

BEFORE THE INDIANA GAMING COMMISSION

PUBLIC MEETING

ORIGINAL

TRANSCRIPT OF PROCEEDINGS

DATE: June 13, 1997

PLACE: Indiana Government Center Auditorium
402 West Washington Street
Indianapolis, Indiana

REPORTED BY: Kathleen L. Cast, Notary Public

MEMBERS OF THE COMMISSION

Alan I. Klineman, Chairman
Thomas F. Milcarek
David E. Ross, Jr., M.D.
Donald R. Vowels
Ann Marie Bochnowski
Robert W. Sundwick
Robert Swan

ALSO PRESENT

John J. Thar, Executive Director,
and Members of the Staff

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MR. KLINEMAN: We'll call to order the meeting of the Indiana Gaming Commission. I want to apologize. We're running a little bit late. In fact, we're also shy one Commissioner. Commissioner Bochnowski has called. She's on the road, and she will be here probably in a half hour or so.

And to accommodate a request that she made and being fair to everybody, we are going to reorder our agenda a little bit, and we're going to take up the question of Crawford and Switzerland County as the last item. Rather than as an early item under old business, we will take up that matter after we've concluded the new business.

So with that, let the record show that all of the Commissioners are here and present except for Commissioner Bochnowski, who will be joining us in progress. And we, therefore, have a quorum to proceed.

Under the reordered agenda, the next item would be the approval of the minutes. We've all received copies of them. The last meeting of the Commission was on?

MR. THAR: April 15th.

1 MR. KLINEMAN: April 15th. It was up
2 at the Robert A. Pasture Marina in East
3 Chicago, Indiana.

4 Do I hear a motion to approve the
5 minutes of the meeting of April 15th?

6 MR. MILCAREK: I'll move.

7 MR. KLINEMAN: Is there a second?

8 DR. ROSS: Second.

9 MR. KLINEMAN: Okay. Any discussion?
10 Hearing none, all those in favor say aye.

11 (Unanimous approval)

12 MR. KLINEMAN: Contrary?

13 The minutes are approved.

14 The next item is a report of Mr.
15 Thar, Executive Director.

16 MR. THAR: Thank you, Mr. Chairman.
17 Good morning, Commissioners. The first
18 report would be with regard to riverboats and
19 what's going on. Casino Aztar in Evansville,
20 SPEA has completed and it has been
21 distributed to you for the meeting today the
22 first annual report which will be completed
23 with regard to each of the licensees.

24 This report, for anyone who is
25 interested, will be available for public

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1 viewing or purchase at either the archives or
2 at SPEA by contacting Laura Littlepage.

3 From a staff point of view, we
4 believe the report is very complementary in
5 terms of showing that Aztar in the first year
6 of its operation has met every promise it
7 said in would in terms of financial
8 incentives to the city, it has strived very
9 hard to meet all of its hiring goals,
10 probably has been, I think, an exemplary
11 corporate citizen down in Evansville. So we
12 were pleased to see the results of that
13 report.

14 SPEA will now be turning their
15 attention to Trump and Majestic Star in Gary,
16 as well as Empress in Hammond, for the next
17 annual report as to how each of the licensees
18 are doing.

19 Argosy Casino in Lawrenceburg, their
20 permanent vessel is just about complete.
21 They are anticipating the delivery date in
22 the first part of August and have tentatively
23 scheduled -- targeted the last week of August
24 to open their permanent boat for gaming.

25 So staff is presently working with

2
1 them to target either the Monday or Tuesday
2 before Labor Day Weekend as the date to do
3 their test cruise on their permanent vessel.

4 By the same token with regard to Blue
5 Chip up in Michigan City, they are targeting
6 a mid August opening of their facility. They
7 have completed and signed an economic
8 development agreement with Michigan City, and
9 today we'll be considering their bond and the
10 recommendation from staff to accept the bond
11 amount that has been proposed.

12 If I did not mention, we're targeting
13 somewhere around August 12th as the day to
14 commence the opening and test cruise of their
15 riverboat, which is a Tuesday.

16 With regard to Majestic Star, they
17 also are in the process of acquiring their
18 permanent vessel. Their dates are not quite
19 as firm as Argosy and Blue Chip at this point
20 in time. They hope the delivery of their
21 vessel will be some time in September, with a
22 late September to a mid October opening date
23 of that permanent vessel.

24 With regard to Caesars in Harrison
25 County, they have started their schools for

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1 the training of dealers and other personnel.
2 And they are, in fact, using the Playhouse,
3 in which we held the Harrison County hearings
4 down there, as the facility to do that
5 training.

6 The next item would be litigation
7 concerning the suit Empire brought against
8 the Commission and for which Argosy Gaming,
9 Indiana Gaming Co. LP intervened. This was a
10 suit setting forth quite a few different
11 reasons why Argosy should not have gotten the
12 license for Lawrenceburg.

13 Most of all of the legal work done
14 was done by the Commission's lawyers, headed
15 by Kay Fleming, and the rest of the legal
16 staff. In my opinion, they did an excellent
17 job. And we got a decision, a recommended
18 decision from the administrative law judge I
19 think yesterday. So I'll turn it over to
20 Kay to explain.

21 MS. KAY FLEMING: Thank you.

22 Empire had filed a request on the
23 hearing of the denial of this application in
24 November of 1996. The matter was assigned to
25 Bernard L. Pylitt as the administrative law

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judge.

The Commission filed a motion for partial summary judgment on January 21st, 1997. And Argosy and Indiana Gaming Co., who were the intervenors, filed a motion to dismiss and a motion for summary judgment on January 21st, 1997. Reply and response briefs were subsequently submitted by all of the parties.

On January 21st, 1997, Empire also filed its discovery plan seeking discovery from the intervenors rather than from the Commission. Argosy then moved for a protective order on February 28th, 1997.

The administrative law judge held oral arguments on all of the pending motions on May 29th, 1997. And, yesterday, the administrative law judge faxed in the findings of undisputed facts and conclusions of law as well as recommended orders on all of the pending motions concerning discovery, summary judgment and dismissal.

The administrative law judge has recommended that Argosy's motion to dismiss be denied. The administrative law judge

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1 further ordered that or recommended that the
2 motion for partial summary judgment which was
3 filed by the Commission be granted, and that
4 would render Argosy's motion for summary
5 judgment moot.

6 Finally, the administrative law judge
7 recommends that Argosy be granted the
8 protective order and that Empire's request
9 for discovery not be allowed.

10 Pursuant to the administrative orders
11 and procedures that each of the parties will
12 have fifteen days from the date that the
13 orders are mailed to file objections with the
14 Commission on those recommended orders.

15 So at the next business meeting,
16 we'll place this on the agenda for the
17 Commission to make a final decision whether
18 or not they will accept the administrative
19 law judge's recommended orders or whether
20 they will review that further.

21 MR. THAR: What issue remains?

22 MS. KAY FLEMING: That only remaining
23 issue is and the reason that the Commission's
24 motion for partial summary judgment, we
25 termed it as such because Empire can still

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1 seek a denial of its -- a hearing on the
2 denial of its application and try to
3 demonstrate to the administrative law judge
4 that it should have been awarded the license
5 and that it was the better company. So that
6 is the only issue remaining, and it is up to
7 Empire to pursue that.

8 MR. THAR: Thank you. Again, I'd
9 like to say that the legal work done on
10 behalf of the Commission was just excellent,
11 as was the oral argument done by Miss
12 Fleming.

13 With regard to a move, the Commission
14 Staff has been actively pursuing moving its
15 office space. It has been determined that
16 there is not any space large enough for the
17 growth of the staff within the Government
18 Center Complex.

19 We are in the process now of signing
20 a lease and the lease procedures to get it
21 signed which would put us on the ninth floor
22 of the National City Bank Building, Southeast
23 Tower. It used to be known as Merchant's
24 Bank Plaza, or sometimes referred to as the
25 Hyatt Hotel area.

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That lease has been signed by the bank and by me and is in the process of going through the state government to get the necessary signatures. Assuming the lease is signed relatively promptly, the target date for the move is presently somewhere around October 1 of this year.

The staff has spent most of its time, aside from getting ready for this meeting and the other meetings that I previously mentioned with regard to the riverboats, has been spending quite a bit of time on disciplinary matters, which since they are not on the agenda today cannot really be discussed.

Secondly, from an audit point of view, Frank Brady is not here today because he started a fairly aggressive program of making sure that the auditors visit the boats on a relatively regular basis to check those items. They are, in fact, in the process of checking a boat today.

The final item is with regard to the state police. I'd like to introduce to the Commissioners as well as the public Major

4 1 Richard Shelton. Stand up for a second.

2 Under the new superintendent, Mel
3 Carraway, he has determined and announced
4 what he would like to see is the state police
5 gaming portion become a division in and of
6 itself. Presently right now, it's more of a
7 group for which people are being assigned to
8 temporary duty or sometimes permanent duty.

9 But the appointment of Major Shelton
10 as the major is the first step in making that
11 a division in and of itself. We've had the
12 opportunity to work with Dick now for about
13 six or seven weeks, and he's been a real
14 pleasure and addition to the Indiana State
15 Police Gaming Division. So we welcome you.

16 MAJOR SHELTON: Thank you.

17 MR. THAR: That would conclude my
18 report. Are there any questions?

19 MR. KLINEMAN: Any questions of Mr.
20 Thar?

21 I have one. You alluded to
22 disciplinary matters. Are we seeing a great
23 increase of these filings, or is it just
24 probably going to be a normal type of thing
25 that the Commission will deal with on through

4
1 the years?

2 MR. THAR: I think it's going to be
3 more of the normal kind of thing the
4 Commission will be dealing with, although it
5 may get a little bit more. Presently, we're
6 looking at in round figures somewhere between
7 ninety-five hundred and ten thousand licensed
8 employees. And out of that, if we have one
9 or two that go askew every month, the
10 percentage is still low.

11 But it's going to have to be
12 anticipated that those types of numbers,
13 we're going to see disciplinary actions in
14 those areas, as well as potential
15 disciplinary actions with the licensee
16 themselves as they struggle to coordinate
17 their internal controls with our rules and do
18 that with I guess what you would call new
19 employees who are not used to the regulatory
20 requirements of casino gaming as a business.

21 MR. KLINEMAN: Okay.

22 MR. THAR: Any other questions?

23 MR. KLINEMAN: Well, I, too, want to
24 add my welcome to Major Shelton. We're glad
25 to have you here. We've enjoyed working with

4
1 the state police. I'm happy to say that one
2 of the early decisions this Commission made
3 was to decide whether we were going to create
4 our own, quote, police force or whether we
5 were going to utilize the expertise that's
6 available in the Indiana State Police.

7 And I'm happy to say that we made, I
8 think, a complete correct decision in asking
9 the state police to become our watch dogs,
10 and it's worked out very well. And I want to
11 congratulate all the people who have been
12 part of that decision, because we have had
13 absolutely no complaints, and we're very
14 pleased with everything that's been done.

15 The next item, having reordered our
16 agenda, would be the new business. The first
17 item in that category are the bond
18 reductions. And I guess there are two or
19 three of those, and I presume Kay is going to
20 handle this.

21 MR. THAR: Yes, she will.

22 MS. KAY FLEMING: We have two
23 requests for bond reductions, the first being
24 for Casino Aztar. On April 10th, 1997, May
25 9th, 1997, and June 9th, 1997, they made

4 1 identical payments. They made in each month
2 a payment to downtown revitalization in the
3 amount of eighty-three thousand three hundred
4 and thirty-three dollars and thirty-three
5 cents, and an identical payment in each of
6 those months to economic development in the
7 amount of sixteen thousand six hundred
8 sixty-six dollars and sixty-seven cents, and
9 identical payments in a each of those three
10 most to the Pigeon Creek Greenway in the
11 amount of four thousand one hundred sixty-six
12 dollars and sixty-seven cents.

13 Therefore, they made a total payment
14 in each month that could be reduced from
15 their letter of credit in the amount of one
16 hundred four thousand one hundred sixty-seven
17 dollars and sixty-seven cents. Total
18 payments, three hundred twelve thousand five
19 hundred dollars and one cent, which their
20 letter of credit can be reduced in that
21 amount.

22 MR. KLINEMAN: Everybody understands
23 what we're doing. We, of course, when we
24 grant a license, require that bonds be put up
25 to make sure that the licensee does fulfill

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1 items which they have said they will perform,
2 etcetera.

3 And as they go ahead and complete
4 these items or at least make partial
5 completion of these items, they are entitled
6 to ask us to reduce the amount of the bond
7 obligation. So that's where we are.

8 I guess Pigeon Creek Greenway must be
9 getting pretty green by now.

10 MR. SWAN: It's pretty brown and
11 murky at the moment.

12 MR. KLINEMAN: Yes. Well, we're
13 doing everything we can to make it green.

14 Do I hear a motion to approve the
15 reduction of the letter of credit for Casino
16 Aztar in the amount of three hundred and
17 twelve thousand five hundred dollars and one
18 cent?

19 MR. SWAN: So moved.

20 MR. KLINEMAN: And is there a second?

21 MR. MILCAREK: I'll second.

22 MR. KLINEMAN: All those in favor of
23 the action say aye.

24 (Unanimous approval)

25 MR. KLINEMAN: Contrary?

5 1 The action is adopted.

2 Next item, Miss Fleming?

3 MS. KAY FLEMING: Yes. That is a
4 request to reduce the surety bond that was
5 posted by Grand Victoria Casino and Resort.
6 On June 9th, 1997, Grand Victoria made the
7 following payments to the city of Rising Sun.
8 They made a payment to the redevelopment plan
9 in the amount of five hundred forty-five
10 thousand nine hundred sixty-eight dollars, a
11 payment to the tourism obligation in the
12 amount of forty-four thousand three hundred
13 seventy dollars, and a payment to the
14 treatment plant in the amount of twenty
15 thousand six hundred forty-six dollars,
16 bringing their total payments to six hundred
17 ten thousand nine hundred eighty-four
18 thousand dollars. And that would be
19 applicable pursuant to the bond for
20 reduction.

