

ORIGINAL

INDIANA GAMING COMMISSION  
BUSINESS MEETING  
JUNE 7, 2007

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

The above-captioned business meeting was stenographically taken down by me, Robin L. Helton, a notary public in and for the County of Marion, State of Indiana, at 1:00 p.m., on June 7, 2007, at the Indianapolis Marriott Downtown, 350 West Maryland Street, Indianapolis, Indiana, and the following transcript is a true and accurate transcript of the proceedings held.

**CIRCLE CITY REPORTING**  
2050 First Indiana Plaza  
135 North Pennsylvania  
Indianapolis, IN 46204  
(317) 635-7857

A P P E A R A N C E S

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

COMMISSION MEMBERS PRESENT:

- William Barrett, Chairman
- Donald Raymond Vowels, Commissioner
- Tim Murphy, Commissioner
- Tom Swihart, Commissioner
- Tim Walsh, Commissioner
- James Cummings, Jr., Commissioner
- Earnest Yelton, Executive Director
- Phil Sicuso, General Counsel
- Kenny Rowan, Representing Kevin Mahan,  
Superintendent of Gaming Agents
- Mark Mitchell, Director of Charity Gaming
- Tamara Timberman, Secretary

1           CHAIRMAN BARRETT: We will call the second  
2 quarter of the 2007 meeting of the Indiana Gaming  
3 Commission to order. We will begin with the roll  
4 of the Commissioners. Commissioner Cummings.

5           COMMISSIONER CUMMINGS, JR.: Present.

6           CHAIRMAN BARRETT: Commissioner Walsh?

7           COMMISSIONER WALSH: Present.

8           CHAIRMAN BARRETT: Commissioner Swihart?

9           COMMISSIONER SWIHART: Here.

10          CHAIRMAN BARRETT: Commissioner Murphy?

11          COMMISSIONER MURPHY: Here.

12          CHAIRMAN BARRETT: Commissioner Vowels?

13          COMMISSIONER VOWELS: Here.

14          CHAIRMAN BARRETT: And the chair is present.

15          The first item on the agenda is the approval of  
16 the minutes. Commissioners, you have received in  
17 your packet the minutes from the business meeting  
18 on March 8, 2007. The chair will entertain a  
19 motion to approve or disapprove the minutes.

20          COMMISSIONER SWIHART: Move to accept.

21          COMMISSIONER MURPHY: Second.

22          COMMISSIONER BARRETT: Moved in first and  
23 second by Commissioners Swihart and Murphy.

24 All in favor?

25                 (COMMISSION MEMBERS VOTED AYE)

1 CHAIRMAN: All opposed, same sign?

2 (NONE OPPOSED)

3 CHAIRMAN BARRETT: The record will reflect that  
4 the chair abstains from voting because I was  
5 absent.

6 All right. Executive Director Yelton, do you  
7 have a report, sir?

8 EXECUTIVE DIRECTOR YELTON: Thank you,  
9 Mr. Chairman and Commissioners.

10 I will begin as I usually do with a staff  
11 update. First of all, I would like to introduce to  
12 you our new receptionist, Mary Coffey. Mary,  
13 please stand.

14 Mary was born in Michigan and has been a  
15 Hoosier since she entered the sixth grade. She  
16 attended business school here in Indianapolis and  
17 has worked in the metro area for the past 48 years.  
18 Quite honestly, she started when she was just six;  
19 isn't that right, Mary? We are very fortunate to  
20 have her with us. She wanted the opportunity to  
21 address the body for about a half hour but I told  
22 her we were just too full, so we will let her off  
23 the hook this time, Mary.

24 This summer we had three individuals assigned  
25 to the Commission by the governor's summer intern

1 program. First, was Joe Cooper. Joe served with  
2 us last year in the program and returned, but  
3 because of previous commitments he only served for  
4 three weeks and he is now gone.

5 Next, we have Mark. Mark, would you stand up,  
6 please. The past few months, Mark joined us during  
7 his second semester from Indiana School of Law and  
8 participating in law and state governor program.  
9 He is a graduate of the University of Texas in  
10 Austin, and previously worked in human relations  
11 for a Los Angeles law firm. He is on track to  
12 graduate in December and plans to remain in  
13 Indianapolis and practice law.

14 Next, we welcome aboard Matt Parkinson. Matt  
15 will be a sophomore at the Kelley School of  
16 Business at Indiana University in the school of  
17 business in the fall. He is majoring in accounting  
18 with a minor in Spanish. If he looks and his name  
19 sounds a little familiar, well they both are. Matt  
20 is the son of Phil Parkinson who was with our IT  
21 department for many years before the State's  
22 reorganization last year.

23 We've also had some new additions in our  
24 Charity and Gaming Division. I will ask our Chair,  
25 Mark Mitchell, to introduce those. If you would,

1 Mark.

2 MARK MITCHELL: Thank you, Executive Director.  
3 We have two additions representing the Charity  
4 Gaming Division License and Compliance section.  
5 The first addition is Ms. Janet Thomas. Ms. Thomas  
6 recently filled the clerical position. Ms. Thomas  
7 brings four years of clerical and customer service  
8 representative and secretarial with her from  
9 positions she held in the private sector.

10 The second position is filled as a receptionist  
11 position for Charity Gaming. That position was  
12 filled by Ms. Floretta Sultzer. Ms. Sultzer has  
13 been a state employee since 1986 working for other  
14 state agencies, and brings to the Charity Gaming  
15 secretarial and receptionist experience from  
16 working in these other agencies.

17 Both of them came on board in early May, and  
18 May is a very busy year for us, and jumped right in  
19 and rolled up their sleeves and helped us with the  
20 renewal processes for the annual renewals.

21 EXECUTIVE DIRECTOR YELTON: Thank you, Mark.

22 I just noticed something that came to my  
23 attention, it's not part of our report, but  
24 historically it's probably the first time in any of  
25 the Gaming Commission meetings that all three

1 executive directors, in the history of the  
2 Commission, are here. So Jack and Glenn, welcome.  
3 Glad to have you here, I hope it's more frequent.

4 Next, I will report on the Resorts/Ameristar  
5 transaction. On June the 4th, an ownership  
6 interest transfer application from Ameristar  
7 Casinos, Inc., requesting to purchase the Resorts  
8 East Chicago, Indiana casino property was filed  
9 with the Commission. At that time we also received  
10 Level I applications for 9 of the 11 requested key  
11 persons. We anticipate to receive the remaining  
12 two very shortly. The applications were processed  
13 on June 5th and yesterday they were assigned an  
14 investigative team. We would predict, at this time  
15 at least, the investigating will be accomplished  
16 and completed in time for our fourth quarter  
17 Commission meeting.

18 Moving next to Aztar/Columbia Sussex. We were  
19 requested by Evansville Mayor Jonathan Weinzapfel  
20 to conduct an investigation of statements made by  
21 Columbia Sussex prior to your approval of the  
22 transfer of the Aztar's license and its substantive  
23 actions. This request was endorsed by Senator  
24 Becker, as well.

25 I have appointed Garth Brown and Jim Beebe to

1 personally conduct this inquiry. Thus far, they  
2 have interviewed 30 people and examined scores of  
3 documents. However, they are yet to conclude their  
4 charge and we are hopeful that their results will  
5 be available for the Commission at your next  
6 meeting.

7 I turn now to a legislative update. This  
8 legislative session I think can easily be dubbed as  
9 the year of gaming. There were many initiatives  
10 that included the Commission's participation.  
11 SB128 was a corroborative effort between the  
12 Department of Natural Resources, the Alcohol and  
13 Tobacco Commission and the IGC for pension reform  
14 that impacted our gaming agents. Several  
15 provisions that it significantly attached our  
16 program were adopted and will become effective on  
17 July the 1st.

18 House Enrolled Act 1835, better known as slots  
19 at the track bill, became the mechanism for the  
20 General Assembly to balance the budget and provide  
21 meaningful property tax relief. Hoosier Park in  
22 Anderson and Indiana Downs in Shelbyville are each  
23 entitled to a slot machine parlor with 2,000 EGE's  
24 upon a payment of \$250,000 over a period of two  
25 years. Each is required to invest one hundred

1 million dollars in capital improvements in new  
2 construction. We were successful to amend the bill  
3 with legal and regulatory authority that we  
4 presently have with the votes. Also, enforcement  
5 duties are identical. As a result, we will  
6 recruit, hire and deploy 20 new employee agents,  
7 two supervisors, one criminal investigator, and one  
8 assistant director of gaming enforcement. Each of  
9 the tracks may option out for a temporary facility  
10 to be in existence for no more than two years.

11 Hoosier Park, however, has opted not to open a  
12 temporary facility. Therefore, we will not be  
13 employing those particular agents until the  
14 beginning of next year.

15 Indiana Downs, on the other hand, is hopeful of  
16 opening at the beginning of the year, and thus we  
17 have positions currently posted on the State's job  
18 bank to fill them.

19 After we assumed jurisdiction of Charity Gaming  
20 we immediately discovered many practices and  
21 customs that lack statutory authority. We  
22 responded by drafting House Bill 1510 that  
23 clarified the abilities and manner by which quality  
24 organizations could conduct events. We also  
25 standardized the events themselves. The passage of

1 this bill was crucial to our regulatory oversight  
2 of Charity Gaming and the ability of qualified  
3 non-profits to continue their efforts.

4 Fortunately, 1510 received the blessing of both  
5 the House, the Senate and the Governor,  
6 but not before it was amended with new provisions.  
7 Governor Daniels publically has indicated he's not  
8 necessarily a proponent of slots at the tracks, but  
9 if it were to become law, he insisted on  
10 countermeasures to combat illegal gambling in  
11 Indiana. This position was loudly echoed by Senate  
12 Pro Tem David Long and supported by Representatives  
13 Tripp and VanHaafton, who is here today.

14 I would like to recognize representative  
15 VanHaafton, he has become the go to guy in the  
16 House when it comes to gaming legislation and  
17 gaming issues. And he was immensely helpful to the  
18 Commission in assuring that this legislation should  
19 pass, which it did, was very, very helpful to us in  
20 our regulatory responsibilities. Thank you very  
21 much, Representative VanHaafton.

22 By the end of the session, the General Assembly  
23 created two provisions for the Gaming Commission.  
24 The first was the Gaming Control Officer Division.  
25 It will be comprised of 16 law enforcement officers

1 with full police powers, the focus initially on the  
2 eradication of Charity Masters. I'm most pleased  
3 to announce that Coronal Larry Rollins, currently  
4 second in command at the Indiana State Police, with  
5 a very, very distinguished career in law  
6 enforcement, has agreed to serve as director of the  
7 division, and estimated time of arrival at the  
8 agency will be June 25th, and his expertise will be  
9 valuable in the creation of this new state law  
10 enforcement unit.

11 The second addition is the license control  
12 counselor. That attorney will then prosecute  
13 regulatory actions against violators of gaming  
14 laws. If a person is in the position of a cherry  
15 master and also has an alcohol license, tobacco  
16 license, a retail merchandise certificate or a  
17 charity gaming license, the counselor will argue  
18 for its revocation before an administrative law  
19 judge. We anticipate this selection of the  
20 counselor to be concluded within two weeks.

21 Finally, during the eleventh hour of the  
22 session the City of East Chicago was successful  
23 in including language in the budget bill concerning  
24 Resorts LDA. It empowers the city to cancel an  
25 existing LDA to which it is a party upon the

1 Commission's approval to transfer the riverboat  
2 license by Resorts to another purchaser.

3 At that time, the city would be entitled to any  
4 escrow monies from the LDA, and only the city can  
5 renegotiate a new contract with the transferee.  
6 And it should come as no surprise that the history  
7 of these transactions -- that this action spawned a  
8 new wave of litigation, which is a natural segue  
9 into my litigation update in my report.

10 In response to that legislation, the newly  
11 merged foundation initiated yet another lawsuit in  
12 Marion County Superior Court, seeking to declare  
13 the statute unconstitutional. Sententiously, it  
14 filed two motions in Judge Bradford's pending  
15 consolidated lawsuits which is presently on  
16 interlocutory appeal.

17 First, the foundation asked to amend the  
18 pleading to include the unconstitutionality issue  
19 and also filed a motion to consolidate the new case  
20 with Judge Bradford. Before the judge could rule,  
21 the City of East Chicago filed a notice of removal  
22 of the new litigation to federal court, where it  
23 now rests with Judge Young.

24 Next, the city filed a request for a  
25 preliminary injunction with Judge Bradford alleging

1 that the Commission failed to renew Resort's  
2 license and accordingly lapsed. As a result, the  
3 LDA was terminated and all monies should henceforth  
4 be paid to the city. Judge Bradford conducted a  
5 hearing on the motion to amend and took that matter  
6 under advisement. He scheduled a request for  
7 injunctive relief hearing on July 16th. There will  
8 also be an effort in federal court to have the case  
9 remanded back to state court level.

10 Finally, Second Century followed through on an  
11 early threat and sued Resorts and Ameristar as well  
12 alleging conversion, among other counts, in its  
13 decision to escrow payments under the original  
14 agreement and is demanding treble damages.

15 Finally, I will turn to our waiver summary,  
16 which we granted waivers since we last met.  
17 Aztar was granted a waiver to allow blackjack  
18 layouts with five, six, or seven spots for  
19 wagering. And a temporary waiver allowing slot  
20 technicians to sign for the electronic gaming  
21 device, CPU key. This waiver is in effect only  
22 until the state mandated slot machine audit is  
23 completed.

