

California Gambling Control Commission
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Wednesday, April 23, 2003

MINUTES OF April 23, 2003 COMMISSION MEETING

OPEN SESSION

Chairman Hensley called the meeting of April 23, 2003, to order at 1:33 p.m. with Commissioners Palmer, Smith and Sasaki present.

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

Commissioner Sasaki moved to approve the March 19, 2003, Commission Meeting Minutes. Commissioner Smith seconded the motion, which was unanimously adopted.

DECISION ITEMS

1. Applications for Work Permit:
 - a. California Grand Casino:
DeGeorge, Andrea
Turner, Jim
 - b. Empire Sportsmen Association:
Kuy, Sukthoeun
Rorn, Teap
 - c. Gold Rush Gaming Parlor:
Carlson, Ryan
 - d. Napa Valley Casino:
Chhan, Chak
 - e. Phillipine Gardens:
Morfin, Maria
 - f. Poker Flats Casino:
Alonzo, Misty
Vargas, Tawni

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of the applications for a work permit for Items 1b, Kuy Sukthoeun and Teap Rorn, 1c, Ryan Carlson, 1d, Chak Chhan, 1e, Maria Morfin, and 1f, Misty Alonzo and Tawni Vargas. Commissioner Smith moved to approve the applications for a work permit for Items 1b, Kuy Sukthoeun and Teap Rorn, 1c, Ryan Carlson, 1d, Chak Chhan, 1e, Maria Morfin, and 1f, Misty Alonzo and Tawni Vargas. Commissioner Sasaki seconded the motion, which was unanimously adopted.

Michael McPeters, Special Agent Supervisor, Division of Gambling Control, presented to the Commission the Division's recommendation concerning the application for a work permit for Item 1a, Andrea DeGeorge. Special Agent McPeters indicated that the Division recommends Andrea DeGeorge's application for a work permit be denied under Business and Professions Code section 19850A(a), (renumbered in 2003 to: 19859(c)). Deputy Director Qualset indicated that Commission staff recommends that the application for a work permit for Item 1a, Andrea DeGeorge be denied as well under Business and Professions Code section 19859(c), 19912(d) and Section 12105(a)(1) of Title 4 of the California Code of Regulations. Commissioner Smith moved to deny the application for a work permit for Item 1a, Andrea DeGeorge. Commissioner Sasaki seconded the motion, which was unanimously adopted.

Michael McPeters, Special Agent Supervisor, Division of Gambling Control, presented to the Commission the Division of Gambling Control's recommendation concerning the application for a work permit for Item 1a, Jim Turner. Special Agent McPeters indicated that the Division recommends Jim Turner's application for a work permit be denied under Business and Professions Code section 19850A(a)(2) and (3), (renumbered in 2003 to: 19859(b) and (c)). Deputy Director Qualset indicated that Commission staff recommends that the application for a work permit for Item 1a, Jim Turner be denied as well under Business and Professions Code section 19859(b), (c), and 19912(d), and Section 12105(a)(1) of Title 4 of the California Code of Regulations. Commissioner Sasaki moved to deny the application for a work permit for Item 1a, Jim Turner. Commissioner Smith seconded the motion, which was unanimously adopted.

2. Applications for Key Employee License:
 - a. Bicycle Casino:
Hanson, Randy
O'Hara, Kelley
 - b. Club Caribe:
Frank, Novelita
 - c. Commerce Casino:
Roseman, Ingrid
 - d. Crystal Park Casino:
Lomibao, Maria
 - e. Garden City Casino:
McDermott, John
 - f. Hollywood Park Casino
Asadolahi, Pierre
Lomibao, Maria
O'Brien, Clarissa
Selzer, Sandie

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 Items 2a, Randy Hanson and Kelley O'Hara, 2b, Novelita Frank, 2c, Ingrid Roseman, 2d, Maria Lomibao, 2e, John McDermott, and 2f, Pierre Asadolahi, Maria Lomibao, Clarissa O'Brien, and Sandie Selzer. Commissioner Palmer moved to approve the applications for a key employee license for Items 2a, Randy Hanson and Kelley O'Hara, 2b, Novelita Frank, 2c, Ingrid Roseman, 2d, Maria Lomibao, 2e, John McDermott, and 2f, Pierre Asadolahi, Maria Lomibao, Clarissa O'Brien, and Sandie Selzer. Commissioner Sasaki seconded the motion, which was unanimously adopted.

