

INDIANA GAMING COMMISSION
BUSINESS MEETING
NOVEMBER 15, 2021

The Indiana Gaming Commission Business Meeting was stenographically taken down by me, Karon Voloski Brown, Shorthand Reporter, a Notary Public in and for the County of Boone, State of Indiana, via Microsoft Teams videoconference call, commencing at the hour of 2:30 p.m., November 15, 2021. The following transcript is a true and accurate transcript of the proceedings held.

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A P P E A R A N C E S :

ON BEHALF OF THE GAMING COMMISSION:

- Michael McMains, Chairman
- Greg Small, Executive Director
- Marc D. Fine, Commissioner
- Susan Williams, Commissioner
- Jason Dudich, Commissioner
- Daniel Housman, Commissioner

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1 CHAIRMAN McMains: Good afternoon,
2 everyone. This is a meeting of the Indiana
3 Gaming Commission. Today is November 15, 2021.

4 And, Greg Small, would you please call the
5 roll of the commissioners present.

6 MR. SMALL: Yes, Chair.

7 Chairman McMains?

8 MR. McMains: Present.

9 MR. SMALL: Vice Chair Fine?

10 MR. FINE: Present.

11 MR. SMALL: Commissioner Williams?

12 MS. WILLIAMS: Present.

13 MR. SMALL: Commissioner Dudich?

14 MR. DUDICH: Present.

15 MR. SMALL: Commissioner Housman?

16 MR. HOUSMAN: Present.

17 MR. SMALL: We have a quorum.

18 CHAIRMAN McMains: We have a quorum. Thank
19 you.

20 Commissioners, have you had a chance to
21 review the minutes of the previous meeting on
22 September 29th? If so, what is your pleasure?

23 MS. WILLIAMS: Move to approve the
24 minutes.

25 MR. DUDICH: Jason Dudich, second.

1 CHAIRMAN McMAINS: It's been properly
2 moved to second and approve the minutes of the
3 September 29th meeting of the Indiana Gaming
4 Commission. Is there any discussion on the
5 motion?

6 Hearing none, all in favor of the motion
7 please signify by saying aye.

8 (Chorus of ayes.)

9 CHAIRMAN McMAINS: Motion passes
10 unanimately. Thank you.

11 Executive Director Small, do you have a
12 report for us?

13 MR. SMALL: Yes, a quick piece here.
14 It's my pleasure to introduce a new face to the
15 Commission. Commissioner Daniel Housman was
16 appointed to the Commission in October of 2021.
17 Commissioner Housman represents the Lake
18 Michigan contiguous area. He resides in
19 St. John, Indiana, and has been an independent
20 sales rep for Payroc of Chicago, a merchant
21 services company, based out of Tinley Park,
22 Illinois, since 2017.

23 Prior to 2017, Commissioner Housman worked
24 for Ozinger Redi-Mix for 18 years as a driver,
25 heavy equipment operator and plant operator.

1 Commissioner Housman is the owner of Providence
2 Property Management, a small real estate
3 investment company. Commissioner Housman
4 currently as a small group student ministry
5 leader at Faith Church in Dyer, Indiana. He
6 also spent time as a deacon on the stewardship
7 Team at Faith, and is a high school youth group
8 leader at Faith Church's Hammond/Munster campus.
9 We are happy to have Commissioner Housman aboard
10 and welcome him to the gaming commission.

11 Welcome aboard, Commissioner.

12 MR. HOUSMAN: Thank you very much.

13 CHAIRMAN McMANS: Next item of
14 business, any old business to be considered for
15 today?

16 Hearing none, items of new business.

17 Greg?

18 MR. SMALL: Yes, I'd like to introduce
19 Dennis Mullen to discuss the matter before you.

20 MR. MULLEN: Thank you, Commissioners.

21 As you know, on June 24th, 2021, Commission
22 Order 2021-114 was entered. Under this order
23 Lucy Luck Gaming's casino owner's license was
24 not renewed. On July 12th, pursuant to Indiana
25 Code Article 4-21.568 ISE 7, Lucy Luck Gaming

1 petitioned the office of the administrative law
2 judges for review of that order, and requested a
3 stay of the nonrenewal pursuant to Indiana Code
4 4-21.5-3-5 subsection G.

5 On July 27th, the ALJ entered an order
6 staying the nonrenewal order pending the
7 disposition of Lucy Luck Gaming's appeal.