21 MR. KLINEMAN: Do any of you have any
22 questions? We have, again, the action on the
23 request to reduce the bond. Do I hear a
24 motion to adopt this action?

25 MR. SUNDWICK: I'll move.

5
1 MR. KLINEMAN: And is there a second?

2 MR. VOWELS: I'll second.

3 MR. KLINEMAN: Any discussion?

4 Hearing none, all those in favor say
5 aye.

6 (Unanimous approval)

7 MR. KLINEMAN: Contrary?

8 The action is adopted.

9 The next is a resolution concerning
10 the bond which is to be posted by Blue Chip
11 Casinos in Michigan City. And Mr. Thar, I
12 guess, will tell us about that.

13 MR. THAR: As we're all aware, as
14 we've done with regard to each company as it
15 starts to get ready to open, there's a
16 statutory provision that they must get a bond
17 on file in an amount suitable to the
18 Commission and be approved by a company, a
19 surety company, if they choose to be insured,
20 is also approved by the Commission, and that
21 that bond must be on file at least sixty days
22 before they commence regularly scheduled
23 gaming excursions.

24 In this particular instance, the
25 staff has met with representatives of Blue

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1 Chip Casino, Inc., as well as discussed
2 certain concepts with the administration of
3 Michigan City, as well as concluded it all
4 with a major conference call between -- with
5 the casino company, the Michigan mayor and
6 her aides from Michigan City and the staff.

7 It has resulted in the staff
8 recommending to the Commission that a bond in
9 the amount of seven million five hundred
10 thousand dollars be recommended as the amount
11 of bond that needs to be posted by Blue Chip
12 Casino, Inc. at least sixty days before they
13 commence regularly scheduled activities,
14 gaming excursions.

15 And they have indicated that they
16 want to do it with a surety bond and
17 guaranty, and they are presently working with
18 our outside counsel, Virginia McCarty, on
19 getting approval.

20 And welcome, Miss Bochnowski.

21 MS. BOCHNOWSKI: Thank you.

22 MR. THAR: Thanks for your efforts.

23 To make sure that the surety company
24 is one that does business here in Indiana.
25 They intend to post that bond today subject

5
1 to Commission approval.

2 The bond in the amount of seven and a
3 half million dollars is basically arrived at
4 in the following way. Three hundred thousand
5 dollars of that bond will be pegged to secure
6 payments by Blue Chip with regard to a
7 promissory note which covers a mortgage on a
8 parcel of real estate that they promised to
9 give to the city at the end of three years
10 commonly known up in the Michigan City area
11 as the Smith brothers property; one hundred
12 thousand dollars is to secure the
13 construction, installation and paving of A
14 Street. That is to be done after the hotel
15 and other construction is completed. One
16 point six million dollars is to secure annual
17 guaranteed minimum payments to Michigan City
18 to the endowment corporation. Three million
19 dollars is to secure the start and
20 construction of their hotel. And a half
21 million dollars is to secure the construction
22 of the parking garage, and two million
23 dollars is to secure all other obligations to
24 the state, city of Michigan City, Michigan
25 City Port Authority and other aggrieved

1 parties. That totals up to seven point five
2 million dollars.

3 Are there any questions?

4 MR. KLINEMAN: Does anyone have
5 anything concerning this matter? It's really
6 the normal thing that we do. And I guess we
7 negotiate the particular items to be covered
8 by the bond and the amount. Is that what we
9 do?

10 MR. THAR: What we try to do is take
11 a look at the certificate of suitability,
12 what the company's obligations are, bond
13 those obligations to the extent that they had
14 not already been fulfilled, and also to the
15 extent that maybe it's not what does it take
16 to finish a hotel, but what does it take in
17 the city's eyes to level a hotel if somebody
18 was to come in and take over that for that
19 purpose, how much money would it take for the
20 city to make that land again reusable for
21 economic development purposes.

22 From the city's point of view and our
23 point of view, this is the minimum amount of
24 bond which we can be comfortable with.

25 Always the casino companies desire that the

6 1 bond be lower. So that's kind of how we
2 arrive at that.

3 MR. KLINEMAN: I was just looking at
4 the three million dollars for the two hundred
5 room hotel. I guess that would be to
6 construct it, not to level it.

7 MR. THAR: It would hopefully be
8 enough money that if something amiss happened
9 up there that it could be finished or torn
10 down.

11 MR. KLINEMAN: Anybody else have any
12 questions? Hearing none, we need a motion on
13 the resolution concerning the posting of a
14 seven million five hundred thousand dollar
15 bond for Blue Chip Casino, Inc.

16 Do I hear a motion?

17 DR. ROSS: I'll make that motion.

18 MR. KLINEMAN: And is there a second?

19 MR. VOWELS: I'll second.

20 MR. KLINEMAN: Any discussion on
21 this? Hearing none, all those in favor of
22 Resolution 1997-16 say eye.

23 (Unanimous approval)

24 MR. KLINEMAN: Contrary?

25 The resolution is adopted.

6
1 The next one concerns the Empress
2 Hammond, Empress Casino Hammond Corporation
3 Bank of America Secured Credit Facility. I
4 presume Mr. Thar knows about that.

5 MR. THAR: I do for a change. This
6 Commission in January approved Empress' fifty
7 million dollar revolving credit facility in
8 the form of certain payments so they could
9 accomplish and complete the construction of
10 improvements to the parking garage.

11 They are now approaching the
12 Commission and asking two things, two primary
13 things. The first is we have a rule with
14 regard to these types of debt facilities that
15 we have a minimum of two meetings, unless the
16 Commission decides to waive that rule. They
17 are asking us to waive the two meeting rule
18 and decide this issue today.

19 And the issue they ask us to decide
20 today is as follows. With regard to their
21 fifty million dollar revolving credit
22 facility, they would like to increase that,
23 under identical terms, substantially
24 identical terms, by ten million dollars to
25 sixty million dollars.

6
1 The amount of funds available under
2 the borrowing would be thirty-one point one
3 two five million dollars. The funds would be
4 utilized to retire the qualified
5 interguarantor loan for the Empress Casino
6 Joliet in the amount of nineteen point six
7 million due June 30th of this year, and
8 eleven point five two five million for
9 general corporate and capital expenditures.
10 The maturity date of the revolving credit
11 facility would be extended to June 30th,
12 2000.

13 There are representatives of Empress
14 here, as there were from Blue Chip, by the
15 way, if anybody has any questions for them on
16 the bond, to discuss or answer any questions
17 the Commission may have with regard to their
18 request for increasing their revolving credit
19 facility to sixty million dollars.

20 In our discussions with them and
21 working through the term sheet, which is
22 attached, one of the things which Empress
23 Hammond has done is changed their credit
24 facility so that it is more solely just
25 Empress Hammond rather than Empress Hammond

6
1 and Empress Joliet. So part of the reason to
2 do this is to pay off any loans to Joliet so
3 that Empress Hammond stands on its own.

4 MS. BOCHNOWSKI: The qualified
5 interguarantor loan, is that from the Joliet
6 operation? I don't quite understand what
7 that means.

8 MR. THAR: Yes. I would ask Mike
9 Hansen and Joe Costello, I believe, are here.
10 Mike is general counsel; Joe Costello is
11 chief financial officer. Rather than me
12 speak for them.

13 MR. KLINEMAN: Would you state your
14 name, Mike, for the record?

15 MR. MIKE HANSEN: Yes. Mike Hansen,
16 general counsel Empress Casino Hammond. With
17 me is Jack Costello, our chief financial
18 officer.

19 MR. JOHN COSTELLO: Yes. As far as
20 the nineteen point six million, that was a
21 qualified -- what we call a qualified
22 interguarantor loan that the affiliated,
23 Empress Casino Joliet, lent Empress Casino
24 Hammond for their start-up phase.

25 MS. BOCHNOWSKI. Okay. So this is

7
1 just a way of making them stand alone.

2 MR. JOHN COSTELLO: That's correct.
3 We're going to retire that nineteen point six
4 million which comes due June 30th.

5 MR. THAR: John, I apologize for
6 calling you Joe.

7 Is there anything about the
8 representations I've made to the Commission
9 that you'd like to correct on the record?

10 MR. JOHN COSTELLO: No.

11 MR. KLINEMAN: Does anyone else have
12 any questions? Hearing none, I guess we're
13 prepared then to go forward concerning
14 Resolution 1997-17, a resolution concerning
15 the Empress Casino Hammond Corporation Bank
16 of America Secured Credit Facility.

17 Do I hear a motion to adopt that
18 resolution?

19 MR. SWAN: I so move.

20 MR. KLINEMAN: And Mr. Thar's
21 pointing out to me that we have some blanks
22 in Section 3. We have the request that we
23 waive the two meeting rule, so that would be
24 approved or denied inserted in that blank.
25 And the next sentence is the actual approval,

7
1 and it has a blank for approved or denied.

2 So Mr. Swan, Commissioner Swan, can
3 we insert the word approving the waiver and
4 approving the facility in your motion?

5 MR. SWAN: Yes.

6 MR. KLINEMAN: Okay. Is there a
7 second to that motion?

8 DR. ROSS: Second.

9 MR. KLINEMAN: Any further
10 discussion? Hearing none, all those in favor
11 say aye.

12 (Unanimous approval)

13 MR. KLINEMAN: Contrary?

14 The resolution is adopted and the
15 facility approved.

16 While you're here, I want to say that
17 we have continued to receive reports
18 concerning your equal opportunity employment
19 and equal opportunity vending program in
20 Hammond. From what I read, I think you're
21 fullfilling the requests that have been made
22 by the law and by this Commission. I
23 encourage you to continue. But it's looking
24 pretty good.

25 MR. MIKE HANSEN: Thank you very

7 1 much. We will be continuing.

2 MR. KLINEMAN: All right. Thank you.

3 The next item on our agenda is the --
4 are the rules.

5 MS. KAY FLEMING: Thank you. First,
6 we have Resolution 1997-18 which adopts rules
7 for publication as proposed rules. The rules
8 that we are adopting for publication as soon
9 as all of the requirements of IC 4-22 are met
10 are as follows. Article 3, Rule 4, the
11 challenge of a designation of a certified
12 minority or women's business enterprise; Rule
13 5, appeals for denials of certification and
14 for challenges to certifications of minority
15 and women business enterprise.

16 And then we are adopting amendments
17 to the following rules, specifically 68 IAC
18 1-2-5.1, which concerns requests to address
19 the Commission, and Article 3, Rule 2, the
20 certification, process and procedures for
21 minority and women business enterprises.

22 Are there any questions with respect
23 to those rules?

24 MR. KLINEMAN: Any questions of Miss
25 Fleming? Hearing none, we have before us

7
1 Resolution 1997-18. Concerning those rules,
2 do I hear a motion to adopt that resolution?

3 MR. VOWELS: I'll move.

4 MR. KLINEMAN: And is there a second?

5 MR. MILCAREK: Second.

6 MR. KLINEMAN: Any discussion?

7 Hearing none, all those in favor say aye.

8 (Unanimous approval)

9 MR. KLINEMAN: Contrary?

10 The resolution is adopted.

11 The next one is Resolution 1997-19.

12 MS. KAY FLEMING: Yes. This adopts
13 rules which have been published in the
14 Indiana Register as proposed rules, and we
15 have accepted and considered both public and
16 written comment on these rules. There is a
17 long list of those. If these are adopted as
18 final rules, they will be sent to the
19 attorney general for the attorney general's
20 approval.

21 Specifically we are adopting 68 IAC
22 1-13, reporting of interest in a license; 68
23 IAC 1-14, gaming enforcement, reimbursable
24 expenses for troopers and other state police
25 personnel; 68 IAC 2-2-1, suppliers license

7
1 required; 68 IAC 2-3-1, occupational license
2 required; 68 IAC 2-3-1.1, surveillance
3 department requirements; 68 IAC 2-3-4,
4 applications for occupational licensees; 68
5 IAC 2-3-9, which concerns a duty to maintain
6 suitability and need to disclose by
7 occupational licensees; 68 IAC 2-6-1, general
8 provisions for electronic gaming devices; 68
9 IAC 2-6-5, security and audit specifications
10 of electronic gaming devices; 68 IAC 2-6-6,
11 electronic gaming device inventory
12 requirements and conversion notification; 68
13 IAC 8-1-2, the general provision of the
14 excursion rule; 68 IAC 9-1-15.1, post tender
15 restrictions for commission members; 68 IAC
16 9-4-2, restriction on gaming by members,
17 employees and agents; 68 IAC 9-4-5,
18 restriction on gaming by owner employee of
19 riverboat; 68 IAC 10-1-6.1, conducting of
20 live gaming device tournaments; 68 IAC
21 11-7-4.1, the maintenance of keys by the
22 master of the vessel; 68 IAC 12-1-4,
23 required surveillance; 68 IAC 12-1-5,
24 surveillance system coverage; 68 IAC 12-1-6,
25 surveillance system requirements; 68 IAC

1 14-3-4, the removal of cards or dice; 68 IAC
2 13-1-1, the applicability and general
3 provision of accounting records and
4 procedures; 68 IAC 15-2-2, cash transactions;
5 68 IAC 15-6-2, admissions; 68 IAC 15-8-1,
6 which is the applicability of general
7 provisions of the internal audit
8 requirements; 68 IAC 15-11-3.1, reserve
9 hopper fill requirements; and 68 IAC 17-1-1,
10 the general provisions for the movement of
11 electronic gaming devices.

12 Are there any questions concerning
13 these rules?

14 MR. SWAN: I have one question, Kay.
15 We're looking at 9-4-2, restrictions on
16 gaming by members, employees and agents.

17 MS. KAY FLEMING: Yes.

18 MR. SWAN: Help me out with the
19 employee part of that. As a Commissioner and
20 as self-employed, I have employees.

21 MS. FLEMING: No. The employees
22 would be the employees of the Commission and
23 Commission Staff.

24 MR. SWAN: I can't control my
25 employees.

1 MS. FLEMING: No.

2 MR. SWAN: And the members' spouses,
3 does that apply to them?

4 MS. FLEMING: Yes.

5 MR. SWAN: That's not nearly as
6 important as it originally was.

7 MS. FLEMING: No, it's not.

8 MR. SUNDWICK: We won't bring that up
9 today.

10 MR. KLINEMAN: Any other questions or
11 comments concerning these rules? I don't
12 know whether it's harder to write them or to
13 read them all off to this Commission, but I
14 thank you for both tasks. You did
15 outstanding work.