3. Request for Additional Authorized Tables:
 - a. Brooks Oceana Cardroom: Barbara Brooks, Sole Proprietor (1 table)
 - b. Diamond Jim's Casino: Wizard Gaming, Inc. (3 tables)
 - c. River Card Room: River Card Room, Inc., Corporation (2 tables)
 - d. Palomar Card Club: General Partnership (2 tables)

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of the request for an additional authorized table for Item 3a, Brooks Oceana Cardroom. Deputy Director Qualset further indicated that staff's recommendation was based on a review of the local ordinance and expansion of gambling under the Gambling Control Act to ensure compliance. Commissioner Sasaki moved to approve the request for an additional authorized table for Item 3a, Brooks Oceana Cardroom. Commissioner Palmer 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 request for three additional authorized tables for Item 3b, Diamond Jim's Casino. Deputy Director Qualset further indicated that staff's recommendation was based on a review of the local ordinance and expansion of gambling under the Gambling Control Act to ensure compliance. Commissioner Smith moved to approve the request for three additional authorized tables for Item 3b, Diamond Jim's Casino. 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 request for two additional authorized tables for Item 3c, River Card Room, Inc. Deputy Director Qualset further indicated that staff's recommendation was based on a review of the local ordinance and expansion of gambling under the Gambling Control Act to ensure compliance. Chairman Hensley moved to approve the request for two additional authorized tables for Item 3c, River Card Room, Inc. 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 request for two additional authorized tables for Item 3d, Palomar Card Club. Deputy Director Qualset further indicated that staff's recommendation was based on a review of the local ordinance and expansion of gambling under the Gambling Control Act, to ensure compliance. Commissioner Palmer moved to approve the request for two additional authorized tables for Item 3d, Palomar Card Club. Commissioner Smith seconded the motion, which was unanimously adopted.

4. Application for State Gambling License – Request for Withdrawal:

- a. LA Casino, Inc.: Harry Hwang
- b. Commerce Casino: Lawrence Kopeikin

Deputy Director Qualset indicated that, based on findings of the Division of Gambling Control, Harry Hwang's request for withdrawal is not consistent with the public interest and the Gambling Control Act, both the Division of Gambling Control and Commission staff recommend that the request for withdrawal of the state gambling license application for Item 4a, Harry Hwang, be denied. Commissioner Sasdaki moved to deny the request for withdrawal of the state gambling license application for Item 4a, Harry Hwang. Commissioner Smith seconded the motion, which was unanimously adopted.

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend an approval of the request for withdrawal, without prejudice, of the state gambling license application for Item 4b, Commerce Casino, Lawrence Kopeikin. Deputy Director Qualset further indicated that upon approval of the request for withdrawal, staff would request that a refunded of any unearned background investigation deposit be made to the payor. Commissioner Sasaki moved to approve the request for withdrawal, without prejudice, of the state gambling license application for Item 4b, Commerce Casino, Lawrence Kopeikin. Commissioner Smith seconded the motion, which was unanimously adopted.

5. Request for Approval of Sale of Existing Gambling Establishment:
 - a. Axtion Jaxson Card Room: Jack Morgan, Sole Proprietor

Deputy Director Qualset indicated that both the Division of Gambling Control and Commission staff recommend approval of the request to sell the existing gambling establishment for Item 5a, Axtion Jaxson Card Room. Chairman Hensley moved to approve the request to sell the existing gambling establishment for Item 5a, Axtion Jaxson Card Room. Commissioner Palmer seconded the motion, which was unanimously adopted.