24 Argosy was granted an extension of the waiver  
25 regarding the casino being in compliance with the

1 required surveillance equipment. The original  
2 waiver was granted in November of 2006. The  
3 extension was requested due to the revised date of  
4 completion of their new vessel. It was also  
5 granted a temporary waiver to use nonvalue chips  
6 that have not been used on a live table before  
7 as value chips in a poker tournament. The nonvalue  
8 chips will only be used for this one tournament.

9 French Lick was granted a waiver to allow tip  
10 boxes to be dropped weekly instead of daily; and  
11 granted relief from having an employee from the  
12 accounting department as part of the soft count  
13 team. With the advancement of technology, the need  
14 for an employee from the separate department is no  
15 longer valid.

16 Finally, Blue Chip was granted relief from the  
17 soft count team members verbalizing the live gaming  
18 device game type and the identification number of  
19 the bill validator box during the count.

20 And that, Mr. Chair, and Members of the  
21 Commission concludes my report. I will be glad to  
22 answer any questions, should there be one.

23 CHAIRMAN BARRETT: Thank you, Executive  
24 Director Yelton. Do the Commission members have  
25 questions on the report?

1 All right. We will move on to the next item on  
2 the agenda. The report of the Superintendent of  
3 the Division of Gaming Agents. Superintendent  
4 Mahan is not with us today and Mr. Rowan will be  
5 giving the report.

6 MR. ROWAN: Thank you, sir. Good afternoon.

7 The investigation section has continued to have  
8 a large load of investigations, and they are doing  
9 a great job investigating these timely,  
10 effectively, and in a professional manner.

11 The last billable hours were 70 percent, which  
12 is well above our goal. With the recent passage of  
13 the slots at the track, we are currently in the  
14 process of hiring two additional investigators to  
15 assist in the additional workload. We hope to  
16 bring these two people on very quickly so they will  
17 be trained and ready to work on the investigations  
18 for the employees at the track.

19 We have launched two international  
20 investigations, one in Italy and one in Japan. The  
21 Level I, II, and III applications have been  
22 revised, and the Level I is now available  
23 electronically in a billable format. Level II and  
24 Level III will be on-line in the near future. Jim  
25 Beebe and Garth Brown continue to head up this

1 section and they are doing a phenomenal job.

2 On the enforcement side, we are in the process  
3 of advertising for additional gaming enforcement  
4 agents needed for the casino in Shelbyville. As  
5 with other casinos, we intend to have 10 agents and  
6 one supervisor at that location. The deadline for  
7 applying is June 17th.

8 The enforcement positions for the Anderson  
9 casino will not be advertised until closer to the  
10 time of their opening.

11 Thank you for your time. Please call me or  
12 Superintendent Mahan if you have any questions.

13 CHAIRMAN BARRETT: Thank you, Mr. Rowan. Do  
14 any of the Commissioners have any questions?

15 Then we will move on to the report from the  
16 Director of Charity Gaming, Mr. Mitchell.

17 DIRECTOR OF CHARITY GAMING MITCHELL: The  
18 revision of the Charity Gaming forms for compliance  
19 with the changes that occurred last year in the  
20 statute and went into effect July 1, 2006, and make  
21 them more user friendly, however they were not  
22 released due to pending legislation since the  
23 passage of 1510 which will take effect July 1st,  
24 2007. Additional revisions are being made to the  
25 charity gaming forms and will be released July 1,

1 2007.

2 The Charity Gaming rule which was adopted by  
3 the Commission on March 8, 2007, was approved by  
4 the Attorney General's office and Governor's  
5 office, a rule which will become effective on June  
6 29, 2007 superceding emergency rules in effect.  
7 Since July 1st, 2006, the Charity Gaming staff has  
8 processed a total of 2,434 license applications and  
9 collected over \$4,250,000 in licensing fees.

10 In addition to Ms. Thomas and Ms. Sultzer, who  
11 was introduced to you earlier, the Charity Gaming  
12 Division had the following staff updates that  
13 occurred in April of this year. Charity Gaming  
14 employees assigned to the compliance and licensing  
15 section in the positions of tax analyst four or  
16 five were reclassified as program coordinator four.  
17 As a result of this reclassification, two  
18 individuals who were tax analyst fives is, Jackie  
19 Goldstein and Ms. Debbie Henderson, were upgraded  
20 to the program coordinator four position.

21 Also, we had a vacant program coordinator a  
22 position at that time that we promoted the  
23 receptionist, Ms. Joy Agler, to the position of  
24 program coordinator four in the compliance and  
25 licensing section.

1           Sir, that will conclude the report from the  
2           Charity Gaming Division.

3           COMMISSIONER BARRETT: Thank you, Director  
4           Mitchell.

5           Do any of the Commissioners have any questions  
6           on the report?

7           We will move on to old business now. And I  
8           will note for the audience that we have a change in  
9           the agenda to accommodate scheduling conflicts. We  
10          are moving the French Lick update that is at the  
11          end of the agenda to the front of the agenda. And  
12          General Counsel Sicuso will bring us up to date.

13          GENERAL COUNSEL SICUSO: Thank you, Mr. Chair.

14          On June 5th, 2007, Lauth Resorts and Casino,  
15          LLC and Orange County Holdings, LLC entered into a  
16          settlement and purchase agreement underwhich, among  
17          other things, Lauth agreed to sell 100 percent of  
18          its ownership interest and other interest in Blue  
19          Sky Resort, LLC to a newly created company called  
20          BSR OC Acquisitions, LLC. BSR OC is owned by the  
21          Carl A. Cook Trust. It's managed by Carl Cook,  
22          William Cook, Stephen Ferguson, and Robert Santa.

23          Pursuant to the agreement, BSR OC will require  
24          Lauth's interest in Blue Sky by a cash transaction  
25          at a fixed price agreed to by the parties. If the

1 proposed buyout is approved by the Commission  
2 today, Blue Sky Casino, LLC will remain the  
3 operating agent.

4 The parties have requested approval of the  
5 proposed buyout transaction in today's Commission  
6 meeting. In so doing, they've satisfied all the  
7 statutes, questions, documents and information that  
8 are material to the proposed transaction, including  
9 an overview of the financing.

10 They have also structured a transaction in a  
11 manner which insures that all key persons  
12 associated with the product have previously  
13 submitted personal disclosure forms to the agency  
14 and they're license is in good standing with the  
15 Commission.

16 Through this process, the parties have  
17 established to the staff's satisfaction that BSR  
18 meets the essential standards and criteria for  
19 holding an interest in the operation's new  
20 contract. Under these circumstances, the staff  
21 believes that requiring BSR to immediately and  
22 completely comply with all of the procedural  
23 requirements and regulations associated with  
24 transferring the license would be impractical and  
25 burdensome, and frustrates the best interest of the

1 public and the gaming industry in Indiana.

2 To that end, the proposed resolution approves  
3 the proposed buyout transaction and waives certain  
4 provisions of the transfer regulations, including  
5 those that relate to a submission of a full  
6 transfer application and the investigation fee.

7 The resolution also approves the financing  
8 package proposed to effectuate the buyout.  
9 Commission staff recommends that you take action on  
10 the ownership transfer today, and that you approve  
11 Order 2007-57.

12 CHAIRMAN BARRETT: Thank you, General Counsel  
13 Sicuso.

14 Are there any representatives of the parties  
15 that would like to address the Commission?

16 EXECUTIVE DIRECTOR YELTON: Steve Ferguson is  
17 present.

18 CHAIRMAN BARRETT: Thank you, Mr. Ferguson.

19 Do any of the Commissioners have any questions,  
20 either for Mr. Ferguson or Mr. Sicuso? If not, I  
21 will call for a motion on proposed Order 2007-57.

22 COMMISSIONER VOWELS: I will move to approve.

23 COMMISSIONER: Second.

24 CHAIRMAN BARRETT: Moved and seconded. All in  
25 favor?

1 (COMMISSION MEMBERS VOTED AYE)

2 CHAIRMAN BARRETT: All opposed?

3 (NONE OPPOSED)

4 CHAIRMAN BARRETT: The motion carries.

5 Now we will return to the order of our agenda  
6 and Deputy Director Arnold will provide the  
7 disparity study update.

8 DEPUTY DIRECTOR ARNOLD: Thank you,  
9 Mr. Chairman. Good afternoon, Commissioners.

10 As you know, the statute requires the Indiana  
11 Gaming Commission to conduct a statistical analysis  
12 of the utilization of minority and woman-owned  
13 businesses by Indiana's riverboat casinos.

14 The Commission contacted the Center for Urban  
15 Policy, IUPUI, to conduct the analysis and  
16 Drew Klacik is here to conduct the findings of the  
17 study.

18 An independent legal analysis was also  
19 conducted of the study methodology and results.  
20 Glenn Lawrence from the law firm of Coleman,  
21 Graham, & Stevenson will discuss the study which  
22 conforms to the existing statute and case law.

23 Finally, Debbie Wilson of Engaging Solutions,  
24 who conducted outreach for this study, will discuss  
25 the results of the outreach efforts and plans for

1 follow-up interviews that will provide analytical  
2 information necessary to complete the study.

3 I would like to take a moment and also  
4 recognize two of our advisors who are here today.  
5 The first is Tony Kirkland of Governor Daniels'  
6 office, and the other is Mike Smith with the Casino  
7 Association. And I would like to take the  
8 opportunity to publically thank them for all of  
9 their work in helping us with this study.

10 Following the presentations, I will discuss  
11 staff recommendations and what we are going to  
12 recommend as far as action regarding this matter in  
13 the future.

14 DREW KLACIK: Thank you, Commissioners.

15 As Jenny said, my name Drew is Klacik. I'm a  
16 policy analyst at IUPUI, Center for Urban Policy,  
17 and I did the quantitative part of the disparity  
18 analysis, so you now realize you are prepared to be  
19 bored by my presentation, more so than you can  
20 possibly imagine.

21 Can you see the PowerPoint reasonably well?  
22 Okay. I'm basically going to try to accomplish  
23 five things. The first is to explain to you what a  
24 disparity study is and talk to you about how we  
25 chose to define the key measures in the disparity

1 study and how we did the analysis. Then we will  
2 talk about some key trends that will affect  
3 disparity both now and in the future, and in the  
4 past. We will actually give you the results of the  
5 disparity study on both expenditures and firms.  
6 And at the end I will do a comparison among the  
7 various disparity studies so you get a general idea  
8 to where gaming falls relative to others.

9 This first part is very much a lecture, but  
10 it's very critical to the disparity study. You can  
11 read as fast as I can speak. But a disparity  
12 study's purpose is to estimate the difference  
13 between the expected amount of MBE and WBE  
14 expenditures and the actual amount of dollars that  
15 were expended. Whether that number is greater or  
16 less, the difference would be between expected and  
17 actual disparity.

18 These are the three key terms in any disparity  
19 study. I would point out that the irony of the  
20 disparity studies are that they are called  
21 disparity studies, but it's actually the simplest  
22 of the three calculations.

23 Capacity is the hardest. It is an estimated or  
24 predicted amount of MBE and WBE expenditures based  
25 on the key terms, being the number of MBE and WBE

1 firms being ready, willing and able to do business  
2 with this case, the riverboat casinos.

3 Ready, willing and able becomes a very difficult  
4 definition and is critical to the entire study.

5 Utilization is a much simpler calculation.  
6 That's the actual amount of MBE and WBE  
7 expenditures. That is so simple that we call it  
8 addition.

9 The third part is the disparity which is the  
10 difference between that estimate of capacity and  
11 the actual expenditures or utilization, that's  
12 subtraction and that's disparity. So now you  
13 understand it should really be called the capacity  
14 study.

15 There has been a number of disparity studies  
16 done by this group called the Urban Institute, did  
17 a study of disparity studies done through about  
18 four years ago. What they found is there are about  
19 five different ways that one could define capacity.  
20 They are listed there. They range from the most  
21 restrictive, which are firms that have actually  
22 done business with the governmental entity, in this  
23 case the riverboat casinos, to the broadest  
24 definition of capacity, which would be all firms  
25 that have responded to the U.S. Census of minority

1 and women-owned businesses. The criticism of that  
2 broad definition is that many individuals can  
3 respond as if they are ready, willing and able, but  
4 may not pass the abled test.

5 So you can go from the broadest, which is all  
6 who responded to the census survey, to the  
7 narrowest, which is only those that did business  
8 with the entity for whom the study is being  
9 accomplished. When we look at utilization, which  
10 are expenditures, there are actually three ways  
11 historically that those have been measured. The  
12 first is real expenditures. The second are  
13 contractual obligations, and the third are dollars  
14 that are encumbered.

15 The critical decision in every disparity study  
16 is how one chooses to estimate capacity and  
17 utilization. I will explain to you how we chose to  
18 estimate ours, but the point I want to make up  
19 front is that the estimate of capacity is going to  
20 have enormous impact on the actual determination of  
21 disparity. The higher the estimated capacity is,  
22 logically the more likely there is to be disparity.  
23 The lower the estimate of capacity is, the less  
24 likely one could be finding disparity. Does that  
25 make sense to you all?

1           So if my estimate is 20 percent, then the  
2 chances of receiving and finding disparity are  
3 greater than if my estimate was 10 percent. So in  
4 most disparity studies, how we determine how we are  
5 going to estimate capacity is actually the critical  
6 issues. Does that make sense? Okay.

7           I tend to say everything twice because I  
8 lecture students a lot. So I apologize.

9           All three measures are important and they are  
10 important because of what each represents.  
11 Capacity is the measure of the commitment to  
12 actually spend with riverboat casinos, by riverboat  
13 casinos with MBE/WBE businesses. Utilization is  
14 that real commitment measure. Disparity is the  
15 difference between how hard the riverboat casinos  
16 have worked to build capacity or find capacity, and  
17 how hard they have worked to spend dollars, and  
18 that's disparity.