16 MS. KAY FLEMING: Thank you.

17 MR. KLINEMAN: Okay. We have before
18 us Resolution 1997-19. Do I hear a motion to
19 adopt that resolution?

20 MR. VOWELS: I'll move.

21 MR. KLINEMAN: And is there a second?

22 MR. SUNDWICK: Second.

23 MR. KLINEMAN: All right. Any
24 further discussion?

25 It's been moved and seconded to adopt

1 Resolution 1997- 19. All those in favor say
2 aye.

3 (Unanimous approval)

4 MR. KLINEMAN: Contrary?

5 The resolution is adopted.

6 The next item, temporary supplier's
7 licenses, Mr. Hannon?

8 MR. FLOYD HANNON: The temporary
9 supplier's license for today is Alliance
10 Gaming. This application was started as
11 Bally Gaming International, Incorporated in
12 December of 1994.

13 We initiated an investigation of
14 Bally's and found it was involved in a
15 criminal case in New Orleans involving
16 distribution of slot machines in that state.
17 We could not take action on the license until
18 that matter was resolved. On that issue and
19 other responding, we reached a point of
20 resolution where we felt it was time to
21 proceed.

22 The company was taken over by
23 Alliance Gaming. That bought up a number of
24 different issues. We have worked through
25 those issues now to a point where we can

1 state that there is no statutory reason why
2 Alliance should not receive a temporary
3 license.

4 Alliance is a publicly traded company
5 licensed in several jurisdictions. They plan
6 to sell electronic gaming machines bearing
7 the Bally name in Indiana. They have agreed
8 to two conditions regarding their license.

9 One is that they pay all the costs of
10 the Bally and Alliance investigation to date,
11 and second that they would not be looked at
12 as a permanent license prior to January of
13 next year. We would like to see them operate
14 for a while under our rules to see how that
15 works out.

16 Based on that, we would recommend
17 Alliance be granted a temporary supplier's
18 license.

19 MR. KLINEMAN: Mr. Hannon, would you
20 explain again the January date that you're
21 talking about? I don't see it in the
22 resolution as such.

23 MR. THAR: Page 2, Section 4,
24 Paragraph 3.

25 MR. KLINEMAN: Okay. I missed it.

1 No action will be taken towards the issuance
2 of the license prior to January 1st, prior to
3 January of 1998.

4 Would the temporary then expire?

5 MR. HANNON: We would like to see
6 them operate under the temporary license for
7 a period of time before we ask you to issue a
8 permanent license.

9 MR. KLINEMAN: Okay.

10 MR. HANNON: We would ask that you
11 not vote on a permanent license before
12 January of '98. They agreed to that
13 condition.

14 MR. KLINEMAN: Okay. I understand.
15 Anyone else have any questions? We're
16 granting them a temporary license, and we're
17 basically saying that we're not going to give
18 them a permanent one until they've operated
19 for a while, at least through January of
20 1998. And so the temporary one will be good
21 until we take any further action at that
22 time, and we'll have more information. I
23 guess that's what they wanted.

24 So we have before us Resolution
25 1997-20, a resolution concerning a temporary

9
1 supplier's license to Alliance Gaming
2 Corporation.

3 Do I hear a motion to adopt that
4 resolution?

5 DR. ROSS: I'll make that motion.

6 MR. KLINEMAN: Is there a second?

7 MR. MILCAREK: I'll second.

8 MR. KLINEMAN: Any further
9 discussion? Hearing none, all those in favor
10 of Resolution 1997-20 say aye.

11 (Unanimous approval)

12 MR. KLINEMAN: Contrary?

13 The resolution is adopted.

14 The next item on our agenda are
15 occupational license matters. I guess Miss
16 Fleming will be at bat for that.

17 MS. FLEMING: Thank you. We have two
18 matters before the Commission today. The
19 first, Christine Kezler had applied to be a
20 blackjack dealer for the Showboat, and she
21 applied for a request for felony waiver.

22 The Commission Staff denied it on its
23 face because Miss Kezler had been convicted
24 of the offense of possession of cocaine in
25 1996 in Broward County, Florida. Pursuant to

9
1 IC 4-33-8-11, she could not be eligible to
2 receive the waiver for a period of ten years
3 from the discharge of her probation,
4 imprisonment or parole. So the Commission
5 Staff determined she was not eligible.

6 Miss Kezler wanted to appeal that
7 matter to an administrative law judge. It
8 was assigned to Bernard L. Pylitt. Pursuant
9 to a telephone prehearing, Miss Kezler was
10 explained -- explained her case, and she
11 admitted that she had been convicted in 1996
12 of a possession of cocaine.

13 The administrative law judge
14 explained to her the requirements of the
15 statute that she had to have been discharged
16 from probation, parole or imprisonment for a
17 period of ten years, at which time she
18 indicated she would like to withdraw her
19 appeal.

20 The administrative jaw judge issued
21 an order to that effect which would dismiss
22 the appeal, and the Commission will have to
23 take final action on whether or not it will
24 allow her to withdraw her appeal. And then
25 she would not be eligible to receive a waiver

1 until at least 2006, depending on whether or
2 not she had been placed on probation.

3 MR. KLINEMAN: We have a Commission
4 action concerning this matter. We have two
5 blanks. We have a blank -- the first blank
6 says, After reviewing the foregoing, the
7 Commission, and we need to have the word
8 adopt or rejects the recommendation of the
9 administrative law judge. And the next blank
10 is denies or approves.

11 And this is a request to withdraw.
12 So if you wish to approve the request to
13 withdraw the waiver, then in that blank would
14 be the word 'approves'. It's really
15 backwards where we usually end up.

16 But do I hear a motion to adopt the
17 Commission action and insert -- I guess the
18 first blank would be adopts and the second
19 blank would be approves?

20 MR. VOWELS: I'll move.

21 MS. BOCHNOWSKI: Second.

22 MR. KLINEMAN: Is there a second?

23 MS. BOCHNOWSKI: Yeah.

24 MR. KLINEMAN: A second by Miss
25 Bochnowski.

1 Any further discussions? Hearing
2 none, all those in favor of adoption of the
3 action say aye.

4 (Unanimous approval)

5 MR. KLINEMAN: Contrary?

6 The action is adopted.

7 The next item is the felony waiver
8 for David O. --

9 MS. KAY FLEMING: Jernigan.

10 MR. KLINEMAN: -- Jernigan, II.

11 MS. KAY FLEMING: Mr. Jernigan
12 applied to be a first mate for the Argosy
13 Casino. Mr. Jernigan was convicted of a
14 felony offense of possession of marijuana in
15 Louisiana in January of 1984.

16 The Commission had previously
17 appointed me as the hearing officer for such
18 matters, and I conducted a hearing with Mr.
19 Jernigan I believe in December of 1996. No.
20 Excuse me. That would be April 2nd, 1997. I
21 got my dates mixed up.

22 Mr. Jernigan had initially indicated
23 to the Commission on his application and his
24 request for a waiver that he had received a
25 pardon in the state of Louisiana. However,

9
1 Deana Garner, one of the staff attorneys for
2 the Commission, reviewed the matter and
3 determined that in Louisiana there is an
4 automatic first offender's pardon that
5 restores certain rights, but it does not
6 restore you to the position of innocent, to
7 the status of innocent.

8 So it just reasserts or reestablishes
9 some of your rights that are taken away with
10 a felony conviction, but does not wipe out
11 the conviction. Therefore, we proceeded with
12 a hearing and reviewed Mr. Jernigan's record.

13 Mr. Jernigan had also been arrested
14 for the offenses of assault and for theft in
15 Louisiana, and in 1995 received a driving
16 while intoxicated conviction.

17 One of the rules that has been
18 promulgated by the Commission indicates that
19 an applicant in his duties to operate or
20 navigate a riverboat must not have violated
21 any criminal statute involving drugs or
22 alcohol or both in any jurisdiction.

23 As a result of Mr. Jernigan's record
24 and his various convictions and the duties
25 that he will perform as a first mate, the

1 Commission -- the hearing officer recommends
2 that his request for a felony waiver be
3 denied, which would also result in the denial
4 of his application for an occupational
5 license.

6 If the Commission does adopt the
7 recommendation, Mr. Jernigan will have the
8 opportunity to appeal the matter to an
9 administrative law judge.

10 MR. KLINEMAN: Okay. We've heard the
11 explanation, and attached to the Commission
12 Order is a full report from Kay Fleming. We
13 have before us the Commission Order, which
14 also involves inserting some language in the
15 blanks.

16 First, does anyone have any other
17 questions of Miss Fleming concerning this
18 particular matter?

19 MR. VOWELS: Just to clarify a couple
20 things. This first offender pardon, from
21 what I'm reading and we've all discovered
22 here, what it looks like here is that even
23 with that first offender pardon, he may be
24 charged and punished with a second or
25 multiple offenses under state law. So it

10 1 sounds like what we look at as a perpetual
2 offender status?

3 MS. KAY FLEMING: Yes.

4 MR. VOWELS: Is that the way you saw
5 it?

6 MS. KAY FLEMING: Yes. And we also
7 have an opinion from the Louisiana Attorney
8 General with regard to a similar matter where
9 a person applied for a license in Louisiana
10 to work on a riverboat, and they pointed to
11 the first offender pardon. And the attorney
12 general contended the first offender pardon
13 does not restore the status to innocent;
14 therefore, they were not eligible to work
15 aboard a riverboat.

16 MR. VOWELS: So the term pardon
17 doesn't mean a pardon as we normally think of
18 that.

19 MS. KAY FLEMING: That's correct.

20 MR. VOWELS: And this other thing in
21 1995, the drunken driving, I assume that's a
22 misdemeanor.

23 MS. KAY FLEMING: Yes, it is a
24 misdemeanor.

25 MR. VOWELS: And do you anticipate

10 1 something happening with that?

2 MS. KAY FLEMING: He advised me
3 during the hearing that he expects that that
4 will be expunged. And that was a conviction
5 in Louisiana.

6 MR. VOWELS: But he wants the first
7 mate's job on this boat; right?

8 MS. KAY FLEMING: Right.

9 MR. KLINEMAN: I guess I did come up
10 with the question of expunging of these
11 convictions, particularly the driving while
12 intoxicated, does our rule really cover that
13 sort of situation?

14 MS. KAY FLEMING: He has not had that
15 conviction expunged. He's just advising he
16 expects it will be. And we do not take that
17 into account since it's speculation.

18 MR. KLINEMAN: Okay. Well, I guess
19 my question would be if, in fact, it is
20 expunged because he has counseling, alcohol
21 or substance abuse counseling, which I
22 presume would be the reason they would
23 expunge it, would he still be ineligible to
24 become a first mate?

25 MS. KAY FLEMING: Pursuant to the

10 1 rules, yes, because he still has the
2 conviction for distribution of marijuana.
3 And the rule says that anyone who operates or
4 navigates a riverboat cannot have been
5 convicted of any substance or alcohol abuse
6 offense in any jurisdiction. And there is no
7 time limit on that.

8 MR. KLINEMAN: I guess why I'm really
9 raising the question, if states are in the
10 business of expunging convictions based upon
11 subsequent actions by the parties, should our
12 rule be beefed up to cover that, or do you
13 think we're okay?

14 MS. KAY FLEMING: We have not had
15 that situation. That's something we can
16 review. We have not discussed that
17 internally, so we could do that and report
18 back to you.

19 MR. KLINEMAN: I think if we really
20 want to have an absolute rule, we're probably
21 missing something here. If we want to go
22 along with the fact that people as a result
23 of counseling, etcetera, do become
24 rehabilitated, I guess we want to go the
25 other way. It might be a little open

1 question we might want to take a look at.

2 MR. VOWELS: I think it boils down to
3 conviction. In Morgan County, the drunk
4 driving, a subsequent drunk driving, could he
5 be eligible for reckless driving?

6 MS. KAY FLEMING: Yes.

7 MR. VOWELS: So a subsequent
8 conviction would be reckless driving.

9 MS. KAY FLEMING: Yes.

10 MR. VOWELS: And, I mean, I would
11 think of it in terms of conviction. And this
12 expunging, it's hard to tell from state to
13 state what that means.

14 MR. KLINEMAN: Okay. We have before
15 us the order with the blanks. And if you
16 agree with Miss Fleming's review of the
17 situation, you would insert the word 'adopts'
18 in the first blank, and you then would put
19 'denies' in the second blank the request for
20 felony waiver.

21 Do I hear a motion to adopt that
22 order?

23 MR. VOWELS: I'll move for adopt and
24 deny.

25 MS. BOCHNOWSKI: I'll second.

11 1 MR. KLINEMAN: It's been moved and
2 seconded to adopt the Commission Order. All
3 those in favor say aye.

4 (Unanimous approval)

5 MR. KLINEMAN: Contrary?

6 The action is adopted.

7 Next is the extension of temporary
8 occupational licenses. And I think Mr.
9 Hannon.

10 MR. HANNON: In a nutshell, we have
11 got temporary licenses that have been out
12 there over a year. We're not prepared yet by
13 our system to issue the permanent
14 occupational licenses. We've asked you to
15 extend them for as to our date specific.

16 That hasn't worked out very well for
17 us, because the vendor who is putting our
18 program together to track that program, track
19 this occupational license problem, has had
20 some problems, personal problems within their
21 company.

22 So what I'd like to do is say that
23 the occupational licenses that are now out
24 there as temporary will be extended until the
25 issuance of permanent licenses. They should

1 probably get to that within the next sixty
2 days or so.

3 MR. KLINEMAN: Okay. Any questions
4 concerning this? We're going to have I think
5 Mr. Thar said approximately ninety-five
6 hundred licensed people pretty soon.

7 MR. THAR: That's what we have now,
8 when you figure we're running roughly twelve
9 hundred or more employees that are licensed
10 per riverboat. So some of the riverboats,
11 eighty-four hundred plus.