8 As an update date to the status of the
9 appeal, Lucy Luck Gaming and the IGC are
10 currently attempting to resolve discovery issues
11 with a hearing set to take place tomorrow.
12 Following the resolution of that issue, the
13 IGC looks forward to moving for an expedited
14 hearing schedule in order to reach a resolution
15 on the appeal as soon as possible so that the
16 Terre Haute project can move forward and begin
17 benefitting the state, the local community, and
18 the residents of Vigo County and the surrounding
19 counties.

20 With respect to why we called the public
21 meeting today, on November 4, Lucy Luck Gaming
22 sent the Indiana Gaming Commission and the ALJ
23 hearing officer a settlement offer to resolve
24 Lucy Luck Gaming's appeal. The offer was issued
25 under 68 IAC 7-1-15, which provides that the

1 parties may propose settlement offers to the
2 hearing officer or the Commission at any stage
3 of the proceedings, time, nature of the
4 proceeding, and public interest permit. Such
5 offers may be made at any time prior to the
6 entry of the final order, including prior to the
7 initiation of the proceedings.

8 IGC staff has provided the settlement offer
9 to you in your commission documents.

10 The offer would contemplate the following
11 actions: First, the Commission would review
12 Lucy Luck Gaming Casino owner's license.

13 Second, Lucy Luck Gaming would take all
14 necessary steps within 90 days to dilute Greg
15 Gibson's ownership interest and redeem all
16 minority investors. Further redemption
17 agreements have been provided to the Commission
18 previously.

19 And, third, an experienced gaming company,
20 Hard Rock, or a similarly-situated gaming
21 company, would then hold the balance of the
22 equity in Lucy Luck Gaming and would develop and
23 operate the casino.

24 Lucy Luck Gaming provided the Commission
25 until 5:00 p.m. today, November 15th, to

1 consider the offer that I just described, which
2 is why today's meeting is noticed and being
3 conducted. I'll be happy to answer any
4 questions the commissioners have about the
5 offer. Thank you.

6 CHAIRMAN McMAINS: Commissioners?

7 MR. FINE: This is Marc Fine. I just
8 had a -- perhaps you could update us on the
9 status of Lucy Luck Gaming. Tell us where they
10 are and, I guess, their good standing with the
11 Commission.

12 MR. MULLEN: Sure. Vice Chair Fine, 68
13 IAC 7-1-16 states that an applicant whose
14 license has not been renewed and who has
15 requested a hearing under the rule shall still
16 be considered an applicant for purposes of
17 compliance with applicable statutory provisions
18 and Commission rules. Lucy Luck, therefore, is
19 required to comply with all statute rules and
20 emergency rules of the Commission during the
21 pendency of this appeal.

22 Statutes and administrative rules
23 established, among other things, reporting
24 requirements and a continuing duty to provide
25 updates to information previously submitted to

1 the Commission. Licensees have a continuing
2 duty to maintain and proactively demonstrate
3 suitability for licensure.

4 Since the last update to commissioners from
5 staff in June, Lucy Luck has not provided
6 required reports, or taken other actions which
7 would demonstrate its ability and willingness to
8 fulfill its suitability to hold a casino owner's
9 license. There has been little to no contact
10 from Lucy Luck after the nonrenewal.

11 Regarding corporate structure, Lucy Luck is
12 not operating in accordance with its approved
13 corporate organizational chart. Of the 11
14 positions submitted to the Commission as
15 comprising the corporate staff and board of
16 managers, Mr. Gibson is the only individual
17 currently under the jurisdiction of the
18 Commission, as he is licensed in connection with
19 his ownership interest in the Hard Rock northern
20 Indiana casino.

21 One board of managers candidate field a PD1,
22 which remains pending. The other individuals
23 either voluntarily separated from the company
24 through from consideration or were never hired
25 by Lucy Luck. As far as the Commission staff is

1 aware, Mr. Gibson is the only individual
2 currently associated with Lucy Luck.

3 Lucy Luck also remains noncompliant with
4 casino licensing practice. Equity holders that
5 were to be redeemed ended up not being redeemed
6 after Lucy Luck's nonrenewal. The agent still
7 holds an equity interest in Lucy Luck now.
8 None of those individuals or companies have
9 required to be licensed by the Commission have
10 applied for licensure, despite being directed to
11 do so in April. Without license applications
12 and the requisite background investigations, the
13 Commission is unable to determine the
14 suitability of those individuals or the company.

