine, (6) Video games of chance, (7) Roulette wheel, (8) Klondike table, (9) Punchboard, (10) Faro layout, (11) Keno layout, (12) Numbers ticket, (13) Push card, (14) Jar ticket, (15) Pull tab, and (16) Big six

He further indicated that only ten of the following need to be approved by the Commission:

- (1) Baccarat or Mini Baccarat; (2) Twenty-one or Blackjack; (3) Poker, including Caribbean Stud Poker, Let-It-Ride, and Pai-Gow Poker; (4) Craps; (5) Slot machine; (6) Video games of chance; (7) Roulette wheel; (8) Klondike table; (9) Keno layout; and (10) Big six

Those not contained in this second list are Punchboard, Faro layout, Numbers ticket, Push card, Jar ticket, and Pull ticket. The staff's reasoning is that punch board is a charitable gaming function. Numbers ticket is for all practical purposes the same as the lottery. Push card, Jar

ticket and Pull tab are all items which are lawfully utilized as gambling by charitable gaming enterprises. Staff did not want to put the casino boats in competition with charitable gaming and the Indiana Lottery. No gaming company has asked that these be included. Mr. Thar further explained that Faro is a card game played with a single 52-card deck dealt by drawing cards face up from an open-framed box. Again, no gaming company has asked that it be put on their boat. In helping to further identify Faro, Aztar representative Dan Azar explained that it was the card game that the actors were playing in the recent movie, *Wyatt Earp*.

**ACTION: Resolution 1995-46, A Resolution Amending 68 IAC 10-1 to Include a List of Approved Gambling Games**, was approved on motion by Bob Swan, second by Don Vowels.

Executive Director Jack Thar outlined 68 IAC 2-6 and 68 IAC 12-1. The Indiana Gaming Commission has begun promulgation of these rules pursuant to IC 4-21.5, and these rules were published in Volume 18 of the *Indiana Register*, pages 60 through 76, on October 1, 1995. The Commission held a public hearing on October 25, 1995, and accepted written comment. The verbal comments from the public hearing were transcribed, and the transcript as well as the written comments have been provided to the Commission members for review. The promulgation process for the final promulgation of these rules will take approximately four to six months.

IGC staff recommends that the Commission adopt the following final rules pending completion of the promulgation process: Article 2, Licenses, Approval -- Rule 6, Electronic Gaming Devices and Article 12, Security and Surveillance -- Rule 1, General Provisions for Surveillance System. If adopted, the rules will be forwarded to the Attorney General's office on or before December 12, 1995, for approval as final rules pursuant to IC 4-22-2-32. Upon approval by the Attorney General's office, they will be submitted to the Governor's office for approval pursuant to IC 4-22-2-33. After the rules have been approved or deemed approved by the Governor, they will be submitted to the Secretary of State for filing in accordance with IC 4-22-2-35. The Commission further adopts any stylistic, grammatical, typographical, or other nonsubstantive changes which the Commission or the Legislative Services Agency may make before the rules are printed as final rules in the *Indiana Register*.

**ACTION: Resolution 1995-47, A Resolution Adopting, as Final Rules, 68 IAC 1-6 and 68 IAC 12-1**, was approved on motion by Don Vowels, second by Ann Bochnowski.

In a like manner, Mr. Thar outlined proposed rules Article 8, Excursions and Public Safety -- Rule 1, Excursions, Routes, and Public Safety and Article 1, General Provisions -- Rule 11, Riverboat Gaming Area. Article 8, Rule 1 is again a revisit of the excursion rule the Commission had originally brought forth in May of 1994 when the Gaming Commission was in Evansville and includes a few changes. Article 1, Rule 11 basically declares that the whole riverboat is a gaming area and thus is off limits for anyone who is under the age of 21.

The Indiana Gaming Commission has begun promulgation of these rules, or plans to begin

promulgation of these rules pursuant to IC 4-22. They are to be published in the *Indiana Register* on January 1, 1996, or the next appropriate *Indiana Register* after a notice of intent has been published in the *Indiana Register* pursuant to IC 4-22. A public hearing is to be held on these rules in compliance with IC 4-22.

