

**INDIANA GAMING COMMISSION
REGULAR BUSINESS MEETING**

10:00a.m., June 21, 1996

**Empress Riverboat Casino Pavilion
Hammond Marina
Hammond, Indiana**

PRESENT: Commission members Alan Klineman, Chair; Ann M. Bochnowski, Vice-chair; Donald Vowels, Secretary; Thomas F. Milcarek; David E. Ross, Jr., M.D.; Robert W. Sundwick; Staff members Jack Thar, Floyd Hannon, Kay Fleming, Jill Copenhaver, Michelle Marsden and members of the public.

Call to Order and Roll Call

Chair Alan Klineman called the meeting to order at approximately 10:15 a.m., noting that Robert W. Swan was absent and that a quorum was present.

Introduction of Mayor of Hammond, Indiana

Chair Klineman expressed his pleasure at the accomplishments of Empress and others who have participated in the Hammond riverboat project. He noted that much has been accomplished and those responsible should be commended.

Hammond Mayor Duane Dedelow welcomed the Indiana Gaming Commission to Hammond to hopefully finalize the last piece of the gaming opportunity for Hammond. He also welcomed all guests present to participate in the proceedings. He outlined that over 2 1/2 years ago the voters of Hammond chose in overwhelming numbers to approve the riverboat gaming opportunity for the City of Hammond. From that time forward, the City has worked very hard along with their partner, Empress Casino, to make it a reality. He expressed the City's pleasure at the beautiful marina, the pavilion, the overpass; the development was designed for their specific parcel. He noted that not only will there be the migrant bird trap protection to the west, but there will also be green and park space for Hammond residents to enjoy the lake-front in the future. He thanked the Commission and introduced the Hammond Council President, Edward Repay, who expressed his pride in the facility and vote of confidence in Empress.

Approval of Minutes of May 8, May 20 and June 3, 1996

Upon motion by Don Vowels, second by Ann Bochnowski, the minutes of May 8, May 20 and June 3, 1996, were unanimously approved by those present.

Report of the Executive Director

Executive Director Jack Thar announced that on June 19, 1996, Chief Counsel Kay Fleming appeared before the Legislative Oversight Committee, based upon a complaint filed by Mr. Walt who heads up a United Citizens' Coalition Against Gambling. The basis of the complaint was that the Gaming Commission was allowing a violation of the statute that was passed by the Legislature in allowing boats to sit at the dock in Gary and conduct gaming. The purpose of the Oversight Committee is to determine whether or not a State agency is conducting itself or allowing violations of statutory directives. No vote was taken nor was anything resolved at that hearing. The Oversight Committee has decided to take the matter to a full hearing at a date that has not as yet been announced.

The Indiana Gaming Commission's position is that the legislation that was passed by the Legislature very clearly states the boat may sit at the dock and conduct gaming under certain circumstances. One of those was that if cruising were deemed a violation of federal law, which it has been, that non-cruising would be allowed. Mr. Thar stated that what the Legislature did in their statute needs to be re-addressed. He feels this will end the issue. The Legislature also formed a Gaming Study Commission. Mr. Thar announced that that commission will meet next Wednesday, June 26, 1996, in Indianapolis; Mr. Thar will testify at that meeting.

Executive Director Thar directed the Gaming Commission's attention to a letter (a copy of which was passed out to the IGC) from John Senica, Attorney for clients who believe problems exist in the Hammond development project. He indicated that the Commission has also received a letter from Carolyn Marsh, who would like to address the 16-acre bird sanctuary known as the Lake Michigan Migrant Bird Trap. Both individuals are present and have requested speaking time before the Commission. In addition, the Gaming Commission has also received a letter from Mayor Dedelow regarding the Migrant Bird Trap and the green space parcel. Mr. Thar noted that the IGC has also been copied on a letter from Mr. Clayton Potter, which was addressed to the Department of Administration, and questions whether or not a land patent has been issued with regard to the area on which the Empress Pavilion is sitting. Mr. Thar indicated that it is staff's recommendation that both Mr. Senica and Ms. Marsh be allowed to address the Commission at the beginning of the presentation and discussion of the consideration of a permanent license for Empress Casino Hammond Corporation.

In addition, Mr. Thar announced that if a conditional license should issue today, there will not be a play-money cruise, but instead there will be fifteen hours of gaming on June 26. The Empress will then be closed on June 27 and remain closed for as long as it may take to rectify any problems that may occur. If there are no problems, the boat could begin to operate as soon as next Friday, June 28. The boat will not open until all problems are resolved.

From a gaming operational standpoint, Mr. Thar reported, the Gary boat opening was very good. After the fifteen hours of gaming by Majestic Star Casino, the Commission found only three slot

machines that had diverters that were stuck, which caused a difference between the count and the computer printouts. When those machines were eliminated, their variance was a little less than 1%. Mr. Thar indicated this was very good. Gaming Commission rules look primarily at a 2% variance. Upon auditing the machines on the Trump Casino operation, their variance was .1%, which was exceptionally good for the first day of operation. The only complaints the Commission staff have heard have been from patrons expressing displeasure with delays in traffic due to train obstructions and backups due to construction in the area. Mr. Thar reported that both boats' monetary returns (which will be made public on June 22) have been very good.

Old Business

No old business.

New Business

Temporary Supplier's Licenses

Deputy Director Floyd Hannon reported that the State Police have completed a preliminary investigation concerning Shuffle Master, Inc., an Eden Prairie, Minnesota, company that produces various gambling devices and games. They develop and manufacture a card shuffling device for single and multiple deck games and also hold a patent on a table game called "Let It Ride" and other variations of existing games. The company is publicly traded and is run by the original founder, John G. Breeding, who along with his wife control a little less than 10% of the stock.