12 MR. KLINEMAN: Okay. And we are
13 going to get some kind of computer program
14 that will enable us to commence final action;
15 is that correct?

16 MR. THAR: That's correct. It's been
17 in the works for quite some time, over a
18 year, and with a lot of dedication that's
19 been put to it since last fall.

20 MR. HANNON: We now identified a
21 position within the office that will just
22 handle that problem.

23 MR. KLINEMAN: Well, I recall some
24 time ago when we first got started, we went
25 to Illinois and went to the office of their

11 1 Gaming Board. And they showed us filing
2 cabinets full of requests for occupational
3 licenses that hadn't been acted upon. They
4 were even farther behind than we apparently
5 are right now. I think we've done a pretty
6 good job and probably will have a complete
7 handle on this problem pretty soon.

8 All right. We have before us the
9 Resolution 1997-21, a resolution which
10 basically blanketly extending the temporary
11 occupational licenses, all of those persons
12 whose occupational license might be expired,
13 until such time as we're in a position to
14 issue or deny the permanent license.

15 Do I hear a motion to adopt
16 Resolution 1997-21?

17 MR. SWAN: So moved.

18 MR. KLINEMAN: Is there a second?

19 DR. ROSS: Second.

20 MR. KLINEMAN: Any further
21 discussion? Hearing none, all those in favor
22 of that resolution say aye.

23 (Unanimous approval)

24 MR. KLINEMAN: Contrary?

25 The resolution is adopted.

1 I guess that brings us to the item of
2 other business. Is there anything else?

3 MR. THAR: We do. We have another
4 business item. And I'll turn it over to Kay.
5 What it pertains to is that little Xerox
6 sheet we gave you that shows us just the
7 basic strategies of multi-deck play.

8 MS. BOCHNOWSKI: I'm sorry. I
9 didn't --

10 MR. THAR: You didn't get one, Ann?

11 MS. BOCHNOWSKI: I don't know if I
12 got one or not.

13 MR. THAR: These are sometimes
14 referred to as win cards, which are utilized
15 in some casinos and are given out by casinos
16 which help people understand the games
17 better.

18 Kay, would you explain it, please?

19 MR. KLINEMAN: It has to do with
20 blackjack; this one does.

21 MS. FLEMING: We've had a request
22 from a company called Gaming International,
23 Inc. to be able to distribute these win cards
24 to casinos in Indiana that will then
25 distribute them to the patrons.

11 1 They cover three games, craps,
2 roulette and blackjack. The craps and
3 roulette win cards merely identify the odds
4 and what your payoff will be if your bet
5 wins. Therefore, they are have no impact on
6 how you play the game.

7 The blackjack win card which we
8 passed out, however, indicates when a player
9 should split pairs, double down or take a hit
10 based on what the dealer's exposed card is.
11 And so it does give you basic game strategy.

12 Pursuant to IC 4-33-10-2, it is a
13 criminal offense to use or possess with
14 intent to use a device that assists in
15 analyzing the strategy for playing or
16 betting, unless it is permitted by the
17 Commission.

18 So this technically is a device that
19 does assist you in analyzing the strategy for
20 playing the game of blackjack. And if the
21 Commission approves this, then the casinos
22 can distribute blackjack win cards.

23 Due to the lateness of putting this
24 item on the agenda, I do not have a written
25 document prepared to indicate that you have

12 1 approved it. But I will prepare that later
2 and then send it to Alan and to Don for
3 signature indicating whether or not you do
4 approve it or whether you do not approve it.

5 MR. BOCHNOWSKI: This doesn't seem
6 very sinister. But I don't know if you have
7 other feelings about it.

8 MR. THAR: As a matter of fact, one
9 of the things I forgot to mention is that we
10 had a general manager's meeting a couple of
11 weeks ago, and this topic of the win cards
12 came up.

13 What it does is it -- we visualize
14 it, as I believe casino managers do, as
15 something that benefits the patron in terms
16 of familiarizing them with the game, the
17 basic strategy card for blackjack, which is
18 readily available in and out of most casinos
19 or purchasable at casinos for use.

20 When the rule was designed, it was
21 designed primarily to focus upon people who
22 might use mechanical devices, computer type
23 devices, or converse back and forth with
24 another player. These type of win cards were
25 not contemplated at the time we put that rule

12 1 together.

2 MS. KAY FLEMING: That's a statutory
3 issue.

4 MR. THAR: Statutory issue? So in
5 the case of the win card, from a staff point
6 of view, we don't see any problem with the
7 Commission allowing it. From a casino point
8 of view, they don't see a problem with
9 distributing them.

10 From a player point of view, it does
11 give the player an opportunity, if he or she
12 desires, to look at the strategy and decide
13 to play it or not.

14 MS. BOCHNOWSKI: The only problem
15 would be if somehow the win cards actually
16 misled players and gave them bad information.

17 MR. THAR: That's true. But to my
18 knowledge, they don't, at least the ones
19 we've seen.

20 MR. KLINEMAN: This company is
21 basically requesting that they be allowed to
22 distribute these cards?

23 MR. THAR: I see see Rick Major from
24 Empress. Do you have anything you could add
25 to the Commission on those cards, Rick?

1 MR. RICK MAJOR: You summed it up.

2 MR. KLINEMAN: Well, I would
3 encourage somebody, because sitting here, I
4 kind of get the feeling that this is maybe
5 something we don't want to do. And if you
6 gentlemen want us to do it, you better --

7 MR. RICK MAJOR: Rick Major from
8 Empress Casino. These cards are readily
9 available. Most magazines, Casino Player and
10 various, all publish them. They just give a
11 good basic strategy on how to play the game
12 and minimize the house advantage. The house
13 advantage is still there. It's built into
14 the game. These cards just minimize it.

15 MS. BOCHNOWSKI: You can buy books on
16 all this.

17 MR. RICK MAJOR: Yeah. There's
18 hundreds of them in every bookstore.

19 MR. VOWELS: When we play blackjack
20 on the computer, the same stuff comes up.
21 This doesn't apply to the computer that's in
22 my office.

23 MS. BOCHNOWSKI: Uh-huh, we know.

24 MR. VOWELS: But this same
25 information comes up when you play and tells

12 1 you whether you should double down or split.
2 It's fairly accessible information. But you
3 think it's of some benefit to the casino
4 companies to have this?

5 MR. RICK MAJOR: It further advances
6 their knowledge on the game, and it may make
7 them more -- actually encourage them to play
8 the game.

9 MS. BOCHNOWSKI: I suppose the other
10 issue would be you wouldn't have somebody
11 sitting there and not knowing how it works.

12 MR. RICK MAJOR: They will put them
13 on the table and they will refer to them.
14 They usually do not hold the game up.

15 MR. KLINEMAN: I think the thing that
16 bothers me is the double down suggestions by
17 this card, which I guess increases my risk.
18 And I guess I don't ever look at it from the
19 standpoint of increases my possibility of
20 winning. I always look that it increases my
21 risk.

22 MR. SUNDWICK: You don't play the
23 game anyway.

24 MR. KLINEMAN: No, I don't. I've
25 never won anything. It and I don't agree.

1 MR. STEVE NORTON: Steve Norton from
2 Argosy. The win cards, basic strategy in
3 blackjack, the house advantage, if you use
4 basic strategy comes down to about half of
5 one percent. If you don't know what you're
6 doing and you stand every time you have a
7 twelve and never take a chance, busting the
8 house is like five or six percent. So it
9 does improve dramatically the odds at the
10 game of blackjack.

11 At the game of craps where these help
12 is that players don't realize that the odds
13 on various bets vary dramatically. If you
14 play the line without taking three odds, it's
15 like one point two percent. If you take the
16 double odds, it drops down to about eight
17 tenths of one percent. However, there are
18 bets in craps that can have a house advantage
19 as much as sixteen percent.

20 So it helps to improve the player's
21 knowledge. And, as you probably know, some
22 players are very afraid to play certain types
23 of games. This gives the player a little
24 more courage to stand up to a craps game
25 where before they might just say let's play

1 the slot machine. Nobody's going to get mad
2 at us. But if we hit the wrong thing in the
3 blackjack table, another player might get mad
4 at us. So it definitely helps to encourage
5 people in the table games.

6 MR. THAR: There's two other things.
7 One of the things expressed at the general
8 manager's meeting was it connotes a certain
9 amount of fairness on behalf of the house by
10 allowing the player to look at these cards.

11 Secondly, you're just simply
12 distributing at a casino the same thing you
13 can pick up at a bookstore.

14 MS. BOCHNOWSKI: Under the situation
15 now, somebody wouldn't be able to bring one
16 of those books into the casino. Would that
17 be correct?

18 MR. THAR: We're not talking about
19 books right now. But they could not --
20 well --

21 MS. BOCHNOWSKI: Because if they had
22 a chart like this, they couldn't have a book.

23 MR. THAR: Unless you authorized it,
24 the Commission authorized it. Presently, it
25 would fall under the statute.

1 MR. STEVE NORTON: The only down side
2 to having the cards is it can slow down play.

3 MR. KLINEMAN: Well, I guess if we're
4 going to allow the cards which are being
5 distributed by the licensees, we ought to
6 allow people to bring books in then and so
7 forth.

8 MR. THAR: Well, we prefer to just
9 take it one step at a time. If we have a
10 request about books, we'll take books. Right
11 now, we'd just like to deal with the cards.

12 MR. KLINEMAN: Anyone else have any
13 comments?

14 MR. SWAN: I think it's a good idea.

15 MR. SUNDWICK: It seems like it's a
16 win-win deal.

17 MR. KLINEMAN: I guess when I see the
18 licensees are promoting it, I stop to think
19 for a minute. Nothing personal, but --

20 MR. VOWELS: Well, I can see what
21 you're saying. You get somebody go on the
22 boats that's just going to play the slots if
23 they're intimidated by the tables. It's to
24 the customers' advantage to have a better
25 chance to win and the companies' advantage to

1 have more people come to the tables.

2 MR. KLINEMAN: Like Steve said
3 though, I've never seen a craps game where
4 they waited for you to look at your card.

5 MR. RICK MAJOR: Actually, in
6 reference to the craps table, that just
7 states the odds of the game. We provide that
8 in a game guide anyway.

9 MR. KLINEMAN: What's your feeling
10 about these books that we're talking about,
11 people bringing their own?

12 MR. RICK MAJOR: That could be
13 cumbersome and bulky. That would be
14 cumbersome having a book on the table, and
15 there may be other things in the book that
16 you may not be aware of and may not have
17 approved.

18 MR. KLINEMAN: I understand. But if
19 we would open it up to books, you would have
20 no objection; right?

21 MR. THAR: Well, that raises some
22 other issues such as to what extent would a
23 book be utilized to block surveillance, to
24 what extent would it be utilized to manipulate
25 bets or take somebody else's chips. So we'd

13 1 really like to just look at the card today.

2 MS. BOCHNOWSKI: Books would be a
3 problem, because we'd have to approve books
4 book by book. We'd have to look at every
5 book.

6 MS. KAY FLEMING: The document I'm
7 drafting would be specifically limited to the
8 small laminated cards.

9 MR. VOWELS: I think we should have a
10 day when we have all the books.

11 MS. KAY FLEMING: I'll talk to you
12 after the meeting about that.

13 MR. SUNDWICK: Why don't we just vote
14 on the card?

15 MR. KLINEMAN: That's fine. Okay.
16 Do I hear a motion to allow, would that be,
17 the licensees to distribute win cards? Is
18 that what they're called?

19 MS. KAY FLEMING: It would be to
20 allow the use of the win cards, yes.

21 MR. KLINEMAN: The use of the win
22 cards. Allow the licensees to -- that the
23 win cards may be used during the conduct of
24 gaming.

25 MR. VOWELS: We're talking about the

1 particular manufacturer of these win cards?

2 MR. THAR: There is a particular
3 manufacturer that has made the request. But
4 if we authorize win cards, regardless of
5 manufacturer, so long as they contain the
6 same kind of information as we have seen,
7 that would be allowed to be distributed.

8 MR. VOWELS: As long as they're the
9 same thing, the same type of information.

10 MR. THAR: Yes.

11 MR. VOWELS: I would then move.

12 MR. KLINEMAN: If we allow it. Is
13 there a second?

14 MS. BOCHNOWSKI: Second.

15 MR. KLINEMAN: Is there any further
16 discussion? Hearing none, all those in favor
17 of the resolution say aye.

18 (Unanimous approval.)

19 MR. KLINEMAN: Contrary?

20 The resolution is adopted.

21 Anything further? I guess we're down
22 to the Harrison -- or Crawford and
23 Switzerland County matter. I welcome those
24 people who have come from Crawford County and
25 Switzerland County to our meeting.

1 I think we'll take a break, and we'll
2 come back here at ten thirty, and we'll take
3 up that matter.

4 (At this time, a break was taken.)

5 MR. KLINEMAN: If we can come back to
6 order, we'll take up the item that we
7 postponed, which we did, Ann, at your
8 request, postponed the consideration of
9 scheduling for the final riverboat license on
10 the Ohio River --

11 MS. BOCHNOWSKI: I appreciate that.
12 Thank you.

13 MR. KLINEMAN: -- so you could be
14 here. And I think, first, we received quite
15 a bit of correspondence concerning this
16 matter, and I think Mr. Thar, do you want to
17 put on the record for us the items which
18 have, in fact, been distributed to the
19 Commissioners?

20 MR. THAR: Prior to distribution of
21 today's pack, the Commission has previously
22 sent to the Commission a fax letter from
23 Players indicating that if the Commission was
24 to reopen Crawford County, they would
25 consider possibly putting an application in

14 1 there.

2 Secondly, a letter from Hyatt
3 concerning some views they have with regard
4 to the markets and the last license. We
5 received by faxes yesterday a fax from the
6 National Coalition Against Legalized
7 Gambling, John D. Wolf, requesting the
8 Commission not to issue the fifth license on
9 the Ohio River.

10 We distributed a letter from Len
11 Krick, who is working with Crawford County in
12 terms of trying to enhance the development
13 down there and asking the Commission to give
14 some consideration to some of his thoughts.