19           In an ideal world if you are complying with the  
20 spirit of the disparity law, what we would find is  
21 that capacity and utilization would both increase  
22 over time while the disparity is being eliminated.  
23 And that brings up a critical point, which is one  
24 of the key goals of our study was to come up with a  
25 way to estimate capacity that can be replicated

1 over time by different vendors so that the gaming  
2 commission will have the ability to, five years  
3 from now or whenever they choose to, measure all  
4 three of these again, including capacity, and be  
5 able to determine whether or not there has been  
6 efforts to grow capacity as well as utilization  
7 over time.

8 I hope you find that useful.

9 Because of how we estimate capacity is such a  
10 critical part of this issue, I have found it to be  
11 very useful to not make up that definition on my  
12 own, but work with an advisory group so that we  
13 have buy-in prior to the time I start to do the  
14 hard mathematical work to estimate the capacity.  
15 We have a list of the members of the advisory group  
16 on the PowerPoint. I will not read them all. The  
17 point I make is, that they helped me and they  
18 actually made a suggestion that I believe helped me  
19 make a better estimate of capacity, and they had  
20 preliminary approval of both how I would measure  
21 capacity and how I would measure utilization during  
22 the course of this study. They didn't do a single  
23 bit of analysis until the approval was gained.

24 These are the measures we actually used. The  
25 total number of firms that have suggested they are

1 ready, willing and able to do business with at  
2 least one riverboat casino by showing up on one of  
3 these lists; any casino vendor list, including both  
4 firms that have done business with the riverboat  
5 casino as well as firms that have expressed  
6 interest to a riverboat casino that they are ready,  
7 willing and able to do business.

8 We supplemented that by grabbing the City of  
9 Indianapolis and the State of Indiana's minority  
10 and women business vendor lists. We supplemented  
11 that by asking all local communities to provide us  
12 with their local vendor lists. And then at the  
13 suggestion of the advisory committee, and I really  
14 appreciated this, they suggested that some firms  
15 may not show up on any of those lists, in part  
16 because the riverboats were unique in the sense  
17 that they are private entities rather than public  
18 sector entities and some MBE and WBE vendors, for  
19 that matter, may not have known how to approach  
20 them and they asked us to hold a series of outreach  
21 meetings in the riverboat communities where we  
22 advertise and said we are coming here to find out  
23 if there are other firms that believe they are  
24 ready, willing and able to do business with the  
25 riverboat casinos, but have yet to be successful.

1 We actually found a number of firms that showed up  
2 at those meetings that were not on any of the  
3 previous vendor lists. So that fourth part is  
4 actually a broader definition of capacity than I  
5 have seen used in most disparity studies.

6 Utilization, again, if you can get expenditure  
7 data it's the best because it's real. And we were  
8 able to get expenditure data between January 1,  
9 2003 and December 31, 2005. We actually did most  
10 of the work in 2006.

11 I should note that there is a side benefit to  
12 this all which is to do this analysis the Gaming  
13 Commission built, basically, almost a real-time MBE  
14 and WBE and nonexpenditure tracking system, which  
15 now means that they can provide quarterly updates.  
16 Is that right, Jennifer?

17 DEPUTY DIRECTOR ARNOLD: Yes.

18 DREW KLACIK: Quarterly updates of MBE and WBE  
19 and nonexpenditures that didn't exist prior to this  
20 study.

21 We ended up using -- there is one other part to  
22 this and that's how many categories we're going to  
23 measure disparity in. There are historically two  
24 ways to do it. Construction services and  
25 procurement or construction professional services,

1 other services and procurement. The advisory  
2 committee asked me to use the broader four category  
3 definition. The confusion tends to exist between  
4 what is a professional service and what's another  
5 service. The line there can get gray, but  
6 generally speaking, professional services are those  
7 for which a degree is required. Other services are  
8 labor-based, for the most part, rather than the  
9 greed based. So legal accounting would be  
10 professional services. Oil changes, landscape and  
11 maintenance would be other services. So those are  
12 the four categories in which we did the measuring.

13 We are almost to the part that you really care  
14 about. Our findings, which I would suspect is what  
15 virtually everybody cares about. What we found in  
16 this study was much different than what you will  
17 find in virtually every other disparity study,  
18 in part, I believe, because virtually every other  
19 disparity study is studying the disparity of every  
20 public sector firm. In this case what made this  
21 from an academic perspective interesting for me is  
22 the word "studying" the spending patterns of a  
23 private sector firm whose license is granted by a  
24 public facility, which means they are not  
25 necessarily responsive to the same set of bidding

1 laws that local governments and state governments  
2 are.

3 What we found was something completely  
4 different from the disparity studies. In most  
5 cases, there is no disparity in the sense the  
6 amount of MBE and WBE spending was equal to or  
7 greater than what we expected it to be. That is  
8 very unusual. The only disparity area was in  
9 construction dollars. The MBE expenditure was not  
10 statistically significant, which means it falls  
11 within the margin of reasonable error. The WBE  
12 construction expenditure was statistically  
13 significant. If I ever do this again, I will try  
14 to avoid those terms.

15 Then we looked at firms as well. What we found  
16 made this even more interesting, is that for MBE  
17 firms -- virtually in all four categories there  
18 were less MBE firms contacted than we would have  
19 expected. So more dollars were spent with MBE  
20 firms, but with less MBE firms, than were to be  
21 expected.

22 With WBE firms, both other services -- well,  
23 let me say it the way it is up there. Construction  
24 and professional services were underutilized.  
25 Other services and procurement were not

1 underutilized. So we had six instances where  
2 firms were underutilized and only two incidents  
3 where dollars were -- one instance where dollars  
4 were underutilized.

5 If you are at all interested in math, you are  
6 asking how that can actually be, where dollars are  
7 overspent with a smaller number of firms. The  
8 answer is in this chart, which is -- if you look,  
9 the colors don't come out great. On my side, the  
10 far left bar, are the average MBE construction  
11 contracts, the middle blue bar is WBE, and the far  
12 right bar are the nons. And you can see in  
13 virtually every case the average MBE contracts were  
14 much larger than the WBEs or the MBEs. So if you  
15 follow this through, you will see there is no  
16 disparity, that nondisparity is occurring with  
17 dollars being spent with much less firms and many  
18 less firms than what you would have expected, which  
19 is understandable based on these higher than  
20 average individual contractual amounts. Does that  
21 make sense? If it does, that's pretty good,  
22 because I think I just did a bad job explaining it.

23 You guys are very smart, you are following  
24 professional services.

25 We will continue to make progress. There is a

1 second key trend that we noticed during this work,  
2 and that is while there was little disparity, that  
3 if you look at the top line, average MBE  
4 expenditures by year have declined from about 22.3  
5 percent in 2003 to 12.2 percent, I believe it was,  
6 in 2005.

7 COMMISSIONER WALSH: Those are revenue?

8 DREW KLACIK: Those are actual dollars expended  
9 by year by the riverboat casinos with MBE and WBE  
10 vendors. The upper line is M. The bottom line is  
11 W. So WBE expenditures remained relatively  
12 constant but MBE expenditures have declined over  
13 the course of the study period. Okay.

14 COMMISSIONER SWIHART: Is there any reason or  
15 why was that? It dropped --

16 DREW KLACIK: This is partially speculation  
17 because that's outside of -- partially speculation  
18 and partially informed because that's actually  
19 outside of the responsibility of the report. I  
20 think it's partially attributable to a decline in  
21 construction projects in some of those years, but  
22 it does need to be looked at more carefully and I  
23 want to make you all aware of that.

24 COMMISSIONER BARRETT: Is that an absolute  
25 dollar decline as well? Smaller piece, bigger pie?

1           DREW KLACIK: I would have to go back and look  
2 at the actual data to tell you that. It's in the  
3 actual disparity study. You have -- those numbers  
4 are in there and I apologize for not knowing them  
5 off the top of my head.

6           Another interesting difference between the  
7 riverboat study and typical government studies, I  
8 think this also is important to keep in mind, is  
9 that riverboat casinos don't spend money on exactly  
10 the same kind of things that local and state  
11 government do. While we are not actually allowed  
12 to gamble on riverboat casinos, I have visited them  
13 and I'm aware there is shrimp and alcohol sold  
14 there, and neither of those are typically consumed  
15 by state or local government; right? So I wanted  
16 to see if possibly expenditure patterns may suggest  
17 some of the defense. And you can see that  
18 typically speaking riverboat casinos, represented  
19 by the far right bar, spend much more on  
20 procurement which are things like alcohol and  
21 shrimp, than do local governments. Local  
22 government and state government spend more on  
23 construction. So there is a different expenditure  
24 pattern that we are dealing with as well as  
25 this unique absence of disparity.

1           Now, these obviously are unreadable. They are  
2           in front of you. I now have tables for all of the  
3           different types. This is construction  
4           expenditures, where if you could actually see this  
5           you would know it's about a two-million-dollar  
6           disparity for construction firms and a ten million  
7           for WBE. If you go to some of the other tables,  
8           you can see, for example, in procurement it's --  
9           about eighty-nine million dollars more is spent  
10          with MBE firms than one might have expected. We  
11          can visit those in detail, and they are in the  
12          copies of your report.

13                 The last thing I wanted to say reflecting  
14          back --

15                 DEPUTY DIRECTOR ARNOLD: Commissioners, it's on  
16          page 24 of the study.

17                 DREW KLACIK: The last point I wanted to make  
18          is to reflect back to the beginning where I noted  
19          how one determines to define capacity can have an  
20          enormous affect on the findings of disparity. When  
21          I was done and I didn't find disparity, that was  
22          unusual enough that I wanted to test myself and  
23          find out if there was something that I or the  
24          advisory committee did that may have affected that  
25          measure of capacity, which then affected the

1           disparity.

2           I went out and I then collected the City of  
3           Indianapolis disparity study and the State of  
4           Indiana disparity study and compared our measures  
5           of capacity for the Gaming Commission with those  
6           studies. The Gaming Commission is the bright green  
7           bar, and you can see that in most cases it ends up  
8           falling in the middle. There is no evidence that  
9           there has been an intentional depression, at least  
10          if you use these two other studies for that  
11          measurement.

12          Some of that difference can be explained by the  
13          fact that riverboat casinos buy a different set of  
14          goods and services than do state and local  
15          government. With that conclusion on my part, I  
16          believe I'm now -- I believe I will never learn  
17          this. I'm now turning it over to Glenn for his  
18          legal findings.

19                 GLENN LAWRENCE: Thank you, Commissioners.

20                 Coleman Graham & Stevenson was asked to review  
21                 the methodology to determine if what they were  
22                 doing comported with existing statute and with  
23                 existing case law. So I started with a  
24                 determination, number one, if the IGC actually has  
25                 the authority to even conduct a disparity study

1 and, if you do, could you set goals. And you are  
2 aware that you are required by statute to do that,  
3 but I had to make a determination since this is  
4 somewhat a unique situation -- it's well  
5 established that governmental entities can do these  
6 studies and address any disparity that they find.  
7 But the unique situation of requiring private  
8 entities to conform with a statutory requirement to  
9 meet goals, if found to exist, was unique. But I  
10 find as early as 1973 it has been determined and  
11 found by the courts that it is possible for a  
12 governmental entity such as the Gaming Commission  
13 to be a passive participant in discrimination, if  
14 it occurs. Basically, they say it is actually  
15 (inaudible) that a state may not induce or  
16 encourage or promote private persons to accomplish  
17 what is constitutionally forbidden to accomplish.

18 So as I said, this is unique. Taking into  
19 consideration that taxpayer money is not directly  
20 expended by the boat, I had to look at other  
21 possibilities of why the state might be involved  
22 passively in the expenditures of the casinos.

23 It is my determination since, one, you licensed  
24 them; two, you regulate them; and three, the taxes  
25 that they pay have been specifically directed in

1 most cases by statute to be expended for a number  
2 of public services. That you actually have staff  
3 that exists on the boat. That you do an accounting  
4 analysis of what they do. And there is a statute  
5 that says they have to do it.

6 So I think that the legislature has recognized  
7 a need for the casinos, as an entity, to consider  
8 such goals. Therefore, I think because of all of  
9 these activities that we can say that the  
10 involvement at least reaches a threshold of passive  
11 participation by the state and, therefore, you have  
12 the authority to go ahead and proceed with the  
13 study. And if the study would find disparity, that  
14 you would have the authority to establish goals.

15 Secondly, I went into a determination of  
16 SPIRA's (phonetic) methodology based on mainly  
17 case law, and I think you are well aware of the  
18 Bill Wether (phonetic) case of the City of Richmond  
19 versus Crosen, which was a plurality decision but  
20 sets out the guidelines whereby a statistical  
21 analysis was made.

22 The court stated that where there is a  
23 significant statistical disparity between a number  
24 of qualified minority contractors willing and able  
25 to perform a particular service and the number of

1       such contractors actually engaged by the locality,  
2       of the locality's prime contractors, and inference  
3       of discrimination -- discriminatory exclusion could  
4       arise, and in the extreme case, some form of narrow  
5       tailored racial preference might be necessary to  
6       break down the patterns of deliberate exclusion.  
7       And if the proper statistical evaluation would  
8       compare the percentage of MBEs and a relevant  
9       market that are qualified to undertake the work  
10      with the percentage of total construction dollars  
11      that are presently awarded to minority  
12      subcontractors. This is basically the ready,  
13      willing and able situation.