15 Lucy Luck has also not remedied deficiencies
16 that led to the nonrenewal order in June. Lucy
17 Luck is, in fact, in worse shape today
18 especially on the corporate staffing side.
19 Compliance with Commission statute and rules is
20 the responsibility of the license holder.
21 It's not a responsibility of the regulatory
22 agency to continually ask licensee what they
23 have done in order to comply with Commission
24 rules.

25 And at this point, you know, there's just

1 been a lack of communication with the licensees.
2 So in terms of what outstanding compliance
3 issues may be out there, you know, we're
4 certainly unaware at this time. However, in
5 terms of, you know, addressing the deficiencies
6 identified in June, we have not seen evidence of
7 that.

8 MR. FINE: Thank you.

9 MS. WILLIAMS: Mr. Chairman -- this is
10 Susan. Given the response to Marc's question
11 it's -- I feel, that maybe it's appropriate to
12 make a motion now, if you find that in order.
13 And I would be happy to do so.

14 CHAIRMAN McMANS: Certainly.

15 MS. WILLIAMS: Okay. Mr. Chairman, in
16 light of the report from our executive director,
17 I would make a motion to decline the offer on
18 the table.

19 MR. FINE: This is Marc Fine. I'll
20 second the motion.

21 CHAIRMAN McMANS: It's been properly
22 moved and seconded to decline the offer from
23 Lucy Luck to settle the matter on the table.
24 Is there any discussion on the motion?
25 Hearing none, all in favor of the motion please

1 signify by saying aye.

2 (Chorus of ayes.)

3 CHAIRMAN McMains: Motion carries
4 unanimately. Thank you.

5 MR. SMALL: Chairman McMains, for
6 clarity of the record, I should note that
7 Commissioner Housman is abstaining from vote
8 today. So he did not vote on that particular
9 motion.

10 CHAIRMAN McMains: Thank you,
11 Mr. Small.

12 Would you recite for the record then the
13 commissioners who voted in the affirmative for
14 the motion?

15 MR. SMALL: Yes, I will. Chairman
16 McMains, Vice Chair Fines, Commissioner
17 Williams, and Commission Dudich all voted in the
18 affirmative.

19 CHAIRMAN McMains: The motion carries
20 by four votes; correct?

21 MR. SMALL: Correct.

22 CHAIRMAN McMains: Thank you.

23 Commissioners, what other thoughts do you
24 have regarding this matter?

25 MR. FINE: This is Marc Fine. As we

1 sort of find ourselves in the position that
2 we're in, I'm wondering if this is hardly the
3 greatest atmosphere to have settlement
4 discussions. But, again, so be it, selected or
5 not.

6 I'm wondering if there's not a way that we
7 can just resolve our differences, agree to
8 disagree, and perhaps consider a resolution that
9 would be -- I guess, I'll call it two-part in --
10 multiple parts actually, but two primary parts.
11 One being that the litigation that is pending
12 with respect to the nonrenewal and potential
13 future litigation, that we could have that all
14 put behind us, with prejudice, I might add.

15 And then, secondarily, to refund to Lucy
16 Luck the fees that they've paid for their
17 license, provided that we are in receipt of a
18 license fee from someone in the future for the
19 same license.

20 It seems that to continue to go down this
21 path of fast meetings and adversarial
22 proceedings doesn't do the State of Indiana any
23 good, doesn't do the City of Terre Haute any
24 good, or the citizens, frankly. And I'm
25 wondering if there's not a more prompt way that

1 we can find a resolution.

2 CHAIRMAN McMAINS: Thank you,
3 Commissioner Fine.

4 MR. HOUSMAN: Thank you, Mr. Chairman.
5 I would echo Commissioner Fine's comments. I'm
6 a little concerned that, while not being a
7 lawyer, have been involved in a lot of
8 situations where some legal differences can
9 certainly be dragged out over time. And as
10 Commissioner Fine noted this is impactful to
11 Terre Haute, Vigo County, and the State of
12 Indiana. I like and would concur with the idea
13 if there are other avenues with those conditions
14 that Commissioner Fine noted that we can remedy
15 this issue quickly so that the State and the
16 County and the City can move forward with the
17 development of a facility in Terre Haute would
18 probably be the best for all parties engaged.
19 And I would agree with Commissioner Fine. It
20 would be nice to find a way to work through
21 these differences quickly between the parties in
22 a way that can benefit all parties and get
23 things back on track.

