

CALIFORNIA GAMBLING CONTROL COMMISSION
2399 GATEWAY OAKS DRIVE, SUITE 100
P.O. BOX 526013, SACRAMENTO, CA 95852-6013
(916) 263-0700 · FAX (916) 263-0499
WWW.CGCC.CA.GOV

2399 Gateway Oaks Drive
Sacramento, CA 95833
December 18, 2002, 1:30 p.m.

MINUTES OF DECEMBER 18, 2002 COMMISSION MEETING

OPEN SESSION

Chairman Hensley called the meeting of December 18, 2002, to order at 1:34 p.m. with Commissioners Smith, Palmer, and Sasaki present.

Staff Participating: Gary Qualset, Deputy Director Licensing and Compliance Division; Peter Melnicoe, Chief Counsel, Legal Division, and John Spittler, Commission Counsel.

The Pledge of Allegiance was recited.

Commissioner Sasaki moved to approve the December 4, 2002, Commission Meeting Minutes. Commissioner Smith seconded the motion, which was unanimously adopted.

DECISION ITEMS

1. Applications for Work Permit:
 - a. Empire Sportsmen Association:
Khem, Ly Hoa
San, Macaran

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of the applications for a work permit for Ly Hoa Khem and Macaran San. Commissioner Smith moved to approve the applications for a work permit for Ly Hoa Khem and Macaran San. Commissioner Sasaki seconded the motion, which was unanimously adopted.

2. Applications for Key Employee License:

- a. Hollywood Park Casino:
 - Bennett, Angela
 - Blackwell, Ronnie
 - Caro, Phyllis

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of the applications for a key employee license for Angela Bennett, Ronnie Blackwell and Phyllis Caro. Commissioner Palmer moved to approve the applications for a key employee license for Angela Bennett, Ronnie Blackwell and Phyllis Caro. Commissioner Sasaki seconded the motion, which was unanimously adopted.

3. Request for Approval of Sale of Existing Gambling Establishment

- a. The New Esquire: Tommie Wayne Buck, Inc. A Corporation.

Deputy Director Qualset presented Item 3a, The New Esquire, to the Commission for its consideration of the request for approval of sale of existing gambling establishment and license application. Commission staff recommended approval of the sale of the gambling establishment. The sales agreement had been reviewed by staff and legal counsel of both the Division and the Commission. This item is being presented as a formality to comply with the provision of the Gambling Control Act related to sales and restricted transactions because the sales transaction has already closed. The applicant and their designated agent have been advised of this concern and that it should not occur again in the future if there is a future sale of this gambling establishment by the owner. Commissioner Palmer moved to approve the staff recommendation. Commissioner Smith seconded the motion, which was unanimously adopted.

4. Request for Approval of Certificate of Amendment of Articles of Incorporation

- a. Casino San Pablo: Cojo Corporation.
- b. The New Esquire: Tommie Wayne Buck, Inc., A Corporation.

Deputy Director Qualset indicated that the Gambling Control Act requires approval by the Commission of the Articles of Incorporation before a Corporation can file with the Secretary of State. Deputy Director Qualset further indicated that the Amended and Restated Articles of Incorporation of Cojo Corporation have been reviewed by licensing staff and the Commission's legal counsel, and upon consultation with counsel, staff recommends approval of the Certificate of Amendment of Articles of Incorporation of Cojo Corporation for Casino San Pablo. Deputy Director Qualset made it clear that the approval of these articles of incorporation in no way indicates any implied approval or intent to subsequently approve any change of ownership for this corporation or any other corporation in this situation in the future. Commissioner Smith moved to approve the staff recommendation. Commissioner Sasaki seconded the motion, which was unanimously adopted.

Item 4b, The New Esquire, was removed from the agenda.

At the request of Deputy Director Qualset Item 5 was presented to the Commission following Item 6.