14             The court in *Richmond v. Croser* said they would  
15      establish a strict scrutiny of these statistical  
16      studies, put them under a microscope, and determine  
17      whether the facts that they found in the  
18      methodology they used would withstand their  
19      scrutiny.

20             Second, they said that if programs were  
21      actually established that would be -- would have to  
22      be particularly pointed towards the remedy it was  
23      supposed to affect.

24             One of the issues, as Drew said, that has  
25      arisen in similar studies, determination of the

1 field of business entities that should be included.  
2 He indicated to you that some of them were much too  
3 broad using a census; or actually national  
4 statistics for a local government determination.  
5 Some were much too narrow, wherein they only  
6 included, as Drew stated, certified vendors on the  
7 states list; but I found that the analysis or the  
8 field that was included by SPIA was not too narrow  
9 and not too broad.

10 One of the issues that was important was the  
11 decision by the advisory committee to go out and  
12 have field hearings for localities within the  
13 state. And because it has been seen, you need to  
14 bring in those people that have the potential to be  
15 minority certified or to do these contracts. So by  
16 going to the state certification list, the city  
17 vendor list, the casino vendor list, which may not  
18 necessarily be certified people, and then having  
19 the outreach of people who may want to do business,  
20 I think they've gotten a good field that will  
21 withstand that scrutiny.

22 The four groups they have considered are what  
23 are normally included in most statistical studies  
24 that I did review. The expenditures actually made  
25 is important rather than contracting, because

1 sometimes the contracting amount changes.  
2 Sometimes the contractor doesn't necessarily  
3 ultimately pay the amount that was in the contract  
4 and, therefore, the expenditures were sufficient  
5 under this methodology to make a determination of  
6 the data.

7 The three-year time frame is very good. Some  
8 studies have actually used only one year. So I  
9 think you have gotten a good statistical analysis  
10 by using a -- three-year-time-frame expenditures.

11 Finally, you do need anecdotal evidence to  
12 further consider the next process or the next step  
13 you will have to take. Part of these  
14 considerations, you can't just take numbers and  
15 say, "Okay, there is discrimination," or take  
16 numbers and say, "Okay, there is no  
17 discrimination." You have to go out and talk to the  
18 people, and see what the actual circumstances are  
19 in the marketplace. "Why didn't you get the  
20 contract?" "Why didn't you give the contract?"  
21 "What are the barriers that you find to not being  
22 able to receive a contract?" And in doing this,  
23 you will also satisfy the court's concern about  
24 nonrace-based discrimination, so to speak, that may  
25 fall to everybody, small entrepreneurs who cannot

1 get bonding, small entrepreneurs who can't get  
2 financing. Is it because of race or is it because  
3 of other circumstances? So before you make any  
4 determination, you are going to need that anecdotal  
5 information.

6 What are the results? As Drew indicated in the  
7 preliminary findings, of monetary disparity and  
8 constructionary alone. However, they did have the  
9 finding of firm disparity. Now, this has been  
10 mentioned in some studies and also in the court,  
11 that firm disparity or expenditures with less than  
12 a number of available firms may give rise to an  
13 inference of discrimination. So you have to take  
14 that into consideration when you make the  
15 determination. However, in my mind, my opinion,  
16 absent additional evidence of discriminatory  
17 practices, I don't believe the finding of just firm  
18 disparity would be sufficient on its own to  
19 withstand judicial scrutiny. However, the  
20 anecdotal information gathered by Ms. Wilson, when  
21 she goes forward, may supply additional information  
22 that could point to selective discrimination, which  
23 would be managed on a case-by-case basis in the  
24 future.

25 Finally, what can you or should you do? Can

1       you -- legally, you can't do anything right now.  
2       You haven't finished your study. You may get  
3       anecdotal information that may change some of the  
4       statistics that Drew may have gotten. So  
5       preliminary findings are that there is a disparity  
6       but it's subject to those findings. This  
7       information, as I said, will give you more  
8       information about the firm disparity. So you  
9       cannot take any action at this time.

10           I do recommend that you continue to monitor the  
11       situation because that one snapshot that you have  
12       questions about do cause concern, because that's  
13       just a snapshot in time over the past three years.  
14       You may find that there is no disparity, but the  
15       declining numbers may give you an indication that  
16       this year or next year there may be some problems.  
17       So I think you can't give up on it. You have to  
18       continue to monitor it over the next course of the  
19       five years, actually, because that is the statutory  
20       requirement, is to update these every five years.  
21       But with the modern technology, you can do that  
22       much more quickly.

23           Finally, I think you need to establish a  
24       procedure for waivers for good faith efforts on the  
25       part of the casinos because of the market disparity

1 of going from Gary, to Evansville, to down in  
2 Harrison County. You would have the goals if you  
3 did set them and requirements if you did set them  
4 but within a federal statute and discussions with  
5 the case law, they say that one of the things you  
6 have to be concerned about is allowing the casinos  
7 to have a good faith effort and prove a good faith  
8 effort to do what was correct to dispel that  
9 disparity.

10 So basically, at this point in time we have  
11 done a preliminary study and will follow up with  
12 that later. Any questions? Thank you.

13 DEBBIE WILSON: Good afternoon. I'm  
14 Debbie Wilson, one of the managing principals of  
15 Engaging Solutions. We were on this team to help  
16 with the outreach and to do the anecdotal.

17 You have heard the statisticians speak, you've  
18 heard the lawyer talk, and I sort of serve as the  
19 conscience, the one that is out there ringing in  
20 information from the businesses and from the  
21 industry that will help kind of put the real  
22 picture side of a perspective to the data that has  
23 been collected and analyzed.

24 The outreach that we did over the course of  
25 this study took on four locations, one in East

1 Chicago, one in Evansville, Indianapolis and  
2 Lawrenceburg. We had several hundred people to  
3 attend those meetings. Most of the individuals who  
4 attended the meetings were business owners such as  
5 myself. We had business owners that had  
6 construction contracting firms. We had firms that  
7 do flower arrangements. We had those that provide  
8 food. We had all different types of businesses,  
9 minority woman-owned business and businesses that  
10 were not necessarily women or minority-owned  
11 businesses that attended those meetings.

12 We have approximately 53 firms that we didn't  
13 have on anybody's list, the Department of  
14 Administration list or the city list. Firms that  
15 were basically unknown to us who through them  
16 filling out a self-assessment form that we created  
17 for this project. We were able to add those  
18 particular firms to our list as firms interested in  
19 doing work with the Indiana riverboat casinos.

20 The methodology that we will be using for the  
21 balance of this study, which is the part that  
22 Engaging Solutions will take care of, is we have  
23 developed an interviewing tool, and this is to  
24 gather the anecdotal information. So in other  
25 words, my team and I will be out there interviewing

1 approximately 18 to 20 people, ranging from someone  
2 from the casino association, state representatives,  
3 business owners, and industry representatives to  
4 get a better feel for what the community and those  
5 that are doing business with or in some way  
6 involved in procurement in the casino arena really  
7 feel about the services and doing business with the  
8 casinos.

9 The tool will include a variety of different  
10 questions. We will probably take about an hour.  
11 Just for your information, some of the questions  
12 that we're going to be looking at is, what have you  
13 done to attempt to do business with an Indiana  
14 riverboat casino? Attending prebid meetings,  
15 attending disparity study outreach meetings,  
16 contacting and purchasing agents directly? Do you  
17 believe that you have a better chance of getting a  
18 contract in the private or public sector? What  
19 percentage of your gross revenue has been derived  
20 from Indiana riverboat casinos? What challenges  
21 and barriers have you experienced in trying to do  
22 work with the Indiana riverboat casinos?

23 On the industry side of things, these are the  
24 questions that will most likely be asked of the  
25 state representatives and casino association.

1           What are the challenges and barriers you face as  
2           an Indiana riverboat casino with implementing the  
3           MBE/WBE requirements? Describe your overall  
4           experience in working with small businesses and  
5           MBEs and WBEs. Describe the good faith effort  
6           utilized to ensure MBE and WBE. We believe that  
7           going through a series of questions, that we will  
8           be able to gather information that will help to  
9           give -- to blend with the perspective that the  
10          statistical analysis has created.

11                 Again, those that will be interviewed will be  
12          interviewed between now and the end of July. And  
13          we are specifically looking forward to talk to  
14          businesses that have contacted with the casinos.  
15          Businesses that are interested in contracting with  
16          the casinos. Several casino representatives in the  
17          northern and southern part of Indiana, Indiana  
18          Casino Association, and then several key state  
19          representatives.

20                 After we have done the key interviews, our  
21          goals are to compile the data and analyze the data  
22          and then provide recommendations to the Gaming  
23          Commission. Some of those recommendations may be  
24          anything from -- of course, the anecdotal data is  
25          not actually going to change the numbers that were

1 presented in the statistical analysis, but a  
2 different way in looking at how you might end what  
3 you are legally required to do, to do some things  
4 that are thoughtful and sensitive to what the  
5 people who are working out there on the ground  
6 think you ought to be doing with respect to opening  
7 up doors, creating opportunities, and being fair in  
8 terms of procurement opportunities for  
9 minority-owned and women-owned businesses.

10 That information will be presented to the  
11 Gaming Commission and we are looking forward to  
12 getting started with the interviews and gathering  
13 that information and getting it back to you for  
14 your consideration.

15 Are there any questions? Thank you.

16 DIRECTOR ARNOLD: Thank you, Debbie.

17 Commissioners, it is our intention to present  
18 the final study to you at the September meeting.  
19 The purpose of discussing this information today is  
20 to give you an opportunity to review the results  
21 and offer comments and ask questions.

22 Second, we want to allow the casinos to begin  
23 planning for their purchasing activities.

24 Third, we want to give the public an  
25 opportunity to see the results prior to the

1 adoption of the study.

2 As Drew stated, the preliminary results of the  
3 study indicate that statistically relevant  
4 disparity likely only exists in one category.  
5 While the Commission is sensitive to the firm  
6 disparity documented in the study, we do not  
7 believe we have the legal authority to set goals  
8 other than those for purchase amounts.

9 This summer staff intends to draft rules for  
10 the MBE and WBE compliance and we will also make it  
11 our goal to present that in September.

12 Regarding how this study will be utilized in  
13 the future, the Commission has the statutory  
14 responsibility to set annual goals.

15 The staff recommends the review of 2008  
16 expenditure information in early 2009. Should  
17 purchasing fall below capacity and categories or  
18 goals are not set, staff will recommend that the  
19 Commission reconsider the establishment of  
20 purchasing goals for the categories where disparity  
21 is found.

22 Thank you, Mr. Chairman. I will be happy to  
23 take any questions.

24 CHAIRMAN BARRETT: Do any of the Commissioners  
25 have any questions?

1 I want to thank all involved for their hard  
2 work. It is a project that predates my involvement  
3 in the Commission, but I know you have all put a  
4 lot of effort in it. We thank you and look forward  
5 to receiving the final version and reviewing it and  
6 deliberating over it. Thank you.

7 DEPUTY DIRECTOR ARNOLD: Thank you.

8 CHAIRMAN BARRETT: We will move on, then, to  
9 voluntary exclusion issues.

10 ANGIE BUNTON: Good afternoon. You have before  
11 you eight orders regarding the voluntary exclusion  
12 program. Pursuant to the rules of the program, the  
13 identities of the voluntary exclusion program  
14 participants must remain confidential.

15 Pursuant to 68 IAC 6-3-2(g), a participant in  
16 the program agrees that if he or she violates the  
17 terms of the program and enters the gaming area of  
18 a facility under the jurisdiction of the  
19 Commission, they will forfeit any jackpot or thing  
20 of value won as a result of a wager.

21 Under Orders 2007-26 through 33, a total sum of  
22 \$11,726.29 was forfeited by John Does 7 through 14.  
23 These winnings were collected at Resorts, Belterra,  
24 Grand Victoria and Argosy. These winnings were  
25 withheld as required by Commission regulations.

1           Commission staff recommends that you approve  
2           the remittance of these winnings as fines levied  
3           against John Does, 7 through 14.

4           CHAIRMAN BARRETT: Do the Commissioners have  
5           any questions of Ms. Bunton on the VEP-07-07  
6           through VEP-07-14? If not, then the chair will  
7           call for a motion.

8           COMMISSIONER SWIHART: So move.

9           COMMISSIONER MURPHY: Second.

10          CHAIRMAN BARRETT: It's been moved and seconded  
11          that the Orders 2007-25 through 2007-32 be approved  
12          as offered by the staff. All in favor?

13          (COMMISSION MEMBERS VOTED AYE).

14          CHAIRMAN BARRETT: All opposed?

15          (NONE OPPOSED)

16          CHAIRMAN BARRETT: Motion carries.

17          Mr. Packer, exclusion issues.

18          ADAM PACKER: Thank you, Mr. Chairman,  
19          Commissioners.

20          I was prepared to discuss with you the matter  
21          of Mr. Louis Moore, a patron who was on the  
22          exclusion list and has petitioned the Commission  
23          for removal from the exclusion list. Mr. Moore and  
24          I have agreed in principle to a settlement of his  
25          petition; unfortunately, he has yet to return the

1 settlement documents, so I have no matter pending  
2 before you. I will not ask you to take any action  
3 on Mr. Moore's case today.

4 Before I give the floor back to Mr. Chairman,  
5 however, I would like to present an update of the  
6 felony waiver process. As some of you may recall,  
7 at the last Commission meeting there was a  
8 considerable interest among the commissioners in  
9 hearing periodic updates on the felony waiver  
10 process to gain perspective and context for the  
11 occasion when we bring felony waiver  
12 recommendations in front of you.

