ANNUAL REPORT
TO THE GOVERNOR

1994

STATE OF INDIANA
INDIANA GAMING COMMISSION

February 28, 1995

TABLE OF CONTENTS

Page Number

Overview..... 1

Indiana Gaming Commission Members..... 3

Indiana Gaming Commission Organizational Chart..... 4

The Year in Review..... 5

Appendix A: Minutes of Commission Meetings

INDIANA GAMING COMMISSION
OVERVIEW OF THE 1994 ANNUAL REPORT

On July 1, 1993, the **RIVERBOAT GAMBLING ACT** (Act), enacted by Public Law 277-1993 and codified at Indiana Code 4-33, et. seq., became effective, legalizing casino gaming on riverboats. In general, the Act established the Indiana Gaming Commission (IGC) and vested it with the authority to issue eleven (11) riverboat licenses in specified areas of the State of Indiana and the authority to regulate the operation of the riverboats along with related suppliers, occupations and training schools. The Act authorized the Governor to appoint the bipartisan seven member commission and directed that the initial commission be appointed by September 1, 1993. The first meeting of the IGC was held September 7, 1993 and a second meeting was held on September 17, 1993. While subsequent meetings have been scheduled for the second Friday of each month, licensing hearings and legal action have resulted in adjustments to the schedule.

The filing of this second Annual Report coincides with the Indiana Gaming Commission's eighteen (18) months of existence and its first opportunity to report on a full year of activity. This past year has again seen the Indiana Gaming Commission (IGC) undertake an extensive schedule, aggressively pursuing its statutory mandates. The 1993 Annual Report targeted mid-July 1994 as the date to begin licensing hearings in the City of Gary. On May 19, 1994, however, the Porter County Superior Court reversed its January 28, 1994 ruling finding that the referendum portion of the Act was unconstitutional and enjoining the IGC from conducting any licensing hearings. The case was directly appealed to the Supreme Court of Indiana. On July 11, 1994 a preliminary ruling issued by the Supreme Court allowed the IGC to hold licensing hearings but did not allow the IGC to issue licenses. Based upon the ruling, initial licensing hearings for the City of Gary were held on August 31, September 1 and 2, 1994. The Supreme Court, on November 21, 1994 reversed the trial court, finding the Act to be constitutional. Licensing hearings for the City of Gary were reconvened on December 9, 1994 resulting in the designation of two riverboat owner licensees on that date, complying with the statutory preference that the City of Gary receive its licenses first. On February 1 and 2, 1995 licensing hearings were held in the City of Evansville resulting in the third riverboat owner license designation on February 10, 1995.

In addition to the designation of riverboat owner licensees, the Commission has aggressively pursued the statutory mandate to promulgate rules. As of this report, the Commission has promulgated rules covering definitions, appearances by attorneys,

riverboat, supplier and occupational licenses, felony conviction disqualification waiver, exclusion of persons and hearings on notice of denial, nonrenewal and placement on exclusion list. Rules in at least twenty (20) different areas are in the promulgation process.

Three (3) counties have been added to the list of areas eligible for a riverboat owner's license. In May of 1994 Harrison and Crawford Counties passed the referendum and in November of 1994 Perry County passed the referendum, for a total of seven (7) Ohio River counties competing for the five Ohio River licenses. The addition of these three counties added seven (7) new applicants to the list, bringing the total number of entities applying for a riverboat owner's license state wide to sixty-four (64); of those thirty-seven (37) remain under active consideration for licensure.

The Indiana Gaming Commission is proud of its numerous accomplishments over the past year, notwithstanding the limitations imposed upon the Commission as a result of the challenge to the statute's constitutionality.

INDIANA GAMING COMMISSION MEMBERS

The Indiana Gaming Commission is composed of seven (7) individuals appointed by the governor for three (3) year terms, although the initial term of some of the commissioners is staggered pursuant to statutory directive. Three members of the commission must be from counties contiguous to Lake Michigan, three from counties contiguous to the Ohio River, and one member cannot be from any of the previously described counties. No more than four members may be affiliated with the same political party. One member of the commission must be experienced in law enforcement, one must be a certified public accountant, and one must be an attorney; all must have a reasonable knowledge of the practices, procedures and principles of gambling.

Alan I. Klineman, Chair of the commission, lives in Carmel, Indiana. He is a lawyer, former prosecutor, founder, and former Senior Partner of Klineman, Rose, Wolf and Wallack. He has served a term as an Indiana State Senator and is active in community affairs.

Ann Marie Bochnowski, Vice-Chair, lives in Schererville, Indiana. She is a former business writer for The Times in Hammond and is now a free-lance writer specializing in writing newsletters.

Thomas F. Milcarek, life-long resident of LaPorte, Indiana, is manager of shipping and material handling for Weil-McClain Company, where he has worked since 1970. He has been active in Boy Scouts, United Way, and Red Cross.

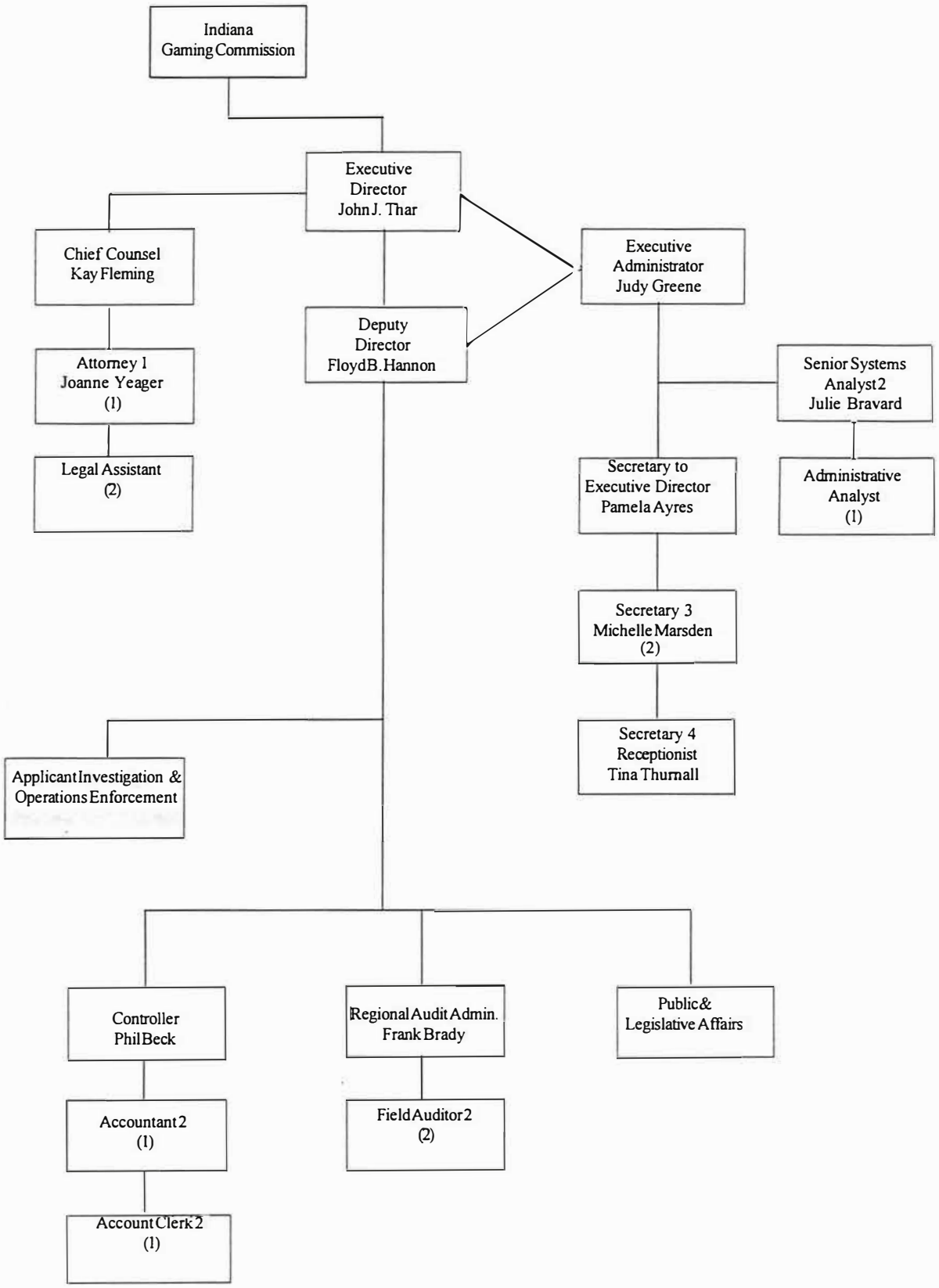
Dr. David E. Ross, Jr., Chesterton, Indiana, lived in Gary from 1968 to 1991. He practices medicine in Gary and is affiliated with Methodist Hospitals in Gary and Merrillville.

Robert W. Sundwick, Madison, Indiana, is vice-president of Grote Industries, Inc. He is an active member of numerous charitable, civic, and industrial organizations.

Donald R. Vowels, Evansville, Indiana, is a lawyer who has acted as court administrator for the Superior Court in Vanderburgh County. He is presently engaged in the private practice of law.

Former Member:
Gilmer Gene Hensley, former Secretary of the commission, lives in Jeffersonville, Indiana. He is a certified public accountant who is also a former bank president and C.F.O. of the bank's holding company. Mr. Hensley resigned by letter of February 21, 1995, citing personal reasons.

INDIANA GAMING COMMISSION ORGANIZATIONAL CHART



THE YEAR IN REVIEW

I. STAFF

The executive staff of the Indiana Gaming Commission remained constant throughout the past year. The personnel continuing in these positions are as follows:

EXECUTIVE DIRECTOR:	John J. Thar
DEPUTY DIRECTOR:	Floyd B. Hannon
EX. ADMINISTRATOR:	Judith S. Greene
CHIEF COUNSEL:	Mary Kay Fleming
SEC. TO EX. DIRECTOR:	Pamela S. Ayres

John J. Kish resigned as outside counsel to accept an appointment and that position remains unfilled as of the filing of this report. Additional staff have been added during the past year, the positions and personnel being as follows:

CONTROLLER:	Philip L. Beck
REGIONAL AUDIT ADMINISTRATOR:	Frances T. Brady
SENIOR SYSTEMS ANALYST:	Julie L. Bravard
STAFF ATTORNEY:	Joanne Yeager
SECRETARY:	Michelle L. Marsden
RECEPTIONIST:	Tina M. Thurnall

The IGC moved to permanent office space in October of 1994. The new office is located at Room N-180 of the Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana. This permanent office space has allowed the IGC to increase its staff by the six (6) new positions noted above, with additional space available to increase staff to a total of twenty-two (22). The new office space is located in closer proximity to both the Indiana State Police and the Indiana Department of Revenue, agencies the IGC will continue to work very closely with during the operations of the riverboats. A computer system, capable of networking with each of the riverboats and other agencies is being put in place. The increase in staff, space and equipment

is to insure that the IGC is prepared to regulate and monitor the operational riverboats.

II. RECEIPTS AND DISBURSEMENTS OF THE COMMISSION

A. FEES: As of January 31, 1995, the Indiana Gaming Commission has collected Three Million Two Hundred Thirty Thousand Dollars ($3,230,000) in application fees from applicants for a riverboat owner license. Of this amount, One Million Five Hundred Fifty Thousand Dollars ($1,550,000) was collected between March 1, 1994 and January 31, 1995. Sixty-four (64) applicants have paid the Fifty Thousand Dollar ($50,000) application fee, and three (3) of these applicants have paid an additional Ten Thousand Dollars ($10,000) to amend their docksites from a county where the referendum approving riverboat gambling failed to a county where the referendum was successful. The application fees will be used to investigate the applicants.

In addition seventeen (17) riverboat owner license applicants have paid the Fifty-five Thousand Dollar ($55,000) investigative fee assessed to complete the background investigations, and two (2) owners have paid a Five Thousand Dollar ($5,000) investigative fee, a payment supplementing an additional Fifty Thousand Dollar ($50,000) application fee payable due to structural reorganization of the applicant. The total investigative fees received is Nine Hundred Forty-five Thousand Dollars ($945,000).

The commission has awarded three (3) Certificates of Suitability, precursors to a riverboat owner's license, two (2) in Gary and one (1) in Evansville. There are thirty-four (34) active applicants in counties that have passed the riverboat referendum, including one (1) applicant for Patoka Lake. There are six (6) inactive applicants in counties where the referendum failed.

In addition seven (7) applicants for a supplier's license have paid a Five Thousand Dollar ($5,000) application fee for a total of Thirty-five Thousand Dollars ($35,000) collected in supplier license application fees.

Total revenues dating from the organization of the Indiana Gaming Commission in 1993 are Four Million Two Hundred Ten Thousand Dollars ($4,210,000).

In addition, the commission has collected Three Thousand Nine Hundred Three Dollars and Ninety-five Cents ($3,903.95) in copying fees in the period March 1, 1994 to January 31, 1995.

The Indiana Gaming Commission has expended Nine Hundred Seventy-four Thousand Two Hundred Eight-four Dollars and Eighty-

six Cents ($974,284.86) in investigative funds in the period March 1, 1994 to January 31, 1995. Total expended on investigations, to date, is One Million Thirty-nine Thousand Six Dollars and Sixty Cents ($1,039,006.60). The balance of funds to be expended on investigations is Three Million One Hundred Seventy Thousand Nine Hundred Ninety-three Dollars and Forty Cents ($3,170,993.40).

Additional fees are anticipated from the assessment of investigation fees, supplier license application fees, occupational license application fees, and from annual riverboat owner, supplier, and occupational licensing fees.

B. ALLOTMENT: The State of Indiana appropriated Two Million Dollars ($2,000,000) to be used over a two (2) year period and to be repaid with interest by July 1, 1995. In the period March 1, 1994 to January 31, 1995, expenditures of the IGC from the allotment total Two Hundred Forty-one Thousand Nine Hundred Twenty-one Dollars and Seventy cents ($241,921.70). The majority represents salaries. The IGC has expended approximately One Hundred Fifteen Thousand Dollars ($115,000) toward setting up permanent office space. The exact figures on this project are not yet available. The balance remaining of the Two Million Dollar ($2,000,000) appropriation is One Million Seven Hundred Seventeen Thousand Eight Hundred Sixty-eight Dollars and Seventy-eight Cents ($1,717,868.78).

C. REVENUE: As there are no operational riverboats at this time, neither admission, wagering taxes nor licensing fees have been collected.

III. ACTIONS TAKEN BY THE COMMISSION

A. LICENSING

Statutory directive requires the IGC to issue riverboat owner's licenses (IC 4-33-6), suppliers licenses (IC 4-33-7) and occupational licenses (IC 4-33-8); the IGC is also required to administer and regulate the same (IC 4-33-4). To date, the IGC has carried out its statutory requirements as follows:

1. Riverboat Owner's Licensing: The Indiana Gaming Commission held the first riverboat owner licensing hearings in the City of Gary on August 31, September 1 and 2, 1994. As the IGC was enjoined from issuing licenses, the hearings were adjourned until a final disposition of the litigation was made by the Indiana Supreme Court. Disposition favorable to the Indiana Gaming Commission occurred on November 21, 1994. The IGC reconvened the City of Gary licensing hearings on December 9, 1994 and on that date named the first two (2) riverboat owner's license designees by awarding a certificate of suitability to

Trump Hotels and Casino Resorts, Inc. and Barden/President Riverboat Casino-Gary, LLC.

On February 1 and 2, 1995 the IGC held riverboat owner's licensing hearings in Evansville, Indiana. The IGC reconvened the hearing on February 10, 1995 at which time the third certificate of suitability issued in the State of Indiana was awarded to Aztar Indiana Gaming Corporation, making them the first riverboat owner's license designee on the Ohio River.

The Indiana Gaming Commission is proud of the fact that in less than three (3) months from the date the litigation was resolved in favor of the Commission it was in a position to award three certificates of suitability. The ability of the IGC to hold licensing hearings so promptly after the ruling by the Supreme Court is due in large part to the efforts of the investigative teams, comprised of members of the Indiana State Police, Indiana Department of Revenue and the Internal Revenue Service and the professors from Indiana University and Purdue University that make up the analytical team from the Center for Urban Policy and the Environment. Both of these groups continued to work on and complete the reports necessary for the Commission to be in the best position to evaluate the applicants and arrive at a meaningful decision.