6. Application for State Gambling License:
 - a. Axtion Jaxson Card Room: Jack Morgan, Sole Proprietor
 - b. Gold Sombrero: Her J. Xiong, Sole Proprietor

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

Deputy Director Qualset indicated that although the Division of Gambling Control recommends approval of the application for a state gambling license for Item 6b, Gold Sombrero, Commission staff recommends a conditional approval of the state gambling license application under the condition: Licensee or any employee of the Gold Sombrero is prohibited from cashing checks drawn against any federal, state, county funds, including but not limited to, social security, unemployment insurance, disability payments, or public assistance payments. Commissioner Smith moved to adopt staff's recommendation for a conditional approval of the state gambling license for Item 6b, Gold Sombrero. Commissioner Sasaki seconded the motion, which was unanimously adopted.

7. Applications for Renewal of State Gambling License:

- a. Don Juan Club: Juan Jose Guzman, Sole Proprietor
- b. La Primavera Pool Hall and Café: Candelario Salas, Sole Proprietor
- c. River Card Room: River Card Room, Inc., a Corporation
- d. Sundowner Cardroom: Augustine Mora, Sole Proprietor.

Deputy Director Qualset indicated that Item 7a, Don Juan Club, was previously issued a temporary state gambling license pending results of an audit of the gambling establishment. Deputy Director Qualset further indicated that staff has completed its audit of the gambling establishment and has been awaiting a response to the audit from the licensee. This response was received the day before the meeting. Commission staff recommended issuing an additional temporary two-month license through June 30, 2003.

This will allow staff time to evaluate the response from the licensee. Commission staff will come back to the Commission with a final recommendation as soon as possible. Chairman Hensley moved to adopt staff's recommendation for a temporary approval of the application for renewal of a state gambling license for Item 7a, Don Juan Club, through June 30, 2003. 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 7b, La Primavera Pool Hall and Café. Commissioner Sasaki moved to approve the application for renewal of a state gambling license for Item 7b, La Primavera Pool Hall and Café. Commissioner Palmer 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 7c, River Card Room. Commissioner Palmer moved to approve the application for renewal of a state gambling license for Item 7c, River Card Room. 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 7d, Sundowner Cardroom. Commissioner Palmer moved to approve the application for renewal of a state gambling license for Item 7d, Sundowner Cardroom. Commissioner Smith seconded the motion, which was unanimously adopted.

8. Quarterly Contribution Report Forms and Instructions for Indian Gaming Special Distribution Fund Contributions (Tribal-State Gaming Compact Sections 5.3 (c)).

Deputy Director Qualset gave an oral report on the development progress of the Quarterly Contribution Report Form and Instructions for remittance of contributions into the Special Distribution Fund.

9. Revenue Sharing Trust Fund Report of Distribution to Non-Compact Tribes.

Deputy Director Qualset presented the Revenue Sharing Trust Fund Report of Distribution of Funds to Non-Compact Tribes for the Quarter Ended March 31, 2003, to the Commission for its consideration of the following recommendation: It is recommended that the Commission approve the current full quarterly distribution of approximately \$3.7 million of all payments made by tribes and any interest income received by the Indian Gaming Revenue Sharing Trust Fund during the most recent quarter ended March 31, 2003, to the listed tribes that are determined to be eligible Non-Compact Tribes in accordance with the Commission's identified methodology for determining a Non-Compact Tribe as shown in Exhibit 1 attached to the report.

Commissioner Sasaki moved to approve the current full quarterly distribution of approximately \$3.7 million to the tribes that are determined to be eligible Non-Compact Tribes. Commissioner Smith seconded the motion, which was unanimously adopted.

A copy of the Revenue Sharing Trust Fund Report of Distribution of Funds to Non-Compact Tribes for the Quarter Ended March 31, 2003, as presented to the Commission, is incorporated into the minutes as Attachment A.

10. Emergency Readoption and Amendment of Regulations Concerning Gambling Equipment Manufacturers or Distributors (Title 4, California Code of Regulations, Sections 12300-12310).