13 In the last quarter, there have been 16  
14 applicants for occupational license who have had  
15 their applications denied for reason of a felony  
16 conviction. Of those 16, four have applied for  
17 felony waiver, two of those are likely to proceed  
18 to a hearing in the next month to six weeks. So  
19 that gives you a little bit of an update on the  
20 felony waiver process.

21 I will turn it back to the Chairman now. Thank  
22 you.

23 CHAIRMAN BARRETT: Thank you, Mr. Packer.

24 Now as to occupational licensee matters.  
25 Mr. Klinger.

1           ANDREW KLINGER: Thank you, Mr. Chairman. Good  
2 afternoon, Commissioners.

3           You have five occupational license matters  
4 before you here today. They are numbered Order  
5 2007-34 through Order 2007-38. They involve five  
6 applicants for occupational license: Roland  
7 Baldazo, Marlisa Barnes, Daniel Huynh, Debra Slone  
8 and Andy Tiet.

9           Each of these individuals failed to completely  
10 disclose their criminal history in their  
11 application for occupational license. As a result,  
12 they were granted temporary licenses. However,  
13 subsequent investigation by the Commission staff  
14 has discovered that each of these individuals have  
15 been convicted of a felony offense.

16           Pursuant to Indiana Code 4-33-8-3, the  
17 Commission, of course, may not issue an  
18 occupational license to an individual who has been  
19 convicted of a felony. Therefore, all of these  
20 individuals had their temporary license revoked.  
21 And in accordance with the Commission's rules, we  
22 now present them to you for denial of their  
23 application for permanent license.

24           The staff recommends that you approve Orders  
25 2007-34 through 2007-38, and thereby deny the

1 license applications of each of these individuals.

2 If I may also take this moment, the attorney  
3 who worked on these particular cases is Ron  
4 McClain, who is the newest addition to our legal  
5 staff, who I don't believe has been introduced to  
6 you all before. So I just want to make that  
7 introduction as well.

8 GENERAL COUNSEL SICUSO: You will get a full  
9 bio on Ron McClain at the next Commission meeting.

10 ANDREW KLINGER: I will be happy to take any  
11 questions that you have on any of these  
12 individuals.

13 CHAIRMAN BARRETT: They are all felony  
14 convictions; correct?

15 ANDREW KLINGER: Correct.

16 CHAIRMAN BARRETT: None of them have received  
17 alternate misdemeanor sentencing?

18 ANDREW KLINGER: Correct.

19 CHAIRMAN BARRETT: Okay. Any questions by the  
20 Commission members? If not, then I will call for a  
21 motion on MS-DEN-07-03 through MS-DEN -- help me  
22 out, Mr. Klinger.

23 ANDREW KLINGER: Order 2007-34 through Order  
24 2007-38.

25 CHAIRMAN BARRETT: I mean the cause numbers.

1           ANDREW KLINGER: Each one is individual, based  
2           on the location that the employee worked at. So  
3           it's MS-DEN-07-03, MS-DEN-07-04 --

4           CHAIRMAN BARRETT: Through 06?

5           ANDREW KLINGER: Yes. Then CA-DEN-07-01 and  
6           FL-DEN-07-01.

7           CHAIRMAN BARRETT: The staff is requesting that  
8           all of these individuals receive an order denying  
9           their application for occupational license. Chair  
10          calls for a motion.

11          COMMISSIONER VOWELS: I will so move.

12          COMMISSIONER MURPHY: Second.

13          CHAIRMAN BARRETT: All in favor?

14          (COMMISSION MEMBERS VOTED AYE)

15          CHAIRMAN BARRETT: Opposed?

16          (NONE OPPOSED)

17          CHAIRMAN BARRETT: Motion carries.

18          Thank you, Mr. Klinger.

19          And then to supplier licensee matters.

20          KESHA RICH: Good afternoon.

21                 You have before you Order 2007-39 concerning  
22                 the renewal of supplier licenses. Pursuant to  
23                 Indiana Code 4-33 and 68 IAC 2-2, the Commission  
24                 has previously approved a permanent supplier's  
25                 license for the following five companies: Konami

1 Gaming, Incorporated; Shuffle Master, Incorporated;  
2 Cummins-Allison Corporation; Giesecke & Devrient  
3 America, Incorporated; and NRT Technology  
4 Corporation.

5 A supplier's license is valid for a period of  
6 one year. Pursuant to IC 4-33-7-8 and 68 IAC  
7 2-2-8, a supplier's license must be renewed  
8 annually, along with a payment of \$5,000 for the  
9 annual renewal fee must be remitted. Each of these  
10 licensees have requested renewal of their license  
11 and has paid the appropriate renewal fees.

12 The Commission staff recommends that you  
13 approve the renewal of their licenses for the five  
14 suppliers.

15 Service Master has held a supplier's license  
16 that was scheduled for renewal but did not remit  
17 the renewal fee and has allowed their license to  
18 lapse.

19 CHAIRMAN BARRETT: Thank you, Ms. Rich.

20 Do any of the Commissioners have questions for  
21 Ms. Rich? If not, then the Chair calls for a  
22 motion on proposed order renewing the five supplier  
23 licenses.

24 COMMISSIONER: So move.

25 COMMISSIONER: Second.

1 CHAIRMAN BARRETT: Moved and seconded. All in  
2 favor?

3 (COMMISSION MEMBERS VOTED AYE)

4 CHAIRMAN BARRETT: Opposed?

5 (NONE OPPOSED)

6 CHAIRMAN BARRETT: Order 2007-39 granted  
7 unanimately. Thank you.

8 MS. RICH: Thank you.

9 CHAIRMAN BARRETT: Mr. Sicuso, we are back to  
10 you on riverboat owner matters.

11 GENERAL COUNSEL SICUSO: Thanks, Mr. Chair.

12 We will handle 2007-40 and 41 together since  
13 they are both financing approvals. I propose these  
14 orders be ratified and interim finance approval  
15 that Executive Director Yelton extended on June  
16 1st, 2007 to Pinnacle Entertainment, Inc., and Boyd  
17 Gaming Corporation. Executive Director Yelton's  
18 interim approval authorized both Pinnacle and Boyd  
19 to finalize their prospective proposed debt  
20 transaction without receiving prior approval of the  
21 full Commission and without having satisfied two  
22 new requirements.

23 The debt transaction for Pinnacle shall be in  
24 the form of a debt offering of senior subordinated  
25 Notes with an aggregate face value of up to one

1 billion dollars. And the transaction is twofold,  
2 first, with an amended restated credit in an amount  
3 not to exceed an aggregate of five million dollars;  
4 and second, the issuance of a note in an amount not  
5 to exceed one billion dollars.

6 You have received information and analysis from  
7 your staff in your meeting packets for both  
8 Pinnacle and Boyd, transactions, and Resolution  
9 2006-10 requires that Executive Director Yelton's  
10 interim approval would be brought to you at this  
11 Commission meeting in order to have an opportunity  
12 to direct different or additional action.

13 Commission staff recommends you ratify  
14 previously granted interim approvals by approving  
15 Orders 2007-40 and 41.

16 CHAIRMAN BARRETT: Do the Commission members  
17 have any questions for Mr. Sicuso on proposed  
18 Orders 2007-40 and 41? If not, the Chair will call  
19 for a motion.

20 COMMISSIONER VOWELS: I move to approve the  
21 orders.

22 COMMISSIONER MURPHY: Second.

23 CHAIRMAN BARRETT: Moved and seconded to  
24 approve the refinancing Orders 2007-40 and 2007-41.  
25 All in favor?

1 (COMMISSION MEMBERS VOTED AYE)

2 CHAIRMAN BARRETT: All opposed?

3 (NONE OPPOSED)

4 CHAIRMAN BARRETT: Motion carries. Thank you.  
5 Ms. Gray, discipline matters.

6 CHRIS GRAY: Good afternoon, Commissioners.

7 You have before you seven settlement agreements  
8 concerning disciplinary actions. The first  
9 settlement is with Casino Aztar, Order 2007-42,  
10 which includes 14 counts.

11 The first two counts are sensitive key  
12 violations, where the keys were removed from the  
13 property. The third count also involves sensitive  
14 key violations, but in this case the sensitive key  
15 logs were not properly filled out.

16 The fourth, fifth, sixth, seventh and eighth  
17 counts are all violations of the drop and count of  
18 electronic gaming machines. These include money  
19 and tokens found in bill validator boxes and slot  
20 machines that should have been empty. Failing to  
21 count a drop bill validator box for several days  
22 and not replacing a drop bill validator box with an  
23 empty box.

24 Counts nine and ten involve two violations of  
25 the sensitive key rules involving slot machine

1 doors and count room doors being left unlocked.

2 In the eleventh count there was a violation of  
3 the requirement to house all progressive  
4 controllers in a double-locked compartment.

5 The twelfth count involves violations in the  
6 reporting of taxes on the RG-1. The thirteenth  
7 count violated the recording of the commissions.  
8 The final count involves a violation of receiving  
9 and storing gaming equipment.

10 It should be noted that many of these are  
11 repeat violations that were addressed in the June  
12 7, 2006 and March 8, 2007 Commission meetings.  
13 Aztar has agreed to pay a total amount of monetary  
14 settlement of \$125,100 in lieu of a disciplinary  
15 action for these 14 counts.

16 The Commission staff recommends that you  
17 approve the settlement agreement.

18 CHAIRMAN BARRETT: Thank you, Ms. Gray.

19 Do any of the Commission members have any  
20 questions on the proposal? If not, then the Chair  
21 will call for a motion whether to approve or  
22 disapprove the settlement agreement in 2007-42.

23 COMMISSIONER: So move.

24 COMMISSIONER: Second.

25 CHAIRMAN BARRETT: It's been moved to approve.

1 All in favor?

2 (COMMISSION MEMBERS VOTED AYE)

3 CHAIRMAN BARRETT: All opposed?

4 (NONE OPPOSED)

5 CHAIRMAN BARRETT: Granted unanimously.

6 CHRIS GRAY: The second Order, 2007-43, is a  
7 settlement agreement with Blue Chip and includes  
8 six counts. The first three counts involve  
9 underaged persons being allowed to board the  
10 casino. In the first occurrence, it was the fifth  
11 time in a six-month period, and last two were the  
12 second and third time in a six month period.

13 In the fourth count, the sensitive key rule,  
14 which violated when a slot shift manager left the  
15 casino with her keys.

16 In the fifth count, four of the VEPs were sent  
17 direct mailing.

18 The sixth count involved a card missing from  
19 the deck.

20 Blue Chip has agreed to a monetary total  
21 of \$47,500 in lieu of a disciplinary action and the  
22 Commission staff recommends approval of the  
23 settlement agreement.

24 CHAIRMAN BARRETT: Thank you.

25 Do any Commission members have any questions

1 for Ms. Gray on the Blue Chip matter? If not, I  
2 will call for a motion on whether to approve or  
3 disapprove the settlement agreement in 07-BC-01.

4 (COMMISSION MEMBERS MOVED AND SECONDED)

5 (COMMISSION MEMBERS VOTED AYE)

6 (NONE OPPOSED)

7 CHAIRMAN BARRETT: As to Caesar's then?

8 CHRIS GRAY: The third Order, 2007-44, is a  
9 settlement agreement with Caesar's involving four  
10 counts. The first three counts involve violations  
11 of the rule involving EPROM in electric gaming  
12 devices; and the fourth count violated Caesar's  
13 internal controls of dealing cards.

14 Caesar's has agreed to a total monetary  
15 settlement of \$97,500 in lieu of a disciplinary  
16 action and the Commission staff recommends approval  
17 of this settlement agreement.

18 CHAIRMAN BARRETT: Thank you. Any questions on  
19 Caesar's?

20 We will call for a motion to approve or  
21 disapprove the settlement agreement in 07-CS-02.

22 COMMISSIONER VOWELS: Move to approve.

23 COMMISSIONER MURPHY: Second.

24 CHAIRMAN BARRETT: All in favor?

25 (COMMISSION MEMBERS VOTED AYE)

1 CHAIRMAN BARRETT: Opposed?

2 (NONE OPPOSED)

3 CHAIRMAN BARRETT: Carries unanimously.

4 Now as to French Lick?

5 CHRIS GRAY: Order 2007-45 is a settlement  
6 agreement with French Lick involving two counts,  
7 one involving the violation of the electronic  
8 gaming device coin test rule, and the other  
9 violating the VEP rule.

10 French Lick has agreed to a total monetary  
11 settlement of \$40,000 in lieu of a disciplinary  
12 action. The Commission staff recommends approval  
13 of this settlement agreement.

14 CHAIRMAN BARRETT: Thank you.

15 Any questions on the French Lick case? If not,  
16 call for a motion to approve or disapprove the  
17 Settlement Agreement 07-FL-01.

18 COMMISSIONER VOWELS: I will move to approve.

19 COMMISSIONER MURPHY: Second.

20 CHAIRMAN BARRETT: All in favor?

21 (COMMISSION MEMBERS VOTED AYE)

22 CHAIRMAN BARRETT: Opposed?

23 (NONE OPPOSED)

24 CHAIRMAN BARRETT: Carries unanimously.

25 The Grand Victoria matter.

1 CHRIS GRAY: Order 2007-46 is a settlement  
2 agreement with Grand Victoria and it involves eight  
3 counts. The first count involves violating the  
4 rule and extending credit when the general manager  
5 allowed a patron to write a check and receive cash  
6 after she was denied credit by a credit clerk.

7 In the second count, a slot machine door was  
8 not secured.

9 The third count involved the violation of the  
10 soft count room when an IT employee was allowed  
11 access into the soft count room during the count  
12 without authorization.