The investigative teams are led by the Indiana State Police (ISP) who have made several of the positions in the Gaming Enforcement Section permanent, including, the Lieutenant in Charge, the First Sergeant, two (2) of the three (3) sergeants acting as team leaders, and two (2) of the twelve (12) trooper investigator positions. The teams, that consist of ISP, Indiana Department of Revenue (IDOR) and Internal Revenue Service (IRS) personnel, have completed the investigations on eight (8) applicants for licensure in Gary and Evansville and are completing investigations of twelve (12) applicants for licensure in Dearborn, Ohio, and Switzerland counties. The costs of the investigations with the exception of wages for IRS personnel are reimbursed to the respective agencies from the licensing and investigative fees that have been collected from the applicants.

The Commission's plans for the future are to progress with licensing in as timely a fashion as the Commission acted in designating the first three (3) riverboat owner licensees.

2. Supplier and Occupational Licensing: The forms and the rules necessary for implementing the licensing of suppliers and occupational personnel have been enacted by the Commission. Subsequent to the issuance of the initial certificates of suitability, the IGC has received seven applications for a supplier's license along with lists from the holders of the certificates of suitability indicating that many additional

applications should be forthcoming. The IGC has been working with the investigative teams to coordinate and integrate the background investigations of prospective suppliers with the on going investigation of riverboat owner license applicants.

It is estimated that approximately one thousand (1,000) applications for occupational licenses will be filed shortly before the opening of each of the three presently designated riverboat gaming operations. In preparation for these applications, the IGC is working with the Indiana State Police to insure the readiness of the manpower to initiate the process as well as beginning the procurement process for the acquisition of the components and expertise necessary for the smooth and successful handling and processing of the applications. In addition, the rules necessary for the implementation of that portion of the Act addressing the waiver of a felony conviction disqualification of prospective occupational licensees have been promulgated.

B. OTHER STATUTORY REQUIREMENTS

1. Pursuant to IC 4-33-4-1, IC 4-33-4-2, and IC 4-33-4-3, the IGC is directed to adopt rules to regulate, administer, and enforce the Act. The following rules became final, effective rules in December, 1994:

Article 1 General Provisions
- Rule 1 Definitions
- Rule 6 Appearances by Attorneys or Representatives for Hearings and Reviews

Article 2 Licenses; Approvals
- Rule 1 Riverboat Owner's License
- Rule 2 Supplier's License
- Rule 3 Occupational License
- Rule 4 Waiver of Convicted Felon Disqualification
- Rule 5 Occupational Training Schools

Article 6 Exclusion of Persons
- Rule 1 Exclusion List

Article 7 Denial and Exclusion Hearings
- Rule 1 General Provisions

The IGC has continued to draft rules, and the following rules were approved by the Commission on February 2, 1995 to be published in the *Indiana Register* on March 1, 1995:

Article 1 General Provisions
- Rule 1 Definitions
  City Defined

Training License Defined
Rule 2 General Procedures
Rule 3 Economic Development Reports
Rule 4 Fair Market Value Contracts
Rule 5 General Reporting Requirements
Rule 7 Weapons
Rule 8 Support Facility Standards
Rule 9 Riverboat Commission Surveillance Room, Commission Dockside Office and Processing Area

Article 2 Licenses, Approval
Rule 2 Supplier Licenses
Management of Riverboat Gambling Operations
Rule 7 Associated Equipment

Article 8 Excursions, Public Safety, and Emergency Response
Rule 2 Medical services, emergency response

Article 9 Ethics
Rule 1 Commission Members
Rule 2 Commission Employees
Rule 3 Commission Agents
Rule 4 Restriction on Gaming

The IGC continues to draft rules, and will begin the promulgation process for the remaining areas as the drafts are complete.

2. The IGC passed 40 resolutions between March 1, 1994, and February 28, 1995. The topics covered by the resolutions adopted by the IGC may be broken down into the following topics:

Payment of Election Costs	3
Amendments to or Adoption of Forms	5
Extending or Setting Deadlines	3
Granting or Denying Substantive Amendments to Applications	13
Denials of Applications	3
Adoption of Rules; Promulgation Process	3
Adoption of Census; City Defined	1
Establishment of Investigative Fee	1
Withdrawals by Applicants	7
Allowing Gary Certificate of Suitability Holders to Explore Alternative Sites	1

Those resolutions that are not applicant specific, are not germane to only one site, do not establish deadlines, or do not adopt rules or forms are incorporated into rules as the rules are drafted.

3. The IGC is currently in the process of executing contracts or requesting proposals for various goods and services. The IGC is attempting to obtain approval for two sole services contracts to provide the IGC with expertise in drafting rules.

Specifically, the IGC is attempting to obtain assistance from one laboratory in drafting rules on the topics of electronic gaming devices, associated equipment, rules of various electronic games, and the development of a compliance manual in these areas. The IGC is also attempting to obtain assistance from a consulting firm for assistance in drafting rules on the topics of internal controls (i.e. hard and soft counts, hopper fills and credits, manual payouts, table fills and credits), accounting records and procedures, conduct of gaming, rules of table games, and the development of a compliance manual in these areas.

The IGC has begun the development of a request for proposals to determine what company should provide the computer equipment, photo identification, fingerprint scanning equipment, and related services to be utilized at each riverboat site. The riverboat licensee will be responsible for paying for the goods and services that will be utilized to fingerprint applicants for occupational licenses and to develop employee identification badges.

4. In fulfilling its other statutory mandates, the IGC has entered into memorandum or letters of understanding with other agencies, both state and federal. Some of the agencies agreements have been formalized with include:

Indiana State Police, Indiana Department of Revenue, Internal Revenue Service: The IGC has entered into a Memorandum of Understanding with the ISP, with the IDOR, and with the IRS. Pursuant to the Memorandum, these three (3) agencies provide investigators to complete thorough background investigations on each applicant for licensure. Additionally, the IGC is finalizing a second Memorandum of Understanding with the ISP to establish regulatory teams, as required by statute, at each riverboat utilizing troopers who will be cross designated as Commission agents.

Indiana Department of Administration, Minority Business Development: Pursuant to IC 4-33-14, the IGC is directed to establish and administer a unified certification procedure for minority and women's business enterprises (MBE/WBE) that do business with riverboat operations. In addition, the IGC is to obtain reports from the holder of an owner's license and determine whether an owner is making a good faith effort to meet the statutory goals in doing business with MBE/WBE's. The IGC has entered into a Memorandum of Agreement with the Indiana Department of Administration, Minority Business Development, for the purpose of coordinating each agency's role in this area,

since Minority Business Development is the certifying agency for the state.

Indiana Commission for Postsecondary Proprietary Education: Indiana Code 4-33-8-9 requires the IGC to approve schools for the training of occupational licensees. The IGC and the Indiana Commission for Postsecondary Proprietary Education have entered into a Memorandum of Understanding for the purpose of coordinating each agency's role in this area as the Indiana Commission for Postsecondary Proprietary Education presently accredits schools of this nature in the state. The Memorandum of Understanding enables the IGC to meet all of its statutory obligations while avoiding a redundancy of state effort.

Alcoholic Beverage Commission: The rules of the Alcoholic Beverage Commission (ABC) are to apply to the holder of an owner's license (IC 4-33-4-12). The Chairman of the ABC and the IGC have entered into a Memorandum of Understanding and coordinated regulations to insure the effective enforcement of each agency's obligations without duplication of effort over the long term.

Indiana Department of Natural Resources: The IGC and the Indiana Department of Natural Resources (DNR) have entered into a Letter of Understanding which allows for the orderly processing of applicants for a DNR permit in conjunction with IGC licensing activity, recognizing the jurisdictional concerns of each agency while attempting to proceed through the various processes without undue delay.

Army Corps of Engineers: The IGC and the Army Corps of Engineers, Louisville District, have entered into a Letter of Understanding which allows for the orderly processing of applicants for a Corps permit in conjunction with IGC licensing activity, recognizing the jurisdictional concerns of each agency while attempting to proceed through the various processes without undue delay.

Indiana State Archives, Commission on Public Records: Pursuant to IC 4-33-3-21 the IGC is not only required to maintain complete and accurate records separate from any other agency or commission, but must maintain the records in such a fashion that the records are available for public inspection. To achieve this statutory mandate in the face of voluminous riverboat owner license application information, all discloseable portions of the riverboat owner application forms are maintained at the Indiana State Archives, Commission on Public Records, Room 117, State Library Building, 140 N. Senate Ave., Indianapolis, Indiana. These records are available for public inspection and copying, at a cost which decreases as the number of copies increases, from 8:00 a.m. to 4:30 p.m. Monday through Friday. All other records are maintained at the IGC offices, Room N-180, Indiana Government

Center North, 100 North Senate Avenue, Indianapolis, Indiana during the normal office hours of 8:15 a.m. to 4:45 p.m. Monday through Friday.

The IGC continues the process of entering into Memorandums of Understanding with gaming regulatory jurisdictions of other states and countries. The ability to share information with other jurisdictions ensures that the IGC has the best possible information on each applicant for a license in Indiana as well as to share the information gathered in this state with other regulators.

C. MISCELLANEOUS ACTIVITIES

1. On January 28, 1994, the Porter Superior Court entered judgment in favor of the IGC in Moseley v. Indiana Gaming Commission, Cause no. 64D02-9312-CP-2978. The plaintiffs were four property holders whose land was located in Porter County, a county that defeated the referendum in November of 1993. A Motion to Correct Errors was filed by the plaintiffs, and oral argument was held on May 19, 1994. At the end of the oral arguments, Judge Bradford granted the Motion to Correct Errors, and found that IC 4-33-6-19 and IC 4-33-6-20 were unconstitutional. Judge Bradford additionally ordered that the IGC "cease all activity in the process of licensing riverboats for gambling at any location in the State of Indiana until further order of this Court or the Indiana Supreme Court."

The IGC moved to stay the order pending appeal. On June 9, 1994, oral arguments were heard, and Judge Bradford defined the "process of licensing" to "mean the scheduling or holding of any public hearings at any location in the state regarding the issuance of licenses and the issuance of licenses at any location in the state." Additionally, the IGC appealed the May 19 order to the Indiana Supreme Court.

The IGC requested a Stay Pending Appeal be issued by the Indiana Supreme Court. On July 11, 1994, the Supreme Court ordered that the IGC "be permitted to engage in all activities as authorized by statute, including the holding of hearings, except that the Indiana Gaming Commission may not engage in final decision-making in connection with the issuance of licenses nor may it actually issue any licenses until further order of this Court."

The appropriate briefs were filed by the appellants and the appellees. Additionally, numerous amicus briefs were filed. Oral arguments were presented to the Supreme Court on August 30, 1994. On November 21, 1994, the Indiana Supreme Court reversed

the ruling of the trial court and found that the challenged provisions of IC 4-33 are constitutional.

2. IGC staff has met and is continually meeting with individuals representing the gaming industry, local governmental entities, citizen groups, law enforcement organizations, gaming regulatory agencies, suppliers and other state agencies to insure that the Indiana Gaming Commission has the best possible information available when making its determinations.

IV. ADDITIONAL INFORMATION AND RECOMMENDATIONS

The IGC assisted in the drafting of and supports passage of House Bill 1722. Representatives Fesko and Dobis are the sponsors of the proposed legislation. House Bill 1722 proposes the following changes:

1. Allows the IGC to require the submission of Social Security numbers or Federal Tax Identification numbers by any person applying for a license.

2. Expands the IGC's emergency rule making power so that the IGC has the ability to keep abreast of the latest advances and technology of the gaming industry.

3. Specifically exempts the State of Indiana from the Johnson Act or the Gambling Devices Transportation Act, 15 U.S.C. § 1172.

4. Increases the amount of salary a commission member is to receive from $50 per day to $200 per day. This new salary structure would only be applicable during the time that a commission member is attending a riverboat owner's licensing hearing.

5. Modifies IC 4-33-3-16 so that the IGC and not the Department of Revenue is directed to hire staff to administer the Act.

6. Modifies the Act so that the United States Coast Guard is not responsible for certifying vessels that operate on Patoka Lake. Since Patoka Lake is not navigable, it is not within the jurisdiction of the Coast Guard.

7. Requires that riverboat licensees and supplier licensees will continue to pay an

annual licensing fee, but only requires reinvestigations of the licensees every three years. The IGC retains the right to investigate any licensee at any time it appears that the licensee is no longer suitable for licensure. Modifies the Act so that the appropriate licensee is required to pay the cost of any investigation, reinvestigation, or transfer of ownership investigation.

8. It will require that an individual, key person, or substantial owner of an applicant for a supplier's license submit two sets of fingerprints.

9. Modifies the Act so that riverboat licensees, riverboat license applicants, and supplier licensees shall be responsible for paying the application fee and annual licensing fee of its employees and potential employees. The amendments give the riverboat licensees, riverboat license applicants, and supplier licensees the ability to require reimbursement of these fees from its employees.

10. Makes the use, possession, or distribution of materials utilized to make slugs a criminal violation.

11. The funding provisions of IC 4-33-13-4 are modified to provide that the IGC, rather than the Indiana Department of Revenue, receive sufficient funds to administer the Act.

12. Deletes the provision allowing cities and counties the ability to enter into contractual arrangements to share tax revenues with other states.

13. Extends the time at which the IGC is to repay, with interest, the appropriation under which the IGC has been operating from July 1, 1995 to July 1, 1997.

Additional legislation has been introduced that may, directly or indirectly, impact the IGC. These bills include the following:

1. Senate Bill 281. Provides that $.65 of the admission tax allocated to the Horse Racing Commission shall be utilized for purses and breed development rather than for promotions and routine track operation.

2. Senate Bill 457. Defines riverboats as real property and directs the State Board of Tax Commissioners to prescribe standards to be used by township assessors when valuing riverboats.

3. Senate Bill 489. If passed, this bill will require a riverboat licensee to reimburse the IGC for the salaries and other expenses incurred by the inspectors and agents of the IGC that are present on the riverboat.

4. Senate Bill 572. If passed, this bill will restrict the number of licenses that may be issued to a county along the Ohio River and mandates that the fifth Lake Michigan license be issued to a riverboat that is not docked in either the first, second, or third largest city on Lake Michigan. S.B. 572 also requires that an applicant submit the proposed design of the riverboat and dock site to the IGC, prohibits the IGC from issuing a license to an applicant if it is unlikely that the riverboat will cruise, and removes the existing statutory provision that allows the IGC to adopt rules permitting the conduct of gaming while a riverboat is docked.

5. House Bill 1018. Adds compulsive gambling to the behavioral problems for which addiction services are provided by the Division of Mental Health. Directs that the $.10 cents of the admission tax paid to the Division of Mental Health under IC 4-33-12-6 be deposited into the Compulsive Gambling Fund. The Compulsive Gambling Funds are to be used to investigate, prevent, and treat gambling problems, and to establish a toll free telephone line to provide the public with counseling and information about gambling programs.

6. House Bill 1042. Provides that $.15 rather than $.65 of the admission tax

collected under IC 4-33-12-6 shall go to the Horse Racing Commission. Reallocates $.50 to the Division of Mental Health and establishes the Riverboat Mental Health Fund.

7. House Bill 1282. Directs that 72% of 75% of the wagering tax collected under IC 4-33-13 and previously allocated to the general fund shall be utilized to reduce the unfunded liability of the teacher's retirement fund with the remaining 3% deposited into a fund to reduce the accrued unfunded liability of the public employees' retirement fund.

8. House Bill 1347. Reallocates distribution of the $.65 currently paid to the Horse Racing Commission in the following manner:

a) $.30 to the city in the town in which the riverboat is docked for fire protection and emergency services.

b) $.15 to the cities and towns that do not have a riverboat docked within them but are located in a county in which a riverboat is docked for fire protection and emergency services.

c) $.10 to the Indiana State Police.

d) $.10 to the County Sheriff's Department in the county in which the riverboat is docked.

9. House Bill 1442. Defines riverboats as real property and requires the State Board of Tax Commissioners to prescribe standards to be utilized by township assessors when determining the value of riverboats.

10. House Bill 1647. Directs that the 75% of the wagering tax collected under IC 4-33-13 and previously allocated to the general fund shall be paid to the Build Indiana Fund.

11. House Bill 1731. Provides that the riverboat license authorized by a riverboat to be docked on Patoka Lake may be issued for

a riverboat dock site operating from a historic hotel site in Orange County. Allocates the distribution of the admission tax collected for persons admitted to this riverboat.

The Indiana Gaming Commission has no additional information or recommendations which it would consider useful, beyond that which is set forth in this annual report. The Governor has not requested any information or recommendations from the commission.

V. SUMMARY

Pursuant to IC 4-33-3-22, the Indiana Gaming Commission submits its second Annual Report after eighteen months of existence; this is the first report submitted that covers a complete twelve (12) month period. The IGC believes that its brief history establishes the State of Indiana as being dedicated to establishing an effective licensing and regulatory process that will maintain the public confidence in gaming necessary to achieve the statutory goals of economic development and increased tourism.