15 We have received a letter which was
16 requested by me of Hilton -- I'm sorry -- of
17 ITT Caesars as to what date, if any, they had
18 to have a shareholders meeting by. We have
19 also received, and I will ask information not
20 be distributed this way in the future,
21 letters which we, the staff anyway, does not
22 know the contents of from different groups of
23 Switzerland County, from Mike Jones, from two
24 others. Staff did not get the letters, so I
25 cannot describe what they are for the purpose

1 of the record.

2 Steve Norton with Argosy today during
3 the break dropped off a letter addressed to
4 Alan Klineman setting forth the statistical
5 information as it concerns other riverboat
6 markets, which may or may not be helpful to
7 the Commission in its determination on this
8 issue.

9 And I think that fairly well sums up
10 what has been distributed. Is there anything
11 in the packets that I have missed that
12 anybody has noticed?

13 MR. KLINEMAN: Well, let's first
14 clear up the question of the stuff that was
15 submitted but wasn't made available to staff.
16 Is that what you're talking about?

17 MR. THAR: Yes. Switzerland County
18 letters from various groups or individuals.

19 MR. KLINEMAN: The only two that I
20 have here, and maybe some of the other
21 Commissioners, are Switzerland County
22 Convention Visitors Bureau, which obviously
23 requests that we make a decision so that the
24 people can move on with their lives, make a
25 decision in this matter, and the letter from

14 1 Mike Jones, who is the president of the
2 Switzerland County Council, just outlines
3 basically some of the needs of Switzerland
4 County which he believes could be fulfilled
5 by granting a license to Hilton Boomtown and,
6 of course, recommends that we go ahead and
7 grant the license to Hilton Boomtown. I
8 don't know if there's anything else.

9 MR. THAR: There should be a third
10 letter. I don't know who it's from.

11 Bob, do you have it?

12 MR. SUNDWICK: Yes.

13 MS. BOCHNOWSKI: There's a letter
14 here from Catherine Deems talking about the
15 fact that they lost the Randall Company in
16 Switzerland County.

17 MR. THAR: Could you just spell the
18 lady's name for the court reporter?

19 MS. BOCHNOWSKI: D as in dog-e-e-m-s.

20 MR. THAR: Katherine with a K?

21 MS. BOCHNOWSKI: C,
22 C-a-t-h-e-r-i-n-e, Deems, D-e-e-m-s. And the
23 gist of her letter is that the Randall
24 Company has closed and that was their source
25 of the highest paying manufacturing jobs in

14 1 Switzerland County.

2 And then Nine West closed three
3 plants in the region. And so they're
4 concerned about the Nine West group remaining
5 in the community. It's basically supporting
6 a license in Switzerland County.

15 7 MR. KLINEMAN: I guess that completes
8 the record of the things that we have or
9 which have been received concerning this
10 matter.

11 As everyone knows, particularly those
12 people who are from Crawford County and from
13 Switzerland County, the Commission has been
14 reluctant to act without all the figures and
15 information that we believe would be
16 necessary to grant this last license.

17 In particular, we asked that the two
18 applicants help fund a report from SPEA,
19 which would indicate to the best of their
20 ability the effect on the existing licensees
21 should we grant a license in Crawford County
22 in one instance and in Switzerland County in
23 the other instance.

24 And that report is in draft form,
25 it's my understanding, and has not yet been

15 1 completed. But they are pretty far along; is
2 that correct?

3 MR. THAR: They have submitted to us
4 this week a draft of the report for an
5 initial review. Generally we do it not to --
6 the purpose of our review is not to criticize
7 or in any way change what the report would
8 show. But sometimes you got to be a Ph.D. to
9 read it. So we try to get the language such
10 that people can understand what it is they're
11 saying.

12 We are in the process of reviewing
13 that now. That should be available, I would
14 guess, within a couple weeks for distribution
15 to the Commissioners for any questions as to
16 what questions you have when you read the
17 report as well as to the two applicants.

18 MR. KLINEMAN: Okay. Then also I
19 think that at one time we committed ourselves
20 that when the report was in draft form that
21 we would submit it to the applicants so that
22 they could correct any factual assumptions
23 that SPEA was making if it turned out SPEA
24 was making some factual assumptions which
25 were not in their opinion correct.

1 MR. THAR: No, I don't think we
2 agreed to that.

3 MR. KLINEMAN: No?

4 MR. THAR: No. With regard to the
5 marketing departments, I think that they very
6 well may see there's a lot of factual
7 assumptions that they may not agree with or
8 like the way the results come out.

9 We have agreed to distribute them for
10 their comment. We did not agree that we
11 would necessarily have SPEA change anything.

12 MR. KLINEMAN: I wasn't suggesting
13 that. I was really trying to suggest the
14 same thing that you said. You said it
15 probably more accurately than I did.

16 But obviously if they find things
17 that they quarrel with from a factual
18 standpoint, they can make those comments.
19 And that's basically what I was trying to
20 say, but it didn't come out right.

21 So it's never been suggested that --
22 I'm sure the applicants wouldn't want SPEA in
23 any way to compromise their independence.
24 But anyway, we had agreed that they would
25 also receive a draft of the document before

15 1 it became finalized.

2 MR. THAR: That's correct.

3 MR. KLINEMAN: Okay. So anyway, we
4 still have that to go. We did say that we
5 would visit this situation at this hour about
6 this time, and we're here to do that. We
7 have included in the material that Mr. Thar
8 has recited. We do have an indication that
9 in Crawford County that there might be
10 some -- from one part of it, there might be
11 some change.

12 Was it my understanding that Crawford
13 County wanted to make some statement or not
14 at this time?

15 MR. THAR: Jeff Lorenzo on behalf of
16 Crawford County had called and asked if he
17 could address the Commission on Crawford
18 County. Likewise, I know that Bob List with
19 Boomtown is here with some others. And
20 depending upon what issues come up, they
21 would also like to address the Commission.

22 Jeff, is it still your position that
23 you would like to address the Commission?

24 MR. JEFF LORENZO: I would.

25 MR. KLINEMAN: Well, why don't we go

1 ahead with the preliminaries, and then maybe
2 we can see.

3 MR. JEFF LORENZO: Sure.

4 MR. KLINEMAN: Okay. Along the
5 preliminary lines, we still have the
6 situation where Hilton has made an
7 unfriendly, I guess, takeover proposal to
8 ITT, who are our licensee in Harrison County.

9 That situation has not yet resolved
10 itself. In fact, as of yesterday, it was
11 continuing to heat up, according to the
12 information that I received from Dow Jones
13 news retrieval.

14 The Hilton people had amended a
15 lawsuit that it has against ITT to include a
16 count against the directors individually and
17 also complaining that the actions that ITT
18 were taking amounted to a scorched earth
19 tactics, and I guess were probably asking for
20 some sort of relief. It might have been
21 injunctive, although this doesn't really cite
22 that.

23 And ITT's response, of course, was
24 that the Hilton actions and amended lawsuit
25 were totally without merit. I won't go into

15 1 some of the other adjectives that are used.
2 But they say it's totally without merit. So
3 that matter is heating up.

16 4 As Mr. Thar indicated, we have
5 received as part of our material a letter
6 from the counsel for -- one of the counsels
7 for ITT, I guess in the capacity of general
8 counsel, corporate secretary of Caesars
9 World, Inc.

10 And the question which had been asked
11 was what was the status of a annual meeting
12 which was to be held by ITT. I think earlier
13 the original lawsuit by Hilton was against --
14 or had a request in it that ITT be required
15 to have an annual meeting. I guess they
16 usually, without other things being present,
17 would hold an annual meeting some time in the
18 spring of each year.

19 And the letter we received basically
20 indicates that ITT is a publicly traded, as
21 we all know, NYSE listed corporation, but
22 it's incorporated in the state of Nevada, and
23 Nevada law then applies.

24 When you read the Nevada law
25 concerning annual reports or annual meetings,

1 it actually would indicate that at least a
2 period of eighteen months must expire after
3 the last election of directors before any
4 court even has jurisdiction concerning
5 whether or not a meeting should be had or
6 whether it should be postponed.

7 So that time, I believe, would not
8 run out until the fall of this year.
9 November, I guess, is probably the exact date
10 when the eighteen months would have run.

11 So we have a situation with Hilton
12 and ITT where we're not exactly sure whether
13 or not the Boomtown Hilton proposal in
14 Switzerland County would, in fact, if they
15 were successful in taking over ITT, be what
16 we would end up.

17 We might have a situation where if
18 Hilton was successful in their takeover of
19 ITT, they might do something with the
20 Harrison County license. On the other hand,
21 if they had the license in Switzerland
22 County, they might choose as between those
23 counties to go with Switzerland County.

24 On the other hand, they might choose
25 to concentrate their efforts in Harrison

1 County and to put us in a position where they
2 were not involved or maybe only involved to
3 the extent of ten percent in the Switzerland
4 County situation.

5 I say all that to indicate that we
6 have a situation where the balls have not
7 quite stopped bouncing yet. We don't have
8 all the information, I think, that we felt we
9 should have before we made a final decision.

10 We don't have the SPEA report. We
11 have a request and an indication that maybe
12 Crawford County would want to reopen the
13 application procedure in Crawford County.
14 And we have the situation in Switzerland
15 County where because of the proposed takeover
16 of ITT we're not exactly sure what would
17 happen if we granted a license to Hilton at
18 that location.

19 Any other Commissioners have anything
20 to say with respect to this?

21 MS. BOCHNOWSKI: Well, there's also
22 the obvious, that even without all that, we
23 have a boat in Lawrenceburg that -- a new
24 boat, a much bigger and newer boat and new
25 site, etcetera. And we have got the boat,

16 1 the big Caesars boat, coming. Who knows? I
2 mean, those are huge boats.

3 MR. KLINEMAN: I think that's the
4 information that the SPEA report will
5 address.

6 MS. BOCHNOWSKI: Right. But what I'm
7 saying, I feel like you could speculate and
8 you can make assumptions. But until it
9 really happens, I don't know that you really
10 know.

11 I think we're seeing up in Lake
12 County where there is impact. Even though
13 there's a huge population and everybody was
14 talking about the huge population, the good
15 roads, etcetera, we've made an impact on
16 Illinois, and these boats are starting to
17 make an impact on one another.

18 MR. SUNDWICK: If that were the case,
19 we probably wouldn't put any boats in
20 Northern Indiana because there were boats in
21 Illinois, because we wouldn't know the impact
22 of those boats until we did it.

23 MS. BOCHNOWSKI: Yeah, I guess you
24 could say that. But, I mean, there's a
25 difference between putting some boats and

1 maybe oversaturating the market.

2 MR. SUNDWICK: I would just think the
3 SPEA report would probably give us those
4 indications. Ohio in Cincinnati voted sixty
5 to forty not to have boats in Ohio waters.
6 Kentucky I think has indicated that they're
7 not interested.

8 So we have one of the larger markets
9 in the Midwest serving two boats currently.
10 So I think we need to kind of wait and look
11 at the numbers.

12 MR. KLINEMAN: Well, as I expressed
13 myself before, I think in this particular
14 instance, going carefully and, therefore,
15 slowly is probably in the best interest of
16 the citizens in the state of Indiana.

17 I think I'm rather proud of the
18 manner in which this Commission has acted in
19 respect to the licenses that we have thus far
20 given out. I think we have acted with all
21 due diligence and all deliberate speed, shall
22 we say, in granting the licenses we did
23 grant.

24 We were on a heavy schedule, as the
25 Commissioners know, in considering these

1 things and digesting the material which had
2 been submitted. So we did work, as I say, in
3 a manner that I'm proud of with respect to
4 granting the licenses that we have granted
5 thus far.

6 But we do get to this point where we
7 still have some unknowns. And even though
8 those people in Crawford County and
9 Switzerland County may feel that I'm unfair,
10 I think it is in their best interest and in
11 the best interest of the citizens of Indiana
12 that we continue until we've received all the
13 information and all the balls have stopped
14 bouncing to try to postpone this matter until
15 such time as we do have the information which
16 is important to us in making this final
17 decision.

18 Does anyone have a suggestion on what
19 we should do?

20 MR. SUNDWICK: I think we should
21 probably set a date. I would be very
22 interested in hearing both counties
23 re-present, because it's been quite a while
24 since we had an opportunity to hear their
25 proposals, and give them an opportunity to

1 re-present those and set a date for a
2 decision some time in the future when some of
3 the balls start to come down.

4 MR. KLINEMAN: Mr. Thar, do you have
5 any thoughts?

6 MR. THAR: I have a thousand thoughts
7 on this issue.

8 MR. KLINEMAN: Do you have any you
9 want to tell us?

10 MR. THAR: None of them clear. I
11 think there are some countervailing issues on
12 both sides that need to be mentioned, if not
13 aired.

14 I think if you take -- the Commission
15 takes an honest look at the situation that
16 presently the two counties, the two
17 applicants are in, they're kind of in a state
18 of limbo, and an expensive limbo. I think a
19 lot of money expended to put together an
20 application. The amount of money expended to
21 keep the application alive is significant.

22 Companies are, therefore, entitled to
23 have some kind of a decision made by this
24 Commission in the reasonable future, as are
25 the counties, because they don't know how to

1 plan whether or not their economic
2 development is going to hinge on a riverboat
3 or something else, whether or not there's
4 going to be employment.

5 So whether the decision is to go to
6 County A and not County B, or whether the
7 decision is we're sorry, we're not going to
8 issue that license, I think they're entitled
9 to a decision in some reasonable period of
10 time.

11 Scondly is the whole issue of the
12 markets. The markets are speculative. Right
13 now, we don't know what the Cincinnati market
14 will really do. We have the analysis that
15 was done in the Kansas City market, the St.
16 Louis market by investment bankers and others
17 that show that they could handle the number
18 of riverboats presently placed there. We had
19 substantial capital investment made.

20 And now if you look at Kansas City as
21 the primary one, that market is not
22 supporting five riverboats well,
23 notwithstanding the fact that business
24 decisions were made to invest large amounts
25 of capital there, notwithstanding the fact

17 1 that people believed the market was big
2 enough to handle it.