**ACTION: Resolution 1995-48, A Resolution Adopting 68 IAC 1-11 and 68 IAC 8-1 for Publication as Proposed Rules**, was approved on motion by Tom Milcarek, second by Don Vowels.

### **Aztar Indiana Gaming Corporation Licensing**

Executive Director Jack Thar explained that a resolution superseding **Resolution 1995-42** needed to be written to correct an error in the original resolution which stated that the amendments to the Letters of Credit for Aztar were to be completed on or before November 22, 1995. December 5, 1995 has replaced this date. The Commission further requires Aztar to post an additional \$2,000,000 bond in one of the forms acceptable pursuant to IC 4-33-6-9. This bond is to list the Indiana Gaming Commission as obligee and to be posted on or before December 5, 1995. He further explained that the additional bond is somewhat new and there was a difference of opinion as to its necessity. Aztar felt that the initial \$13.45 million bond they have had on file since August of 1994 met the statutory requirements of the bond. Out of an abundance of caution, the Commission has asked for the additional bond.

**ACTION: Resolution 1995-49, A Resolution Superseding Resolution 1995-42 and Re-approving the Bond that is to be Posted by Aztar Indiana Gaming Corp.**, was adopted on motion by Don Vowels, second by Ann Bochnowski.

Mr. Thar indicated that pursuant to 68-IAC 2-1-5(e), the riverboat licensee is to advise the Indiana Gaming Commission in writing when they have completed the following items 1 through 9 and item 10, which is the catch all. Aztar has in fact advised the Commission in writing of the following:

1. They have obtained a permit to develop the riverboat gambling operation from the United States Army Corps of Engineers. The IGC has received a copy from the Army Corps of Engineers.
2. They have obtained a valid certificate of inspection from the United States Coast Guard for the vessel on which the riverboat gambling operations will be conducted temporarily or permanently. Aztar has their permanent boat and as of yesterday, they had a certificate of inspection that was valid for 500 passengers (which is the statutory minimum). The Coast Guard has advised verbally that they intend to raise the certificate of inspection to the 2,500 passenger limit of Aztar's boat, with a crew of 300. James Brown, the general manager of Casino Aztar in Evansville, assured the Commission that he would have the permanent certificate of inspection by noon. Mr. Brown indicated the U.S. Coast Guard

is presently on the boat.

3. They have applied for and received the appropriate permit or certificate from the Indiana Alcoholic Beverage Commission and other appropriate state and federal agencies. Aztar has obtained two certificates which the Gaming Commission has received.
4. They have received all permits, certificates, and approvals for the riverboat and support facilities necessary to develop and conduct the riverboat gambling operation, including, but not limited to, fire marshal permits, health permits, building permits, and zoning permits. Permits for long-term developments that are part of the riverboat support facilities do not have to be obtained. Aztar had supplied the Gaming Commission with a letter that contained all of these permits except the Fire Marshal Permit. Mr. Brown interjected that Aztar has now received this additional permit. Mr. Thar indicated that the Gaming Commission is awaiting receipt of the same.
5. They have closed the financing necessary to complete the development of the riverboat gambling operation. This has been accomplished.
6. They have posted a bond in accordance with section 7 of the rule. Letters of Credit #101 and #102 have been posted with the National City Bank of Evansville. The additional \$2,000,000 check was then presented to Chairman Alan Klineman for deposit in Indianapolis in an account in the Indiana Treasurer's Office.
7. They have obtained the insurance deemed necessary by the Commission under section 8 of the rule. Mr. Thar indicated that at the November 17, 1995 IGC meeting, Virginia Dill McCarty gave a report regarding the insurance. Aztar has been working with Ms. McCarty in regard to the insurance, and she has forwarded a letter to the Commission indicating she has reviewed all of the necessary insurance coverage and in her opinion it meets with any statutory objectives that were directed in the Commission's rules. Therefore, Aztar has complied with the insurance aspects.
8. They have received licensure for electronic gaming devices and other gaming equipment under 68 IAC 2-6. Executive Director Jack Thar advised the Commission that members of the Indiana State Police assigned to Casino Aztar have been working in conjunction with Gaming Laboratories International. The machines on the boat have been licensed. The EPROMS have been certified. The bill validators have been checked. The computer systems that monitor the machines have also been checked to make sure they read each of the machines. Seventy-six machines have not passed and therefore have not been licensed and will not be operable until they are corrected. Mr. Thar indicated that at today's cruise only 220 machines will be in play and they have been altered to accept play tokens only.
9. They have submitted an emergency response plan under 68 IAC 8-2. Mr. Thar reported