Alan I. Klineman Chair	Ann Marie Bochnowski Vice-Chair
Thomas F. Milcarek Commissioner	David E. Ross, Jr., M.D. Commissioner
Robert W. Sundwick Commissioner	Donald R. Vowels Commissioner

Appendix A: Minutes of the Commission Meetings

INDIANA GAMING COMMISSION
REGULAR MEETING
11:30 a.m. March 11, 1994 Conference Center Auditorium
Indiana Government Center South

MINUTES

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

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

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

Report from the Executive Director

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

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

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

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

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

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

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

Old business

Chairman Alan Klineman announced that there was no old business.

New business

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

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

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

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

Clark County	**Estimated Cost**	**$92,179.25**
	Actual Cost	**72,651.41**
		$19,527.84

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

Dearborn County	**Estimated Cost**	**$38,526.64**
	Actual Cost	**23,378.53**
		$15,148.11

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

Floyd County	**Estimated Cost**	**$54,550.00**
	Actual Cost	**43,496.96**
		$11,053.04

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

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

Ohio County	**Estimated Cost**	**$15,604.75**
	Actual Cost	**11,183.35**
		$ 4,421.50

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

Switzerland County	**Estimated Cost**	**$20,000.00**
	Actual Cost	**8,996.98**
		$11,003.02

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

Vanderburgh County	**Estimated Cost**	**$198,665.00**
	Actual Cost	**135,240.00**
		$ 63,425.00

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

Warrick County	**Estimated Cost**	**$38,670.00**
	Actual Cost	**29,538.36**
		$ 9,131.64

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

LaPorte County	**Estimated Cost**	**$75,944.00**
	Actual Cost	**56,381.47**
		$19,562.53

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

Porter County	**Estimated Cost**	**$104,000.00**
	Actual Cost	**88,948.93**
		$ 15,051.07

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

East Chicago	**Estimated Cost**	**$40,000.00**
	Actual Cost	**33,205.77**
		$ 6,794.23

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

Hammond	**Estimated Cost**	**$85,000.00**
	Actual Cost	**68,927.06**
		$16,072.94

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Other Business

Presentation by the Army Corps of Engineers

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

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

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

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

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

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

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

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

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

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

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

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

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

Next Meeting

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

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

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

INDIANA GAMING COMMISSION
REGULAR MEETING
11:00 a.m., April 8, 1994 Conference Center Auditorium
Indiana Government Center South

MINUTES

PRESENT: Commission members Alan Klineman, Ann Marie Bochnowski, Gene Hensley, David E. Ross, Jr., Donald Raymond Vowels; Staff members Floyd B. Hannon, Judy Greene, Kay Fleming, Pam Ayres; from the United States Coast Guard, Commander William J. Morani, Jr. (Louisville-Inland), Captain Clay Fust (Chicago-Great Lakes), Commander Dave Pekoske (Chicago-Great Lakes), Lieutenant Commander Mark Kerski (Louisville), Lieutenant Commander Bruce Branham (Louisville), Lieutenant Commander Ron Hassler (Louisville), Lieutenant Bruce Fisher (Chicago), Lieutenant Paul Thorne (Louisville), Chief Warrant Officer Larry Doss (Louisville), Chief Warrant Officer Dave Cunningham (Louisville) and an audience.
ABSENT: Commission member Robert W. Sundwick and Indiana Gaming Commission Executive Director John J. Thar.

Call to order and approval of March 11, 1994, Minutes
Chairman Alan Klineman called the meeting to order at 11:03 a.m. noting that Commissioner Robert Sundwick was absent and a quorum was present. Due to previously scheduled plans, Executive Director Jack Thar was out of the state and unable to meet with the group.

Gene Hensley corrected the March 11 Commission meeting minutes on page 1, to read ~~Chairman~~ Mr. Thar introduced Bill Christman.
On page 4 he requested that the end of the last sentence of the first paragraph read, the amount of Forty-three Thousand Six Hundred Seventy-five Dollars and Seventy-six Cents ($43,675.76) each.

Upon motion by Ann Bochnowski and second by Dr. David Ross, the minutes of the March 11, 1994, Commission meeting were approved as corrected.

Report from the Deputy Director
Deputy Director Floyd Hannon reported that the School of Public and Environmental Affairs (SPEA) has begun their assessment of the Gary applicants. They plan to travel to Gary and meet with city officials and riverboat management people in Joliet, IL as they begin to gather data for assessment use. The contract with SPEA is being drafted; they are currently operating on the basis of a letter of intent between the two agencies.

The investigative teams are nearly completely staffed. They are

clearing up loose ends from prior assignments but are essentially assigned full time to the Gary investigations. On March 15, 1994, a one-day orientation session was provided that included presentations by Bill Desmond, Jim Callahan and Joe Holibeck of the Illinois Gaming Board. They offered excellent suggestions and shared experiences in conducting background and financial checks.

Upon their review, the teams have determined shortcomings in some of the Gary applications. Through the Commission staff, they have requested clarification and additional data. The teams have initiated investigation in the Gary area and made preliminary contact with other regulatory agencies regarding the Gary applicants. They will be traveling to review those agency records and conduct other investigations as needed.

Upon a question from Ann Bochnowski regarding whether or not the investigative teams in Gary have been able to get a feel for how much time is required, Mr. Hannon indicated that since the teams have been involved for only about ten days, it's still a little too early to tell.

Indiana Gaming Commission (IGC) staff continue to meet with applicant representatives and local government officials to discuss their concerns. Mr. Hannon reported that staff attended seminars in Gary on March 19 and 26. The seminars were sponsored by the Mayor's Economic Development office and were part of the Readiness Assessment Process (RAP) program. They discussed occupational and suppliers' licenses. Executive Director Thar attended a meeting in Evansville on March 23 sponsored by the Mayor's office to discuss navigational issues on the Ohio River in the Evansville area. Included were representatives of the barge industry and the U.S. Coast Guard.

Mr. Hannon reported that IGC staff have been spending a considerable amount of time working with the State Budget Agency to develop a budget presentation for the next fiscal year. It appears the IGC will be operating well within the Two Million Dollar allotment from the General Fund. Negotiations continue with the Army Corps of Engineers to develop a working agreement that will facilitate the licensing process by both agencies. Staff have spent a great deal of time devoted to the rule-making process. Chief Council Kay Fleming will explain further. The State Election Board has requested that those riverboat applicants seeking a riverboat owner's license in a jurisdiction placing the riverboat question on the ballot in the May 1994 primary (Harrison, Crawford and Jefferson Counties) file a CFA-7 (Independent Expenditure Report by a Corporation or Labor Organization) no later than noon, prevailing local time, April 22, 1994.

Deputy Director Hannon concluded his report.

Old business

Election Costs for the November 2, 1994, Referendum
Chairman Klineman inquired about the election costs for the November 2, 1994, referendum. Mr. Hannon explained that IGC staff performed a telephone survey that indicated all payments were made with the exception of Imperial Palace of Indiana.

Authorization of Executive Director to Amend Indiana Riverboat Owner License Application Part II for the Indiana Gaming Commission
Chairman Klineman explained that all applicants were notified by March 25, 1994, letter of the changes in Part II of the application. Mr. Hannon summarized **Resolution 1994-10, A Resolution Amending Part II of the Indiana Riverboat Owner's License Application** (see attached) which outlines the following changes:

> Question 66 is omitted. The revised text of this question is being moved to the public section on page 17 as question 62A. The scope of the question is being limited to request applicable documents between the Applicant and Applicant's Substantial Owners. This question is amended to read:
>
> > "Submit as Exhibits 62A(a) through 62A(t), as applicable, copies of the following documents which apply between the Applicant and the Applicant's Substantial Owners:"
>
> The remainder of the question which constitutes the exhibits will be amended only in the following manner:
>
> > (d) certified copies of the articles of incorporation or corporate charters, and amendments thereto of Applicant and/or any of its Substantial Owners;
> >
> > (t) share certificates (both sides) of any Business entity held by or on behalf of Applicant.
>
> Question 67 is omitted. The revised text of this question is being moved to the public section on page 17a as question 62B. The scope of the question is being

limited to request applicable documents between the Applicant and Applicant's Substantial Owners. This question is amended to read:

> "If there are instruments, agreements or contracts which relate to the organization between the Applicant and the Applicant's Substantial Owners which are not listed in 62A above, submit as **Exhibit 62B** said instruments, agreements or contracts, if applicable, a full description of all oral agreements and contracts, including any which relate to future compensation or payment, regardless of form, including but not limited to contingencies, or payments based on percent of revenue.

Question 70 is omitted. The revised text of this question is being moved to the public section on page 17a as question 62C. The question is amended to ask for information about compensation, but limits the scope of the question to seek information about plans which are in existence or are to be created by or on behalf of the Applicant and eliminates the reference to Substantial Owners. This question is amended to read:

> "Submit as **Exhibit 62C** a description of all compensation, bonus, profit sharing, pension, retirement, deferred compensation and similar plans in existence or to be created by or on behalf of the Applicant, including:"
>
> Subsections 62C(a) through 62C(g) remain unchanged.

Question 75 will remain in its current position on page 24. That portion of the question requesting information about the Securities and Exchange Commission and disclosure documents is removed. Specifically, question 75 is amended to read:

> "Submit as **Exhibit 75** a detailed statement concerning the capitalization of the proposed Riverboat Gambling Operation, including t h e amount and source of debt and equity involved, and the guarantees which Applicant can offer that Applicant will be able to operate a Riverboat Gambling Operation during the duration of the license; submit all documents

> which support or contradict this statement, including surety agreements, guarantor agreements, loan commitments and agreements, a list of assets which will be used or liquidated to constitute all or part of the capitalization, appraisals, broker's market studies to support real estate values, brokerage and bank statements, and Financial Statements, certified if available."

Chairman Klineman explained that the effective date of this resolution was March 25, 1994, the date on which the changes were mailed to the applicants. Upon motion by Gene Hensley, second by Don Vowels, **Resolution 1994-10** was unanimously approved.

New Business

The Applications of Dunes Casino Corporation and Riviera Lakefront Casinos, Inc.

Deputy Director Floyd Hannon explained that the Riviera Lakefront Casinos, Inc. application was incomplete, resulting in an inability of staff to conduct a complete investigation, and omissions which constituted grounds for denial. Riviera had indicated that an "internal problem" between the parties to the partnership required a reshuffling that would have resulted in a new application and an additional $50,000 fee. Mr. Hannon indicated that Riviera Lakefront Casinos can file a more complete application in the future in another jurisdiction that has not yet passed the Phase I application deadline. He read the proposed **Resolution 1994-12** (see attached) from Section 3. Action on Application of Riviera Lakefront Casinos on, denying the riverboat owner license application due to omissions in the application.

As there was no further discussion, Dr. David Ross moved that the resolution be accepted, second by Gene Hensley. The motion carried unanimously.

Chairman Klineman asked Mr. Hannon to report on the Dunes Casino Corporation application. On February 15, 1994, by mail, Dunes Casino Corporation was notified that IGC staff, based on prior IGC resolutions, could not honor Dunes' request to file PDF/forms as supplements. The Commission had previously established February 15, 1994, 12:00 noon, eastern standard time, as the deadline for the filing of a completed Part II along with the requisite number of completed Personal Disclosure Forms.

Dunes Casino Corporation was again notified on March 29, 1994, by certified letter that no response had been received to the IGC letter of February 15. In addition, they were requested to supply responses to several questions where information had not been

provided or was incomplete. On April 6, Dunes representatives responded by citing confusion with the city selection process, and a request for more time to allow them to restructure the organization of ownership interests, and the feasibility of continuing to pursue a license. Mr. Hannon pointed out that IGC staff again believed that a thorough investigation was impossible with the information already received and that adequate time had been allowed for them to comply. Ann Bochnowski indicated that it should be stressed that the IGC is not bound by city endorsements. She felt it was not a legitimate reason for them to withdraw. Chairman Klineman added that the IGC has reiterated at every Commission meeting that the Commission alone makes the final decision. Again, it was noted that the applicant would be able to file again in another jurisdiction by submitting a new application in a county where the deadline for Part I had not passed.

Beginning with Section 3, Mr. Hannon read **Resolution 1994-13 A Resolution Denying the Riverboat Owner's License Application Submitted by Dunes Casino Corporation Due to Omissions in the Application** (see attached). Upon motion by Don Vowels, second by Ann Bochnowski, the resolution was unanimously approved.

Request to Amend Application by Lakeside Resorts L.L.C.
Chairman Klineman indicated that the Commission would need to accept or reject the request to amend an application by Lakeside Resorts L.L.C. Beginning with Section 3, Mr. Hannon read **Resolution 1994-11 A Resolution Concerning the Request of Lakeside Resorts, LLC to Substantively Amend Part II of Its Indiana Riverboat Owner's License Application** (see attached). Upon motion by Gene Hensley, second by Ann Bochnowski, it was unanimously approved that the majority owner is no longer Casino Queen, but U.S. Gaming. The Kenny family of Illinois will increase its personal stake and U.S. Gaming becomes majority owner.

Request to Withdraw Application by Imperial Palace of Indiana, Inc.
IGC staff received a letter from Imperial Palace on March 23, 1994, indicating a desire to withdraw its application for Dearborn County and to have the $50,000 application fee refunded. Chairman Klineman reiterated that the application fee is **nonrefundable.** Gene Hensley questioned if Imperial Palace was the applicant who had failed to reimburse for its share of the referendum costs and how much money it owed. Mr. Hannon indicated it owed around $2,100 and a letter could be addressed to the applicant requesting it pay the amount due. Chairman Klineman indicated the Commission's request that Imperial Palace pay its pro rata share. At this time, however, only its request to withdraw is to be addressed. Dr. David Ross moved that Imperial Palace's request to withdraw its application for Indiana Riverboat Gambling License be granted effective April 8, 1994, and that the request for a refund of the application fee be denied. Upon second by Gene Hensley, **Resolution**

1994-9 A Resolution Concerning the Request of Imperial Palace of Indiana, Inc. to Withdraw its Application for a Riverboat Owner's License (see attached) unanimously passed.

Rules and Regulations

IGC Chief Counsel Kay Fleming reported on the 102-page Indiana Gaming Commission Draft Rules prepared by Attorney John Kish and herself. She indicated that the front page of the draft is a guideline. Currently, only rules that are highlighted are in the draft. She indicated that the draft rules would be duplicated and made available to the public after 3:00 p.m. today. They can be purchased for $15.00 at the IN Gaming Commission Office. The Gaming Commission will accept written public comment until April 22. Actually, Ms. Fleming reported, there will be two periods of public comment; the Commission wants feedback.

If the rules are adopted at the May 6 IGC meeting, the Commission will operate under them during the time period that the formal promulgation process goes forward. The rules and regulations will be reviewed by the State Budget Agency; submitted to the Indiana Legislative Services Agency 20 days before their publication date; and published in the Indiana Register on June, 1, 1994, along with a notice of a public hearing. Publication of this notice in Marion County newspapers is required and consideration of public comment is necessary before final rules are adopted. The final rules are then submitted to the Indiana Attorney General's Office; the A.G.'s office has up to 45 days to review and sign. The rules are then submitted to the Governor's office. He has up to 30 days in which to sign. They are then filed with the Secretary of State's office before becoming effective. Additional rules can go through the same process until all the rules are in place.

Other Business

Chairman Klineman welcomed representatives from the U.S. Coast Guard indicating that after the formal IGC meeting is concluded, they would be addressing the Commission and audience. A question-and-answer period will follow.

Next Meeting

The next meeting will be held at 11:00 a.m. on Friday, May 6, 1994, in the Vanderburgh Auditorium Gold Room in Evansville, Indiana. Prior to the meeting at 9:00 a.m., the Commission will tour the proposed docksites.

The Commission adjourned at 11:48 a.m. on motion by Gene Hensley, second by David Ross.

Presentation by U.S. Coast Guard

Deputy Director Floyd Hannon introduced Commander William J. Morani, Jr., commanding officer of the U.S. Coast Guard Marine

Safety Office, Louisville, Kentucky, and Captain Clay Fust, commanding officer of the Marine Safety Office in Chicago. In addition to Commanders Morani and Fust, several other key Coast Guard personnel were present.

Commander Morani thanked the Commission for the opportunity to address the group and brief them on the Coast Guard's role in vessel safety, in particular as it relates to gaming vessels and their operations. With the aid of slides, he explained that as the primary federal agency with maritime authority for the United States, the Coast Guard is a complex organization of ships, aircraft, boats and shore stations. Personnel respond to tasks in several mission and program areas. A vessel may carry out roles in law enforcement, search and rescue, marine environmental protection, maintenance of aids to navigation and even if need be, icebreaking. He emphasized that the Coast Guard's multi-mission approach permits a relatively small organization to respond to public needs in a wide variety of maritime activities and to shift emphasis on short notice when the need arises. The Coast Guard maintains constant military capabilities and readiness.