Shuffle Master products will likely be used on several of the Indiana casinos. Mr. Hannon reported that they are currently developing a video version of their "Let It Ride" game that is being field tested in casinos in Nevada. The company is licensed in eight gaming jurisdictions.

The preliminary investigation did not reveal any statutory prohibitions against the company being licensed, and it is recommended that the Commission grant a temporary supplier's license to Shuffle Master.

ACTION: Resolution 1996-39, A Resolution Granting Temporary Supplier's License to Shuffle Master Gaming, was adopted on motion by Bob Sundwick, second by Dr. David Ross.

Temporary Continuation of Certificate of Suitability for Indiana Blue Chip Hotel and Casino Resort Corporation Pending Scheduling of a Commission Meeting to Consider the Issue

Executive Director Jack Thar introduced **Resolution 1996-40, A Resolution Concerning**

an Extension of the Certificate of Suitability Issued to Indiana Blue Chip Hotel & Riverboat Casino Resort Corp. on April 17, 1996. The purpose of the resolution is to extend the certificate until the IGC can have a hearing, as it will expire on or about July 16, 1996. Staff's recommendation is that the Commission extend Blue Chip's Certificate of Suitability until August 21, 1996, at which time the Commission will be able to meet.

Chairman Klineman added that attached to the resolution is a letter from Indiana Blue Chip Hotel & Resort Corporation, wherein Mr. Joseph McQuaid, Vice President, outlines accomplishments since the issuance of their certificate.

Upon inquiry from Tom Milcarek as to when Blue Chip's temporary facility might be open, if they are planning to build the boat on the site, and if any possible changes in their financial position have occurred, Mr. Thar explained that the temporary facility issue has not been discussed at any length. He could not give any projections on the temporary facility. As far as building the boat on site, based upon the representations made by Blue Chip, a company they would work with, Chicago Bridge & Iron, has indicated they would be able to build the boat on site in that area. They have discussed this possibility with both the Army Corps of Engineers and the Indiana Department of Natural Resources, neither of whom see this as being any type of a regulatory obstacle of any major proportion. Mr. Thar indicated that with regard to the financial issues, Blue Chip has represented to the Commission that they are putting in place the financing, that the guarantees are coming from the principals of Blue Chip who are getting the lines of credit in place. They have indicated that if the Commission has a meeting on or around July 16, paperwork will be produced to show that financing is in place. Mr. Thar reiterated that Blue Chip must have their Army Corps of Engineers' permit request on file by the 90th day. They have hired Beard and Associates, who are familiar with all the local gaming projects. Blue Chip has assured the Commission staff that it will meet that goal. Their preliminary discussions with the Army Corps of Engineers and their plan for the dredging of Trail Creek and the routing of the boating area have not met with any adverse reaction from either the Corps or any Indiana agencies with which they have met. Based upon Blue Chip's representations to Commission staff, their plan has been somewhat favored by various agencies.

ACTION: Resolution 1996-40 was adopted by those present to extend the date of the Certificate of Suitability issued to Indiana Blue Chip Hotel & Riverboat Casino Resort Corp. to August 21, 1996, upon motion by Don Vowels, second by Tom Milcarek.

Consideration of Continuation of Certificate of Suitability for Showboat Marina Casino Partnership

Executive Director Jack Thar introduced **Resolution 1996-41, A Resolution Concerning an Extension of the Certificate of Suitability Issued to the Showboat Marina Casino Partnership Issued on January 8, 1996.** He indicated their Certificate was valid for

180 days (making it expire on June 3) but was initially extended to today's meeting, June 21. Mr. Thar advised the Commission that this is Showboat's first request for an extension; they have their financing in place (as was previously brought before the Commission for approval). He acknowledged the presence of Keith Wallace, Michael Pannos, and Showboat Attorney Terry Mumford.

Keith Wallace, President and Chief Executive Officer of Showboat Marina Casino Partnership, addressed the Commission, requesting that it extend Showboat's Certificate of Suitability for the East Chicago project. He indicated it is a \$195,000,000 project with three key elements: 1) a \$46,000,000 casino vessel is under construction. The overall dimensions of the vessel are 386 ft. by 76 ft, meaning it is over 100 feet longer than any other gaming vessel on Lake Michigan. Gaming will occur on four levels and gaming positions are currently estimated at approximately 2,500. The vessel is designed for 3,750 customers and a crew of 500; 2) a \$44,000,000 pavilion and parking garage. Mr. Wallace reported the pavilion will be 100,000 sq. ft. with an attached 1,000 sq. ft. parking garage. There is also an additional 1,500 surface parking spaces; 3) a major expansion of the Pastrick Marina through the building of a new \$16,000,000 breakwater. The breakwater will enhance the adjoining beach and increase access to the Lake. These will be permanent enhancements for the citizens of East Chicago and Northwest Indiana.

Mr. Wallace stated that Showboat Marina Casino Partnership has made great strides in the completion of the project since the awarding of their Certificate of Suitability. The city had taken the lead on the Army Corps of Engineers' permit so that the approval was already in hand at the time of the issuance of the Certificate. In March, the Gaming Commission reviewed and approved Showboat's financing plan (which they closed on March 28, 1996). Showboat issued \$140,000,000 of first mortgage notes at 13 1/2 percent. He noted that the net proceeds of that issue are in escrow for the East Chicago project. The \$140,000,000 financing is only part of the picture which also includes a \$39,000,000 capital contribution and \$16,000,000 in equipment-leased financing. Showboat, Inc., their parent company, has provided a completion guarantee up to a maximum of \$30,000,000. Mr. Wallace stated Showboat, Inc., has also provided a stand-back equity commitment of up to \$30,000,000 during the first three years of operation. The contracts for the major project elements have been executed and construction is under way. The project configuration has remained substantially unchanged from the time of the issuance of the Certificate of Suitability. By mid-1998, existing access will be increased with the completion of the new Kline Avenue overpass. Mr. Wallace confirmed that at no time will any construction interfere with Showboat's operations. He indicated the project will only enhance the existing marina. The new breakwater will offer greater wave protection to the existing marina and will allow greater public access. Passenger loading will be on two levels to better handle the large number of patrons Showboat hopes to attract. The vessel is designed to cruise out of the marina and on to Lake Michigan.