13 The fourth count is a violation of the rule  
14 requiring a patron's Social Security number on a  
15 currency transaction report.

16 In the fifth count, there were two incidents  
17 where a minor was allowed to board a vessel.

18 The sixth count involves the violation of a  
19 delivery electronic gaming device.

20 In the seventh count, the cage employee failed  
21 to accurately record the inventory in the cage on  
22 two separate occasions.

23 In the final count, documents were destroyed  
24 without proper notice or approval.

25 Grand Victoria has agreed to a total monetary

1 settlement of \$76,000 in lieu of disciplinary  
2 action, and the Commission staff recommends  
3 approval of this settlement agreement.

4 CHAIRMAN BARRETT: Thank you.

5 Any questions on the Grand Victoria settlement  
6 agreement? If not, the chair will call for a  
7 motion whether to approve or disapprove the  
8 settlement agreement on 07-CS-01.

9 COMMISSIONER: So move.

10 COMMISSIONER: Second.

11 (COMMISSION MEMBERS VOTED AYE)

12 (NONE OPPOSED)

13 CHAIRMAN BARRETT: Granted unanimously.

14 As to Horseshoe?

15 CHRISTINA GRAY: Order 2007-47 is a settlement  
16 agreement with Horseshoe Casino which involves two  
17 counts.

18 One violating the occupational licensee renewal  
19 rule, and the other late filings of the RG-1.  
20 Horseshoe has agreed to a monetary settlement of  
21 \$4,500 in lieu of a disciplinary action.

22 The Commission staff recommends approval of the  
23 Settlement Agreement.

24 CHAIRMAN BARRETT: Any questions as to the  
25 Horseshoe case? If not, call for a motion to

1 approve or disapprove the Settlement Agreement  
2 07-HH-02.

3 COMMISSIONER VOWELS: I will so move.

4 COMMISSIONER MURPHY: Second.

5 CHAIRMAN BARRETT: All in favor?

6 (COMMISSION MEMBERS VOTED AYE)

7 CHAIRMAN BARRETT: Opposed?

8 (NONE OPPOSED)

9 CHAIRMAN BARRETT: Granted unanimously.

10 The last one, Majestic Star.

11 CHRIS GRAY: And the final Order 2007-48, is a  
12 settlement agreement with Majestic Star I and II  
13 involving three counts.

14 The first count involves violation of the main  
15 bank accountability and surveillance rules, when a  
16 main banker failed to transport all of the money  
17 from the soft count room to the cage.

18 In the second count, three underaged persons  
19 were allowed to board the casino on two separate  
20 occasions. This is the second, third, and fourth  
21 time in the last six months.

22 The final count involved a revoked EPROM inside  
23 the slot machine.

24 Majestic Star has agreed to pay a total  
25 monetary settlement of \$33,500 in lieu of a

1 disciplinary action.

2 The Commission staff recommends that you  
3 approve the settlement agreement.

4 CHAIRMAN BARRETT: Any questions on the  
5 Majestic Star settlement agreement, 07-MS-02?

6 COMMISSIONER VOWELS: I will move to approve.

7 COMMISSIONER MURPHY: Second.

8 CHAIRMAN BARRETT: All in favor?

9 (COMMISSION MEMBERS VOTED AYE)

10 CHAIRMAN BARRETT: All opposed?

11 (NONE OPPOSED)

12 CHAIRMAN BARRETT: Thank you.

13 CHRIS GRAY: Thank you.

14 CHAIRMAN BARRETT: Now we move on to the issue  
15 of renewals. Mr. Klinger, welcome back.

16 ANDREW KLINGER: Thank you, Chairman.

17 The first license renewal on your agenda comes  
18 from Horseshoe Hammond, LLC, Order 2007-49.

19 Horseshoe Hammond has submitted a request for  
20 their renewal of their license and has paid the  
21 \$5,000 annual renewal fee.

22 The Commission staff has determined that they  
23 are substantially in compliance with the Riverboat  
24 Gaming Act and 68 -- and with Title 68 of the  
25 Indiana Administrative Code.

1           The staff would recommend that the Commission  
2           renew this license and approve Order 2007-49.

3           CHAIRMAN BARRETT: Is there anyone from  
4           Horseshoe that wishes to speak? Thank you.

5           Do the Commissioners have any questions for  
6           Mr. Klinger? If not, the Chair will call for a  
7           motion on the renewal of the license as outlined in  
8           Mr. Klinger's report.

9           COMMISSIONER VOWELS: I will move to renew the  
10          license of Horseshoe.

11          COMMISSIONER SWIHART: Second.

12          (COMMISSION MEMBERS VOTED AYE)

13          (NONE OPPOSED)

14          CHAIRMAN BARRETT: Passed unanimously.

15          ANDREW KLINGER: The next two items are Order  
16          2007-50 and Order 2007-51. These are the two  
17          Majestic Star licenses. Majestic Star Casino, LLC  
18          and Majestic Star Casino II, Inc., have both  
19          submitted requests for renewal of their licenses.  
20          And each has paid the \$5,000 renewal fee.

21          The staff has determined that each of these  
22          entities, license holders, are substantially in  
23          compliance with the Riverboat Gambling Act and with  
24          Title 68 of the Administrative Code.

25          The staff recommends that each of these

1 licenses, Order 2007-50 and 2007-51, be approved.

2 CHAIRMAN BARRETT: These are being brought  
3 together because it's the same petitioner. Do any  
4 of the Commissioners have any questions? If not,  
5 the Chair will call for a motion as to 2007-50 and  
6 2007-51.

7 COMMISSIONER MURPHY: Mr. Chairman, I move to  
8 approve both orders.

9 COMMISSIONER SWIHART: Second.

10 (COMMISSION MEMBERS VOTED AYE)

11 (NONE OPPOSED)

12 CHAIRMAN BARRETT: Granted unanimously.

13 ANDREW KLINGER: Last renewal on your agenda  
14 today is from -- a request from RIH Acquisitions  
15 IN, LLC. It is Order 2007-52. RIH is the license  
16 holder of the Resorts East Chicago license. RIH  
17 has submitted their request for renewal of their  
18 license and submitted the \$5,000 annual renewal  
19 fee.

20 The Commission staff has determined that RIH is  
21 substantially in compliance with the Riverboat  
22 Gambling Act and with Title 68 of the Indiana  
23 Administrative Code. The Staff recommends that you  
24 approve Order 2007-52 and renew the Resorts'  
25 license.

1 CHAIRMAN BARRETT: Thank you, Mr. Klinger.

2 We have had requests to speak and the order is  
3 going to go for the City of East Chicago.  
4 Mr. Bock?

5 MR. BOCK: Yes, Mr. Chairman. We do have a  
6 number of individuals here from the city  
7 representing the city that would like to move up to  
8 the front row. And we would also ask permission  
9 for -- a couple of the documents we would like to  
10 refer to in the packet we provided to you are on a  
11 Power Point that we would like to get set up with  
12 your permission, sir.

13 CHAIRMAN BARRETT: As long as the documents go  
14 to the issue of suitability. Why don't you come on  
15 up, it's a little easier for us to speak. By all  
16 means, your clients can come forward.

17 Now before we get started, we need to discuss  
18 the ground rules. First, all of those who are  
19 going to speak, whether on behalf of the city or  
20 any other parties who are present, your comments  
21 will be limited to suitability of the petitioner.  
22 We are not going to engage in any other  
23 discussions.

24 Second, specifically with regards to the city,  
25 as you know, we are obviously involved in

1 litigation with you. Now, because you represent an  
2 opposing party in litigation, conduct Rule 4.2  
3 prohibits us from having discussions with you. Our  
4 outside counsel, Mr. Funk, has consented to let you  
5 address us on the issue of suitability, but we're  
6 not going to engage in a dialogue. So you have 10  
7 minutes to make your presentation on suitability.  
8 If the documents you wish to produce refers to  
9 suitability and not other issues, by all means put  
10 them up.

11 MR. BOCK: Thank you, Mr. Chairman, we  
12 appreciate it. Could we just have a minute to get  
13 this display moving? Thank you, sir.

14 MS. FERNANDEZ: Executive Director Yelton,  
15 Mr. Chairman, and Members of the Commission.

16 My name is Carmen Fernandez, and I was here a  
17 couple of years ago. I'm corporation counsel for  
18 the City of East Chicago. Also present today for  
19 the city are The Honorable George Pebay, Mayor of  
20 East Chicago; Richard Medina, president of the  
21 East Chicago City Council; Charles Pacurar, city  
22 controller; Bruce Coatson (phonetic), outside  
23 counsel to the city; Bill Bock and Steve Runyan  
24 with Kroger Gardis and Regis; and Dr. Patrick  
25 Rooney, Director or Research at the Center on

1 Philanthropy at Indiana University.

2 Only one member of the Commission remains from  
3 2005 when the city last raised issues that we  
4 believe justified denial of the Resorts' license  
5 application. Except for Mr. Vowels, none of you  
6 have heard any of the issues we will present today.

7 Unfortunately, we only have 10 of the 30  
8 minutes that we requested to address the renewal,  
9 and given the many relatively new Commission  
10 members, we are concerned about whether you will  
11 have sufficient information to fully appreciate the  
12 city's concern today. Therefore, after this  
13 presentation we will be happy to answer your  
14 questions and that applies to all of us here.

15 The city opposes Resort's license renewal for  
16 three basic reasons. One, Resorts has breached the  
17 public trust and, therefore, is not a suitable  
18 licensee. Two, Resorts has failed to adequately  
19 communicate with the city officials. And number  
20 three, continuation of the Resorts' license will  
21 result in the continued misuse of essential  
22 economic development funds.

23 As to reason number one: Resorts has breached  
24 the public trust. The opportunity to operate a  
25 riverboat in East Chicago is a privilege and not a

1 right. Indiana Code provides a license to operate  
2 an excursion gaming boat: Number one, is a  
3 revocable privilege granted by the state; and  
4 number two, is not a property right. A license to  
5 operate an Indiana riverboat is a license to  
6 conduct a local monopoly. Such a privilege should  
7 only be extended to honorable companies that  
8 conduct themselves with the highest degree of  
9 integrity and openness.

10 Resorts abused this revocable privilege and  
11 violated the public trust when on March 8, 2007  
12 Resorts threatened in attempt to intimidate to  
13 order to try and prevent the city from opposing  
14 this license renewal. In a letter to which we have  
15 provided to you, Resorts' counsel wrote: "If the  
16 city continues to challenge the renewal of Resorts'  
17 Riverboat owner's license or makes any further  
18 statements that question Resorts' suitability as a  
19 riverboat licensee, we will bring an action against  
20 you, your firm, and your client for abuse of  
21 process, deformation, tortious interference with  
22 business relationships, and every other legal claim  
23 available to Resorts."

24 In other words, Resorts said that if the public  
25 officials of the City of East Chicago would dare to

1 show up in a public meeting and oppose Resorts'  
2 efforts to extend its public monopoly in the City  
3 of East Chicago, Resorts would sue the city and  
4 would sue the city's legal counsel.

5 Members of the Commission, I ask you, is this  
6 the sort of conduct this board will condone from a  
7 riverboat licensee? Will this Commission renew a  
8 license where the prospective licensee has  
9 attempted to intimidate its opponents into not  
10 speaking at a license renewal hearing? Otherwise,  
11 why are you all here.

12 The city submits that when Resorts sent this  
13 letter attempting to intimidate city officials to  
14 prevent us from speaking at a public meeting,  
15 Resorts breached the public's trust and removed any  
16 possibility of it being deemed a suitable licensee.

17 Number two, Resorts is not entitled to a  
18 riverboat license because is has refused to  
19 adequately communicate with city officials and is,  
20 therefore, not a suitable licensee. One example of  
21 Resorts' refusal to communicate is Resorts' March  
22 8th letter which is a response to our letter of  
23 February 20, which can be found in your -- Tab GG  
24 of your materials.

25 In our letter, we requested a meeting between

1 Resorts and city officials to discuss a new  
2 economic development plan. This request for a  
3 meeting was met with the bold threat I've already  
4 quoted. Moreover, numerous other requests for  
5 meetings have been made by the Mayor and other city  
6 officials. If there was time for the Mayor to  
7 testify, he would explain to you that there has  
8 been a continuing refusal by Resorts to even meet  
9 with the city to discuss developmental issues  
10 unrelated to the city's legal dispute concerning  
11 payments made by Resorts under the economic  
12 development agreement. Proposals to meet with or  
13 without counsel and assurances that such meetings  
14 would exclude any references to the pending  
15 litigation have all fallen on deaf ears.

16 Resorts is not entitled by devine right to hold  
17 the East Chicago riverboat license. That license  
18 was created by the collective decision of the  
19 people of East Chicago to allow gaming in our  
20 community. Therefore, any licensee owes a duty to  
21 the citizens of East Chicago and our elected  
22 leaders to meet with them in good faith when  
23 requested.

24 By refusing the city's request to meet, Resorts  
25 has forfeited its rights to contend that it is a

1       suitable licensee. We are a long way from East  
2       Chicago, gentlemen, but we believe the voices from  
3       East Chicago citizens spoken through their elected  
4       officials should be heard by this Commission in  
5       Indianapolis.

6               It was only a little over 10 years ago that the  
7       citizens of East Chicago voted to permit a  
8       riverboat casino in our community. You, the  
9       members of the Commission, would not have any  
10      authority over the matters in East Chicago, except  
11      we voted to confer that authority. And let me tell  
12      you, when East Chicago voted the boat into the  
13      community, we certainly did not believe we were  
14      giving control over our local affairs to  
15      Indianapolis. And we did not expect that we were  
16      giving authority to a state Commission to install a  
17      riverboat operator that would turn a deaf ear to  
18      local concerns and that would, in fact, threaten  
19      and intimidate its local elected officials.