Commander Morani's responsibilities include overseeing the Marine Safety, Marine Law Enforcement, Environmental Protection, Waterways Management, and Port Safety and Security Programs, which includes all of the Ohio River bordering Indiana. The Ohio River is in the Second Coast Guard District. The area begins at Ohio River mile 374.8 near Vanceburg, Kentucky, and extends to mile 867.4 in the vicinity of Shawneetown, IL., over 492 miles. The zone encompasses three quarters of Kentucky, three quarters of Indiana, one quarter of Ohio, one fifth of Illinois, and includes three tributary rivers: Kentucky, Green, and Wabash.

Commander Morani does not consider Patoka Lake a navigable waterway, and though Indiana law requires a Patoka boat to be inspected by the Coast Guard and issued a Certificate of Inspection, he indicated that, "We have no jurisdiction over vessels operating on Patoka Lake." However, he indicated that if the state wishes their involvement, they might be able to work out some type of agreement.

On inland waters, only the pilots, masters, mates, and engineers must hold a Coast Guard license. These officers must meet minimum professional qualifications which involve specific experience and successful completion of a comprehensive examination covering a variety of subjects including seamanship, rules of the road, first aid, and stability. For an original license, they must also pass a physical examination with follow-up exams covering certain areas at time of renewal. Commander Morani indicated that the Coast Guard does not conduct a comprehensive background check on license applicants. He emphasized that the background checks that will be

done by the IGC will be far more detailed than theirs. The nearest place to examine applicants and issue Coast Guard licenses is at the Regional Examination Offices in Memphis, TN, or St. Louis, MO.

Laws and regulations require vessel owners to report certain types of accidents to the Coast Guard. They in turn investigate to determine the cause. Many of the Coast Guard's regulations were developed as a result of some marine disaster. Coast Guard investigating officers can issue subpoenas to compel testimony or the production of records. If crew performance is at issue, for example acts of negligence, misconduct, incompetence, violation of law or regulation, or drug use, they can bring the licensed or documented person before an administrative law judge and take action against his/her right to hold a Coast Guard License or Document. This process is similar to the Registry of Motor Vehicles suspending or revoking a driver's license. The Coast Guard has no such authority over unlicensed persons: bartenders and waiters are prime examples. If the responsible party does not hold a Coast Guard License or Document, or the responsible party is the owner or operator, they can submit a Report of Violation to a Coast Guard Hearing Officer which could result in an assessment of a monetary civil penalty. In extreme cases they can refer the violators to the U.S. Attorney for appropriate action.

The Coast Guard reviews vessel construction plans for compliance with Coast Guard standards. The Coast Guard "building inspector" is at the shipyard during construction, to make sure that the vessel is built to approved plans and Coast Guard regulations. After satisfaction that the vessel is in compliance is the issuance of a Certificate of Inspection. This certificate spells out how many licensed and unlicensed crew must be on board, the required number of lifesaving appliances and firefighting equipment, any special operating conditions, and the maximum number of passengers allowed.

Once in operation, the Coast Guard inspects the vessel at frequent intervals to ensure continued compliance. They are inspected while in operation and on drydock. If problems are uncovered, the Certification of Inspection can be removed. Time can be allowed for the vessel to correct the discrepancy. Any action depends on the severity of the problem. Deficiencies which pose immediate threats to vessel/personal safety must be corrected before the vessel will be allowed to operate.

Captain Clay Fust, commanding officer of the Marine Safety Office in Chicago, indicated that between mid-September and mid-May gaming vessels operating on the Great Lakes would have to carry thermal suits in addition to lifeboats. For a boat carrying 2,500 people, 100 lifeboats costing about $6,000 each and suits costing $250 each would be required, as well as 100 crew members. It is particularly important that operators build boats with reinforced hulls for the

Great Lakes use to prevent ice damage. He indicated that the federal agency would like the vessels to be docked if there is ice on the water or unfavorable conditions exist, such as high wind or fog.

Another area of major safety concern is the danger of fire. Captain Fust indicated that if a fire were to break out, passengers would be taken to an open deck until the blaze was put out. If there are signs the fire would be too difficult to extinguish, or if it were to burn out of control, evacuation would begin immediately. The high-capacity gambling vessels the Coast Guard will certify to ensure seaworthiness will feature the newest fire and life-saving equipment. Three full watches or shifts will be required for passenger safety. He indicated that the Coast Guard is not equipped to handle a major accident by themselves. He suggests the key will be good local emergency management plans and cooperative agreements.

Captain Fust noted that special Great Lakes certification would be required for boats docked at Gary's Buffington Harbor and at East Chicago because they are considered open harbors. He indicated Indiana should ask, "Is cruising on the Lake necessary for the success of gambling in Indiana?" He encouraged thinking about alternatives to alleviate safety problems.

The Coast Guard has already inspected six vessels in Illinois. Captain Fust indicated that some applicants have talked about routes that do not go beyond three miles and the Coast Guard may be able to grant some relaxation of life safety in those cases. In response to a question regarding applicant notification of restrictions, Captain Fust indicated that he has met with four applicants already.

Particular problems are apparent with each harbor location in Lake County. Captain Fust indicated that East Chicago has a recreational area that is very well enclosed, but if the operator wants to go outside of this area, the breakwall needs to be made longer. In Gary, dredging will be the biggest problem. Hammond has a very well enclosed harbor but no way to get the people in and out once they are there. Buffington Heights is not protected.

The Coast Guard representatives were very responsive to questions. Chairman Alan Klineman thanked them for their informative presentations and reiterated that the next IGC meeting will be on May 6, 1994, at 11:00 a.m. in the Vanderburgh Auditorium Gold Room, Evansville, Indiana.

INDIANA GAMING COMMISSION
REGULAR MEETING
11:00 a.m., May 6, 1994 Gold Room, Vanderburgh Auditorium
Evansville, Indiana

MINUTES

PRESENT: Commission members Alan Klineman, Chair; Ann Marie Bochnowski, Co-Chair; Gilmer Gene Hensley, Secretary; David E. Ross, Jr.; Robert Sundwick; Donald Raymond Vowels; Staff members John J. Thar, Executive Director; Kay Fleming, Judy Greene, Pam Ayres; from the IU-PUI School of Environmental Affairs (SPEA), Center for Urban Policy and the Environment - Indianapolis, John L. Krauss, Project Team Leader and Associate Director; Mark S. Rosentraub, Associate Dean; Barry Rubin, Associate Professor; Laura C. Littlepage, Policy Analyst; from the City of Evansville, Frank F. McDonald II, Mayor; and an audience.
ABSENT: Floyd B. Hannon, Deputy Director, IGC

Call to order
Chairman Alan Klineman called the meeting to order at 11:00 a.m. noting that all six current Commission members were present. One commissioner has resigned, but a quorum exists.

Remarks by the Honorable Frank F. McDonald II, Mayor, City of Evansville
Mr. Klineman introduced Frank McDonald, Mayor of the host city of Evansville, who welcomed the Indiana Gaming Commission members and indicated his appreciation for the opportunity to take the commissioners on a tour of the various proposed riverboat locations. He thanked the Commission for placing the City of Evansville first on the list after the work in Gary, Indiana, is completed, as the statute requires. The Evansville community is very excited about the prospect of riverboat gaming and the subsequent development and benefits that can occur. He noted that Evansville as a city looks forward to sharing with the Commission at a future time a bit of history of their evaluation process, sharing results of that process and basically going into great detail as to how they have ultimately arrived at the recommendations they will make to the IGC. They fully respect and are aware of the fact that the Gaming Commission has the final say. They stand ready and able to share a multitude of facts and figures and information that have been prepared by various consultants of their economic analysis--to accounting reviews, management strengths, and financial strengths and weaknesses of the six Evansville applicants. He indicated his hope to have the

opportunity to present that information. He again welcomed the group to the community and thanked everyone for coming.

On behalf of the Commission, Chairman Klineman indicated appreciation for the opportunity to visit Evansville and the proposed riverboat sites. It has been very meaningful and energizes the Commission to see the enthusiasm felt for the prospect of receiving a license. He thanked Mayor McDonald for the city's hospitality and pledged that the Commission will move forward as expeditiously as it can, always keeping in mind that decisions must be made very carefully.

Approval of the Minutes of April 8, 1994

Upon motion by Dr. David Ross and second by Robert Sundwick, the minutes of the April 8, 1994, Commission meeting were unanimously approved as read.

Report from the Director

Executive Director Jack Thar reported that the law suit filed on February 24, 1994, in Porter County, Indiana, has been rescheduled for May 19, in the Porter County Superior Court. On April 4, 1994, a subpoena was served upon the Commission seeking discovery from the Commission in a condemnation action in Michigan City. The suit is between the landowner, Great Lakes Inland Marina, Inc., and the City of Hammond Waterworks Department. The subpoena sought Commission records, more specifically, the answers to certain specified questions in the Riverboat Owner's license application as each pertains to the applicants in Michigan City. Staff filed a response on April 26, 1994, basically indicating that the bulk of the requested information is public record obtainable at the State Archives during normal business hours.

On April 29, 1994, staff had an introductory meeting with the members of the Center for Urban Policy and the Environment, who will compose the team doing the economic and financial analysis of the various applicants for the Commission. Mr. Thar reported that members of the team will be addressing the Commission during today's meeting.

Director Thar introduced John L. Krauss, project team leader, a senior fellow and associate director of the Center for Urban Policy and the Environment. Mr. Krauss has directed projects for the Center in the areas of local, state, and federal government; employment and training; economic development; dispute resolution; and finance. He is a former Deputy Mayor for the City of Indianapolis.

Dr. Mark S. Rosentraub, Associate Dean of the School of Public and Environmental Affairs for the Indianapolis operation and director of the Center, will oversee the implementation, economic

impact, and planning issues. Dr. Rosentraub has been involved with the analysis and implementation of economic development for nearly twenty years. He has extensively studied the economic development and tax relationships between sports and regional governments.

Mr. Thar also introduced Dr. Barry Reuben, associate professor in the School of Public and Environmental Affairs, with an extensive background in urban and regional planning and applied public policy analysis. Mr. Thar indicated that Dr. Reuben's primary areas of expertise are local economic development and regional economic analysis. Dr. Reuben has published considerable research on economic modeling to state and local economic development and has assessed the employment impact of urban enterprise zones.

The fourth member of the team, Laura Littlepage, has worked with both the state and local levels in New York and Indiana in various capacities with duties that included budgeting, policy analysis, and program evaluation. Mr. Thar pointed out that in her previous position at the Department of Commerce, Ms. Littlepage assessed the economic impact of several major projects, including the United Airlines MOC-2 and the Lilly expansion for the State Legislature's Budget Committee.

Mr. Thar reported that on May 4, members of the Center's team who are primarily responsible for performing the financial analysis met with members of the investigative teams. The purpose of the meeting was first, to be an introduction; secondly, an overview of the four Gary applicants' financial status as presently known through the investigations; and finally, to set up a model and a plan for the coordination of the information between the teams, the Center, the Commission, and its staff.

Since the last meeting on April 13, the Indiana Gaming Commission has passed the deadline for Part II of the application for all areas that passed the November 2, 1993, referenda. The 32 eligible applicants timely filed Part II. The IGC has received the official results, although not in writing, from the State Election Board on the May 3, 1994, referendum occurring in Crawford, Harrison, and Jefferson Counties. It passed in Crawford and Harrison Counties and failed in Jefferson County. Consequently, the IGC has two active applicants: Crawford County Casino Corporation in Crawford County and Riverboat Development, Inc. in Harrison County.

Mr. Thar indicated that the draft rules passed out at the April 8 Commission meeting will be presented to the Commission as proposed rules to go out for publication. Should the proposed rules be accepted by the Commission at this meeting, the two applicants that were in Jefferson County, specifically, Madison Landing Associates, Inc. and Jefferson Madison Limited Liability Company would be eligible under the proposed rules for a one-time change. If the

rules are not adopted, the Commission must either expand Resolution 1994-1 or create a new resolution which would allow these two applicants the opportunity to change to a county that had passed the referendum or passes the referendum in the future for the one-time $10,000.00 fee.

Executive Director Thar concluded his report.

Gene Hensley questioned whether or not any of the applicants from Clark or Floyd Counties have the opportunity to file for Harrison or Crawford County. Mr. Thar explained that yes they do per Resolution 1994-1.

Old business

Chairman Klineman complimented the IGC staff for their work in receiving and expediting the filing process for the Part II applications out of a very small office in the Government Center. He remarked that there were boxes and boxes of applications. It was a very efficient operation.

New business

Request to Amend Part II Filed by Trump Interests

Executive Director Thar explained that attached to **Resolution 1994-15, A Resolution Concerning the Request of Trump Marina Resorts, Inc. to Substantively Amend Part II of its Indiana Riverboat Owner's License Application** is a copy of a letter submitted on behalf of the Trump application by its attorneys. In essence, in Part II they have sought to amend their permanent docksite. Originally they had proposed to put their development at the site that the City of Gary favored, the USX site. Subsequent to the filing of Part II, the city had switched its preference to the Buffington Harbor location. Consequently, the Trump Marina Resorts, Inc. had tendered to the Commission its proposed amendments to Part II that reflect a development at the Buffington marina site. Mr. Thar explained that the exact specifics are contained in the letter with an explanation as to which exhibit would be changed and what the change would be. From a staff point of view, Mr. Thar recommended that the Commission allow this change to occur as it is a change brought about by a situation outside the control of the applicant.

Gene Hensley moved that the requested amendment of Trump Marina Resorts, Inc., which changes the permanent Gary docksite from USX to Buffington Harbor as is more fully set out in the letter and amendments submitted May 2, 1994, be accepted and that **Resolution 1994-15** (see attached) be adopted as read by Director Thar. Upon second by Ann Bochnowski, the resolution was unanimously approved.

Director Thar explained that Trump was the only Gary applicant that needed to prepare a docksite amendment.

Consideration of Adoption of Rules

Draft rules were presented to the Commission at the April meeting. Informal written public comment was accepted until April 22. Chairman Klineman explained that if the rules are adopted at this May 6 meeting, the Commission will operate under them during the time period that the formal promulgation process goes forward. The rules and regulations will be reviewed by the State Budget Agency, submitted to the Indiana Legislative Services Agency 20 days before their publication date, and published in the Indiana Register on June, 1, 1994, along with a notice of a public hearing. Consideration of public comment is necessary before final rules are adopted. The final rules are then submitted to the Indiana Attorney General's Office, and then to the Governor. They are then filed with the Secretary of State's office before becoming effective. Additional rules can go through the same process until all the rules are in place.

IGC Chief Counsel, Kay Fleming, explained that basically the Commission will be adopting the rules with the additional changes made after receiving comments from the industry. The Gaming Commission received nine sets of comments. **Resolution 1994-14, A Resolution Adopting Article 1, Rules 1 and 6; Article 2, Rules 1, 2, 3, 4, and 5; Article 6 and Article 7** would adopt those changes and allow the IGC to operate under them until the final promulgation process is complete. In the meantime, the resolution will also adopt any non-substantive changes which are suggested by Legislative Services or the staff.

Ms. Fleming reported that several definitions (including, but not limited to, business entities, cash equivalents, table games, public officials, contributions) were added. Changes were made in some of the definitions (cash, drop bucket; craps was expanded). Some of the substantive changes that the IGC has made are in the representation of the attorney to expand attorney privileges. She highlighted other additional changes. A statement of intent to be employed by a riverboat was added to the occupational license definitions and rules. This can be taken care of during the certificate of suitability and interim compliance period phase. Administrative hearings has been changed from "clear and convincing evidence" to "a preponderence of the evidence." Although the occupational training school rule was not meant to limit riverboat owners from providing their own training, the IGC added a proviso that it is absolutely clear that they can do that without being licensed. Another proviso was added that suppliers can provide training to riverboats and their employees if they sell them different machines. Added to the riverboat owners' license

portion is that the deadline for the docksite amendment for filing Part I of the application cannot have expired for the area to which they want to transfer or amend their docksite. A proviso was added that "unless otherwise stated, a denial of an application does not reflect that the applicant is not suitable for licensure."

Ms. Fleming indicated that two changes will be made that Ann Bochnowski brought to IGC attention. On Page 8 of the riverboat licenses, under the public hearing section, subparagraph E, the word "may" in the second line will be changed to read "shall," and on the fifth line, the word "or" shall be changed to "and." With the supplier licenses, an exception was allowed. If the political subdivision, county, or municipality is the owner of the dock facility, it will not have to obtain a supplier license.