Mr. Wallace indicated that the Showboat management team is in place and staffing levels are increasing monthly. It is a very experienced management team. He and two top operations' people have over 100 years of management experience. Their current timetable calls for an opening of no later than April 1997. Moreover, built-in incentives with their contractors encourage an earlier opening date.

Summarizing how their project is coming together, Mr. Wallace explained the casino vessel is being constructed in Jacksonville, Florida. The hull should be launched on July 9 and the boat will leave the yard no later than November 15, 1996, enabling the vessel to transverse the St. Lawrence Seaway and to be docked in East Chicago by the end of the year. It is anticipated the interior finish will be completed once it is in East Chicago. Mr. Wallace indicated the breakwater and docking construction have begun and must be completed by December 1 to accommodate the vessel and to weather the winter conditions. The land-based facility construction has begun and will be completed when the boat is completed.

Mr. Wallace reported that Showboat intends to be the best corporate citizen it can be. Showboat has already established good open lines of communication with East Chicago officials. He expressed excitement with the many positive benefits that are accumulating in the area and in the State as well. He introduced the director of redevelopment for the City of East Chicago.

East Chicago Director of Housing and Redevelopment John Artis read a letter from the mayor of East Chicago encouraging the Gaming Commission to extend the Certificate of Suitability for Showboat Casino Partnerships, thus permitting them to complete a project they both anticipate will revitalize the city's lakefront and provide employment opportunities. He also looks forward to the educational incentives that will flow from Showboat's successes.

Mr. Artis explained that East Chicago has been working through a series of committees to oversee the construction for the development project itself. He noted a second committee has been working to see that the implementation of the aspects of the economic development agreement are in fact met. They have just completed a very successful job fair that was developed specifically for the residents of East Chicago. Over 1,000 local residents did attend and have signed up for an assessment training center (a part of their economic development package with Showboat). It will prepare local residents for job opportunities with Showboat and other local businesses in the city. The end result should be more employable residents in East Chicago. Pending is a vendor's fair jointly worked on by Showboat, Ivy Tech, and the East Chicago Human Rights' Commission. The intent is to facilitate and encourage local businesses and suppliers to participate in the process and to provide every avenue for economic advantages to local businesses in East Chicago.

Mr. Artis pointed out a recent agreement in a joint-committee arrangement with Showboat and East Chicago in which fifteen additional police squad cars will be purchased. The Commission has been advised of capital outlays on the part of Showboat in the area of housing demolition, infra-structure improvements, etc.

Responding to a question by Ann Bochnowski regarding the possibility of working together with the Buffington Harbor/Gary riverboats on a common entertainment-shopping venue, Mr. Artis explained that dialogue is currently underway to that end with representatives of the City of Gary and the Buffington Harbor boats. Mutual cooperation has been demonstrated by the way the two communities have prepared the entry into Buffington Harbor. They have worked toward not allowing the traffic flow in that area to impede or hamper local traffic in East Chicago. Ms. Bochnowski pointed out that one of the problems that Northwest Indiana has had in the past is that they have not worked well together. She is glad to see that efforts are being made to work together cooperatively.

ACTION: Resolution 1996-41, A Resolution Concerning an Extension of the Certificate of Suitability Issued to the Showboat Marina Casino Partnership Issued on January 8, 1996, was adopted to extend it to January 8, 1997, upon motion by Bob Sundwick, second by Don Vowels.

NOTE: Chairman Klineman excused Commissioner Don Vowels who had a previous commitment. He announced that the meeting agenda would be changed to allow for "Other Business" before the discussion of the "Consideration of Permanent License for Empress Casino Hammond Corp."

Other Business

Inability to Meet the August 16 Deadline Previously Agreed Upon for the Extension of the Certificates of Suitability for Indiana Gaming Co., L.P. in Lawrenceburg, Indiana, and for Rising Sun Riverboat Casino & Resort (now known as Grand Victoria Riverboat Casino & Resort, LLC) in Rising Sun, Indiana

Chair Alan Klineman indicated that the Indiana Gaming Commission has previously extended the Certificates of Suitability for Indiana Gaming Co., L.P. and Grand Victoria Riverboat Casino & Resort, LLC to August 16, 1996. Unfortunately, the Commission will not be able to meet again until August 19 and 20. Therefore, the deadline for both the Lawrenceburg and Rising Sun riverboats has to be changed to August 21.

ACTION: Upon motion by Bob Sundwick, second by Dr. David Ross, and unanimous vote of those present, the deadline for the Certificates of Suitability for Indiana Gaming Co., L.P. and Grand Victoria Riverboat Casino & Resort, LLC was extended to August 21, 1996.

Request by Empress Casino Hammond Corporation Concerning a Waiver of a Rule Regarding Roulette

Chief Counsel Kay Fleming explained that pursuant to Indiana Gaming Commission rules, one roulette wheel goes with one table layout configuration. Empress has requested the ability to utilize one roulette wheel with a table layout on each side, thereby doubling the number of patrons who can bet on each turn of the wheel. Indiana Gaming Commission staff have reviewed this request and do not find any problem with the requested change.

ACTION: Upon motion by Dr. David Ross, second by Bob Sundwick, the Commission approved Empress Casino's request to utilize one roulette wheel with a table layout on each side.