6. Applications for Renewal of State Gambling License:
 - a. Bay 101: Sutter's Place Inc., A Corporation
 - b. Bicycle Club: The Bell Gardens Bicycle Club, Joint Venture
 - c. Cameo Club: Lewis and Lewis Inc., A Corporation
 - d. Club San Rafael: Pete's 881 Club Inc., A Corporation
 - e. Commerce Casino: California Commerce Club Inc., A Corporation
 - f. Crystal Park Casino: California Casino Management Inc., A Corporation
 - g. Empire Sportsmen Association: A Non-Profit Corporation
 - h. Hollywood Park Casino: Century Gaming Management Inc., A Corporation
 - i. Mint: James Podergois, Sole Proprietor
 - j. Oaks Card Club: John Tibbetts, Nora Tibbetts, Dawn Potter, Michael Fink (General Manager/Financial Interest Holder) and Mary Tibbetts (Community Property Interest), A Limited Partnership.

Deputy Director Qualset indicated that although the Division of Gambling Control recommends approval of the application for renewal of a state gambling license for Item 6a, Bay 101, Commission staff noted some concerns and has requested additional information from the Division. Deputy Director Qualset further indicated that pending receipt of the information requested, staff recommends a temporary three-month approval of the application for renewal of a state gambling license for Item 6a, Bay 101. Commissioner Sasaki moved to approve a temporary three-month state gambling license for Item 6a, Bay 101. Commissioner Smith seconded the motion, which was unanimously adopted.

Deputy Director Qualset indicated that the Division of Gambling Control Control forwarded correspondence indicating that it had not been able to complete the background investigation and thus is recommending that a temporary license be issued pending the completion of the background investigation and receipt of their final report and Commission staff recommend a three month temporary approval of the application for renewal of a state gambling license for Item 6b, Bicycle Club. Commissioner Smith moved to approve a temporary three month renewal of a state gambling license for Item 6b, Bicycle Club. Commissioner Sasaki seconded the motion, which was unanimously adopted.

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of the application for renewal of a state gambling license for Item 6c, Cameo Club. Commissioner Sasaki moved to approve the application for renewal of a state gambling license for Item 6c, Cameo Club. Commissioner Palmer seconded the motion, which was unanimously adopted.

Deputy Director Qualset indicated that staff received the Division of Gambling Control's recommendation on the application for renewal of a state gambling license for Item 6d, Club San Rafael, 15 days after the Commission's requested cut-off date and as a result there has not been sufficient time for staff to review the application and recommendation. Therefore, pending a final recommendation upon completion of a review by staff of the application, staff recommends approval of a three-month temporary state gambling license for Item 6d, Club San Rafael. Commissioner Palmer moved to approve a three-month temporary state gambling license for Item 6d, Club San Rafael. Commissioner Sasaki seconded the motion, which was unanimously adopted.

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of the application for renewal of a state gambling license for Item 6e, Commerce Casino. Commissioner Sasaki moved to approve the application for renewal of a state gambling license for Item 6e, Commerce Club. Commissioner Smith seconded the motion, which was unanimously adopted.

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of the application for renewal of a state gambling license for Item 6f, Crystal Park Casino. Commissioner Smith moved to approve the application for renewal of a state gambling license for Item 6f, Crystal Park Casino. Commissioner Palmer seconded the motion, which was unanimously adopted.

Deputy Director Qualset indicated that Item 6g, Empire Sportsmen Association, was previously approved for a one-month temporary gambling license pending review by the Commission of the corporation's tax fillings, Articles of Incorporation, and bylaws. Deputy Director Qualset further indicated that resulting from that review staff recommends approval of a temporary three-month state gambling license with the condition that the gambling establishment and its officers shall provide the Commission with documentation from the Internal Revenue Service showing Empire Sportsmen Association's status as a non-profit corporation. Commissioner Smith moved to approve the staff recommendation. Commissioner Palmer seconded the motion, which was unanimously adopted.

Deputy Director Qualset indicated that staff received the Division of Gambling Control's recommendation on the application for renewal of a state gambling license for Item 6h, Hollywood Park Casino, 15 days after the Commission's requested cut-off date and as a result there has not been sufficient time for staff to review the application and recommendation. Therefore, pending a final recommendation upon completion of a review by staff of the application, staff recommends approval of a three-month temporary state gambling license for Item 6h, Hollywood Park Casino. Commissioner Sasaki moved to approve a three-month temporary state gambling license for Item 6h, Hollywood Park Casino. Commissioner Smith seconded the motion, which was unanimously adopted.