Ms. Fleming proposed that if the Commission accepts the proposed rules, they will be sent to Legislative Services on the following Monday. They will be published in the June 1 Indiana Register. Public hearings to hear comments on the rules will be scheduled for June 28 at 9:30 a.m. in the Auditorium of Indiana Government Center South in Indianapolis. Commission members do not have to be present. The hearing and comment period will be recorded and transcribed; Commission members can then read and review the transcription.

The Indiana Gaming Commission staff thanked all who furnished input and the Commission members who provided comments.

Don Vowels moved that **Resolution 1994-14** be approved as read (see attached), second by Ann Bochnowski. The resolution unanimously passed.

Other business

Article 8 Public Safety and Excursions, Rule 1 Excursions, routes, and public safety

Executive Director Jack Thar indicated that this rule has been under discussion for some time. It has been one of the reasons for the meetings with the Army Corps of Engineers, the Coast Guard and also a meeting he attended in Evansville with members of the ICE Committee, who are involved in barge traffic and tow operations up and down the Ohio River. The Gaming Commission believes that public safety and the prevention of putting any vessel in danger or any individual passenger in danger far outweighs any type of super-hyper-technical requirement that a boat has to cruise a particular distance at a given time. The Commission has tried to put together a regulation which would first keep public safety in mind.

Mr. Thar read **Rule 1 Excursions, routes, and public safety,** under **Article 8 Public Safety and Excursions** (see attached) which defines

excursions, requires the filing of excursion schedules, and provides for excursions during adverse conditions. Dockside gambling is prohibited, per the Riverboat Gambling Act. Public comment is encouraged through May 23, 1994. Written comments should be directed to the IGC office.

Mr. Thar added that in discussion of certain aspects of this proposed rule with the U. S. Coast Guard, they have indicated that there is a Coast Guard requirement that any type of reported difficulties with the vessel would have to be reported to them. There should be an additional cite or a changed cite to the Code of Federal Regulations under Sec. 1. (5) "Master."

Chairman Klineman indicated that the state will continue its efforts to achieve a permanent settlement with Kentucky as to its declaration that gambling will not be allowed on its part of the Ohio River. A satisfactory agreement was made between the State of Kentucky and the State of Illinois.

Article 1 General Provisions, Rule 7 Weapons

Executive Director Jack Thar explained the draft rule. When passengers are aboard a riverboat vessel, the only person allowed to have a weapon on the boat is the Commission agent. The only exception to that falls within two areas: security personnel of the riverboat licensee may have a weapon when there are no patrons present (count times or money movement times) and law enforcement officers or federal law enforcement officers, but only when their primary purpose and sole purpose for being on the boat is to conduct their official duties and with prior notice to the Commission itself that they will be carrying a weapon on the boat. Director Thar explained that this rule will also be available for public comment during the same period of time.

Mr. Thar added that copies of both Rules will be available for purchase on Monday, May 9, 1994, at the IGC office.

Suppliers' and Occupational Licenses

Chairman Klineman indicated that a form needs to be approved for a supplier's license and occupational license 2 & 3. The Commission now has proposed rules which cover these items but it needs the formal approval of the application itself. As it has been decided that there will not be a June meeting, as the IGC will be involved in hearings on the Gary licenses in July, Mr. Klineman proposed to the Commission that it allow the issuance of occupational licenses 2 & 3 and suppliers' licenses conditionally by the staff between now and the next meeting. At this next meeting the IGC will formally look at these licenses. Before they are released by the staff, however, each one of the commissioners will receive a copy of the proposal. The group will not be able to be together to act formally, but there should be a time in which each member can

review them and get back to the staff with comments. After that period of time, Mr. Klineman indicated they would initially be released to the applicants and will probably be in use until they can be formally ratified.

Next Meeting

Chairman Klineman announced that the next meeting of the Indiana Gaming Commission will be tentatively set for Tuesday, July 12 at 9:00 a.m. in Gary, Indiana, at which time the Commission will formally review the Gary applications and any other business it has.

Resolutions Formerly Passed That Expire July 1, 1994

Director Thar indicated that three resolutions previously passed by the IGC would expire on July 1, 1994. They are not covered in the proposed rules and staff would suggest in regard to Resolution 1993-3, which deals with the pro rata costs of the special election; Resolution 1993-7, a resolution establishing interim guidelines governing ex parte communications between Commission members and applicants; and Resolution 1993-16, which prescribes the form for Riverboat Owner's License Application, Part II, and Personal Disclosure Form I; that the Commission extend the effective dates of each of these by a nunc pro tunc order to the date that rules are adopted by the Commission. Further, Resolution 1993-3 should be extended to "all elections held up through January 1, 1996, when that resolution would then expire" as that portion of the statute expires on that same date.

Hearing no objections, Chairman Klineman so ordered that the resolutions that would have expired on July 1, 1994, be continued and an order to that effect entered nunc pro tunc dating back to the previous resolutions so that those resolutions will stay in effect.

The Commission adjourned at 11:55 a.m. on motion by Don Vowels, second by Gene Hensley.

Presentation by Center for Urban Policy and the Environment

John Krauss, project team leader for the Center for Urban Policy and the Environment, School of Public and Environmental Affairs, indicated that both Dr. Mark S. Rosentraub and Dr. Barry Reuben would be addressing the Commission. They want to familiarize the IGC with what they will be doing in terms of measuring the economic impacts and economic growth from riverboat gaming operations. He noted that at the present time there are eight professional staff on this team.

Both Dr. Rosentraub and Dr. Reuben outlined the four major regional economic impact analysis techniques. They will be using the Regional Impact Multiplier System. It 1) utilizes a regional input-output model to derive employment and earnings multipliers, 2) is based on a national input-output table that is converted to a regional table via use of local earnings and employment data, 3) is available for states and multi-county regions from the Bureau of Economic Analysis, U.S. Department of Commerce, 4) is almost as accurate as a locally-generated input-output model, 5) is very cost-effective: employment and earnings multipliers can be generated and applied within 8-10 weeks, and 6) similar methodology is utilized in hundreds of previous impact analysis studies.

The SPEA representatives were very responsive to questions from the commissioners. Chairman Klineman thanked them for their informative presentation.

INDIANA GAMING COMMISSION
REGULAR MEETING
11:00 a.m., July 8, 1994 Conference Center Auditorium
Indiana Government Center South

MINUTES

PRESENT: Commission members Alan Klineman, Chair; Ann Marie Bochnowski, Vice-Chair; Gilmer Gene Hensley, Secretary; David E. Ross, Jr.; Robert Sundwick; Donald Raymond Vowels; Thomas F. Milcarek; Staff members John J. Thar, Executive Director; Floyd Hannon, Kay Fleming, Judy Greene, Pam Ayres; from State Election Board, J. Bradley King, Staff Attorney; and an audience.

Call to order, roll call, introduction and oath of Commissioner Thomas F. Milcarek

Chairman Alan Klineman opened the meeting with an introduction and the administration of the oath of office to recently appointed Commissioner Thomas F. Milcarek. Mr. Milcarek was appointed an Indiana Gaming Commissioner by Governor Evan Bayh to replace Robert Gilmore. Mr. Milcarek is a life-long resident of LaPorte, Indiana, and is married with one daughter and one granddaughter. Chairman Klineman welcomed Mr. Milcarek to the Commission stating there is a full quorum; all commissioners are in attendance.

Approval of the Minutes of May 6, 1994 meeting

Upon motion by Ann Bochnowski and second by Robert Sundwick, the minutes of the May 6, 1994 Commission meeting were unanimously approved as distributed.

As hearings for the licensing of riverboats in Gary were originally scheduled to begin on July 12, Chairman Klineman remarked that initially there was not going to be a regular Commission meeting in July. However, because of the subsequent Porter County litigation, the Commission is not now in a position to go forward with the licensing hearings. The Commission is hopeful that this delay will be short-term and the hearings will proceed in the order that was originally scheduled.

Report of the Executive Director

Executive Director John J. Thar gave an update on the Porter County Superior Court's finding that a portion of the Riverboat Gambling Act concerning the referendum procedures was unconstitutional. On June 8, 1994, a hearing was held at the conclusion of which the court declined to stay the injunction but did clarify its prior order by allowing all business of the Commission to proceed except for the setting of hearing dates and the holding of hearings for licensing. On June 20, 1994 a request for stay was filed with the Supreme Court on behalf of the Indiana Gaming Commission and the Plaintiffs' response was filed on July 5, 1994.

On July 1, 1994, a request was filed by the Attorney General's office on behalf of the Indiana Gaming Commission seeking an expedited appeal and briefing schedule. Mr. Thar indicated that the implications of these actions will be discussed at the Executive Session following the public meeting.

The Indiana Gaming Commission staff have met with the Indiana Department of Natural Resources (INDR) and the Indiana Department of Environmental Management (IDEM) concerning the permitting procedures of each of these agencies and the need to disseminate information to the applicants. Consequently, Mr. Thar reported, meetings are occurring today, both preceding the public meeting, from 9:00-10:30a.m., for those applicants with an interest in Patoka Lake and Ohio River riverboat sites, and following, at 1:30-3:00 p.m., for those applicants interested in sites on Lake Michigan. Both INDR and IDEM are explaining their permitting processes. Time is provided for question and answer sessions.

Director Thar reported that weekly meetings, with additional contacts, are occurring between the staff and the investigative teams to primarily develop a final report on the Gary applicants. Staff is also meeting regularly with members of the SPEA team who are also in the process of finalizing their report with regard to the Gary applicants.

On June 28, 1994, a public hearing was held in the IGCS auditorium on the proposed rules adopted by the Commission at the May 6 commission meeting in Evansville. Twenty-one people signed the attendance sheet, constituting members of the media, representatives of riverboat and supplier applicants. Mr. Thar reported the transcript of the hearing should be completed by next week, allowing the Commission to take up the issue of the proposed rules at its next meeting, once the transcript has been disseminated for Commission review.

At the May 6, 1994 meeting, the Commission also authorized the entry of Nunc pro tunc amendments to resolutions 1993-7 (ex parte communications) and 1993-16 (adoption of Part II and PDF 1), for the purpose of authorizing nunc pro tunc resolutions for the purpose of extending each resolution beyond the July 1, 1994 expiration date. That directive has been carried out and copies of those nunc pro tunc resolutions are contained in each Commission folder.

Staff would suggest two items the Commission may wish to consider at its next meeting. By Monday of next week, copies of the Suppliers' license, Occupational License 2 and 3 application forms, will be made available. Upon review of the Commission, it is suggested that these application forms, with any subsequent Commission changes, be adopted at the next meeting.

Director Thar reported that both Crawford and Harrison Counties passed the May referendum; the setting of a deadline date for the filing of Part I of the Riverboat Owner's License Application should be discussed at the next meeting and a date set if deemed appropriate by the Commission.

Executive Director Thar concluded his report.

Old business
Chairman Klineman reported nothing in addition is pending at the present time.

New business
Report of the State Election Board, May 1994 referendum
J. Bradley King, Staff Attorney, Indiana State Election Board, presented a report on the May 1994 Riverboat Referenda. The report sets forth a number of items concerning both the official election results and campaign finance and expenditure information concerning the May 3, 1994 referenda. Although the campaign finance information reflects the reporting period that ended on April 8, 1994, some expenditures during the final month will not be included in the totals. With that proviso in mind, Mr. King reported that the records available to the Election Board indicate that with regard to the three counties conducting May 3 referenda, approximately $350,000 was expended to win the approval of the riverboat referenda and approximately $13,000 was spent in opposition to the approval of the referenda. Mr. King pointed out that on page 2 the final, official results of the May 3 referenda, as reported by the Circuit Court Clerk or Election Board of each county, are indicated for the three counties.

Crawford County
In Crawford County, 3,093 or 61% votes were cast "yes"; 1,969 or 39% were cast "no." The Crawford County referendum was approved.

Harrison County
In Harrison County, 5,855 or 51% votes were cast "yes"; 5,602 or 49% were cast "no." The referendum was approved in Harrison County.

Jefferson County
In Jefferson County the vote was 4,099 or 37% were cast "yes"; 6,855 or 63%, "no." The Jefferson County referendum was defeated.

Mr. King noted that page 3 of the report indicates the voter turnout by county and the election costs for each of the three counties, with a grand total of $18,467.90 spent by local officials to carry on this referenda. The obvious difference between this and the November 1993 referenda is that this was also a primary

election.

In addition to the information in the report, Mr. King indicated that the State Election Board has received letters from the Gaming Commission staff regarding applicants for licenses in Gary and Vanderburgh County for their campaign finance division to conduct an investigation to determine if campaign finance reporting requirements have been complied with. They plan to start conducting these investigations during the coming week.

Ann Bochnowski questioned whether the IGC would receive copies of these investigations. It was indicated that they would.

Mr. King concluded his report.

Payment of election costs, November 1994 and 1995 referenda
Executive Director Thar read **Resolution 1994-16, A Resolution Governing an Applicant's Payment of the Costs of an Election to be Conducted November 8, 1994 or November 7, 1995 Concerning Whether Licenses to Permit Riverboat Gambling Should be Issued in a City or County** (see attached), beginning with Section 1--Scope.

Mr. Thar explained that this resolution is similar to the prior resolutions passed by the Commission with regard to the November 1993 referendum, as well as the May 1994 referendum. Because it is a general election, absentee ballots must be printed much earlier than in 1993, when the only issue on the ballot in those counties was the local question. Absentee ballots must be available no later than September 24, 1994, for the November 8, 1994 election, and no later than September 25, 1995, for the November 7, 1995 election. As a result, anyone wishing to apply in a county that has not had a referendum, must do so by August 1, 1994, or August 1, 1995.

Under Section 4, Procedure for Payment of Election Costs, an applicant must present to the county auditor of the appropriate county to comply with Public Law 277-1993(ss), Sections 133 and 134:

(1) A copy of the application filed by the applicant with the Commission, stating:

    (A) that the application has been filed with the Commission; and

    (B) the county or city for which the application has been made.

(2) that the application fee has been paid to the State of Indiana.

(3) a cashier's check or certified check, in the amount that represents the difference between the cost to hold a special election and the cost to hold a general or municipal election (as previously determined by the county election board of that county), and made payable to "THE _____ COUNTY TREASURER."

An applicant will be considered to have paid for the cost of the special election within the county when the applicant has complied with presenting the above and the County Auditor provides the applicant with a copy of the quietus or receipt.

Mr. Thar read Resolution 1994-16 as it pertains to the payment of election costs within the same jurisdiction by multiple applicants. Before presenting items under Section 4, the applicant shall ask the county auditor whether any other applicant has previously presented items under Section 4 to pay the costs of the special election. If another applicant has previously paid the costs in accordance with this Resolution, the applicant may not present the items under Section 4.

After the special election is conducted, and before issuing a Riverboat Owner's License within the jurisdiction, the Commission shall determine whether a person has applied for a Riverboat Owner's License within that jurisdiction and the Commission shall issue an order requiring the person to forward a cashier's check or certified check to the applicant who paid the costs of the special election. The amount of payment equals the actual amount that represents the difference between the cost to hold a special election and the cost to hold a general or municipal election, divided by the number of persons who have applied for a Riverboat Owner's License within the jurisdiction. The Commission's order may prescribe a date by which the person shall make the payment to the applicant.

Gene Hensley asked how many counties to which this applies for the November 8, 1994, election. Mr. Thar indicated that there are three who are eligible on the Ohio River and two on Patoka Lake.

Upon motion by Dr. David Ross, second by Ann Bochnowski, that **Resolution 1994-16** be adopted as read by Director Thar, the resolution was unanimously approved.

Definition of City

IGC Chief Counsel Kay Fleming explained that there are certain references in the Indiana Riverboat Gaming statute to the term city or cities, specifically as far as to the application of admission taxes. For instance, one dollar of the admission tax is designated to the city on the Ohio River in each of the relevant counties.

Resolution 1994-17, A Resolution adopting the Results of the Federal Census and Adopting the Definition of a City for Purposes of IC 4-33 adopts the definition of the term city pursuant to IC 36-4-1-4, a municipality that has a population of two thousand (2,000) or more as of the 1990 federal decennial census or the most recent federal special census, special tabulation or corrected population count, and that qualifies as a city under IC 36-4-1.

Since there are some counties that do not technically have a city on the Ohio River, the Commission needed to look at exactly how that would be defined; Ms. Fleming indicated that this Resolution offers a solution. The statute specifically states that if there is no city contiguous with the Ohio River, then the county will receive $2.00; otherwise, the city will receive $1.00, the county, $1.00.

Upon motion by Ann Bochnowski, second by Dr. David Ross, **Resolution 1994-17** (see attached) was unanimously adopted as read by Ms. Fleming.

Investigative Fee

Chairman Klineman explained that the staff has a resolution concerning the establishment of an investigative fee. The cost to investigate applicants exceeds the original application fee which was set at $50,000 and has been filed by each of the applicants. An additional procedure is necessary to cover the cost of these investigations.