Appointment of Administrative Law Judge

Chair Alan Klineman indicated that an administrative law judge needs to be appointed to hear appeals from the Commission's denial or revocation or non-renewal of occupational licenses for the northern area riverboats, as was previously done in the southern part of the state. The Indiana Gaming Commission staff have suggested Bernard L. Pilot, a practicing attorney in Indianapolis who was formerly with the U.S. Attorney's Office as an assistant United States attorney in Indianapolis.

Upon query by Commissioner Ann Bochnowski regarding the availability of Mr. Pilot to come to Northwest Indiana to hear appeals and whether someone living in that area might be good, Executive Director Jack Thar indicated that Mr. Pilot realizes that especially during the first year, he will have to come to the area. However, after that time, Mr. Pilot will be in a position to choose where to have hearings. It will be necessary to travel to Northwest Indiana if there are a lot of questions with regard to occupational licensing. Secondly, Commission staff were unfamiliar with anyone from NW Indiana who is not already involved with gaming in one way or another. Mr. Pilot has been with the Marion County Prosecutor's Office, the U.S. Attorney's Office and has been in private practice since approximately 1983, and has served as a sitting Judge Pro Tem in both criminal and civil courts. He has not had any involvement with gaming.

ACTION: Upon motion by Tom Milcarek, second by Dr. David Ross, and unanimous vote of those present, Bernard L. Pilot was appointed administrative law judge for the NW area riverboats.

Approval of Reduction of Letter of Credit for Casino Aztar

Chair Klineman indicated that the Commission has received two payment receipts from the City of Evansville, one dated May 8 and the second one dated June 4, 1996, totaling

\$208,333.34. Chief Counsel Kay Fleming explained that Letters of Credit are structured as follows: as the licensee makes payments, the amount of the balance is reduced after approval of the Commission. The payments were specified as follows: downtown revitalization - two payments of \$83,333.33 each; economic development - two payments of \$16,666.67; and Pigeon Creek green way - two payments of \$4,166.67. The payment receipts are being issued pursuant to the Irrevocable Standby Letter of Credit No. 101.

ACTION: Upon motion by Bob Sundwick, second by Dr. David Ross, the release of the bond was authorized by unanimous vote.

New Business (Continuation)

Consideration of Permanent License for Empress Casino Hammond Corp.

Presentation of John Senica, Hinshaw & Culbertson

Chair Klineman introduced Mr. John Senica who previously requested speaking time regarding the permanent licensing request for Empress Casino Hammond Corp.

Attorney John Senica from Hinshaw & Culbertson announced he represented several concerned business owners and community residents in the City of Hammond, among those being Indiana's Last Real Estate Development Corporation, Mr. Clayton Potter, Marina Entertainment Complex, and also for purposes of the current meeting, Great Lakes Inland Marina, Inc. He indicated that he wanted to address the Commission to help them enforce the rules and make sure that the Hammond casino gaming applicant plays by those rules. He noted that he previously sent in care of Director Thar, a five-page letter to all commissioners so they would have an opportunity to review it. Mr. Klineman indicated the letter was received and reviewed.

Summarizing five key points in his letter, Mr. Senica indicated that, at a minimum, the Empress Casino Hammond Corp. licensing should be postponed at least temporarily. He outlined his reasons as follows:

- 1) The Empress Casino Hammond does not have all required permits. These permits are set forth in the Certificate of Suitability. Specifically, the Department of Natural Resources permit is in serious jeopardy based upon a failure by the Hammond Port Authority to give proper notice of the application for the permit to adjacent land owners. This matter is pending before an administrative law judge of the Natural Resources Commission in Indianapolis. It is possible that the judge may invalidate the original DNR permit and not grant any expanded permits without the notice provision being given in the permitting process.
- 2) The condition of the Hammond Marina may pose a safety risk to life and property.

Several years ago, Baird & Associates, a firm of structural engineering experts based in Wisconsin, reported on an assessment of the marina. Basically, the report raised serious questions about the quality of the construction of the marina and the materials that were originally used, as well as some questions about the existing breakwaters, and raised issues as to whether or not there might be jeopardy to life and property. The matter has been brought to the attention of the administrative law judge at the Department of Natural Resources. Mr. Senica's clients have made a discovery request upon the Hammond Port Authority asking for all documents relating to all data regarding the marina. To date, the Port Authority has resisted providing the documents. This matter is scheduled to be heard before the administrative law judge on June 27.

3) The conflict between state and federal law precludes licensure at this time. There is a serious conflict between state and federal law. This is an issue his clients feel should be resolved by either the State Legislature or a court. It has even confused the Army Corps of Engineers. Because of the issue of whether the boat is to be cruising or docked, as recently as two days' ago, the Corps has had second doubts about whether it granted the appropriate permits in the beginning.

4) The Hammond Port Authority does not yet own all the requisite land. The casino company has represented the fact that they have acquired all of the necessary land for the project. In fact, they have trampled on rights of some small, less powerful people in the city, his clients, who have been financially and emotionally devastated by this gaming process in the City of Hammond. As of June 21, there is an approximate one acre parcel that does not belong to anyone but the State. It is going to be necessary for the appropriate body to obtain a state-land patent for this property. The state land office and the DNR have both confirmed to him within the last 48 hours that this is still an unresolved issue. It is not a completed item and is still open.

5) Hammond gaming interests are purportedly involved in the Indiana Tollway investigation. Mr. Senica feels that the Indiana Gaming Commission would want to ensure that the people and entities that are going to be given the privilege of engaging in the gaming industry in Indiana are the people of the very highest reputations and unquestioned integrity. In the last 30 days, it has become common knowledge that the U.S. Attorney's Office has served subpoenas for documents upon Empress of Joliet, IL, upon Lake Michigan Charters, and upon one of the principals of the Empress Casino Hammond Corporation, Mr. William McEnery. The subpoenas relate to an impending investigation surrounding the Indiana Tollway. However, it is the feeling of Mr. Senica's clients that this serious matter should be resolved one way or another.