they submitted an emergency response plan some time ago and it has been revised. This revision has been approved. The Coast Guard has verbally indicated that they do not object to the emergency response plan as long as certain revisions have been made. Chairman Klineman added that an emergency response drill was in fact conducted on the boat last Tuesday.

10. They have taken any other action the Commission has deemed necessary to ensure the prospective riverboat licensee will be able to conduct a riverboat gambling operation that complies with the Act and 68 IAC 2-1-5. There has been no other action.

Mr. Thar reported that Casino Aztar has fulfilled the requirements to obtain a permanent riverboat owner's license. He then proposed that an order that was previously prepared giving the Aztar Indiana Gaming Corporation a permanent riverboat owner's license be signed by all members of the Indiana Gaming Commission immediately after the business meeting. This will direct the Executive Director of the Gaming Commission to issue the license. The Chairman of the Commission will be directed to sign the license after the cruise this afternoon.

Mr. Thar added that following the cruise at approximately 3:30 p.m., there will be a press conference at which time if everything is satisfactory, Chairman Klineman will sign the license and it will be handed over to Aztar. They will pay \$25,000, the initial licensing fee. The license will be issued for a five-year period. With the issuance of the license, Casino Aztar may conduct real gaming, serve alcoholic beverages, etc., starting tomorrow. Cruises will be conducted from 1:00 p.m., Tuesday, December 5, to 3:00 a.m., Wednesday, December 6, at which time Aztar will close down and the Gaming Commission will ensure that after three shifts of gaming, they are able to account for the monies coming on board and that their books balance, that the tax returns are properly viewed and the taxes paid. Mr. Thar indicated that the Commission will have all day Wednesday to check these. Should everything balance, staff will authorize Aztar to commence full-time gaming operations as early as they please. They may even begin on Thursday, if they so desire, and certainly be in operation by Friday, December 8. In the event that it does not balance, staff will indicate to the Commission and advise Aztar that they cannot commence gaming until the systems are properly functioning and the books in fact are balanced.

Chairman Alan Klineman announced that the Gaming Commission has before it an order regarding the licensure of Aztar Indiana Gaming Corporation that recites therein all of the special conditions which have been agreed to by Aztar to wit, the investment commitment to and incentives for the City of Evansville and the State of Indiana in a total amount of One Hundred Eight-Million Three-Hundred Eighty-Thousand Dollars (\$108,380,000). It also states all of the agreements made between Aztar and the City of Evansville. On pages 2 and 3 of the Order, it contains the breakdown of the items which constitutes the \$108,380,000. These were also contained in the original Certificate of Suitability which was issued in February 1995. It recites that the \$25,000 fee will be paid and states that the permanent riverboat license will be issued by the Executive Director of the Indiana Gaming Commission or the Chairman of the Commission.

In addition, Chairman Klineman described the license itself. He added that if everything runs smoothly, the Gaming Commission will be in a position to issue the license some time after the "shake down" cruise at approximately 3:30 p.m. or so. Chairman Klineman asked the commissioners to review the document and after executing their signatures, it will become a part of the permanent record of the Commission.

### **Other Business**

No other business.

### **Next Meeting**

The next meeting of the Indiana Gaming Commission will be Monday, January 8, 1996, at 9:00 a.m. (Indianapolis time) in the Auditorium of the Indiana Government Center South, Indianapolis. Chairman Klineman announced that in addition to the regular business of the Commission, the consideration of the issuance of a Certificate of Suitability in East Chicago, Indiana, will also be undertaken.

### **Recess**

The Indiana Gaming Commission recessed at approximately 10:18 a.m. to conduct the "Shake down" Cruise aboard *The City of Evansville* at 1:00 to 3:00 p.m. (Evansville time).