Executive Director Thar explained that additional costs have been incurred as a result of the delays caused by the pending litigation. A $55,000 investigative fee per applicant is proposed in **Resolution 1994-18, A Resolution Establishing an Investigation Fee that the Applicants for a Riverboat Owner's License Must Remit to Enable the Commission to Complete the Background Investigations**. If the applicant has already paid a $10,000 transfer fee, the investigation surcharge will be cut to $45,000. If an applicant has filed for two jurisdictions, the applicant will only pay an additional $5,000 for the investigations. Mr. Thar pointed out that excess amounts will be refunded. Applicants will be notified by mail to remit the $55,000 investigation fee or the difference between the estimated cost of completing the investigation and the amount of the funds previously submitted by the applicant by a set date and time. Gary and Evansville applicants will be the first to receive notification.

If an applicant fails to remit the investigative fee, the investigative team completing the investigation shall not finalize the report regarding suitability for licensure nor submit the report to the Commission for consideration.

The additional investigation fee shall be remitted in the form of a cashier's check or a certified check made payable to the State of Indiana.

A person who has submitted more than one application for a Riverboat Owner's License may be required to submit a separate investigation fee in the full amount prescribed by Section 3 of the Resolution for each application.

Surplus monies will be refunded upon the earliest occurrence of one of the following events:

1. An applicant receives a Riverboat Owner's License pursuant to IC 4-33-6 and 68 IAC 2-1-5.

2. All licenses allocated for a dock site located on Lake Michigan or the Ohio River, whichever is applicable, have been awarded.

3. An applicant seeks and is granted leave to withdraw its application for a Riverboat Owner's License under IC 4-33-6 and 68 IAC 2-1-4(f).

Much discussion followed regarding the investigative fee for multiple applications and different sites. Upon a question by Bob Sundwick regarding how much of the original $50,000 was earmarked for investigative costs, Director Thar indicated that all of the $50,000 has to be used for investigative purposes.

What the $55,000 estimated fee is based upon is a certain amount of overhead non-attributable to a given applicant. For instance, there are the set-up costs of the State Police unit. In setting up the investigative teams, the State Police assigned experienced Indiana State Troopers, as opposed to new inductees. There is the total cost of the replacement for each of the troopers. Director Thar indicated this is overhead that cannot be specified to one applicant.

In order to allocate this expense as fairly as possible, the IGC is taking all of the start-up costs and non-applicant, specified administrative costs and spreading that over an estimate of 40 applicants. During the time period that the investigative teams are investigating Gary only, the four Gary applicants will share equally in the non-specified, administrative costs of the investigation during that window of the investigation. Then, each will be billed separately for the time, overtime, travel, and other costs (long-distance phone bills, etc.) that are directly

attributable to that applicant. The best estimate the IGC has come up with is that it will cost $105,000 per applicant based on 40 applicants. If the IGC stays at the present 38 applicants, that cost may have to go up. Mr. Thar indicated that based on data from other states, these figures are low. Missouri's costs in the first round of applicant investigations ran approximately $240,000 according to Deputy Director Floyd Hannon. He also indicated that as applicants are investigated, they will be billed for this addition.

Upon motion by Bob Sundwick and second by Gene Hensley, Resolution 1994-18 (see attached) was unanimously adopted.

Request to amend Part II of the Indiana Riverboat Owner's Application, Lakeside Resorts, LLC

Director Thar explained that Lakeside Resorts, LLC is an applicant in Gary. On May 23 they requested that an amendment to Part II of their application be accepted. The basis for their request was that at the time of their original proposal they had acquired a vessel they had originally intended as not only a gaming casino but as a hotel. The boat became unavailable, thus requiring Lakeside to adjust their Part II Application. In addition, there were some other adjustments that were needed as the need to change the boat had a ripple effect throughout Part II of the application.

In checking with the investigation teams and the SPEA teams that the amendment at that time was very close to a critical cut-off point, Director Thar was advised that if these teams received the amended application promptly, they would be able to incorporate the new information and to hold to the present timelines. As a result, the proposed changes by Lakeside were in fact given to the investigative teams and to SPEA and they have in fact incorporated them into the reports they are preparing. As a result, staff are recommending to the IGC that Lakeside's request to amend Part II of their application be accepted. The alternative is, if Lakeside is not able to amend their application, they do not have a hotel or other economic development equal to a hotel for the Gary site, and from a statutory perspective, this puts them out of the running in Gary.

Director Thar read proposed **Resolution 1994-19, A Resolution Concerning the Request of Lakeside Resorts, LLC To Substantively Amend Part I and Part II of its Indiana Riverboat Owner's License Application by Amending the Proposed Economic Development Proposal** (see attached) from Section 3, Action On The Request For Amendment, forward.

Upon motion by Gene Hensley, second by Don Vowels, **Resolution 1994-19** was unanimously accepted.

Other business
Chairman Klineman indicated an Executive Session Meeting concerning pending litigation will follow the regular meeting of the Commission. Members of the Attorney General's office will also be in attendance.

Next meeting
The next meeting of the Indiana Gaming Commission will be on August 12, 1994, at 11:00 a.m. in the Indiana Conference Center South Auditorium.

The Commission adjourned at 11:45 a.m. on motion by Ann Bochnowski, second by Gene Hensley.

INDIANA GAMING COMMISSION
REGULAR MEETING
9:00 a.m., August 31, 1994 Genesis Convention Center
Gary, Indiana

MINUTES

PRESENT: Commission members Alan Klineman, Chair; Ann Marie Bochnowski, Vice-Chair; Gilmer Gene Hensley, Secretary; David E. Ross, Jr.; Robert Sundwick; Donald Raymond Vowels; Thomas F. Milcarek; Staff members John J. Thar, Executive Director; Floyd Hannon, Kay Fleming, Judy Greene, Pam Ayres; and an audience.

Call to order and roll call
Chairman Alan Klineman called the meeting to order at 9:25 a.m. All Commission members were present. He indicated that at the conclusion of the business meeting the oral presentations of the Gary applicants would begin, and remarks would be heard from Gary Mayor Thomas Barnes.

Approval of the minutes of July 8, 1994 meeting
Upon motion by Robert Sundwick and second by Ann Bochnowski, the minutes of the July 8, 1994 Commission meeting were unanimously approved as distributed.

Report of the Executive Director
Executive Director Jack Thar gave a brief report. Oral arguments held before the State Supreme Court were yesterday, August 30, 1994. The Supreme Court noted that a decision would be forthcoming as soon as possible. He noted that optimistically the Supreme Court may rule by the end of September.

Executive Director Thar concluded his report.

Old business
Deadline date for Part I of the Indiana Riverboat Owner License Application, Harrison and Crawford Counties
Chairman Klineman noted that it would be appropriate to postpone the setting of a deadline date for Part I of the Indiana Riverboat Owner License Application for Harrison and Crawford Counties since the Indiana Supreme Court has not as yet ruled on the constitutionality of the Gaming Statute.

One request from Crawford County that a deadline be set has been received by the Commission. Chairman Klineman wanted to reassure those from Harrison and Crawford Counties that as soon as the Commission feels from a legal or constitutional standpoint it can

set a legitimate deadline, it will do so. All of those who are interested can file their applications. Hearing no objection, Chairman Klineman tabled the setting of the deadline.

New business

Report on behalf of the State Election Board regarding election cost for May 1994 referendum in Jefferson County

Indiana Gaming Commission Chief Counsel Kay Fleming reported that as previously reported, Jefferson County defeated the May 3, 1994 referendum. She read **Resolution 1994-20, A Resolution Establishing the Pro Rata Cost of the May 3, 1994 Referendum to be paid by Applicants for a Riverboat Owner's License in Jefferson County** (see attached), beginning with Section 1--Definitions, and including Section 2--Scope, and Section 3--Procedure Utilized for Payment of Estimated Election Costs.

Under Section 4--Procedure and Order for Payment of Pro Rata Share of Election Costs, and Refund of Excess Payment of Election Costs in Jefferson County, Ms. Fleming noted that both Madison Landing Associates, Inc. and Jefferson-Madison Limited Liability Company applied for a Riverboat Owner's License to be located in Jefferson County, Indiana. The estimated election costs were Fifteen Thousand Dollars ($15,000). Jefferson-Madison Limited Liability Company paid the estimated cost of the special election. The actual cost to Jefferson County of the special election was Five Thousand Nine Hundred Eighty-seven Dollars and Eighty-nine Cents ($5,987.89).

As a result of there being two applicants, the pro rata share of the actual election costs for each applicant was Two Thousand Nine Hundred Ninety-three Dollars and Ninety-four Cents ($2,993.94).

Pursuant to Resolution 1993-3, Madison Landing Associates, Inc. is to issue a cashier's or a certified check made payable to Jefferson-Madison Limited Liability Company in the amount of Two Thousand Nine Hundred Ninety-three Dollars and Ninety-four Cents ($2.993.94) mailed to its Las Vegas address. Ms. Fleming reported that the check must be received no later than noon (Indianapolis time) on Friday, September 16, 1994.

The Jefferson County Auditor is authorized to refund the amount of Nine Thousand Twelve Dollars and Eleven Cents ($9,012.11), as an excess payment of estimated election costs to Jefferson-Madison Limited Liability Company at its Las Vegas address.

Ms. Fleming noted that Section 5--Notification of the Commission, specifies that Jefferson-Madison Limited Liability Company is to notify the Commission by noon on Thursday, September 22, 1994, that

it has or has not received the funds from Madison Landing Associates, Inc.

Upon motion by Gene Hensley, second by Thomas Milcarek, that **Resolution 1994-20** be adopted as read by Chief Counsel Fleming, the resolution was unanimously approved.

Request to withdraw applications:

1. Jumer's of Evansville
2. River City Casino, LLC

Chairman Klineman reported that the Commission has received two requests to withdraw applications.

Executive Director Thar explained that Jumer's of Evansville and River City Casino, LLC have requested that the Commission approve their application withdrawals; they no longer wish to participate. Mr. Thar read **Resolution 1994-21, A Resolution Concerning the Request of Jumer's of Evansville to Withdraw its Application for a Riverboat Owner's License** (see attached), from Section 2--Request to Withdraw, and forward. **Resolution 1994-22, A Resolution Concerning the Request of River City Casino, LLC to Withdraw its Application for a Riverboat Owner's License** (see attached) is an identical resolution identifying River City. If both requests are not granted, Mr. Thar explained that the staff will change the language to reflect denial. He indicated that the Indiana Gaming Commission has letters of request from both applicants (also attached).

Chairman Klineman reiterated the Indiana Gaming Commission's promise to give all applicants the same consideration even if they do not receive the local city endorsement.

Director Thar pointed out that Evansville still has four applicants. Upon a question by the Commission regarding investigative costs, Mr. Thar explained that first the total investigative costs for each applicant will have to be determined. Even though neither Jumer's nor River City has tendered additional $55,000 fees, they still have been investigated. Their obligation to remit funds in excess of the initial $50,000 survives their request to withdraw. The initial $50,000 fees are non-refundable.

Upon motion by Gene Hensley, second by Ann Bochnowski, Resolution

1994-21 was unanimously approved. Additionally, Resolution 1994-22 was unanimously approved upon motion by Gene Hensley, second by Tom Milcarek.

Requests to amend Parts I and II of the Indiana Riverboat Owner's License Application:

1. Aztar Indiana Gaming Corporation
2. Boomtown Belle II, L.P.
3. SES Boat, L.P.
4. Gamma International, Ltd.
5. Switzerland Riverboat Gaming Corporation

Executive Director Thar read **Resolution 1994-23, A Resolution Concerning the Request of Aztar Indiana Gaming Corporation to Substantively Amend Part I and Part II of its Indiana Riverboat Owner's License Application by Amending the Proposed Economic Development Proposal** (see attached), beginning with the primary purpose of the substantive changes proposed by the amendment to incorporate a Project Agreement resulting from the selection of Aztar Indiana Gaming Corporation as the City of Evansville, Vanderburgh County, exclusively endorsed applicant and to incorporate economic data resulting from the Project Agreement into the application. (Copy of their letter is attached.)

Mr. Thar indicated that the Indiana Gaming Commission staff recommends that Resolution 1994-23 be accepted.

The Commission questioned whether or not the acceptance of the resolution would adversely affect the investigation of the applicant. Director Thar pointed out that at this time, it will not. The Commission might want to reconsider when cut-off dates are set for future requests. Chairman Klineman cautioned that a smooth investigative process should not be jeopardized; it must be understood by the applicants that they must bring these amendment requests before the Commission as soon as possible so that no delay will be created.

Executive Director Thar read from Section 3. Action on the Request for Amendment.

Upon motion by Gene Hensley, second by Dr. David Ross, the Resolution was unanimously accepted.

Executive Director Thar suggested that **Resolution 1994-24, A Resolution Concerning the Request of Boomtown Belle II, L.P. to Substantively Amend Part I and Part II of its Indiana Riverboat Owner's License Application by Amending the Proposal to Reflect the Execution of an Option Agreement** (see attached) and **Resolution**

1994-25, A Resolution Concerning the Request of SES Boat, L.P. to Substantively Amend Part I and Part II of its Indiana Riverboat Owner's License Application by Amending the Proposal to Reflect the Execution of an Option Agreement (also attached) be reviewed simultaneously. Correspondence from each applicant (see attached) explained that they both have a temporary site from which they would like to operate while their permanent site is being readied. On May 16, 1994, subsequent to filing Parts I and II of the gaming Application, SES Gaming and Boomtown, Inc. formed a partnership and entered into an Option Agreement to lease approximately 35 acres from the Lighthouse Point Yacht Club, Inc., F/K/A Anchor Land Development, Inc., at Lighthouse Point Yacht Club near Aurora in Dearborn County, Indiana. With the obtaining of the lease option, they will be able to construct a temporary support facility and operate two temporary gaming vessels (Boomtown Belle II and SES Boat) approximately nine to twelve months prior to the completion of their proposed permanent site at Lawrenceburg/Aurora/Dearborn County, Indiana, where the proposed temporary site operations would then be transferred. They both submitted Supplements to Part II of their Applications detailing these additional disclosures relating to the proposed temporary site.

Executive Director Thar indicated that the Indiana Gaming Commission staff recommends that both Resolution 1994-24 and Resolution 1994-25 be accepted.

Resolution 1994-24 was unanimously accepted upon motion by Donald Vowels, second by Gene Hensley. Upon motion by Dr. David Ross, second by Bob Sundwick, Resolution 1994-25 was unanimously accepted.

Gamma International, Ltd. has requested Commission consideration to substantively amend Part I and Part II of its Indiana Riverboat Owner's License Application by amending the applicant entity. Director Thar explained that Gamma's request to amend is very complicated. It became clear from Part II of Gamma's application, that Gamma was to be a 25% owner of another applicant. Gamma thought it had changed the entity by noting the change in Part II, but it had not. During a meeting with attorneys and Gamma representatives, it was determined that they needed to pay an additional $50,000 to get this accomplished because the new entity was a new applicant. Because the deadline date has passed for Ohio County, it became necessary to bring this issue before the Commission. Part II of their filed application indicated the applicant was a partnership and it had to be changed. They now request that it be changed to Rising Sun Riverboat Casino and Resort, L.L.C. They tendered to the Commission a $50,000 check which was returned to the custody of their attorneys, until such time as the request is approved. They also tendered an outline

of the proposed changes.

If Resolution 1994-26, A Resolution Concerning the Request of Gamma International, Ltd. to Substantively Amend Parts I and II of its Indiana Riverboat Owner's License Application by Amending the Proposed Economic Development Proposal is accepted by the Commission, the applicant has until the close of business September 19, 1994, to do so. Executive Director Thar indicated this is not really a substantive change of their Part II as Part II is already designed that way. Whether or not the Commission will allow them to change their business entity after the deadline date requires a new application fee, so that their application now conforms to their original intention. What has really happened is that there was a misunderstanding between attorneys and their clients. The applicants, therefore, are being punished. The applicants believed that what they had done before the deadline date was correct. Mr. Thar indicated that for that reason only, it is the recommendation of the Indiana Gaming Commission staff to allow this change.

Commissioner Ann Bochnowski asked for a clarification of the change of the business entity. Director Thar pointed out that Gamma was the applicant, but when they submitted Part II, Gamma was not the applicant; Gamma was a 25% owner of a new applicant, described in Part II as a partnership, with a change in the percentage ownership interest held by Patrick F. Daly and Edward W. Ross. They believed that showing the change in Part II was all that was necessary to accomplish the change. Now that they realize what they submitted in Part II makes no sense in view of who the applicant is, they are attempting to make a clarification through the requested Commission action.