3 For a city the size of Kansas City to
4 lose one riverboat or maybe two riverboats
5 causes a problem. For Vevay, Rising Sun to
6 lose one riverboat or two riverboats is more
7 than a problem; it's a disaster.

8 So I don't know when we will have
9 enough information to know what those markets
10 will really do. My personal feeling is that
11 if one riverboat goes bad, it won't just be
12 one, it will be two. We'll end up with two
13 weak performers.

14 Consequently, those are issues that
15 have to be decided. Hopefully, the SPEA
16 report will help us take a look at that even
17 better, as well as the emerging markets.

18 There is the issue that the
19 legislature has said that there are eleven
20 licenses available. We know that one is a
21 legal impossibility. That leaves ten
22 licenses for this Commission to give out,
23 five on the river, five on the lake.

24 There is no time limit with regard to
25 giving out those licenses. And while we are

1 supposed to give those licenses out so it
2 does the most economic development not only
3 for the area but for that region and also for
4 the state, I sometimes question with the
5 information we have now whether or not giving
6 out a fifth license would, in fact, be
7 counteractive to that directive. Maybe in
8 determination of the fifth license could very
9 well result in negative economic development
10 in both the region and the state.

11 There's no clear answer, however, to
12 those, and I think that's the problem. In
13 the past, this Commission has had direction.
14 The legislature said in Northwest Indiana,
15 you have four licenses to go in these
16 locations, so do it.

17 They didn't say that on the Ohio
18 River. They did say they didn't want more
19 than one boat per county, which certainly
20 changed the way I think this Commission
21 looked at how the boats would have aligned
22 potentially on the Ohio River. So that has
23 made it more difficult.

24 We have questions of infrastructure
25 support for large numbers of people traveling

17

18

1 longer distances to get to casinos than they
2 have to in Lake County, where you have a toll
3 road and interstate system and four-lane
4 highways.

5 And then you have the whole question
6 of those casinos are closer together and
7 share passengers, whereas the distance
8 between, for instance, Vevay and Lawrenceburg
9 is in excess of twenty-five miles, and the
10 difference between the Crawford County
11 location and the Harrison County location is
12 in excess of twenty miles. So you haven't
13 really got synergy where you got three
14 restaurants in a row. You have a choice.

15 I don't know when that information
16 will come. I don't know if the information
17 will ever come to enable this Commission to
18 say it is clear now from our crystal ball
19 that this path is a better path than this
20 path.

21 There's a lot to be said by moving
22 cautiously. Particularly my greatest --
23 speaking as a nonvoting member, my greatest
24 fear is whether or not the Ohio River can in
25 the long term support five riverboats based

1 upon the present situation, not even the
2 future.

3 MR. SUNDWICK: I think you're
4 probably right. But we keep saying five
5 riverboats on the Ohio River. What we're
6 really saying is there's one boat in
7 Evansville, there's currently one boat in the
8 Louisville area that's been -- the
9 application has been accepted, I guess, and
10 now we're talking about the Cincinnati
11 market.

12 And the question is is the Cincinnati
13 market -- that's what we're talking about the
14 fifth riverboat. Is that market capable? I
15 think if SPEA can tell us or somebody can
16 tell us.

17 The original question this Commission
18 had was will that particular market or these
19 two markets, Crawford County, the Louisville
20 area, or the Cincinnati area, support those
21 boats. That was the question a year ago.

22 I think what we have to do is find
23 out the answer to that question. Listen to
24 what these people have to say. Give them the
25 opportunity to explain themselves. And maybe

1 with new information, balls may drop. We
2 might have a very clear idea what will happen
3 in November, in October, in that area more
4 than we do today.

5 So I would propose that we set dates
6 to give these people an opportunity to
7 re-present their positions and then make a
8 decision at that time. If this Commission at
9 that time believes that that fifth riverboat
10 shouldn't be let, if that's the opportunity
11 of this Commission at that time, we can all
12 sit here like lumps on a log and not do one
13 thing at that time.

14 And we'll have more information than
15 we have currently today. So I would propose
16 that's what we should do.

17 MR. THAR: If I may -- I'm sorry.
18 Go ahead.

19 DR. ROSS: I was just going to ask
20 you, when do you think the SPEA report will
21 be available to us?

22 MR. THAR: I think that we ought to
23 be able to get back with SPEA to get a few
24 directions, get some language clarifications
25 and get that report to the Commissioners

1 within the next four weeks easily, and at
2 that time distribute it to the applicants.

3 And then the next thing, as much of
4 what I reported I would still differently
5 from the way I reported the executive
6 director's report, August is a lost month
7 from a staff point of view because of opening
8 Michigan City and dealing with Argosy's new
9 riverboat. That will be in lieu of that
10 happening on the river, what that market
11 looks like, when you bring in what would be
12 the largest gaming boat in the United States.

13 Before that, Rising Sun will be
14 opening their permanent facility. That's
15 another impact thing that will occur. Then
16 in December, we will have the impact from
17 Argosy completing their permanent facility
18 with their permanent boat. So August is a
19 lost month.

20 From somewhere in mid September to
21 mid October, Majestic Star will be bringing
22 in its permanent boat that we will need to
23 open also. So that makes August certainly a
24 loss, maybe a week or two in September, but I
25 doubt it.

1 It would leave really if we were to
2 set some firms dates, taking into account the
3 potential for a shareholders meeting with ITT
4 Caesars in November, of moving the hearing
5 closer to then. I would recommend if we're
6 going to set some hearing dates some time
7 between mid October and mid November,
8 depending upon the availability of the
9 Commissioners after you've had a change to
10 look at your schedules.

11 If I understand you correctly, Bob,
12 what you would also be proposing is a full
13 presentation again with certain time limits
14 of each of the applicants and the counties to
15 reappoint Commission proposals. So we would
16 need two applicants and two counties, about a
17 half day apiece. So it would be at least a
18 day of Commissioners' time to do that.

19 MR. KLINEMAN: Before we go any
20 further, maybe we should find out if
21 representatives of Crawford County or Hilton
22 Boomtown and Switzerland County, Casino Magic
23 or anybody would like to address the
24 Commission.

25 State your name for the record,

19 1 please.

2 MR. JEFF LORENZO: Thank you, Mr.
3 Klineman. My name is Jeff Lorenzo. I
4 represent the good folks from Leavenworth and
5 Crawford County.

6 You'll be happy to know that your
7 preliminary discussion eliminated about four
8 pages of what I was going to say. Let me
9 just get to where I think we need to be, and
10 I'll be mercifully brief. And that relates
11 to the issue of the possibility of reopening
12 Crawford County.

13 You have a letter that has been
14 submitted, referred to earlier by Players.
15 You have a letter from Mr. Krick who is back
16 in the county working on behalf of himself as
17 an independent, but working with the
18 possibility of purchasing the Casino Magic
19 application, Crawford County Casino
20 Corporation, for another company, another
21 developer.

22 If that's the case, we have, in
23 essence, what happened in Switzerland County,
24 where Pinnacle Gaming, which is still
25 Pinnacle Gaming, but it is now sort of

1 wrapped around Hilton Boomtown, came to the
2 Commission, in essence, a different applicant
3 in that county, although you had investigated
4 both of those entities before.

5 We don't know who Mr. Krick is
6 working with on an official basis. We think
7 we do. If that happens, this company may or
8 may not have been investigated before, but
9 you have to renew that investigation.

10 We simply want the Commission to
11 consider the possibility of reopening. I
12 don't think we're prepared for you to make a
13 decision today. But on the basis of what Mr.
14 Thar has just discussed, we may be several
15 months down the road.

16 If the Commission sets a very brief
17 window for the submission of new
18 applications, and does so in the relatively
19 near future, you may not have any delay with
20 regard to the investigation either of a new
21 entity which purchases Crawford County Casino
22 Corporation or some other entity which has
23 submitted a letter of interest to the
24 Commission in Crawford County.

25 Our goal throughout this entire

19 1 process has been to provide the Commission
2 with as many choices as is possible. It
3 seems to me that the broader the world of
4 possibilities is for the Commission in terms
5 of selection of a developer in either
6 Switzerland or Crawford, the better it is for
7 the state, the better it is for those local
8 citizens of those communities.

9 Unfortunately, we both now have just
10 one applicant, and, unfortunately, Casino
11 Magic is not doing as well as we would like
12 it to do. Mr. Floyd is here, and he is more
13 than welcome to speak as to how Casino Magic
14 feels about this. But our view is that the
15 broader the world of possibilities for the
16 Commission, the better it is for you all, the
17 better it is for us.

18 So given that, given that we see some
19 things happening here in the very near term,
20 and I don't even want to describe them as on
21 the horizon, but I think they're in the very
22 near term, we would like the Commission to
23 certainly entertain the possibility of
24 Crawford County Casino Corporation's
25 application being purchased by another

1 entity, but also the possibility of reopening
2 for a window of thirty days.

3 Again, I know you're not prepared to
4 make that decision today, but it is, I think,
5 an issue that's going to arise in the very
6 near future. Thank you.

7 MR. KLINEMAN: Thank you. Anyone
8 else on the Crawford County side? Robert, do
9 you have something you wish to say? Please
10 state your name for the record.

11 MR. ROBERT LIST: My name is Robert
12 List, executive vice president and corporate
13 counsel of Boomtown. Also with me today is
14 Mr. O. B. Murray, who is vice president of
15 gaming for Hilton Gaming.

16 MR. O. B. MURRAY: Thank you.

17 MR. ROBERT LIST: Mr. Chairman and
18 Members of the Commission and Mr. Thar and
19 Staff, if I may, I would like to be heard.
20 Once again, I appreciate the opportunity to
21 appear before you.

22 In looking back through my notes, I'm
23 not certain what it was that this Commission
24 set as the deadline for applications for that
25 fifth and final license down on the river. I

1 do know that in the fall of 1995 that there
2 was a suggestion that it be reopened.

3 The Commission deliberated, debated,
4 heard from all the interested parties and
5 decided it would be unfair at that point to
6 reopen and unnecessary.

7 And Hilton and Boomtown at that point
8 was looking at what we considered then and
9 still consider to be a great market
10 opportunity for a third boat over there. So
11 we watched this Commission carefully to
12 decide whether we would be able to file a new
13 application or whether it would be necessary
14 for us to step up and make a deal with
15 somebody.

16 And we were required by your decision
17 in the fall almost two years ago to step up
18 and buy another company, because it was --
19 the only way to get into the dance was to
20 come in with somebody who already had a
21 ticket.

22 So we committed, our two companies,
23 nearly five million dollars in reliance on
24 that policy that you set at that time. And
25 since that time, we spent seven figure

1 numbers in pursuit of that application and in
2 reliance on that policy that you set at that
3 time.

4 Companies from the beginning of this
5 process in Indiana, major companies, have
6 made huge investments in the application
7 process on the lake and on the river, always
8 in dependence upon the guidance and the
9 direction and the statues and the rules and
10 policies that came from the state.

11 And I think that's been important to
12 our industry, and it's certainly important to
13 the state of Indiana to have a level of
14 predictability for the business community
15 when you invite people in.

16 I remember earlier this spring on the
17 floor of your senate one day Senator Nugent
18 making that argument when there was an effort
19 to do away with this kind of license. And he
20 stood there, and he said people who are
21 invited in here, major corporations, publicly
22 traded companies, whether it's in gaming or
23 whatever it's in, ought to be able to rely
24 upon the good faith and the integrity of a
25 state that sets a process and puts out the

1 welcome mat and depends on it and spends
2 their shareholders' dollars.

3 And he was right, and that's why he
4 won that day in the senate. That's been the
5 legislative policy. It's been the executive
6 policy, and it's been the policy of this
7 Commission.

8 And while I am certainly
9 understanding of Crawford County's
10 frustration with whatever dilemma they may
11 feel exists concerning Casino Magic -- and
12 I'm sympathetic -- the fact is that you can't
13 change the rules because along the way
14 there's some hardship some place. It's not
15 fair to do that.

16 Players, maybe they'll come in. They
17 sent a letter. Would they be acceptable to
18 you? Would they be able to borrow money at
19 the kind of rates that we're talking about?
20 Those are questions that certainly have to be
21 looked at.

22 Would the other gentleman come
23 forward with an applicant? Who knows? There
24 could be a thousand questions that could be
25 asked and to which there would be no certain

20 1 answers.

2 So we say to you that it's time that
3 we follow the clear-cut policy. We've relied
4 on it. Everyone else has relied on it. It's
5 the way the Hyatt came to this state, through
6 a partner who already had an application
7 pending. There's precedent for it. It's the
8 way it's been done, and it's worked just
9 fine.

10 Casino Magic has had every
11 opportunity to bring in another partner.
12 Their CEO appeared before you, as you recall,
13 last August or September and described the
14 efforts that they had made. And I think the
15 Commission could reach its own conclusions
16 about why it was that they had not been able
17 to attract someone.

18 Businesses are like people. We like
19 to see some predictability in our lives. So
20 to do business in this state is what -- I
21 think is what's at issue here, the image of
22 your state and the image of this Commission
23 and the dependability and predictability
24 that's inherent in all of that.

25 We told you before, we had our

1 financing in place. We had our reserves set
2 aside. That's been almost a year ago. And
3 you asked us then, Will you hang in there?
4 We said, Well, we'll to have think about it.

5 And we've done it. We've done it.
6 We're back again today. We appeared in
7 February. But there are limits as to how
8 long you can expect any reasonable company in
9 the course of their own corporate planning to
10 do that.

11 In a few minutes, Mike Jones, I
12 think, would like an opportunity to address
13 you also, because -- and perhaps that's more
14 relevant to your ultimate consideration are
15 the people of Switzerland County, because
16 they are the folks who really -- they're
17 losing a million dollars a month in that
18 region in taxes that they would be getting,
19 taxes and benefits, from these two companies,
20 apart from the payroll.

21 It's put off and put off. They're
22 just twisting slowly in the breeze. It's not
23 fair to them. Their sheriff is here began
24 today. The chairman of the -- the president
25 of their town board in Vevay is here again

1 today.

2 These people went through a
3 devastating flood this winter without the
4 benefit of a major employer, tax revenue,
5 economic development. So it's time that it
6 was dealt with. It's time that due process
7 was followed, that there was an orderly
8 businesslike determination of this thing.