20             Allow me to tell you where the people of East  
21      Chicago are on the important issues before the  
22      Commission. They have recently spoken at the  
23      ballot box. An essential issue of the recent  
24      primary was Mayor Pebay's opposition, continuing  
25      opposition, to the unsupervised slush fund

1 resulting from Resorts' payment to the foundations  
2 of East Chicago under the prior administration's  
3 economic development agreement.

4 On May 8th, Mayor George Pebay was renominated  
5 by East Chicago democrats to run for re-election to  
6 his second term as mayor. Mayor Pebay has broken  
7 the excess of power in East Chicago that gave  
8 Robert Pastrick and his comrades a vise grip on  
9 city government for 33 years. And Mayor Pebay ran  
10 and won on the issue of his opposition to Resorts'  
11 continuing payments to the foundations. East  
12 Chicago voters have spoken loudly at the ballot  
13 box.

14 And I ask now, gentlemen, will our voices be  
15 heard and acted upon by this Commission in  
16 Indianapolis, which sometimes in East Chicago seems  
17 so far away.

18 Today, by declining to renew the Resorts'  
19 license you can stand with us against the arguments  
20 of power, and against greed, foundations which have  
21 operated in essence as slush funds. Unresponsive,  
22 unregulated and unsupervised slush funds. Renew  
23 the Resorts' license and you turn a deaf ear to the  
24 voices of East Chicago in speaking through our  
25 elected leaders.

1 Reason number three: Resorts is not entitled  
2 to a license renewal because a renewal would result  
3 in the continued misuse of economic development  
4 funds. More than two years ago, East Chicago  
5 opposed a transfer of the riverboat license to  
6 Resorts because the license included the Pastrick  
7 administration economic development agreement,  
8 which provided for two percent of the adjusted  
9 gross revenues to be diverted to the foundations.  
10 And .75 percent to be forwarded to the for profit  
11 entity, East Chicago Second Century, Inc.

12 The city's position is that due to the  
13 unpowerable terms of the economic development  
14 agreement, no licensee could be suitable which  
15 would pay some eight million dollars per year to  
16 private unaccountable entities when that money  
17 should instead be going directly to the city for  
18 the economic development it so desperately needs.  
19 It's an impoverished city of 31,000 people.

20 I don't know if any of you have gone there, but  
21 just imagine all the money that has poured into the  
22 city from those casinos. You would never believe  
23 it. Hundreds of millions of dollars, you would  
24 never believe it.

25 Back on April 21, 2005 when the Commission

1 first considered evidence relating to the  
2 development agreement, the Commission deferred the  
3 issue, allowed the license to transfer, and put off  
4 concerns regarding the economic development  
5 agreement for another day.

6 Well, today is the day to act on those  
7 concerns, the Commission to discontinue and not  
8 renew the Resorts' license, because under its  
9 license Resorts will continue to make those  
10 unsuitable, inappropriate and wasteful economic  
11 developments to the foundation -- or development  
12 payments to the foundations. Virtually all the  
13 information necessary to support nonrenewal of this  
14 license due to manifest problems with the current  
15 economical development agreement can be found in  
16 the Attorney General's report submitted to you last  
17 June.

18 In addition, submitted in our materials, Tab  
19 SS, is the report of Dr. Patrick Runey, the  
20 Director of Research at the Sineron Perampathy at  
21 the Indiana University. Dr. Runey has analyzed the  
22 foundations' records and found that contrary to  
23 their own mission statement and express purposes of  
24 the Riverboat Gambling Act, only about 14 percent,  
25 14 percent of funds received by the foundation are

1 spent on economic development.

2 According to Dr. Runey's analysis, foundations  
3 pay excessive salaries. They distribute excessive  
4 board pay. And our costs are five to seven times  
5 higher than similar size foundations.

6 CHAIRMAN BARRETT: You've had 11 minutes. I  
7 will ask you to take 30 seconds to finish.

8 MS. FERNANDEZ: Okay. I tried to be as concise  
9 as I possibly can, and really tried to talk as fast  
10 as I can.

11 Other significant concerns were noted by the  
12 public accounting firm of BGBC Partners, whose  
13 initial analysis is under Tab TT. Any analysis is  
14 incomplete because the foundations, of course,  
15 continue to provide the city complete access to  
16 their financial records.

17 Moreover, on June 8th of last year, this  
18 Commission disapproved of continued payments to  
19 Second Century on the ground that Second Century's  
20 two million dollars per year in funding has  
21 translated into insufficient economic development.  
22 Those funds are now being held in escrow by  
23 Resorts, yet the foundations have received some six  
24 million dollars per year in funding and  
25 incredibly -- yes, sir.

1 CHAIRMAN BARRETT: You've had 11 1/2 minutes.

2 MS. FERNANDEZ: I know, but it's really  
3 important and we've waited two years. And the last  
4 time everybody else took a whole bunch of time and  
5 we were last and then we were cut off. Then the  
6 same thing this year.

7 CHAIRMAN BARRETT: And you were first and  
8 you've had more than 10 minutes. That is over the  
9 time allotted, and you were notified you would be  
10 allotted.

11 MS. FERNANDEZ: Yes, when I read it last night  
12 it was 10 minutes. I promise you. Can I just go  
13 through one more item, please?

14 CHAIRMAN BARRETT: No, ma'am. No, ma'am.

15 MS. FERNANDEZ: Well, thank you Members of the  
16 Commission. Copies of my statement are available  
17 for you. And I urge you to please read the parts  
18 about North Harbor.

19 Thank you very much.

20 CHAIRMAN BARRETT: Thank you.

21 Next, we will hear from the representative of  
22 Resorts.

23 MR. THORP: Thank you, Mr. Chairman, and  
24 Members of the Commission and staff.

25 I will be relatively brief. I am not a

1 participant in the litigation, I'm not a  
2 participant with regard to the authorship of the  
3 letter that is up on the screen, although I would  
4 have this observation. When Mr. Gifford wrote that  
5 letter, he had good reason for doing so.

6 Resorts' position is relatively simple. Since  
7 before Resorts received a license -- since before  
8 Resorts received a license, they have been the  
9 subject of misplaced, illogical and nonsense  
10 arguments made by the City of East Chicago.

11 Before Resorts received a license, Resorts was  
12 sued. The issue of the economic development  
13 agreement was put into court. With regard to the  
14 economic development agreement and the issues  
15 surrounding it, they cannot discuss those things  
16 outside of settlement negotiations that are part of  
17 the litigation. I am not part of that, I cannot  
18 address it.

19 I cannot meet with the city. They have asked  
20 to meet with the mayor, I'm aware of that. They  
21 have agreed to meet with the mayor, but they have  
22 not agreed to meet with their counsel, as of  
23 concerns of litigation. Absent their counsel being  
24 present for the same thing.

25 Resorts resents the constant confusion of

1 issues and attack on their business and their  
2 suitability before this Commission when it is based  
3 upon things they neither did or that they had  
4 control over.

5 For instance, there are three points that were  
6 made by Ms. Fernandez. The first one is a breach  
7 of the public trust, that is, that Mr. Gifford's  
8 letter, as well as the refusal to meet with the  
9 city, constitutes such a breach. I believe I have  
10 addressed both of those very briefly, and that's  
11 all I have knowledge to talk about at this time.

12 Refusal to communicate with the city. They  
13 have not refused to communicate with the city, but  
14 they have refused to discuss the litigation,  
15 outside settlement negotiations with regard to the  
16 litigation.

17 Finally, the misuse of funds. That has nothing  
18 to do with Resorts. Resorts could not negotiate an  
19 economic development agreement. Resorts did not  
20 approve the economic development agreement, but  
21 they have been accused, since prior to receiving  
22 the transfer of the license, of having some action  
23 of -- interaction with this agreement, which is  
24 false.

25 Do they pay the funds into an escrow? Yes.

1       It's not their escrow. It's an escrow that's been  
2       approved by this Commission when it was determined  
3       that the payments to Second Century were  
4       inappropriate. And there is a continuation of  
5       payments to the foundation and to the city because  
6       of the present status of the litigation. The  
7       request made by the city should have been properly  
8       framed in well put litigation, and they decided not  
9       to. It's illogical and it's nonsensical. And I  
10      can tell you from my involvement, it is resented.  
11      And that the continued slander of this company, my  
12      people will not go forward without an answer.

13             The most recent is an argument that has been  
14      made that their license has expired, which we all  
15      know is nonsensical and illogical. The conclusion  
16      from this particular argument is that the money  
17      should then be paid to the city when, in fact,  
18      under the auspices of this Commission, with its  
19      rules prohibiting payments of \$50,000 or more  
20      either in an aggregate or period of 12 months, a  
21      single payment or aggregate can't be done without a  
22      written document. There would be no economic  
23      development agreement, they could not make that  
24      payment to anybody. So the conclusion that it  
25      would go to the city is misplaced.

1           It is this type of nonsensical argument that  
2           this company has faced since before it got the  
3           license. We believe our suitability has been  
4           looked at by the Indiana Gaming Commission. That  
5           the Commission never would have allowed us to at  
6           any time operate a gaming establishment with an  
7           expired license or a license that was not in good  
8           standing. And consequently, any suggestions to the  
9           contrary are resented, illogical and nonsensical.

10           We request that this Commission approve our  
11           license. That the suitability that has been  
12           determined by staff be accepted because we are  
13           suitable, Notwithstanding the misplaced allegations  
14           that have been lodged against us for an excess of  
15           two years.

16           I will answer any questions. Thank you very  
17           much.

18           CHAIRMAN BARRETT: Next we will hear from a  
19           representative from Aristotle? Is anyone here for  
20           the foundations? Good afternoon, Mr. Russell.

21           MR. RUSSELL: I will take considerably less  
22           than 10 minutes.

23           There is a time and place to respond to the  
24           allegations that have been made about us; this is  
25           not the time, this is not the place. We are here

1 to talk about Resorts' suitability, and I will  
2 discuss what's been said about us only briefly in  
3 connection with any relationship that could have  
4 about Resorts' suitability.

5 First of all, with respect to Mr. Gifford's  
6 letter. I am too familiar with the circumstances  
7 of that letter. The letter was not saying that the  
8 city could not take whatever position they thought  
9 was right in a responsible way. The letter was  
10 sent saying quit making false, inflammatory  
11 statements about us. And the letter was totally  
12 justified. I think Mr. Gifford has acted with  
13 restraint throughout this difficult matter and I  
14 think the same is true of his client.

15 With respect to the accusations that have been  
16 made here today that Resorts is unsuitable because  
17 supposedly it has been funding what the city calls  
18 a slush fund being operated by my clients, that too  
19 is inflammatory. That too is false. That has been  
20 addressed in litigation. I would point out that  
21 the city has yet to have a single substantive  
22 position it has taken in all of this litigation  
23 sustained by any court.

24 The city has seceded in things like motions for  
25 extension of time, or permission to take appeal.

1 It has not seceded on a single one of the  
2 inflammatory charges it lays out against Resorts,  
3 against our clients, against anybody involved in  
4 this litigation and at times, I believe, including  
5 Commission staff.

6 With respect to the statements, I will point  
7 out that the Attorney General has submitted a  
8 report to this Commission based on its look at the  
9 foundation to which we have submitted comments,  
10 that we have made thousands upon thousand documents  
11 available to the Attorney General, available to  
12 this Commission. We believe, on reading that  
13 report, that the report was made available, there  
14 was not a single statement in that report that  
15 points to any impropriety by our foundation, any  
16 wrongful act by our foundations.

17 Furthermore, we have been working with the  
18 Attorney General's Office and with knowledge of the  
19 Commission has substantially reorganized the  
20 foundations. So the suggestion that by dealing  
21 with the foundations Resorts is proving that it's  
22 unsuitable, I can't happen but Mr. Thorp let me, I  
23 will endorse it. It makes no sense.

24 The last thing I would like to point out -- two  
25 things quickly. One, statistics was pointed out to

1       you again suggesting that Resorts was unsuitable  
2       because they've dealt with us about how much money  
3       was spent on economic development. As the city  
4       well knows and anyone involved with us, the  
5       foundation has also dealt with things like  
6       community development, scholarships for children,  
7       and working with churches that the city might not  
8       be able to give funds to because of First Amendment  
9       concerns. So again, you are being presented with a  
10      totally distorted and inflammatory pictures and it  
11      should have no influence. No influence whatsoever,  
12      certainly no negative influence on your ruling on  
13      Resorts' license renewal.

14             The last thing, it also gives you some standard  
15      by which to gauge the credibility about what you  
16      are hearing. Expanding on what Mr. Thorp said, the  
17      city's last position in litigation was this  
18      Commission had illegally delegated authority to its  
19      executive director to extend the license during the  
20      gap period between Commission meetings because, as  
21      you know, license renewals fall at different times  
22      during the years. This is something that the  
23      Commission has always and sensibly done. The city  
24      not only takes that position, but when it was  
25      pointed out to the city by Mr. Gifford, the legal

1 actions that the Commission had taken, and was  
2 asked in Court by the judge, "do you still want to  
3 have a hearing on this," the city insisted on that,  
4 to have a hearing on this, because the Commission,  
5 they said, had acted illegally.

6 Furthermore, it persisted in that position  
7 notwithstanding that the whole premises is that  
8 gambling in East Chicago is now illegal. That an  
9 illegal riverboat is operating with no authority to  
10 pay even any tax money to the City of East Chicago.  
11 I bring this up because it demonstrates, once  
12 again, the type of argument that you will hear on  
13 any issue, including the totally unfounded position  
14 that Resorts is unsuitable.