Gene Hensley asked if this has any ramifications for any other requests to change after the cutoff date. Director Thar pointed out that this has not happened before. This applicant thought they had changed their application by the deadline, but in fact had not.

Upon motion by Bob Sundwick, second by Ann Bochnowski, Resolution 1994-26 that the request be accepted was unanimously approved.

Executive Director Thar explained that on August 26, 1994, Switzerland Riverboat Gaming Corporation submitted a proposed amendment to its Riverboat Owner's License Application and a letter (see attached) explaining the substantive changes set forth Switzerland Riverboat Gaming Corporation's commitment to Switzerland County upon receiving an endorsement from Switzerland County and to amend its application to reflect the construction of a hotel in Switzerland County. The Gaming Commission staff recommends that **Resolution 1994-27, A Resolution Concerning the**

Request of Switzerland Riverboat Gaming Corporation to Substantively Amend Part I and Part II of its Indiana Riverboat Owner's License Application by Amending the Proposed Economic Development Proposal be accepted.

Resolution 1994-27 was unanimously accepted upon motion by Donald Vowels, second by Dr. David Ross.

Consideration of the adoption of the following forms:

1. Supplier's License Application
2. Occupational License, Level 2 Application
3. Occupational License, Level 3 Application

Chairman Klineman indicated that the Commission has received many requests for applications for supplier and occupational licenses.

Executive Director Thar reported on the drafts for Supplier Licenses and for both Level 2 and 3 Occupational Licenses that were originally circulated on July 8. Nothing has been changed since then.

Upon motion by Ann Bochnowski, second by Gene Hensley, **Resolution 1994-28, A Resolution Adopting and Prescribing the Supplier's License Application Form for the Indiana Gaming Commission** (see attached) was unanimously approved.

Resolution 1994-29, A Resolution Adopting and Prescribing the Occupational License, Level 2 Application Form for the Indiana Gaming Commission (see attached) was unanimously approved upon motion by Gene Hensley, second by Ann Bochnowski.

Upon motion by Dr. David Ross, second by Gene Hensley, **Resolution 1994-30, A Resolution Adopting and Prescribing the Occupational License, Level 3 Application Form for the Indiana Gaming Commission** (see attached) was unanimously approved.

Other business
No other business was reported.

Next meeting
Executive Director Thar reported that the next meeting of the Indiana Gaming Commission (subject to cancellation) will be October 7, 1994, at 11:00 a.m. in the Auditorium of the Conference Center of the Indiana Government Center South. Time changes the last week of October.

The Commission adjourned at 10:04 a.m. on motion by Ann Bochnowski, second by Gene Hensley.

INDIANA GAMING COMMISSION
REGULAR MEETING
11:00 a.m., October 7, 1994
Indiana Government Center North, N190
Indianapolis, Indiana 46204
Speaker Telephone Conference Call

MINUTES

PRESENT: Commission members Alan Klineman, Chair; Ann Marie Bochnowski, Vice-Chair; Gilmer Gene Hensley, Secretary; Thomas F. Milcarek, Robert Sundwick, Donald Raymond Vowels; Staff members John Thar, Floyd Hannon, Kay Fleming, Judy Greene; and an audience.

Call to order and roll call
Chair Alan Klineman placed the conference call at approximately 11:00 a.m. It took approximately 10 to 15 minutes for commissioners to join the call due to technical difficulties; they identified themselves, as they joined the conference call. An audience of approximately 15 to 20 was present, including members of the media. Chair Klineman asked if all in the room could hear clearly, and invited anyone to sit as close as necessary to the speaker phone if at any time there was difficulty hearing. All aspects of the call were heard from start to disconnect by all present. All commissioners were available except Dr. David E. Ross. The commissioners identified themselves when speaking, particularly when voice recognition was not readily apparent.

Approval of the minutes of the August 31, 1994, meeting
The minutes were approved unanimously on motion by Ann Bochnowski, second by Thomas Milcarek.

Report of the Executive Director
John Thar reported that the commission is awaiting a ruling from the Indiana Supreme Court on the appeal of the Porter County Superior Court decision; there is no indication of when it will be issued or what it will be.

Staff has met twice with the Indiana Department of Natural Resources to coordinate their permitting process with our licensing process.

September 30, 1994, was the deadline given Riverboat Owner License applicants in Ohio, Switzerland, and Dearborn counties, for submitting proposed amendments and for making payment of an assessed $55,000 investigation fee. All applicants met the deadline date, with the exception of those actions shown on the agenda.

The commission moved to new offices on Wednesday, October 5,

1994. The phone and fax numbers remain unchanged. The address is new and was included in the packet of information sent out regarding the meeting.

Ann Bochnowski asked if applicants would be required to pay the full cost of any investigations made on them, should the cost exceed the $50,000 application fee already tendered. John Thar said yes. The final amount cannot be determined until the investigations are completed. We have ceased investigations on the three applicants who asked to withdraw, as noted in that portion of the agenda.

New Business

I. Requests to withdraw applications:

Chair Alan Klineman asked John Thar to present the resolutions to withdraw. John Thar presented Resolution 1994-31, a request by Switzerland Riverboat Gaming Corporation to withdraw its application for a Riverboat Owner License. John Thar said the letter requesting the withdrawal is attached to the resolution. He read Section 2, granting the request. Resolution 1994-31 was adopted unanimously, on motion by Gene Hensley, second by Ann Bochnowski.

John Thar presented Resolution 1994-32, a request by Lawrenceburg Riverboat Gaming Corporation to withdraw its application for a Riverboat Owner License. He explained that the same company, in essence, that made the request in Resolution 1994-31 was making this request. The letter requesting the withdrawal is attached to the resolution. The Indiana Gaming Commission adopted Resolution 1994-32 by unanimous vote thereby granting the request to withdraw, motion made by Donald Vowels, second by Robert Sundwick.

John Thar presented Resolution 1994-33, a request by Golden Nugget to withdraw its application for a Riverboat Owner License. He stated that the letter of request attached to the resolution explains the reason for the request. He read Section 2 of the resolution. Resolution 1994-33 was adopted granting the request to withdraw by unanimous vote, motion made by Robert Sundwick, second by Gene Hensley.

II. Requests to amend Part II of the Indiana Riverboat Owner's License Application:

1. Swiss Par-A-Dice (Switzerland County). Chair Alan Klineman asked Chief Counsel Kay Fleming to present the resolution. She did so, reading Section 3 and adding a sentence not in the packet originally distributed to the commissioners: "The request to amend the local investor list and methodology will be acted on at a later date upon the request of the

applicant." Chair Alan Klineman said that this sentence was added as the letter from Attorney Douglas R. Brown, which is attached to the resolution, left open the possibility that Swiss-Par-A-Dice was considering another item. Further, the commission does not want to implicitly amend the local investor list and methodology. If Douglas Brown renews that request at a later date, we will act on it. Gene Hensley had the same concern, that is how the commission could perform due diligence activities, if the local investors were not identified. Chair Klineman agreed, hence the insertion. Donald Vowels questioned the meaning of a sentence in the letter [Ref the letter, page 3: "We respectfully request that Part II of Swiss Par-A-Dice's Indiana Riverboat Owner's License Application, be amended as described in this letter and the attached materials, *and that this letter constitutes an amendment of any other part II Exhibits not specifically referenced herein* {italics added}]." Chair Klineman suggested that the letter intends that the items specifically amended in the letter of request be amended throughout the application, wherever they are referenced. He is not going into any new topics. Donald Vowels requested that the commission accept only specifically what he is amending. That is stated openly, said Chair Klineman, and Douglas Brown is present and hears the request. Resolution 1994-34 was adopted, accepting the specific amendment requested in the accompanying letter, on motion by Robert Sundwick, second by Donald Vowels. The vote was unanimous.

2. Boyd Gaming Corporation (Dearborn County) Chief Counsel Kay Fleming presented Resolution 1994-35. She explained that Boyd Gaming Corporation seeks to amend the local investor methodology. The list of local investors is not submitted with the request, but will be available in the investigative phase. She read Section 2. Donald Vowels sees this as a result of the discussion at the Gary hearings. Upon question by Ann Bochnowski, Gene Hensley explained the distinction between full-recourse and non-recourse notes; with non-recourse notes the investor has no obligation to pay for shares in the company and no liability. The amendment is to full-recourse notes, which means local investors both pay for the stock and have full liability, should the company fail. Gene Hensley notes they are requiring a 25% investment plus a full-recourse note, which is acceptable. The commission adopted Resolution 1994-35 unanimously, accepting the requested amendment, on motion by Gene Hensley, second by Robert Sundwick.

3. Pinnacle Gaming Development Corporation (Switzerland County) Chief Counsel Kay Fleming presented Resolution 1994-36. The applicant is seeking extensive amendments, changes in ownership interest, management, management agreement projections and community contributions. The changes are specifically set forth in the letter, which is attached to the resolution. The staff recommends acceptance. She read Section 3. Alan Klineman

explained that the positive staff recommendation means that acceptance will not slow down the investigative process. Donald Vowels asked if we would have a different attitude towards amendments tendered further down the road, when a majority of the investigation had taken place. Chair Klineman assured him that we are not dealing with moving targets. Donald Vowels is concerned that we are setting precedent, and if we approve this the approval is based on timing in reference to the investigative process. Robert Sundwick asked if the changes were the result of any discussion at the Gary hearings. John Thar said no, they reflect a change in the ownership of the corporate entity. HFS is increasing its equity, and the applicant is spending more money up front and will construct a larger hotel. The investigation is about ready to begin on Pinnacle, so the amendments are timely. The commission adopted Resolution 1994-35 unanimously, accepting the proposed amendment, on motion of Ann Bochnowski, second by Gene Hensley.

III. Consideration of the failure of Mystic Rose Entertainment, Inc. to timely file the $55,000 investigative fee. John Thar presented Resolution 1994-37 with some background information. First, he referred to page 2 of the resolution and the word "denied", which may be changed on vote of the commission. John Thar stated that about 3:00 PM on September 30, 1994, the date the $55,000 investigative fee was due, Judy Greene telephoned Roger Schmelzer, the local attorney for Mystic Rose, and advised him that neither a check nor a letter of withdrawal had been received from that applicant and that the deadline was 4:45 PM that afternoon. He advised her that a transaction among the principals that was to have been executed two to three months earlier had yet to be executed and he did not know the status of the situation. He had no authority from his client to either withdraw the application or submit a $55,000 check. He advised that he was awaiting advice from his client. Judy Greene placed a second call to Roger Schmelzer about fifteen minutes after the first one and advised him that if the $55,000 was not received by 4:45 PM on that date, the staff would be recommending that Mystic Rose be treated as if it had withdrawn. Later that afternoon, John Thar had a couple of conversations with Detective Sergeant Steve Banks, Indiana State Police Gaming Division, concerning the cancellation of a trip to Las Vegas planned for Monday, October 3rd, for the investigation of Mystic Rose. The commission did not receive either a check or a letter of withdrawal by the deadline. At approximately 5:15 to 5:30 p.m., John Thar placed a call to Mr. Schmelzer's office and was advised that he had gone for the day. John Thar left a message that we were treating Mystic Rose as a withdrawn applicant and that he had canceled the investigation trip to Las Vegas. On October 3, 1994, John Thar and Roger Schmelzer had a conversation in which each confirmed what had transpired September 30. He advised Mr. Schmelzer that he was to contact Keith Hine of Mystic Rose, who, he believes, has about a 5% ownership interest in the company. Mr. Schmelzer

was aware that Mr. Hine would call and what question he would ask. John Thar called Mr. Hine on the afternoon of October 3rd and advised him that the staff would be recommending that Mystic Rose be treated as a withdrawal, and further advised him that the team trip scheduled for October 3rd was canceled due to the non payment. Mr. Hine indicated that he was upset because he had put a lot of money, time and effort into the project. He was upset that the main principals did not advise him of the September 30th due date until four days before the money was due, and this did not give him enough time to get the money or put together another deal. John Thar advised him that this was a problem within their company and not a commission matter. Mr. Hine said that he had put a lot into the project and did not want to see it end. John Thar said that the staff would stick to its recommendation but that Hine could submit something in writing to the commission, if he so desired. Mr. Hine asked what he should put in his request. John Thar said he could not advise Hine what should be in it, but if he put anything in it, it should give evidence of a completed deal and he should tender a check for $55,000 prior to the October 7, 1994, meeting. Mr. Hine indicated that a lawsuit might occur between the investors in this project. This is what transpired on the deadline date and the Monday following.

Deputy Director Floyd Hannon said that he had sent a letter to Roger Schmelzer notifying him that this issue would be placed on the agenda for this meeting and set a deadline of 4:45 p.m. October 6, 1994, for any submission. Hannon received a letter, which references another letter staff sent dated September 20, 1994, to Marvin Caito of Mystic Rose in which staff set out approximately 50 areas either with discrepancies or lacking information in Part II of the Riverboat Owner License application and the Personal Disclosure Form I.

Alan Klineman pointed out that the issue was not just a matter of a failed payment but of deficiencies in the application and the personal disclosure forms. The September 20 letter set a deadline of October 7 for a response. Floyd Hannon read a letter received from Roger Schmelzer, dated October 6, 1994, requesting an extension of the deadline to October 14 for both the payment of the $55,000 and the submission of the additional information; the letter further advised that discussions are underway to secure a new investor and produce a strong applicant. Ann Bochnowski asked what it would do to the investigation process, if we granted the extension. It would slow it down replied John Thar. A discussion followed: Chair Alan Klineman noted that we have applicants who got their applications completed on time. He considers the letter an admission that Mystic Rose is looking for another partner. Ann Bochnowski was concerned with enhancing competition. Robert Sundwick was concerned with fairness to other applicants. He questioned whether Mystic Rose had demonstrated business capability thus far, or more realistically, neglect. Gene Hensley would like to

see as much competition as possible, but he was concerned that the company is floundering without a sense of direction. Does the request have anything to do with the local selection process? Is it an impairment in the selection process? John Thar said the amendment has nothing to do with the local selection process. From the perspective of staff, there has been no activity on the application since the April deadline for Part II. We have an applicant with no contractual arrangement with a gaming partner. Donald Vowels said that the $55,000 could have been put up to safeguard possible future changes. As Donald Vowels sees it, deadlines are deadlines, if the commission accepts this request other applicants might well sue the pants off the commission. Ann Bochnowski hates to rule anyone out if they will have a strong application in a week. Bob Sundwick said their failure to put in the money indicates that they are a poor applicant. Gene Hensley said that he would defer to staff recommendation on this one, as it appears this applicant has had trouble fulfilling the application process all the way through; it is time to make a decision. Resolution 1994-37, denying the Riverboat Owner's License Application submitted by Mystic Rose Entertainment, Inc. due to failure to pay the investigation fee was adopted unanimously on motion by Donald Vowels, second by Thomas Milcarek.

IV. Action to adopt Rules for final publication

Chief Counsel Kay Fleming presented Resolution 1994-38 adopting the final publication of Article 1, Rules 1 and 6; Article 2, Rules 1, 2, 3, 4, and 5; Article 6 and Article 7. This resolution incorporates the changes recommended in the public hearing process and the prereview made by the Attorney General's Office. She explained that, if adopted, the final publication of these rules will occur in the November 1, 1994, Indiana Register. The resolution adopts the recommended changes and adopts the rules pending completion of the promulgation process. They then will be reviewed finally by the Attorney General's Office and the Governor's Office; they will then be filed with the Secretary of State and become final 35 days thereafter. Chair Alan Klineman noted that the rules have the effect of law; they are the way we fill in the statute. Gene Hensley referred to page 37 (Supplier's License), where we omitted requesting a FIN or Social Security Number, and asked why. Chief Counsel Fleming replied that if we asked for the numbers here they would be put on the license itself and become public. The commission will get the numbers through the investigation process, but no one will have public access to them. Resolution 1994-38 was adopted unanimously on motion by Gene Hensley, second by Robert Sundwick.

Other Business

Chair Alan Klineman asked if the staff or any commissioners had anything further.

Gene Hensley asked if the staff felt that applicants are dropping out due to the local endorsement process. John Thar replied that when one of the applicants dropped out in Evansville, it was a corporate philosophy on their part that if the city did not pick them as first they were not sure that they wanted to do business with that city, perhaps the chemistry was not right. So, one applicant dropped out, but not because the applicant did not like the process. Other applicants dropped out who might not be considered strong. By contrast, Golden Nugget would be considered a strong applicant, and we have only their letter of request to explain their decision. We do not see a pattern. These appear to be strictly business decisions.

Chair Alan Klineman said that our actions show that we are fair and this is the impression we have demonstrated from the beginning. Other commissioners concurred.