9 We've stayed the course. We've been
10 steadfast. But we plead to you today to move
11 forward, to set a date, to make a decision in
12 fairness to these people, in fairness to the
13 applicants. It's important and it's
14 necessary for them.

15 Apart from the fact that these people
16 have been waiting patiently. Once again, you
17 see all these human bumper stickers, as
18 somebody called them, up here again, busloads
19 of people transported across the state.

20 Apart from their hardship, apart from
21 their reliance on our companies, apart from
22 the historic precedent this Commission has
23 had in setting dates and keeping them and not
24 reopening them and bringing things to a
25 conclusion, apart from the concept of due

1 policy and public policy, there's a
2 fundamental fairness that's at stake here.

3 And so we ask you respectfully to
4 make this decision, to set a date, to set a
5 time and to bring this to a conclusion.
6 We're anxious, we're willing, we're
7 committed. We've got the world's largest
8 gaming company in Hilton. We've got a great
9 middle sized company in Boomtown.

10 And we're anxious to make our
11 investment to bring this thing to a reality,
12 and respectfully urge you to set a date in
13 the near future and not to reopen it. Let's
14 go with what we have. We've got a great
15 opportunity on the table.

16 Mr. Murray will make a few comments
17 as well.

18 MR. O. B. MURRAY: Again, O. B.
19 Murray from Hilton Gaming, vice president of
20 Hilton Gaming. Thank you for your time
21 today. I appreciate it. I usually don't
22 find myself following a governor, adding to
23 his comments.

24 Earlier on, Chairman, you used the
25 word 'might' quite a bit in reference to the

1 ITT situation with Hilton, in reference to
2 the other boats opening and so forth. I
3 think this whole industry has a lot of might
4 throughout.

5 The day the Mirage opened on the
6 strip in Las Vegas, it changed things, to
7 what we're doing today for Star Trek in Las
8 Vegas, Las Vegas Hilton, there are a number
9 of things that change in this industry all
10 the time.

11 The one thing that is constantly
12 happening now is consolidation. And the
13 longer that the Board waits and uses the
14 anticipation of an annual meeting, which is
15 being put off now in the wake of a hostile
16 takeover, which today is hostile, but
17 takeovers, when completed, are always
18 friendly, they're never hostile at the end of
19 them.

20 As you wait and a consolidation
21 occurs, Casino Magic, Players and a number of
22 other companies that are smaller, any
23 industry analyst will tell you, are always a
24 possibility for takeover. Not any one
25 particular company I'm pointing fingers at.

1 But that's a possibility. There's two
2 mentioned today. And that is a constant
3 thing in this industry that is happening for
4 consolidation.

5 So if that's the reason to hold off
6 for one annual meeting, who knows when the
7 next one might be, at whatever point, and by
8 setting that precedent and waiting.

9 As far as the number of boats at this
10 point and comparing the competition at this
11 point to Kansas City, that's not really a
12 level playing field to compare to at this
13 point.

14 We operate a boat in Kansas City
15 ourselves right now. And one of the issues
16 there is a minimum-maximum loss number, five
17 hundred dollars per patron. By doing that,
18 the state -- and it's been a constant debate
19 between the industry and the state itself
20 right now.

21 By doing that, you're limiting -- the
22 government there is limiting the operator's
23 reason to advertise and to promote to a
24 certain point beyond a certain area, because
25 your cost of doing so limits that.

1 Here you have a free enterprise
2 system which allows you to compete with each
3 other, which allows every ship to rise at the
4 same time as more come in. And it allows
5 people to say, oh, great, let's go down
6 there. And maybe they're twenty miles away,
7 but it's still a decision to say, hey, let's
8 go here, let's go there. And you allow that
9 to happen.

10 And if you keep that waiting going
11 on, who knows what's going to happen next.
12 Ohio two years ago had a referendum. I mean,
13 there's all these things that can happen.
14 And as you wait for one ship to open as a
15 temporary, another as a permanent,
16 consolidation occurs, because there's so many
17 unknowns in this industry that's on the
18 business side, that can go on for a long
19 time.

20 But what this really comes back and
21 what the governor just mentioned was that it
22 is about the men and women of Switzerland
23 County right now or Crawford County,
24 whichever case. Somebody is complaining at
25 this point.

2
1 And it's costing them a million
2 dollars a month right now of what they are
3 not receiving in taxes. Again, that's not
4 including the payroll that gets out there,
5 the indirect jobs that occur at this point
6 and the spending as for the ripple effect.
7 It is really a situation that is not right
8 for the men and women of Switzerland County.

9 And as much as we've invested, we're
10 in this to make money, no question about it.
11 That's why we're in business; that's why we
12 have people that own our companies. But this
13 is at this point, for the delays, we can sit
14 there and wait if we have to. We're not
15 thrilled about it, and we very well may have
16 to take a look at it. And if that's what the
17 case is, as it was earlier when this was
18 asked to us two years ago, I guess, at this
19 point.

20 But a decision needs to be made for
21 the men and women of Switzerland County and
22 Crawford County so they can get along with
23 their lives at this point. Thank you.

24 MR. KLINEMAN: Thank you.

25 MS. BOCHNOWSKI: I have a question

1 for you.

2 MR. O. B. MURRAY: Yes.

3 MS. BOCHNOWSKI: Since you're telling
4 us not to wait, the consolidation and so on,
5 I would assume that somewhere somebody has a
6 plan for what you would do if this takeover
7 is successful with regard to Indiana. Let's
8 say everything goes your way. You get a
9 license in Switzerland County. You're able
10 to take over ITT. What's your plan?

11 MR. O. B. MURRAY: In regards to
12 questions directly related to the ITT
13 situation, the Hilton-ITT takeover right now,
14 I am precluded to discuss a number of things
15 due to SEC regulations.

16 Everything being said here goes out
17 there and bounces off the wall and so forth.
18 So I cannot add anything new to what's been
19 going on at this point, nor do I envision a
20 situation being able to do that at this
21 point.

22 MS. BOCHNOWSKI: Okay.

23 MR. O. B. MURRAY: But what I can say
24 is that in every other jurisdiction we
25 operate and where ITT operates, Atlantic

2
1 City, Nevada, Missouri, I believe the other
2 is Mississippi, various jurisdictions, we
3 have worked with every commission involved
4 and go on for whatever approvals are
5 necessary at that point for the SEC at this
6 point and within the jurisdictions we're
7 already operating.

8 MS. BOCHNOWSKI: We may have no -- we
9 may have no moving room because of the way
10 the law is stated regarding ownership
11 percentages.

12 MR. O. B. MURRAY: Again, I don't
13 follow where you're --

14 MR. VOWELS: You would like us to
15 make a decision. And one sticky point I have
16 is like Miss Bochnowski just said. If you
17 get everything you want and we got a problem,
18 you don't get a boat in Switzerland County,
19 we've got to figure out what's going to
20 happen there and what your success is going
21 to be with that hundred percent, ten percent
22 rule, and if your corporation thought of
23 that.

24 I understand the SEC limitations on
25 what you can say, but I'm certain they

2
1 thought of that. I'm sure that came into
2 play. So from what you're telling me here
3 today, if everything went along according to
4 your plan, I have no idea who's going to have
5 that boat, Harrison County or Switzerland
6 County, because you can't have them both.
7 And I don't want to be boxed in by a
8 corporate decision outside the state of
9 Indiana telling us what it's going to be.

10 MR. O. B. MURRAY: I appreciate your
11 concern. But, again, I think it's premature
12 at this point to go into a lot of that.

13 MR. VOWELS: It's premature at this
14 point for us to set a date very soon from
15 what I understand what your request is. And
16 part of the discussion we had earlier was
17 let's see what happens with the November
18 meeting or fall meeting of the stockholders.

19 You can't have both boats. And that
20 should be taken into consideration when the
21 takeover discussion was first had.

22 MR. ROBERT LIST: Mr. Vowels, I would
23 also add this. There's no assurance that any
24 license that you grant won't change hands
25 some day.

2
1 MR. VOWELS: But that's the situation
2 here.

3 MR. ROBERT LIST: That's true; it is
4 a case of first impression for that issue.
5 But there's no -- there's nothing in the
6 world that would assure that Argosy wouldn't
7 change hands, that one of the lakes on the
8 boat -- one of the boats on the lake
9 wouldn't. So you really can't always know
10 what's going to happen.

11 MR. VOWELS: Well, this is a clear
12 situation. Argosy decided they want to buy
13 Aztar. There's nothing to prevent us from --
14 if you don't have a license in Switzerland
15 County, if we can give it to you, maybe we
16 have some input into it. We had four big
17 boats and the SEC filing two days before the
18 decision had to be made.

19 But that's my point. I feel that
20 that's going to shake out somehow.

21 MR. O. B. MURRAY: I can reassure you
22 as what was said from the earlier part of our
23 comments -- Bud Seley is no longer with us;
24 he's moved on to a great opportunity for
25 him -- that we are committed to completing

3
1 this project. If we were granted the license
2 tomorrow, I would see no reason why we
3 wouldn't continue with that at this point.
4 We are perfectly committed.

5 MR. VOWELS: Except for our hundred
6 and ten percent rule.

7 MR. O. B. MURRAY: But the takeover
8 hasn't taken place yet. So that if that were
9 to be the case -- the Bally-Hilton takeover
10 was announced just about a year ago today, as
11 a matter of fact. And it took six months to
12 complete at that point.

13 So you still have within that
14 operating mechanism, if you gave us a license
15 tomorrow, if it was awarded tomorrow to us
16 hypothetically, and this situation isn't
17 resolved with ITT until the annual meeting,
18 if that's the case, or whatever the turning
19 point might be when it does get resolved,
20 whether it happens or not, then you still
21 have six months after that.

22 So really what you're doing is you'll
23 have quite a bit of time to work within that,
24 which is what we would love to be able to
25 have the opportunity to do, and work with

3
1 this Commission to come to whatever agreement
2 it was we had to do, knowing that that is the
3 law and knowing that you have concern about
4 who would operate whichever property we would
5 be less involved than we would be opposed to
6 a hundred percent of both. We'd love to be
7 able to do both, but we know that's not the
8 rule.

9 MR. VOWELS: I think we are reading
10 off the same page as far as fish or cut bait.
11 At some point in time, it's a general
12 consensus here that we have to give this out
13 or we don't. We don't want to prolong it
14 anymore. So that's just another factor that
15 I have to consider.

16 MR. O. B. MURRAY: Sure. I
17 appreciate your concern and I understand your
18 concern. But at the same time, I think if
19 you look at the whole picture, when you hold
20 this meeting and you got the six months that
21 it takes to close a deal like this, a number
22 of things that come into play.

23 There is more than ample opportunity
24 to work within that. And if you were to talk
25 to other commissions which we have gone

3
1 before with that issue where we already do
2 operate, I think you would see there's no
3 problem as far as us being able to work with
4 them and explain to them whatever the
5 situation might be.

6 MR. VOWELS: Within some of those
7 jurisdictions, do they have a similar type
8 rule that we have?

9 MR. O. B. MURRAY: I'm not aware of a
10 situation like that.

11 MR. VOWELS: Because that seems to be
12 the problem.

13 MR. O. B. MURRAY: It may not be the
14 rule, but it is a consideration, such as in
15 Atlantic City where you have a dominance in
16 the market by one player. That is a concern
17 that they do have to address.

18 They don't have to address it by a
19 law, a hundred percent and ten percent. But
20 they do have to address the market dollar.

21 MR. SUNDWICK: It seems to me we're
22 presupposing that Hilton Boomtown is going to
23 get this license. And I think we're sitting
24 her arguing about whether they're going to
25 get this license. Crawford County is

3
1 thinking why is this part of the conversation
2 today. Let's get on with, in fact, setting a
3 date here for both counties and then make
4 your decision at the end.

5 MR. KLINEMAN: I think one of the
6 reasons this discussion actually comes up is
7 because of what was expressed by Commissioner
8 Vowels, that maybe we don't know who we
9 ultimately would be doing business with
10 because of the Hilton-ITT problem.

11 And you say that would be no problem,
12 you'd work it out and so forth. And that's
13 fine. But if we're already into the
14 situation, then we rely upon you people
15 working it out. But since we're not already
16 in the situation, I think we're in a
17 situation where we're going to at least try
18 to have a little more clear look at this
19 crystal ball if we look at this a few months
20 from now.

21 MS. BOCHNOWSKI: Well, I think at the
22 very least -- we asked these people to pay
23 for the SPEA report -- at the very least, we
24 have to have the SPEA report and review the
25 SPEA report before we make a decision, you

3
1 know. Maybe we don't -- I don't know. Maybe
2 we do or don't have to wait for this annual
3 meeting, but we do have to wait for the SPEA
4 report.

5 MR. ROBERT LIST: Mr. Chairman and
6 Miss Bochnowski, if I may, let me just make
7 one final observation concerning that,
8 Chairman Klineman's note.

9 This Commission would not ultimately
10 be at the mercy of who you're doing business
11 with. You're the ones who would really make
12 that final award of the license. Anything
13 that Hilton would propose to do is subject to
14 your approval. If they wanted to reduce --

15 MR. THAR: That's not true. Hilton
16 could very easily say -- and it's not common
17 speculation on the street -- if they were to
18 take over ITT Caesars that they'd walk away
19 from Harrison County.

20 They could walk away from it, in
21 which case that means a corporate decision
22 has changed the complexion of riverboat
23 gaming on the river. It was not done by a
24 body composed of people of Indiana with
25 regard to it.

1 And Hilton has not addressed that in
2 any of their corporate statements and most
3 likely cannot address that today. But that
4 exists, because that is an extremely
5 expensive project.

6 MR. ROBERT LIST: But let me just
7 say -- and I can say this more than from a
8 noncompany standpoint. As a practical
9 matter, Mr. Thar, I just can't imagine any
10 company simply walking away from that
11 situation.

12 I think what you would see if that
13 should occur in theory, whether it was
14 Caesars or anybody else, a transfer of that
15 interest subject to this Commission's
16 approval. Some other company that you would
17 have to find suitable, proper financing and
18 operating capability would come forward.
19 It's highly unlikely that they would abandon
20 the project. It's a great market. It's a
21 great location.