24 CHAIRMAN McMAINS: Ms. Williams, what
25 are your thoughts?

1 MS. WILLIAMS: Well, I think that if,
2 in fact, our approach is taken seriously then we
3 will be in a position to move on. Failing that,
4 and if it is not accepted that the fee be
5 returned and we move on, then I would feel very
6 strongly that if we're going to spend any more
7 time on this, and we've spent way too much time
8 on it already, that rather than going back and
9 forth, that the Commission ought to investigate
10 seriously the possibility of revocation. That
11 way we know our time will be well spent because
12 when it's finished it's finished. And so I am
13 willing to support Commissioner Fine's concept.
14 I'm sure we've got to get it in good wording.
15 And once we have finished with that I would like
16 to discuss the procedures for a backup plan
17 dealing with revocation.

18 CHAIRMAN McMANS: Greg, it sounds like
19 unless you have a strong opinion about how we
20 ought to proceed here, do you want a motion on
21 this? How would you like to proceed?

22 MR. SMALL: I think we can take this as
23 a directive. There is a resolution that does
24 give me authority as executive director to
25 explore settlement negotiations. I've taken it

1 from commissioners that you would like to see
2 that. So we are happy to work with our outside
3 counsel under the broad terms that Vice Chair
4 Fine has set forth. And we can pursue that.

5 CHAIRMAN McMAINS: Personally, I agree
6 with Vice Chair Fine's comments. I think those
7 contingencies are important in any settlement
8 discussion you may have. And I also agree with
9 Commissioner Williams.

10 Who are the individuals that are responsible
11 for keeping and bringing Lucy Luck up to snuff
12 in complying with Indiana law? We have
13 individual licensees also that are failing to do
14 their job?

15 MR. SMALL: Probably only one at this
16 juncture.

17 CHAIRMAN McMAINS: Well, Commissioner
18 Williams' point, how much time would you need to
19 prepare proposed orders, or revocation orders,
20 for us to consider if this doesn't get worked
21 out? Is a week or two enough time for the staff
22 to do that?

23 MR. SMALL: Yeah. Obviously we need to
24 get beyond Wednesday, which is a very busy day
25 for us. But I think if we can get maybe 15 days

1 after that we can put our heads together and
2 come up with some -- you know, some thoughts.

3 MS. WILLIAMS: And what does that
4 process involve? Since we've never -- or at
5 least as long as I've been on the Commission
6 it's never been entertained.

7 MR. SMALL: It would be similar to the
8 nonrenewal process that we went through. We
9 will do the investigation. We will determine
10 where items of noncompliance are. We will list
11 those in a complaint by each one showing which
12 statute or regulation has been violated by the
13 action or omission. And we would bring it to
14 you for approval.

15 MS. WILLIAMS: Okay. Well, here's
16 hoping that Commissioner Fine's concept is met
17 with approval on the other side, and we can move
18 on. I think that it behooves us to move most
19 expeditiously so we can get Terre Haute out of
20 the ground.

21 MR. SMALL: Message delivered.

22 CHAIRMAN McMANS: Greg, is there
23 anything else that needs to be brought before
24 the Commission today?

25 MR. SMALL: No. This was it. It was,

1 obviously, a very limited agenda. And we
2 appreciate everyone's time, especially on such
3 short notice.

4 CHAIRMAN McMains: Commissioners, any
5 other comments? Or are we good?

6 Hearing none, is there a motion to adjourn?

7 MR. DUDICH: This is Jason. So moved.

8 MS. WILLIAMS: Seconded.

9 CHAIRMAN McMains: It's been properly
10 moved and seconded to adjourn this meeting. All
11 in favor signify by saying aye.

12 (Chorus of ayes.)

13 CHAIRMAN McMains: Thank you, everyone.

14 (At 3:00 p.m., this meeting of the
15 Indiana Gaming Commission was adjourned.)

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1 STATE OF INDIANA)
) SS:
 2 COUNTY OF BOONE)
 3

4 I, Karon Voloski Brown, a Notary Public
 5 and Stenographic Reporter, in and for the County
 6 of Boone, State of Indiana, do hereby certify
 7 that the Indiana Gaming Commission Business
 8 meeting held on November 15th, 2021, via
 9 Microsoft Teams videoconference call, was taken
 10 down in stenograph notes and afterwards reduced
 11 to typewriting under my direction; and that the
 12 typewritten transcript is a true record of the
 13 proceedings had.

14 IN WITNESS WHEREOF, I have hereunto set
 15 my hand and affixed my notarial seal this ____
 16 day of November, 2021.

17
 18 _____
 19 Karon Voloski Brown
 20 Notary Public
 Stenographic Reporter

21 Commission Number 656960

22 My Commission Expires:
 23 August 17, 2022
 24
 25

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