Deputy Director Qualset indicated that the Division of Gambling Control recommends approval of the application for a state gambling license for Item 6i, Mint. Deputy Director Qualset further indicated that staff recommends approval of the application for renewal of a state gambling license with the condition that the licensee is permitted to operate only two card tables until proof is provided to the Commission that the gambling establishment has been issued a local license to operate three card tables. Commissioner Sasaki moved to approve the staff recommendation. Commissioner Smith seconded the motion, which was unanimously adopted.

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of the application for renewal of a state gambling license for Item 6j, Oaks Card Club. Commissioner Palmer moved to approve the application for renewal of a state gambling license for Item 6j, Oaks Card Club. Commissioner Smith seconded the motion, which was unanimously adopted.

5. Application for State Gambling License:
 - a. The New Esquire: Tommie Wayne Buck, Inc., A Corporation.

Deputy Director Qualset indicated that the Division of Gambling Control recommends approval of a two-year probationary state gambling license for Item 5a, The New Esquire. Deputy Director Qualset further indicated that staff recommends approval of a state gambling license for the period of January 1, 2003 to December 31, 2003, with the following conditions: (1) On a quarterly basis, the Licensee shall submit to the Division proof of compliance with California Code of Regulations section 2053 - Chips in Use account; (2) The Licensee is not permitted to maintain player's banks at the New Esquire; (3) Pursuant to Business and Professions Code section 19870, subsection (d) (10) and (12), the Licensee shall engage an independent certified public accountant, licensed in the State of California, to conduct an audit for the fiscal year ending in 2003, of Tommy Wayne Buck, Inc, dba The New Esquire that is to be completed within 120 days from the end of the fiscal year. A copy of the auditor's report, the related financial statements and notes thereto, and the Management Report shall be sent to the Commission and the Division within 30 days of receipt; and (4) The Licensee shall provide proof of

valid work permits for all gambling establishment employees prior to conducting gambling operations at The New Esquire. Commissioner Smith to approve the staff recommendation. Commissioner Palmer seconded the motion, which was unanimously adopted.

Chairman Hensley directed staff to forward a written request to the Division of Gambling Control asking that they conduct regular inspections of The New Esquire to confirm that the gambling establishment remains in compliance with the conditions of the state gambling license.

7. Proposition Player Regulations.

Commission Chief Counsel Peter Melnicoe indicated that staff recommends that the remaining issues concerning Proposition Player Regulations be referred to the Gaming Policy Advisory Committee (Advisory Committee) for consideration. Commissioner Palmer moved to direct staff to refer to the Advisory Committee a list of the major policy issues of continuing concern to the Commission that have been raised at the Commission's two workshops on Third Party Proposition Player Regulations and request the Advisory Committee to meet in January 2003 to review the issues and advise the Commission of its views and also submit these comments on or before February 15, 2003, so that the Commission can act on the regulations within the first quarter of 2003. Commissioner Hensley seconded the motion, which was unanimously adopted.

Ed Marzec inquired about receiving a copy of the draft regulations.

Chairman Hensley announced that Item 8 would be considered by the Commission following the Consent Calendar Items.

CONSENT CALENDAR ITEMS:

1. Applications for Tribal-State Compact Key Employee Finding of Suitability:

- a. Agua Caliente Band of Cahuilla Indians of the Agua Caliente Reservation – Agua Caliente Casino:
- | | |
|----------------------|--------------------|
| Armstrong, Larry | Lopez, Reta |
| Blackstone, Lance | Martinez, Gregoria |
| Blair, Ilena | McCabe, Robert |
| Brady, Patricia | McElwain, Alwida |
| Bucklar, Jr., John | Moore, Dennis |
| Castaneda, Guillermo | Moore, Roger |
| Cobos, Maria | Padgett, Arlin |
| Dunn, Michael | Page, Janet |
| Evans, Norma | Rahe, Richard |