22 MR. THAR: Let's not debate the
23 likelihood or unlikelihood. The point of the
24 matter is that that question was posed very
25 early on in this takeover, and it was not

1 addressed.

2 MR. KLINEMAN: Well, I think, Mr.
3 Thar, you had something else.

4 MR. THAR: No, not at this time.

5 MR. KLINEMAN: Anyone else have
6 anything? I guess Mike wants to say
7 something.

8 MR. O. B. MURRAY: If I could just
9 have one last point for that concern.
10 Anything we do, if you're saying you're
11 concerned it may not come before you as a
12 body to vote on a situation like that,
13 anything we do, being the world's largest
14 gaming company, would be a direct reflection
15 upon us anywhere else we would care to
16 operate, as well as a company of our stature
17 not wanting to have a situation that was not
18 appropriate.

19 So that with all those concerns, even
20 though you may not have a vote, everybody
21 else behind me here does as well as everyone
22 outside the building. And it's in a
23 different format that we would always be
24 concerned about. Thank you.

25 MR. KLINEMAN: Anything else?

4
1 Mr. Jones? Do you want to state your name
2 for the record?

3 MR. MIKE JONES: Yes. Mike Jones,
4 President Switzerland County Council.
5 Chairman Klineman, Members of the Commission,
6 thank you, Director Thar and Staff. I come
7 today representing -- I stand here today
8 representing the people of Switzerland
9 County, which we have, as you already noted,
10 a large contingent.

11 We have been involved in this process
12 since 1993, and there's been a lot of
13 changes. One of them is that I now have to
14 wear these to read from the podium.

15 Through this process, we have
16 remained steadfast, consistent, kept the
17 faith, while maintaining to meet all the
18 deadlines that have been set by this
19 Commission. It's already been noted, and I
20 think I can speak for Crawford County as
21 well, that the needs of our county are great.

22 We went through a flood just a few
23 months ago, and the needs of our county even
24 were magnified, needs that we do not have the
25 resources to meet.

4
1 Switzerland County Council -- and I
2 know we presented this to you -- have
3 established a revenue distribution plan that
4 we feel will address these needs. We have a
5 strong partnership with our applicant, one
6 that we're very proud of, one that's going to
7 bring jobs and much needed revenue to our
8 county.

9 And the issue at hand today, one of
10 the issues seems to be reopening the process.
11 And as to that question, while we are very
12 sensitive to our neighbors in Crawford
13 County --

14 (Noise from microphone)

15 MR. KLINEMAN: I don't know what's
16 causing that.

17 MR. MIKE JONES: Maybe somebody's
18 trying to get a message to me. I will be
19 brief.

20 -- as to that question. And I don't
21 think there's any position in this process
22 that we have not been in some time during the
23 last four years, but we are strongly opposed
24 to reopening the application process, because
25 we feel that an issue of fairness, a

4
1 fundamental fairness, does exist here.

2 We feel that it's unfair in that the
3 deadlines have been set and met over the past
4 four years. We feel that it sends the wrong
5 message to businesses who are willing to
6 invest here in Indiana.

7 And as Executive Director Thar
8 mentioned, the legislature during the past
9 two sessions have looked at many different
10 specific changes that were proposed. And
11 almost completely down the line, they have
12 refused to change the rules in either of
13 those two sessions.

14 And, again, I would be brief and just
15 say that as a representative of the people of
16 Switzerland County, we appeal to the
17 Commission today to set a timely timetable
18 with regards to giving out this final
19 license, and that the process not be delayed
20 any longer than is possible to work within
21 your schedule.

22 And I guess the thing I thought about
23 this morning, and I'll just kind of conclude
24 with it, I think we feel it's time to bring
25 this train to a halt and to give the license

1 out, again, recognizing that it should fit
2 within your potential working schedule as
3 well. Thank you.

4 MR. KLINEMAN: Thank you.

5 MR. JEFF LORENZO: May I have a word?
6 Judge Lineberger in Bartholomew County many
7 years ago told me that although I have a
8 right to make a final argument, he had a
9 right not to listen. So if you choose to
10 ignore this, go ahead.

11 But I think Governor List makes a
12 good point. We want to get on with it. But
13 I'm less concerned about unfairness to Hilton
14 Boomtown, which is a multi-billion dollar
15 conglomerate corporation and, as they
16 mentioned, the largest gaming company in the
17 world.

18 They took a business risk. They
19 understand those risks. They're in markets
20 around the world. And if they expended five
21 million dollars plus over the last couple of
22 years, they understood that going in.

23 To me, the issue is about the
24 citizens of Crawford and Switzerland
25 Counties. And at this point, Switzerland

5
1 County's been to bat before. We have not yet
2 come to the plate. This is their second
3 opportunity to make a presentation to the
4 Commission.

5 So we see the issue of fundamental
6 fairness significantly different than they
7 see it. We believe that the Commission has
8 acted in a fair manner, and we don't
9 anticipate that you will do anything but
10 that.

11 We are more than happy to work with
12 whatever schedule you set. If you tell us
13 it's next week, we'll work to get there. If
14 you tell us it's a year from now, we'll work
15 to get there.

16 But it seems to me that it belies
17 credibility to stand here and say that the
18 process has not been fair, because I think it
19 has, and that reopening is not fair, because
20 I don't think it's going to -- if they want
21 to reopen Switzerland County, that's fine
22 with me, too.

23 We're not even to that point yet
24 internally in the county, and I know you
25 haven't reached that point either. So given

1 that, we would ask you to set a date, but at
2 a schedule you're comfortable with. Thank
3 you.

4 MR. KLINEMAN: Okay. Does anyone
5 else have anything else? Let me make a
6 suggestion. I think we kind of evolved into
7 the situation, and I agree with Commissioner
8 Sundwick that it's been a long time since we
9 looked at these projects, and that we do need
10 a time to have another presentation even
11 though it might place a burden on the
12 applicants.

13 I think we need to rehear the
14 situation. And I guess it seems to be the
15 consensus of opinion that we could probably
16 schedulewise rehear this in the latter part
17 of October or in November some time.

18 MR. THAR: I would like to make sure
19 that we have opened Barden's boat, assuming
20 we keep to the timetable -- and we're talking
21 about September to mid October -- before
22 going into these hearings, and then schedule
23 the hearing after that.

24 So if it be your desire, I might
25 recommend that over the next week, the staff

5
1 will contact Commissioners and give you all a
2 chance to check your calendar for a date some
3 time between October 15th and November 15th
4 where we can set a hearing date for that.

5 We have to make sure we have a
6 facility that's suitable for doing it. So we
7 have to check on that stuff.

8 MR. KLINEMAN: Okay. Then we're
9 talking about one day of hearings, a half day
10 for each of the counties, between the 15th of
11 October and the 15th of November?

12 MR. THAR: Give or take, yeah.

13 MR. KLINEMAN: Give or take. And
14 then I would make a suggestion that we try to
15 pick another date after we have worked on the
16 date for the hearing, pick a date two or
17 three weeks thereafter to come together and
18 make a final decision.

19 I think that after we rehear this, I
20 think it's time then to make a decision. As
21 Commissioner Sundwick said, if it's to grant
22 a license, it should be done. If it's to say
23 we're not going to grant the fifth license,
24 be done with it, that also could be a result.
25 But we should move promptly and have a final

5
1 decision sometime two or three weeks after
2 the hearing.

3 So kind of close in the sense that if
4 it's the 15th of November as the hearing
5 time, it will probably be in the early part
6 of December for the final decision. If the
7 hearing is the latter part of October, we
8 might be in the middle of November for a
9 decision. But that's what I'd like to see.
10 And if there's a consensus of that's what we
11 should do, we'll go ahead.

12 The only question I have is the
13 question of whether or not because of the
14 time lapse and other things that have
15 happened whether or not we shouldn't have a
16 time certain by which either of the
17 applicants and either of the counties may
18 amend their submission, and if we shouldn't
19 set a date by which those amendments must be
20 in.

21 MR. VOWELS: I suggest September
22 15th.

23 MR. KLINEMAN: Okay. It's been
24 suggested that if there are to be any
25 amendments of the projects, people or

5
1 whatever, that those be submitted no later
2 than September 15th. Is that a good date?

3 MS. BOCHNOWSKI: I have a question on
4 you said -- project is one thing; people is
5 another. It sounds like you got a lot going
6 on. Can you investigate new people
7 between --

8 MR. KLINEMAN: Well, I --

9 MR. THAR: We got two things that
10 we'd like to address with them that I would
11 suggest. One is we have previously, in
12 dealing with Boomtown particularly, told
13 Boomtown that we would not complete their
14 investigation with regard to their merger
15 with Hollywood Park until it was determined
16 whether or not they were going to be the
17 licensee.

18 What we would like to do now is start
19 that investigation if we have hearings
20 between October 15th and November 15th, so we
21 can at least get a leg up on that and see if
22 there is any preliminary issue. We'd like to
23 start that type of investigation.

24 Also, Hilton had changed considerably
25 in terms of its upper management, so we'd

6 1 like to look at them. I think Casino Magic,
2 to take another look at what's going on with
3 their company.

4 In relation to that, there's a second
5 issue. And that's whether or not the
6 Commission would allow amendments at this
7 time. We would need about sixty days to take
8 a look at any amendments.

9 So if we have September 15th as a
10 date, October 15th doesn't really work. We
11 really have to -- if somebody is going to
12 amend their application after they take a
13 look at it and decide that it's going to need
14 more work, that would probably have to be
15 done by mid August.

16 MR. VOWELS: Mid August then.

17 MR. THAR: I mean, we might not get
18 it.

19 MR. VOWELS: How about you tell us
20 later?

21 MR. THAR: What we would recommend
22 then is that any amendments, either of the
23 present -- I assume then the Commission is
24 saying we're not going to reopen either
25 county.

6
1 MS. BOCHNOWSKI: But it sounds like
2 if you're reinvestigating Hollywood -- I
3 mean, you're not reinvestigating, but you're
4 doing an initial investigation. Would it be
5 possible for Casino Magic to bring in -- I
6 mean, this isn't really reopening for
7 somebody else to step in to that application.

8 MR. THAR: I think with what all has
9 been said here, that the Commission decided
10 what it wants to do is make a decision in the
11 relative near future, the concept of
12 reopening either county is now foreclosed.

13 MS. BOCHNOWSKI: Yeah, I agree with
14 that.

15 MR. THAR: If there's going to be an
16 amendment to Casino Magic's application, that
17 has to be done by, say, August 15th, in
18 whatever form or way they choose or choose
19 not to. By the same token with respect to
20 Hilton Boomtown, if there's to be any
21 amendments, they have by August 15th.

22 In the meantime, work that we have
23 put off, we can start doing. We put it off
24 because the decision-making process was
25 close, but then it's been put off.

6
1 But the second reason was at the time
2 that Boomtown came to us and discussed the
3 merger with Hollywood, there was no assurance
4 that that merger would go through. It is now
5 all but a done deal. Is that about correct?

6 MR. ROBERT LIST: Yes. It should be
7 completed by the end of this month.

8 MR. THAR: So now there is a reason
9 to take a look at the remainder of that as
10 well as the remainder of Hilton and whatever
11 is left in the Casino Magic.

12 So what the amendments might be to
13 somebody's application, I don't know. But it
14 basically leaves the situation that there
15 will be one applicant per county, whoever
16 that applicant might be.

17 MR. KLINEMAN: I agree with
18 everything you said except the August 15th.
19 I'm just worried that that might be a little
20 tight. It's two months basically from today.
21 I just wonder if there was some give in that
22 date.

23 MR. ROBERT LIST: We can certainly
24 work within that time frame. When we came in
25 with the Pinnacle application, we put that

1 together in about three weeks. August 15th
2 would be acceptable.

3 MR. THAR: Doug? Could you identify
4 yourself, please? Would you identify
5 yourself for the record?

6 MR. DOUG FLOYD: My name is Doug
7 Floyd. I'm an attorney here on behalf of
8 Casino -- or excuse me -- Crawford County
9 Casino Corporation.

10 August 15th is a satisfactory date as
11 a cutoff for amendments on our application.

12 MR. KLINEMAN: I stand corrected.
13 Everyone has agreed to it. So we're talking
14 August 15th for any amendments by either of
15 the applicants. We are not going to reopen,
16 as Mr. Thar has indicated, by this action.
17 We will try to set a date by the end of this
18 month for the hearings and the decision.

19 MR. THAR: How would the Commission
20 prefer that this be done? Will it be
21 announced at our next meeting, or will we
22 just put it out once it's been arrived at?

23 MR. KLINEMAN: We should just put it
24 out if it's been arrived at so that the
25 applicants can get the earliest word possible

6
1 as to the dates that they're working against.

2 But the August 15th date is firm.
3 The only two dates that we're going to set
4 would be the October or November hearing and
5 the decision thereafter. Okay? Hearing no
6 objections.

7 MR. THAR: August 15th is a Friday.
8 I wanted to make sure it wasn't a weekend.

9 MR. KLINEMAN: Yeah, I was worried
10 about that, too. I was worried about setting
11 a date that makes no sense.

12 Okay. Anything else concerning this
13 matter? Let me again say for those citizens
14 of Switzerland County and Crawford County
15 that we are trying to operate within your
16 best interest. You may not feel that way
17 having made so many bus rides to Indianapolis
18 and back again without any decision from this
19 Commission.

20 But I couldn't agree more with what
21 Mr. Thar said. I agree completely with what
22 he said. The worst thing in the world that
23 we could possibly do is create some situation
24 where you might get the initial push as a
25 result of the license being granted.

1 But if it turned out that we had made
2 the wrong decision or made it too rapidly
3 without all the facts that we needed, this
4 situation would then collapse. And you'd be
5 a lot worse off if it collapsed than you are
6 today. You probably don't believe that now,
7 but you really would be from all indications.

8 So with that concensus by the
9 Commission, is there anything else that needs
10 to come before the Commission?

11 All right. We thank you all for
12 being here. And with that, we'll stand
13 adjourned.

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