15 In our experience with Resorts, they have been  
16 responsible in a very difficult situation, and  
17 there is no basis on which its license should not  
18 be renewed. Thank you very much. I will answer  
19 any questions if you have any.

20 CHAIRMAN BARRETT: Is there anyone here who  
21 wants to speak on behalf of Second Century?

22 Any further comments from the staff?

23 ANDREW KLINGER: No, I just renew our  
24 recommendation that you approve Order 2007-52.

25 CHAIRMAN BARRETT: Thank you.

1 All right the Chair will then call for a motion  
2 on the recommendation to approve the renewal of the  
3 gaming license for RIH Acquisitions as stated in  
4 Order 2007-52.

5 COMMISSIONER VOWELS: So move.

6 COMMISSIONER MURPHY: Second.

7 CHAIRMAN BARRETT: Moved by Commissioner Vowels  
8 and seconded by Commissioner Murphy. All in favor?

9 (COMMISSION MEMBERS VOTED AYE)

10 CHAIRMAN BARRETT: All opposed?

11 (NONE OPPOSED)

12 CHAIRMAN BARRETT: Passes unanimously.

13 Next on the agenda is a resolution that is  
14 placed before us, 2007-53. Ms. Ellingwood will  
15 present on that.

16 MS. ELLINGWOOD: Good afternoon, Ladies and  
17 Gentlemen, and Commissioners.

18 I'm a little reluctant to follow such an  
19 informative and lively presentation, but I will try  
20 to make this small matter as interesting as I can.

21 You have before you Resolution 2007-53,  
22 regarding the conduct of Charity Gaming. The  
23 Resolution is essentially an extension of  
24 Resolution 2006-25, which passed last June, which  
25 expires on July 1st of this year.

1           That Resolution granted the executive director  
2           the authority to make certain decisions regarding  
3           the conduct of Charity Gaming on behalf of the  
4           Commission. Given the passage of a new Charity  
5           Gaming bill and the adoption of new administrative  
6           rules, the staff respectfully recommends that the  
7           Commission adopt the Resolution, extending that  
8           authority until July 1st, 2008.

9           CHAIRMAN BARRETT: Thank you. Any questions  
10          from the staff?

11          COMMISSIONER MURPHY: I have a quick question.  
12          I was looking at the effective date of this  
13          Resolution, July 7, is that correct?

14          MS. ELLINGWOOD: I was advised this morning  
15          that the date hadn't been changed. The Resolution  
16          will actually be effective on July 1st.

17          CHAIRMAN BARRETT: All right. The chair will  
18          call for a motion in order to approve or disapprove  
19          Resolution 2007-53.

20          COMMISSIONER: So move.

21          COMMISSIONER: Second.

22          CHAIRMAN BARRETT: Moved and seconded to  
23          approve. All in favor?

24          (COMMISSION MEMBERS VOTED AYE)

25          CHAIRMAN BARRETT: Opposed?

1 (NONE OPPOSED)

2 CHAIRMAN BARRETT: Approved unanimously.

3 MS. ELLINGWOOD: Thank you.

4 CHAIRMAN BARRETT: Mr. Packer.

5 ADAM PACKER: Thank you, Mr. Chairman, and  
6 Commissioners.

7 As you may recall from Executive Director  
8 Yelton's presentation on legislative update, two  
9 bills were passed by the general assembly this past  
10 session that were declared emergency acts by the  
11 legislature. Those are House Enrolled Act 1510 and  
12 House Enrolled Act 1835.

13 Specifically for the purpose of this  
14 Resolution, 1510 mandates that the Commission  
15 create two new divisions from scratch. And 1835,  
16 among other things, mandates that -- the granting  
17 of a license to operate casinos to the existing  
18 horse racetrack permit holders, if they are found  
19 to be suitable.

20 It is the Commission staff's opinion that these  
21 bills, due to their emergency nature, will require  
22 action that under normal circumstances could be  
23 brought to the Commission; but because of the  
24 legislative intent of these two acts, that they are  
25 an emergency, and that swift and comprehensive

1 action must be taken to effectuate these acts, that  
2 the Commission delegated its authority to the  
3 executive director to exercise any power that the  
4 Commission holds with respect to these two acts of  
5 the legislature.

6 I would like to point out that this power would  
7 be temporary in nature. It's the Commission  
8 staff's opinion that the emergency nature of these  
9 acts would cease to be an emergency at the first of  
10 the year, because by that time the two new  
11 divisions of the Gaming Commission would be up and  
12 running, and any licensing actions that the  
13 Commission or the executive director would take  
14 regarding the new casinos would also have been  
15 exercised. So this granting of power, this  
16 deligation, is temporary in nature. It's the  
17 Commission staff's opinion it would carry out the  
18 intent of the legislature.

19 So it is my recommendation that you approve  
20 Resolution 2007-54.

21 CHAIRMAN BARRETT: Thank you, Mr. Packer.

22 Do the Commissioners have any questions? If  
23 not, I will call for a motion to approve or  
24 disapprove Resolution 2007-54.

25 COMMISSIONER SWIHART: Move to approve it.

1 MR. MURPHY: Second.

2 CHAIRMAN BARRETT: It's been moved and  
3 seconded. All in favor?

4 (COMMISSION MEMBERS VOTED AYE)

5 (NONE OPPOSED)

6 CHAIRMAN BARRETT: It's adopted.

7 MR. PACKER: Thank you, Mr. Chairman.

8 GENERAL COUNSEL SICUSO: Thank you, Mr. Chair.

9 Resolution 2007-55 regarding Marine Structural  
10 and Life Safety Standards. As many of you already  
11 know, in 2005 the Riverboat Gambling Act was  
12 amended to allow the riverboat casinos to operate  
13 under either a valid certificate of inspection  
14 from the United States Coast Guard or a certificate  
15 of compliance with Marine Structural and Life  
16 Safety Standards determined by the Commission.

17 In response to this statutory amendment along  
18 with a couple of policies from the Coast Guard, one  
19 to refuse to provide certificates of inspection to  
20 newly constructed riverboats in Indiana and another  
21 previously published Coast Guard policy to  
22 ultimately cease its issuing of COIs to all  
23 dockside casinos, the Commission staff began to  
24 work on with an expert contractor, along with the  
25 Coast Guard and the Indiana Department of Homeland

1 Security, to develop Marine Structural and Life  
2 Safety Standards that would serve as an alternative  
3 to Coast Guard Standards.

4 Over the course of many months staff, along  
5 with ABS Consulting, the Coast Guard and Homeland  
6 Security, have worked to develop standards that are  
7 appropriate for the environment purpose and  
8 dockside operations to Indiana riverboat casinos.  
9 Throughout the process, to create standards that  
10 would ensure maximum patron and employee safety.  
11 And each Indiana riverboat dockside operational  
12 environment was our number one concern.

13 The standards were developed to provide for an  
14 equivalent or greater level of safety while  
15 dockside that has existed on any Indiana riverboat  
16 casino that is currently operating under U.S. Coast  
17 Guard certificate of inspection.

18 After many months of analysis, the Commission  
19 staff and ABS Consulting now recommends that you  
20 approve Resolution 2007-55, which adopts the  
21 attached guide for ultimate certification. Upon  
22 adoption, the guide will become the measure by  
23 which Indiana alternate certification riverboat  
24 vessels will be judged in order to receive  
25 certificate compliance from the Gaming Commission.

1           Before you take action on the Resolution, I  
2 would like to announce that it came to my attention  
3 yesterday afternoon that on May 21st, the 9th  
4 District of the United States Coast Guard issued a  
5 letter to the Louisiana State Police Gaming  
6 Enforcement Division indicating in very clear terms  
7 it intends to cease altogether the certification of  
8 all riverboat casinos in that state no later than  
9 December 31, 2009.

10           Yesterday afternoon, high elected officials  
11 from the Coast Guard also called me and indicated  
12 they would like to issue the same letter to  
13 Indiana.

14           The difference will be because we are so far along  
15 with our alternate standards, they would like to  
16 impose a much sooner deadline than 2009 on Indiana.  
17 So in order to deal with the constantly evolving  
18 status of the Coast Guards policies, we have  
19 drafted 2007-55 in a way that Resolution 2005-45,  
20 which was adopted in 2005, allowed the staff and  
21 the executive director to determine appropriate  
22 standards will not be superceded by this  
23 resolution.

24           We feel that we are going to need to continue  
25 to work with the Coast Guard and ABS to prepare for

1 the ultimate decision and policy by that to  
2 inspecting all riverboats in Indiana, not just --  
3 their current policy is not inspecting only new  
4 construction.

5 So with these factors in mind, the staff would  
6 recommend you approve 2007-55. I will let you know  
7 we have two of our representatives from consulting  
8 in the audience who is available after the meeting  
9 or now for your questions. Richard Goss and  
10 Jeff Boyle are here.

11 CHAIRMAN BARRETT: Thank you, Mr. Sicuso.

12 Do the Commission members have any questions  
13 for any of these people? If not, then I will call  
14 for a motion to approve or disapprove Resolution  
15 2007-55.

16 COMMISSIONER VOWELS: I will move to approve.

17 COMMISSIONER MURPHY: Second.

18 CHAIRMAN BARRETT: Moved and seconded to  
19 approve. All in favor?

20 (COMMISSION MEMBERS VOTED AYE)

21 CHAIRMAN BARRETT: All opposed?

22 (NONE OPPOSED)

23 CHAIRMAN BARRETT: Granted unanimously.

24 GENERAL COUNSEL SICUSO: Let everyone know we  
25 have the copies of the standards available, hard

1           copies available after the meeting. Tami will post  
2           the standards on our Web site very early tomorrow  
3           morning.

4           CHAIRMAN BARRETT: Thank you.

5           Next on the agenda is Executive Director  
6           Yelton.

7           EXECUTIVE DIRECTOR YELTON: We bring before you  
8           the last item for the day, which is 2007-56.  
9           Shortly after 1835 was signed, Governor Daniels  
10          heard unsubstantiated rumors that the existing  
11          permit holders of the Indiana's two horseracing  
12          tracks had entered discussions of selling their  
13          interest at a substantial premium. He asked me to  
14          determine whether there was any truth to this  
15          information; and also to research methods by which  
16          the state would share any windfall received by  
17          those who profit from the sale of any interest of a  
18          state owned gambling license.

19          I contacted Cintar and Oliver Trust  
20          individuals, and both confirmed that neither had  
21          any intention whatsoever of selling their  
22          controlling interest; and that each are dedicated  
23          to the operations of the racetracks and the slots.  
24          In the interim, a member of the governor's staff  
25          had also learned that while the majority of the

1 stock is not on the market, that a significant  
2 interest were and at an attractive price.

3 Our legal staff research concluded that a valid  
4 argument exists today that the Commission already  
5 possesses the authority to disapprove the  
6 divestment of an interest in the gaming industry  
7 under such circumstances but has not done so in the  
8 past, nor to serve notice of such consideration in  
9 the future. It's been recommended that we amend  
10 our regulations to specifically include the  
11 assessment of the sale and profits realized and  
12 what distribution, if any, should be realized by  
13 the state in a transfer of ownership interest.

14 Last Friday, Governor Daniels conducted a media  
15 availability session where he announced that he  
16 directed both the Gaming Commission and the Indiana  
17 Horseracing Commission to consider rules to  
18 effectuate such a policy. Accordingly, I bring to  
19 you this afternoon Resolution 2007-56, an emergency  
20 rule which reads as follows: "In determining  
21 whether to approve a transfer of an ownership  
22 interest under this rule, the Commission will  
23 consider the extent by which the state would share  
24 in any monetary payment to or economic benefit  
25 realized by the person divesting the ownership

1 interest."

2 This rule does not mandate any assessment nor  
3 does it require any formula to be applied. It  
4 merely adds yet another consideration that the  
5 Commission could use in its determination whether  
6 to grant or denial of a transfer of ownership  
7 interest. Each application would be judged on its  
8 own merits. And tomorrow the Horseracing  
9 Commission will conduct a special meeting where the  
10 chair will recommend the adoption of similar  
11 language as an emergency rule for them as well.

12 Since both commissions would regulate the  
13 permit and license holder at Anderson and  
14 Shelbyville, we agree to cooperatively approach  
15 these applications once the Gaming Commission  
16 acquires jurisdiction. This rule, however, would  
17 apply equally to the votes.

18 Therefore, I respectfully request a favorable  
19 action on this Resolution, and I will be happy to  
20 answer any questions you may have.

21 CHAIRMAN BARRETT: Commission Members, do you  
22 have any questions for Executive Director Yelton?

23 I will join in his recommendation that this  
24 resolution be adopted and force the emergency  
25 regulation.

1           And if there are no further comments, then I  
2 will call for a motion to approve or disapprove  
3 Resolution 2007-56.

4           COMMISSIONER: So move.

5           COMMISSIONER: Second.

6           CHAIRMAN BARRETT: Moved and seconded. All in  
7 favor?

8           (COMMISSION MEMBERS VOTED AYE)

9           CHAIRMAN BARRETT: All opposed?

10          (NONE OPPOSED)

11          CHAIRMAN BARRETT: Granted unanimously.

12          Executive Director Yelton, any other business?

13          EXECUTIVE DIRECTOR YELTON: Our next scheduled  
14 meeting is September 13th.

15          CHAIRMAN BARRETT: Thank you for coming.

16

17          (MEETING ADJOURNED)

18

19

20

21

22

23

24

25