Gibson, Scott	Roman-Hall, Ruth
Hoffman-Kline, Leanna	Siffleet, Karl
Iverson, Brian	Uddin, Bernadine
Jarrett, Julia	Velasco, Susan
Lehman, Vera	White, Michelle
Williams, Stephen	Yard, Lawrence

b. Rumsey Indian Rancheria of Wintun Indians of California – Cache Creek Indian Bingo & Casino:

Budtanase, Surapol	Codarre, Robert
Gimeno, Walter	Gosal, Gursaranjit
Mendoza, Lilia	Neville, Vic
Paulson, Michael	Thich, Dan
Wolcott, Guy	Young, Tsun-Kai

c. Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation - Viejas Casino and Turf Club:

Anderson, Dawn	Fox, Daniel	Nguyen, Tan
Asselin, Andrew	Frantz, Dale	Panek, David
Barrett, Amy	Gambol, Christopher	Restko, Jo Ann
Brady, Gwendolyn	Her, Xiong	Robley, David
Cham, Rosanna	Karpenske, Duane	Sarno, Catherine
Dibella, Lou	McKenna, Janelle	Steffens, Kimberly
Dickerson, Gerald	Meza, Andrew	Sumrall, Kathleen
Embleton, Patricia	Miles, Roger	Vanguardia, John
Entjer, Jerry	Neal, Janis	Wear, Donald
Faulkner, Christina	Nguyen, Martha	Zender, Jacob

Deputy Director Qualset presented to the Commission for its consideration of the applications for a Tribal-State Compact Key Employee Finding of Suitability for Items 1a, 1b, and 1c. Commissioner Sasaki moved to approve the consent calendar item which are applications for a Tribal-State Compact Key Employee Findings of Suitability for Items 1a, 1b, and 1c. Commissioner Smith seconded the motion, which was unanimously adopted.

The Commission recessed at 2:17 p.m.

The Commission reconvened at 2:25 p.m., with Chairman Hensley and Commissioners Palmer, Sasaki and Smith present.

8. Request of Michael Layon to File Application for License to Operate a Gambling Establishment in the City of Adelanto.

Michael Franchetti, attorney for Michael Layon, presented to the Commission oral comments in support of Michael Layon's request and provided written comments from the City of Adelanto and a signed declaration of Clare W. Burgener. These documents are incorporated into the minutes as Attachment A and Attachment B, respectively.

Michael Layon, after having first been duly sworn by the Court Reporter, presented oral testimony to the Commission.

James P. Mulvaney, after having first been duly sworn by the Court Reporter, presented oral testimony to the Commission.

John Spittler, Commission Counsel, presented comments to the Commission concerning the request of Michael Layon.

Commissioner Smith moved that (1) The Commission find that Michael Layon has made a sufficient showing constituting a *prima facie* case for estopping the State from denying him a gambling license on grounds of his failure to file a timely application for a gambling establishment to be located in the City of Adelanto; (2) Commission staff is directed to accept conditionally an application and application fee from Michael Layon for a gambling establishment to be located in the City of Adelanto. The acceptance of the application shall be conditional upon a final finding of estoppel by the Commission, to be made when the Commission considers the application and the recommendation of the Division of Gambling Control on the application. The application fee shall be nonrefundable; and (3) Commission staff shall request the Division of Gambling Control to investigate and report to the Commission concerning the facts relevant to the finding of the existence or nonexistence of an estoppel in this matter. Commissioner Sasaki seconded the motion, which was unanimously adopted.

PUBLIC COMMENT

Rodney Blonien, Lobbyist, commented to the Commission that Mr. Tamajian, Commerce Club Casino, had requested that the Commission be publicly thanked for the renewal of the gambling establishments license.

Jack Morgan presented comments to the Commission concerning the application he submitted for a state gambling license.

CLOSED SESSION:

Chairman Hensley announced that there would be no closed session after Commission Counsel stated there would be no discussion on items concerning litigation under Government Code Section 11126(c) and 11126 (e).

ADJOURNMENT

Commissioner Smith moved to adjourn the meeting. Commissioner Sasaki seconded the motion, which was unanimously adopted; the meeting was adjourned at 3:10 p.m.