Mr. Senica stated the Indiana Gaming Commission should postpone awarding the license to Empress Casino Hammond Corp. and by postponing the award would in fact be doing the job that the Governor asked the Commission to do when he appointed the members to the Commission.

Upon query by Commissioner Dr. David Ross as to what Mr. Senica's clients would hope to gain by the simple postponement of the issuance several weeks, Mr. Senica replied that business owners and concerned citizens would know conclusively that the process was fair. If the Army Corps of Engineers, the Department of Natural Resources and the administrative law judge are given time to evaluate the merits and make decisions, Mr. Senica's clients would know that there was due process.

In answering a question from Commissioner Ann Bochnowski, Mr. Senica responded that he represents several clients (currently not in attendance) who want what is just. One currently has pending proceedings against the City of Hammond.

Executive Director Jack Thar asked Mr. Senica to clarify his clients' names. He asked Mr. Senica if only the validity of the Department of Natural Resources permit is under question, not that it has not been given. Mr. Senica responded that his understanding of the law in that area is that if in fact notice was not given, that the permit is void on its face. Empress was issued a permit. He noted that the permit is now being challenged by his clients, as is the expanded permit that is being sought. Mr. Thar stated that the Department of Natural Resources has advised that the permit has not been revoked. They presently have a valid DNR permit. To Mr. Thar's question about the validity of the Army Corps of Engineers permit, Mr. Senica responded that he did not have any different understanding that they still have such a permit, except that 48 hours before, they expressed concern about whether or not they had even issued the right type of permit in the first place. Mr. Senica anticipates that there will be more discussions between the Army Corps and the Empress Casino Corp.

Regarding Mr. Senica's point about Mr. McEnery, Executive Director Thar requested clarification. Mr. Senica feels the Gaming Commission should be investigating why a substantial investor in the Empress Casino Corp. would be having his documents investigated by the U.S. Attorney's Office. Mr. Thar stated he has been in contact with the U.S. Attorney's office. To Mr. Thar's knowledge, Mr. McEnery has not received a target subpoena. Mr. Thar asked if Mr. Senica had any different knowledge. Mr. Senica claimed that his knowledge came from the media.

Chair Alan Klineman asked if Mr. Senica was appearing before the Commission as a lawyer. To a question by Mr. Klineman as to whether Mr. Senica was admitted to practice law in the State of Indiana, he responded that he was not. He indicated that others in his firm are. Mr. Klineman questioned by what authority Mr. Senica is appearing.

Mr. Senica did not provide a response

Presentation of Carolyn Marsh, Dunes Calumet Audubon Society

Chair Klineman introduced Carolyn Marsh, representing the Dunes Calumet Audubon Society and Save the Migrant Trap Committee. She indicated that she is a resident of Whiting, Indiana, which is adjacent to Hammond, and that Whiting residents are very concerned about the casino project. She discussed that gaming will be going on next to a neighborhood. There is no such neighborhood located next to a gaming facility in Gary or in East Chicago. There is housing right next to the Hammond gaming project. She expressed concern that there will be a helicopter-landing pad in the area. The degree of noise the helicopter will create is well known.

Chairman Klineman asked Ms. Marsh to state Audubon society issues only at this time. She responded that a helicopter flying in a migratory flyway is not compatible. She expressed the Audubon Society's concern that the Port Authority not have any influence on the migrant bird sanctuary or the green space. Her organization does not trust the Port Authority. Her understanding is that the land will be given over to the Hammond Parks' Foundation and the Audubon Society requests clear language that the Foundation will run the green space. The Society has not seen the language between the Northern IN Public Service Company (NIPSCO) and the Hammond Parks' Foundation. They are concerned about the management of the 16 acres. She mentioned that the Empress parking lot abuts the trees in the sanctuary. There is no buffer zone between the parking lot and the bird sanctuary. The Society has problems with bicycling in the sanctuary. They also have not seen the final language of the green space nor the final language of the conservation easement. Ms. Marsh indicated the Society has been locked out of the process. They have offered to be stewards of the property, to help manage it, to educate the community about the importance that it is a major migratory flyway for birds and to keep some biodiversity in the area. She asked the Commission to leave open the licensing of Empress so that the Society can go back to the table again with the City of Hammond, the Hammond Park's Foundation, and NIPSCO to tighten up the language so that the bird sanctuary is protected. She questioned whether the sanctuary can survive when it is so impacted by concrete and asphalt and public activity. There is a 1,200 space employee parking lot located right in front of the migratory bird trap. She pleaded for a very good management program, inclusion in any decision-making; local birders should be involved. There should be money allocated to manage the sanctuary out of the \$200,000 that was given to manage the property. The money should not be wasted on consultants' wages but actually go to beautify the lakefront for all to enjoy.

Commissioner Ann Bochnowski explained that she has received many letters from people expressing concern over the conservancy of the area. She confirmed that she will not sign the Empress license until she has been assured that the 16 acres are left as a bird sanctuary. She does not understand why this is a problem. The City of Hammond has the operator they wanted and the plan they wanted; Ms. Bochnowski does not comprehend why there is a problem regarding the area having 16 acres left as a bird

sanctuary.

Presentation of Dr. George Jancosek, Councilman for Robertsdale

Chair Alan Klineman introduced Robertsdale First District Councilman Dr. George Jancosek who indicated his pleasure at what Empress has done. He congratulated Empress on the project. However, as a councilman for the people of Robertsdale (host to the riverboat gaming complex), he is obligated to represent and protect these constituents. From the beginning, the Empress owners made it clear that no special remunerative consideration would be given to Robertsdale to compensate it for being directly impacted by this customer-intensive business projected to be 4,000 to 8,000 people per day. Other than remunerative, there were other items in the initial development agreement that were planned and did not happen.