Next Meeting

John Thar recommended deferring setting a meeting date. Should the Indiana Supreme Court rule quickly, we might want to set a date prior to the second Friday in November. He said that Dr. Ross will not be available until October 20, 1994, which means that that is the earliest possible date for a decision on a Gary license. Ann Bochnowski asked, assuming the Supreme Court rules favorably, what is the timeline. Chair Klineman said that we would not go back to Gary, but would get together to conclude the Gary hearings in Indianapolis, as soon as the commissioners' schedules are free. Staff has been indicating to the Gary applicants that we would be able to get together no later than 30 days after the ruling. All seven must be together to grant a license. All agreed that we are willing to meet on a Saturday.

Meeting adjourned on motion by Robert Sundwick, second by Gene Hensley at approximately 12:15 p.m.

INDIANA GAMING COMMISSION
REGULAR MEETING

9:00 A.M., December 9, 1994
Auditorium
Indiana Government Center South
Indianapolis, Indiana 46204

MINUTES

PRESENT: Commission members Alan Klineman, Chair; Ann Marie Bochnowski, Vice-Chair; Gilmer Gene Hensley, Secretary; Thomas F. Milcarek;, David Ross, M.D.; Robert Sundwick; Donald Raymond Vowels; Staff members Jack Thar, Floyd Hannon, Kay Fleming, Judy Greene, Pam Ayres, Frank Brady, Joanne Yeager, and Tina Thurnall and an audience.

Call to Order and Roll Call

Chairman Alan Klineman called the meeting to order at 9:12 a.m. All members of the Indiana Gaming Commission were present, a quorum was present.

Approval of the Minutes of the October 7, 1994, Meeting

The minutes were approved unanimously on motion by Gene Hensley, second by Bob Sundwick.

Report of the Executive Director

Executive Director Jack Thar introduced three new employees of the Gaming Commission: Frank Brady, Regional Audit Administrator; Joanne Yeager, Staff Attorney; and Tina Thurnall, Receptionist. He indicated that Mr. Brady recently retired from the Internal Revenue Service after 28 years of service, was a group manager in Indianapolis and prior to that had worked both in New Orleans and New York. Mr. Thar expressed his great appreciation that Mr. Brady is now on board. Ms. Yeager has been a hearing officer with the Indiana Department of Revenue for four years and most recently has served as counsel to the Secretary of State of Indiana, Mr. Joe Hogsett. Miss Thurnall will be serving as the Commission receptionist. Mr. Thar expressed his pleasure at the opportunity to hire all three to complement the Gaming Commission staff.

Mr. Thar reported that on November 21, 1994, the Indiana Supreme Court ruled in favor of the position of the Indiana Gaming Commission by reversing the previous decision of the Porter County Superior Court. The Supreme Court found the Indiana Riverboat Gambling Act to be constitutional in terms of its referendum status and dissolved the injunction, thereby allowing the Commission to

continue with its work.

Meetings with the Department of Natural Resources have continued, resulting in a Memorandum of Understanding as to the working relationship between the two agencies. This MOU is substantially identical to the working relationship that the Gaming Commission has established with the Army Corps of Engineers. The Department of Natural Resources will be taking an active position in advising the Commission on the suitability of different sites along the Ohio River.

Executive Director Thar reported that meetings have started among officials of Dearborn, Ohio and Switzerland counties concerning the preliminary plans for IGC meetings in those areas.

A new round of meetings has been re-scheduled with the Corps of Engineers in Louisville in anticipation of the hearings on the Ohio River.

Deputy Director Floyd Hannon and Executive Director Thar attended a meeting in Biloxi, Mississippi, at the beginning of November with regulators from other jurisdictions. The purpose of the meeting was to begin discussions regarding the establishment of a national organization for gaming regulating authorities.

Since the October IGC public meeting, the other work of staff has primarily focused upon the hiring of personnel and the setup of the new office, including the computer network; preparation for hearings in Evansville, including the finalization of the investigative and economic analysis reports for those hearings; commencement of the planning for hearings in the southeast corner of the state; and the continued drafting and preparation of rules for the Commission. Mr. Thar reported that additionally, the staff have prepared for today's meeting and the continuation of the hearings with regard to the Gary, Indiana licensing.

Chair Alan Klineman commended Mr. Thar and the IGC staff on the work that has been done. Upon the ruling of the Supreme Court, the Commission has been able to act very quickly because of the preparatory work of the IGC staff.

Old Business

Deadline for filing of Part I and Part II of the Riverboat Owner's License Application for Harrison and Crawford Counties

Chair Alan Klineman asked Jack Thar to present **Resolution 1994-39, A Resolution to Establish a Deadline for Applicants to File Part I and Part II of the Riverboat Owner's License Application Form for all Areas Participating in and Passing the May 3, 1994 Referendum (Crawford and Harrison Counties)** (see attached).

Mr. Thar explained that the main portions of the resolution are found in Sections 2, 3 and 4. Staff recommends that in keeping with the approximate timelines of prior deadlines, that Part I of the riverboat license for Harrison and Crawford Counties be filed on or before January 9, 1995, at noon (Indianapolis time). Staff would also recommend with regard to Part II that it be filed on or before March 13, 1995, which is also a noon deadline.

Executive Director Thar indicated that if these recommendations are accepted by the Commission, Section 2 would then read:

> For those applicants pursuing an Indiana Riverboat Owner's License to be docked in those sites passing the May 3, 1994, referendum, more specifically the counties of Crawford and Harrison on the Ohio River, the deadline for filing Part I of the Indiana Riverboat Owner's License Application Form is noon (Indianapolis time) on January 9, 1995.

Section 3 sets forth the procedure for filing which includes the filing of a non-refundable $50,000 in certified or cashier check form.

If accepted by the Commission, Mr. Thar reported that Section 4 should read:

> Pursuant to 68 IAC 2-1-4(b)(3) (adopted pursuant to RESOLUTION 1994-14) nine (9) bound and three (3) unbound copies (a total of twelve (12) copies) of Part I of the Riverboat Owner's License Application Form and three (3) bound and two (2) unbound copies of the Personal Disclosure Form 1, for Key Persons and Substantial Owners only are to be filed simultaneously, no later than noon (Indianapolis time) on March 13, 1995. Part II pagination shall begin with the number immediately succeeding the last page number from Part I of the Riverboat Owner's License Application Form. Each page of Part II of the Riverboat Owner's License Application Form is to be numbered sequentially.

The resolution is effective immediately upon acceptance by the

Commission.

Upon motion by Don Vowels, second by Gene Hensley, Resolution 1994-39 was unanimously accepted with the insertion of January 9, 1995, at noon (Indianapolis time) as the deadline for the acceptance of Part I and March 13, 1995, at noon (Indianapolis time) as the deadline for the acceptance of Part II.

New Business

I. Report of the State Election Board, November 1994 Referendum
Chairman Klineman introduced Brad King, State Election Board Counsel, who gave a report (see attached) on the November 8, 1994 Perry County referendum concerning riverboat gambling with regard to the official election results on the public question and information concerning campaign expenditures by those supporting or opposed to the adoption of the local public question.

Mr. King reported that the vote favoring the licenses permitting riverboat gambling in Perry County was 4,450, or 56.77%. The vote in opposition was 3,388, or 43.23%. As of October 14, approximately $2,678.00 was spent to gain approval. Mr. King added that no reports were filed indicating the expense in opposition.

The next filing deadline for campaign finance reports will be noon, January 17, 1995. This would apply to all applicants who have a political action committee that has not been officially recognized as of this time.

The State Election Board has had initial discussions with the IGC regarding the portion of the statute concerning compliance by applicants with the campaign finance statutes. The jurisdictions involved are Vanderburgh, Dearborn, Ohio and Switzerland Counties. Chairman Klineman thanked Mr. King for his report.

II. Deadlines for Filing of Part I and Part II of the Riverboat Owner's License Application for Perry County
Executive Director Thar presented **Resolution 1994-40, A Resolution to Establish a Deadline for Applicants to File Part I and Part II of the Riverboat Owner's License Application Form for all Areas Participating in and Passing the November 8, 1994 Referendum (Perry County)** (see attached). In terms of its reading, Resolution 1994-40 is identical to Resolution 1994-39 with the exception that it is for a different county.

Mr. Thar reported that the Indiana Gaming Commission recommends in Section 2 that the deadline for Part I of the Riverboat Owner's License Application be February 9, 1995 at noon, Indianapolis time,

and would also recommend that the deadline for Part II set forth in Section 4 would be April 10, 1995, at noon Indianapolis time.

Resolution 1994-40 was unanimously adopted upon motion by Dr. David Ross, second by Gene Hensley.

III. Request of Evansville Landing to Amend Part I and Part II of its Riverboat Owner's License Application

Chairman Klineman explained that an applicant in Vanderburgh County, the Evansville Landing group, had requested to amend Part I and Part II of its Riverboat Owner's License Application.

Mr. Thar presented **Resolution 1994-41, A Resolution Concerning the Request of Evansville Landing to Substantively Amend Part I and Part II of its Indiana Riverboat Owner's License Application** (see attached). He indicated that Evansville Landing had approached the Commission on December 5, 1994, seeking to amend its license for Evansville located in Vanderburgh County. They were advised that the cutoff dates for the submission of amendments for Evansville had passed some months before. Mr. Thar advised the Commission that the Indiana State Police investigative team reports with participation by the Department of Revenue and the Internal Revenue Service were in a final draft stage. The rough drafts have in fact been completed, reviewed, sent back, and are in the final, rough-draft stage.

The School for Public and Environmental Affairs, Center for Urban Policy and the Environment, has already received back from all Evansville applicants confirmation of the numbers to be utilized, and they are in the process of completing their analysis. Prior to December 5, Mr. Thar reported that Evansville Landing's position with regard to a hotel in Evansville as a part of their project was that a hotel was desirable only if triggered by one of the following four occurrences:

1) The State of Indiana allowed Evansville Landing unrestricted dockside gambling, or

2) Gross Gaming Win at Evansville Landing riverboat casino exceeded $84 million per year in a twelve (12) month period, or

3) Existing hotels in the Evansville market were operating profitably and market conditions justified the construction of a Hyatt hotel development, or

4) Affiliates of Evansville Landing commenced land based casino gaming at Ellis Park Race Course.

(The individuals involved in Ellis Park Race Course are a substantial owner of Evansville Landing.)

Mr. Thar indicated that Evansville Landing did not propose a hotel as a firm aspect of their project, it would be completed only if triggered by one of those four items.

On December 5, they had advised the Commission that they had entered into negotiations and now had an option with the Executive Inn, a 500-room hotel located in the downtown area of Evansville. The agreement stated that if Evansville Landing was to get a license, it would in fact purchase that hotel, and if it did not get a license, the option would not automatically be triggered. They advised Mr. Thar that the total investment would be $15,000,000, consisting of a 5.1 million dollar purchase price and 9.9 million dollars in renovations.

Evansville Landing was advised by the Indiana Gaming Commission staff that in view of the background investigations and the degree of completeness of the economic analysis portion, to take the additional investment at this point in time and attempt to integrate it into the analysis would most likely delay the Evansville hearings.

Executive Director Thar reported that there was then a discussion whereby Evansville Landing representatives indicated that rather than do a complete analysis of the multipliers that might come into effect through a certain amount of construction, analysis of payrolls, and the economic effect of the number of employees for the hotel, and the other economic benefits of the $15,000,000 infusion, they requested (in a December 8, 1994 letter) that the Commission allow it to amend their application by simply showing the 15 million dollar investment, waiving any analysis of that 15 million dollar investment, and allowing them to amend their application in that regard.

After considering this request from the IGC staff's point of view, Mr. Thar indicated that it would be the staff's recommendation that this request to amend at this time be rejected for the following reasons: 1) Notwithstanding the waiver, the IGC cannot at this time do a re-analysis of the applicant or a re-analysis of the background investigation aspects that might be required for the economic and financial management analysis done by The Center for Urban Policy and the Environment without a substantial delay in the Evansville process, 2) more important, Mr. Thar indicated, is the overall fairness issue -- the Commission had cut off in September all Evansville applicants from further amendments to their applications, and staff believes that at this point in time

it would be unfair to allow this type of amendment at the "midnight hour".

Mr. Thar reported that IGC staff does not see any downside to the Commission allowing the applicant to bring this up in their presentation to the Commission, if they choose to do so. Staff would request that the Commission not be required to reintegrate this last-minute change at this point in time. Staff would recommend that Evansville Landing's request to amend be rejected, but that they be allowed to bring it up in their presentation if they choose to do so.

Chairman Klineman expressed his agreement that Evansville Landing representatives be allowed to bring up the issue at their presentation in Evansville.

Ann Bochnowski questioned if the Commission rejects the request, does that prevent Evansville Landing from going ahead with their plan. Executive Director Thar explained that rejecting the formal amendment does not prevent Evansville Landing from going ahead; it simply means that the Commission will not incorporate it as part of the application nor is it to be incorporated in any type of the analysis. It does not prevent the applicant from going ahead with the hotel project should it be awarded the license nor from presenting that aspect at the time of their presentation. When Evansville Landing met with the IGC staff, it had already been attempting to arrive at this type of situation with the Executive Inn over a period of some time, at least four to six months, and that due to business decisions and other conditions between the two parties, the negotiations were unable to be completed until recently. Had the Commission not been stopped by the Supreme Court action, the Evansville selection would have most likely already been made; it would have been a moot question. Mr. Thar indicated that from Evansville Landing's perspective, this is not a last minute change because they have been attempting to do this over a period of months.

Don Vowels noted that in their December 8 letter, Evansville Landing seemed to indicate a belief that the request would be rejected. Mr. Thar explained that he did not feel this was their intent. It was to show their $15 million added investment in the project and to waive any other analysis. From subsequent discussions, Evansville Landing representatives were made aware that there was a high degree of possibility that IGC staff would not be recommending the acceptance of this request.

If Evansville Landing makes this added $15 million investment a

part of their presentation, Mr. Thar explained, it would be a part of the public record. The Commission would hold them to it.

Resolution 1994-41 to amend Part I and Part II of Evansville Landing's application was adopted unanimously thereby rejecting the amendment request, upon motion by Gene Hensley, second by Ann Bochnowski.

III. Request of Riverfront Station, Inc. to Withdraw its Riverboat Owner's License Application

Chairman Alan Klineman asked Jack Thar to present **Resolution 1994-42, A Resolution Concerning the Request of Riverfront Station, Inc. to Withdraw its Application for a Riverboat Owner's License.** They have indicated that with the uncertainty surrounding the Indiana process they had made a business decision to focus on properties already owned in the State of Nevada and the State of Missouri. They have in fact as indicated in their November 22, 1994 letter (see attached to the resolution), satisfied all the requests of the Gaming Commission and the staff would recommend that their request be accepted and their application be withdrawn.

Upon motion by Don Vowels, second by Tom Milcarek, Resolution 1994-41 was unanimously adopted to allow Riverfront Station to withdraw its Riverboat Owner's License Application.

Other Business

Chairman Klineman presented Indiana Gaming Chief Counsel Kay Fleming who discussed the set of Indiana Gaming Commission draft rules found in each commissioner's packet. The IGC will accept informal public comment prior to publication. A deadline of December 30, 1994 has been established for the submission of these comments. These rules will cover general procedures; economic development reports; fair market value contracts; general reporting requirements; weapons; support facility standards; riverboat commission surveillance rooms, dockside offices and processing areas; approval of associated equipment; excursions, routes, and public safety; medical services and emergency response; ethics considerations for Commission members, Commission employees, Commission agents, and restrictions on gaming.

The packet is sequentially numbered and on the front cover the page number for the beginning of each section is noted. Ms. Fleming noted that those sections that are highlighted are those which are contained in the packets. The entire packet will cost $14.00 and will be available in the Indiana Gaming Commission office on Monday, December 12, 1994. No IGC formal action is necessary at

this time because they will not be published in the Indiana Register until after the Commission receives the informal public comments and, if desired, has incorporated comments and action has been taken by the Commission. She added that the Gaming Commission will hold the formal comment public hearing after the publication in the Indiana Register.

Chairman Klineman explained that the draft rules contain the no ex parte contact clause between those people whom the Commission considers applicants and their representatives and those people who will ultimately administer the law. He is pleased to indicate that there have been no ex parte rule attempts at communicating with any of the Commission members. Mr. Klineman complimented the public, applicants, their representatives, etc. for their cooperation in abiding by this rule. If these draft rules are adopted, this will become permanent.

Next Meeting
The Indiana Gaming Commission will meet on February 1, 1995, in the Civic Center auditorium at 9:00 a.m., in Evansville, Indiana. February 1, 2 and 3 have been set aside for hearings on the applicants in Evansville.

Meeting adjourned on motion by Bob Sundwick, second by Gene Hensley at approximately 9:50 a.m.