Councilman Jancosek noted one example in particular. A lot of Robertsdale's leaders spent many hours helping formulate The Robertsdale Plan done by Turkla, Pettigrew & Paine. Apparently, now this plan is pigeon-holed. Constituents are concerned about this delay in implementation. He noted that the mayor has also adopted a laissez-faire attitude for his own reasons. Amoco, the largest corporation in the Whiting-Robertsdale area, has also carried on a similar, laissez-faire policy toward the community in past years. However, they have come to realize in the past two years that this approach is unsatisfactory and now have modified their position in this regard. A recent majority of the City Council has moved to re-allocate \$425,000 (which was part of the development agreement) to Robertsdale for social betterment. However, this was or probably will be vetoed by the mayor with tacet support for the veto by the Empress. He indicated the Empress' owners' reasons may seem understandable on the surface. They choose not to get involved with discriminatory actions which would alienate other support in the city at large. Councilman Jancosek stated the mayor too assumes this position for probably the same reasons. The Indiana Gaming Commission has not acted to mandate anything contrary to the Empress/mayor stance. Councilman Jancosek indicated that the net result is an abandonment of any idea of special consideration of the men, women, and children who must bear the brunt of the smells and emissions of a Maizo, Lever Brothers, Amoco, Kyle Chemical, all the gas stations that are proliferating, and all the increased automobile traffic. The latter is now pushing their federal, state non-attainment air quality rating to a much higher, much more unhealthy level. Dr. Jancosek indicated his quest is not over and his words are not his last on behalf of his constituents. He seeks that the needs of his constituents are met before any potential or actual irreparable damage occurs. He asked the commissioners to not forget the citizens of Robertsdale. They need the Commission's concern.

Presentation of Mayor Duane W. Dedelow

Hammond Mayor Duane W. Dedelow addressed the Commission. In regard to Mr.

Senica's comments, the mayor indicated that he has nothing further to add, but the Commission, if need be, can seek information from the city's legal staff who can give additional background in regard to items he addressed. Concerning Ms. Marsh's comments, Mayor Dedelow stated that at no point in time has he ever, as the mayor of Hammond, represented that the 16 acres would be preserved as a migrant bird trap. He has always represented that a portion of it would be designated as a migrant bird trap and another portion would be green space open for public use. He feels the city has been consistent all along; the Commission has a June 14, 1996, letter in which this is stated. The property is not in the control of the Port Authority, but is under the Park's Foundation, which has a conservation easement with the Indiana Department of Natural Resources for the migrant bird trap and its preservation. The other property that was owned by NIPSCO is now owned by the Parks Department and has a restrictive covenant which indicates what can be done in the area of green space definition.

In response to Councilman Jancosek's comments regarding his laissez-faire attitude, Mayor Dedelow indicated that he has certainly never in any shape or form ever had this kind of attitude with the people of Robertsdale. They are also Mayor Dedelow's constituents to whom he is responsible. He stated he has been responsible to their needs and pointed out the formation of The Robertsdale Plan and also has tried to meet their additional public safety needs, including up to a million dollars in additional public safety and personnel to help the area, etc. The mayor expressed concern regarding the councilman's feelings but indicated he looks forward to working with him and the people of Robertsdale, as well as the City of Hammond.

Upon inquiry from Executive Director Jack Thar regarding The Robertsdale Plan, Mayor Dedelow expressed that the City is working with various staff and individuals who put the plan together to try and forward it some time in the future. It has been delayed in some fashion but not totally. As it was at the time of Hammond's earlier presentation before the Commission, it is the City's position that they plan to implement the plan for the citizens of Robertsdale. In his letter to the Commission, dated June 14, 1996, he again outlines the City of Hammond's intention and established priorities with regard to the "Migrant Bird Trap Parcel" and "Green Space Parcel." Commissioner Ann Bochnowski asked that a copy be made available to those individuals who have expressed some concern.

Joseph Simmie, Attorney with the law firm of Baker and Daniels, addressed the Commission. He stated the mayor has done a very adequate job of addressing the NIPSCO situation. As of Tuesday, the commitments by the city have now become a reality. The acquisitions and transfers closed that day. The restrictive covenants placed in the deeds are a public record. Anyone may obtain a copy from the recorder's office after the title company has them recorded. There is not only a written commitment by the mayor, but the matter is now a public record.

Commissioner Dr. David Ross expressed concern that the City of Hammond's police force has only five minority policemen out of 100. He has a problem with that. Empress had indicated that they planned to alleviate this. Out of 20 parking attendants Dr. Ross encountered when he drove into the parking lot today, he counted only two minority attendants among them. He asked what has the Empress and the City of Hammond done about this situation. He requested a verbal response at this time with a written answer later.

Mayor Dedelow responded the City of Hammond is committed to providing opportunities across the board, including minority participation. They have done it in practice in the past in all levels of government. He expressed, however, that certain situations have arisen that are currently being taken care of to address certain inadequacies in various departments of the city. He guaranteed there is a commitment and the process is ongoing. He assured that in the end, they will be successful in regard to city and minority business participation. It is the mayor's intent, as well as that of Empress, to make these specific commitments. It is a part of their development agreement; it is their intent for everyone to have an equal opportunity and equal employment.

Empress Project Coordinator Mike Hansen addressed Dr. Ross' concern. Empress has filed an affirmative action plan, as required by the Indiana Gaming statute. The figures are not as yet totally available, but he did indicate that at last count, the Empress is in line with the figures as far as the goals they have set forth under their affirmative action plan. Mr. Hanson noted the manager of the valet section is an African-American and has been responsible for hiring most of the attendants. He assured that many managers and supervisors at the Empress are minorities and females. Empress has made minority hiring commitments to the Commission and will be fulfilling them. Their bus manager is a start-up minority corporation. Empress has an incubator fund of \$1,000,000 which will be used and utilized in starting up minority businesses in the City of Hammond. They are working with the mayor on this program.

Mayor Dedelow stated that the city's written commitment is in the development agreement and minority-hiring plans have commenced. They have established a partnership committee, a broad representation of people in the City of Hammond to ensure that the commitments made by Empress, are carried through in the future -- including the commitment for minority employee and business participation. Concerning the number of minority police officers, Mayor Dedelow indicated an ad-hoc committee is working on increasing the number of minority employees in the police department. They have representation from the minority community in Hammond, as well as churches; they are making progress in that regard. He could not confirm or refute the claim that there are only five minority police officers in the City of Hammond out of 100. He indicated they are doing everything they can to increase the minority participation in the Hammond Police Department, as well as in departments city wide. Mayor Dedelow announced that

Hammond has in the process six more minorities in the police-hiring process, as well as recent promotions of minority individuals to lieutenants.

Commissioner Bob Sundwick requested that both the city and the Empress need to have a written plan regarding minority hiring and need to establish their assurance that the plan will be executed. Both Mayor Dedelow and Mr. Hansen agreed.

Commissioner Ann Bochnowski expressed concern that once she signs the license, she has no more leverage over the process. She reiterated that 6 1/2 acres are going to be used for beach and green space and 9 1/2 acres, preserved as the bird sanctuary. She asked if anyone in the Parks Department is truly a bird expert. She wants to make sure that Ms. Marsh's statement that her organization wants to have some manageability role is recognized and honored. She asked for reassurance that bird experts have been consulted and their input will be ongoing. She indicated she will not give up her interest in this problem.

Mr. Hansen reassured that the commitments regarding the bird sanctuary and the green space are in writing and have been completed. J. F. Newman Associates has been hired. They are knowledgeable about this type of a mix of green space and/or preservation of migrant bird traps. He noted that Ms. Marsh has been included in all levels of preservation discussion; her remarks are not accurate.

Curtis Vosti, working with Mayor Dedelow on various projects for the city, stated that back in February he contacted Carolyn Marsh and the people with the Save the Dunes Council, the Grand Cal Task Force, other Calumet Audubon Society members, and other environmentalists in Northwest Indiana. He indicated they held a series of meetings in which the issue was discussed. They were headed to a preserved sanctuary and a restricted green space. Over the next few months, several meetings were held where language was presented and drafts of those restrictive covenants were read. Ms. Marsh's input, as well as other environmentalists, was sought. NIPSCO was at the table with Ms. Marsh and other concerned citizens in the community and put the covenants in the agreement. They met several times where they saw numerous drafts of the green space covenant and the other restrictive language. They had numerous opportunities to make suggestions to NIPSCO on the language that NIPSCO insisted ultimately be included. Mr. Vosti stated he had not heard from Ms. Marsh for approximately a month and a half despite his numerous phone calls to her answering machine. She knows his beeper number and has used it many times in the past. The final version is now a matter of public record. Mr. Vosti indicated Ms. Marsh will receive a copy. He indicated public meetings for the benefit of all the citizens of Hammond regarding the green space development will be ongoing. The City has also engaged Joanne Bower of Bower-LaTosa of Chicago, which has previously worked with the Chicago Audubon Society to work in developing the green space in harmony with the bird sanctuary. As time goes on, they will continue to work with these people. He stated they feel the migrant bird

sanctuary can be improved upon to be an even better treasure.

After a brief recess, the meeting was called back to order at 12:20 p.m.

Upon more discussion regarding the minority hiring process, Empress Project Coordinator Mike Hansen indicated he will send a list of minority hires to the Indiana Gaming Commission on Monday of next week and a copy of such list can be made available to Dr. Ross. If Dr. Ross desires to have this matter on the agenda of the next meeting or requests further information or both, it can be arranged.

Executive Director Jack Thar explained that the Indiana Gaming statute requires that a good-faith affirmative action plan be in place. The Gaming Commission needs to see that plan and how Empress' present percentages, in terms of women business enterprises and minority business enterprises, stack up with the statutory requirement for the 10 and 15% monetary amount on the vendor side and then a percentage in listing of job positions by minorities with regard to occupational positions. Disciplinary action can be taken if these percentages are not met.

Chair Alan Klineman asked that the Development Agreement be made available to the Commission. An executive summary accompanying the agreement would also be helpful.

In summary, regarding the John Senica letter and charges, Executive Director Jack Thar stated that the Indiana Department of Natural Resources' permit has not been revoked. With regard to the Corps permit and the Johnson Act, the Corps has not revoked the permits. The Corps is revisiting the issue, but it has not advised the Gaming Commission of its intent to revoke any permits at this time. Regarding the land patent issue, Mr. Thar explained that this is a matter between the Department of Natural Resources, the Department of Lands, and the Department of Administration. He indicated the Department of Natural Resources has advised him that since 1978, both the DNR in the State of Indiana, as well as in the City of Hammond, have functioned under the concept that every piece of dirt on the peninsula upon which the Commission now sits does in fact belong to the City of Hammond. If there is an error, then it is a scrivener's error. As a result, they are still considering the issue but have not seen fit to revoke any permits. With regard to Mr. McEnery, Mr. Thar noted that one would question why someone would create the innuendo that was created earlier based only on newspaper articles. Mr. Thar explained that Mr. McEnery advised the Commission of the receipt of subpoenas the day after the receipt of same through counsel at Winston & Strawn in Chicago, as well as counsel for Empress, Ice Miller.

Chief Counsel Kay Fleming advised that the Commission has received copies of all permits necessary for the operation of their gaming vessel and shore-side facility with the exception of those for the restaurants. Empress has advised they will have those to the

Commission by June 26. She indicated if they are not available, Empress will not be allowed to open its restaurants at that time. They have also submitted a \$25,000.00 check for the initial licensing fee for the first five years of operation. Ms. Fleming also indicated the Certificate of Inspection from the U.S. Coast Guard was received earlier this morning. The bond has been posted and has been in place for the requisite 60-day period. Attorney Virginia Dill McCarty provided the Commission a letter that she has reviewed Empress' insurance policies and is satisfied that their insurance meets the requirements of the Indiana Code and the Gaming Commission rules.

Executive Director Jack Thar explained that granting a license to Empress at this time is conditional upon their performance and their systems working after the fifteen hours of gaming next Wednesday. If the Commission is unhappy or does not have the confidence in what they know so far about the affirmative action plan regarding the hiring of employees or vendors, then the Commission can make remediation of that issue a condition of the license. He indicated the Commission can make this a condition that until they are satisfied, the Empress cannot make any regular gaming cruises.

Empress Project Coordinator Mike Hansen indicated he presently does not have the minority count among hires. He has brought over approximately 150 transferees from their Joliet, IL, boat out of approximately 1,200 employees to commence operations. In 45 days the figure will be increased by approximately 100 because food and beverage services will be coming on operation in the next few months. He noted the only statistics available now are for Hammond residents. The information regarding race is available on the EEO1 form which is processed and filed when an individual is actually employed. He predicted he could possibly have the information later in the day.

David Johnson, an attorney from Baker & Daniels, representing the City of Hammond, commented that the development agreement sets forth the same statutory requirement that has been referenced today. It is an enforceable goal against Empress on behalf of the city and the redevelopment commission. In addition to the jurisdiction that the Commission, and the State have under the statute, there is a three-party agreement that commits Empress to hire correctly. Furthermore, he indicated, the agreement requires that during the period that the project is under construction which will probably run until final completion at the end of the year for all components, monthly reports of this information and thereafter quarterly reports and other information with respect to local hiring and other issues of importance to the city be submitted. Mr. Johnson noted that Mayor Dedelow has made reference to a project-partnership committee, a 13-member committee broadly representative of the city, which will receive these reports and information on a regular basis, as will the mayor and the city council. The matters the Commission is raising are of great interest to the city which wants to make sure that promises are kept.

Mike Hansen reported that he has been given the figure of 9-10% Afro-American hires among employees. He does not want to be held to that figure but according to the 1990

Hammond population census, approximately 8% of its residents are African-Americans. He indicated a call is in to Joliet, IL, the location of their computer, for the exact figures.

Executive Director Jack Thar cautioned that the major problem with looking at the figures as they exist today is the following: the boat is in the process of processing employees. Some will be disqualified instantly. Others may be re-qualified later by the Commission. Currently, the Commission is only issuing temporary licenses to the Occupational people, as are the Coast Guard. The percentage today will not be true 30 days from now. The percentage may go up and down making it an extremely difficult issue to deal with on an opening basis because of the two licensing entities (the Indiana Gaming Commission and the U.S. Coast Guard). That is why these types of items are reviewed after the boat has been opened and once their performance is known. He indicated that if their performance is found to be very poor, their license may be suspended then. A portion of the Gaming statute which sets out the percentages of women and minority business enterprises also sets out some very specific steps the Commission is to take if the company is not conforming to the goals. These are obligations placed on the licensee.

ACTION: Commissioner Tom Milcarek moved to grant a conditional license to Empress Casino Hammond Corp. The motion failed for lack of a second.

Commissioner Dr. David Ross again expressed concern about the intent of the riverboat to meet intended minority-hiring goals in a rapid manner. He would like to see an indication of attempts being made to meet these goals.

Executive Director Jack Thar indicated that it might be a good idea to re-visit this issue in August at the next Commission meeting to get a fair count of how many people are actually working and on board the Empress, as compared to their goals and efforts to comply with those goals. A functioning operation will be more indicative. The matter can be placed on the agenda for the next meeting in August, giving the Empress fair warning that the Commission is prepared to close their operation if it feels that the boat has not made a good-faith effort to meet with the statutory goals of this State and this Commission. He reiterated that the Commission will not really know how many employees they have and the minority ratio until the boat is actually in operation and the employees are working. Another thing to consider, Mr. Thar noted, is that in the first two weeks of operation, Empress will most probably lose around 20% of their employees. Let them know that if their operation is not in compliance, their license will be suspended until they meet these figures. Mr. Thar indicated he does not know how the Commission can get good figures and good efforts if they do not know if or when the boat is going to open.

Mike Hansen announced that Rick Mazur, Empress General Manager, had just handed him a list of valet parking attendants. He stated that out of 34 valet personnel, 16 are

minorities (not including women).

Chairman Klineman stated that it was time to move forward.

ACTION: Upon motion by Tom Micarek, second by Dr. David Ross, and by unanimous vote of those present, a license was granted to Empress Casino Hammond Corp., subject to conditions placed upon it by the Commission.

Next Meeting

Chairman Alan Klineman announced the next meeting of the Indiana Gaming Commission will be on August 19 and 20, 1996, in conjunction with the hearing of the applicants for Crawford County and Switzerland County. No time has as yet been set.

Adjournment

Upon motion by Bob Sundwick, the meeting was adjourned at approximately 1:09 p.m.

(Following the meeting the Commission and staff toured the on-shore facilities and the Empress III Casino)

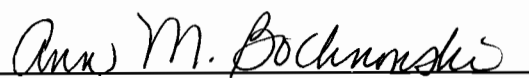
Respectfully submitted,


Pamela S. Ayres

THE INDIANA GAMING COMMISSION:


Alan I. Klineman, Chair

ATTEST:


Ann M. Bochnowski, Vice-chair