Senior Legal Counsel and Regulations Coordinator Herb Bolz presented Item 10, to the Commission for consideration to adopt the Findings of Emergency for emergency readoption of regulation: Gambling Equipment Manufacturers or Distributors (Title 4, California Code of Regulations, Sections 12300-12310) with proposed amendments. Chairman Hensley moved to approve the Findings of Emergency for emergency readoption and amendment of the regulation. Commissioner Sasaki seconded the motion, which was unanimously adopted.

A copy of Title 4, California Code of Regulations sections 12300-12310, Gambling Equipment Manufacturers or Distributors, as adopted by the Commission, is incorporated into the minutes as Attachment B.

11. Proposed Regulation: Development and Implementation of Emergency Preparedness Plans for Gambling Establishments (Gambling Control Act).

Senior Legal Counsel Herb Bolz presented Item 11, to the Commission for consideration to adopt the proposed regulation concerning Development and Implementation of Emergency Preparedness Plans for Gambling Establishments. Chairman Hensley moved to have the proposed regulation: 1) sent to the Golden State Gaming Association for its review and comments; 2) referred to the Gaming Policy Advisory Committee for its recommendation; and 3) to continue the matter to the first Commission meeting following the May 20, 2003, meeting of the Gaming Policy Advisory Committee. Commissioner Sasaki seconded the motion, which was unanimously adopted.

12. Proposed Regulation: Problem Gambling (Gambling Control Act).

Senior Legal Counsel Herb Bolz presented the proposed regulation to the Commission, indicating that staff was requesting authorization to move forward with the rulemaking process under the Administrative Procedure Act. Commissioner Sasaki moved to authorize staff to proceed with the rulemaking process for the proposed regulation concerning Problem Gambling. Commissioner Smith seconded the motion, which was unanimously adopted. A copy of the proposed regulation concerning Problem Gambling is incorporated into the minutes as Attachment C.

13. Discussion Item: Proposals Regarding Regulation of Accounting Records and Financial Reports Under the Gambling Control Act.

Senior Legal Counsel Herb Bolz presented Item 13 to the Commission for discussion on proposals regarding regulation of accounting records and financial reports under the Gambling Control Act. The Commission took no action on Item 13.

14. Adoption of Uniform Tribal Gaming Regulation CGCC-7 (Emergency/Evacuation Plans), to Become Effective Immediately, and Adoption of Finding of Exigent Circumstances, for Submission to all Compact Tribes and the Association of Tribal and State Gaming Regulators (Tribal-State Gaming Compact Section 8.4.1 (b), (c) and (d)).

15. Readoption of Uniform Tribal Gaming Regulation CGCC-7 (Emergency/Evacuation Plans) and Adoption of Written Response to Objections of the Association of Tribal and State Gaming Regulators to CGCC-7, for Submission to all Compact Tribes (Tribal-State Gaming Compact Section 8.4.1 (b) & (c)).

Chief Counsel Melnicoe presented both Items 14 and 15 for consideration of Commission action under one motion.

John Spittler, Commission Counsel, gave an oral overview proposal of finding of exigent circumstances for adoption of Uniform Tribal Gaming Regulation CGCC-7 under the Tribal State Gaming Compacts section 8.4.1 and of proposed responses to objections of the Association of Tribal and State Gaming Regulators.

Chief Counsel Melnicoe indicated that staff recommends that the Commission: (1) adopt Uniform Tribal Gaming Regulation CGCC-7, as revised by staff and presented to the Commission, to become effective immediately as to all Compact Tribes, together with staff-recommended finding of exigent circumstances, for submission to all Compact Tribes and the Association of Tribal and State Gaming Regulators in accordance with Compact section 8.4.1(d); and (2) readopt Uniform Tribal Gaming Regulation CGCC-7, as revised by staff and presented to the Commission, in accordance with Compact section 8.4.1(b), together with staff-recommended written responses to objections of the Association of Tribal and State Gaming Regulators to CGCC-7, for submission to all Compact Tribes.

Scott Gessford, Gaming Commissioner, Colusa Tribal Gaming Agency, presented comments in opposition to CGCC-7, and indicated that implementation of gaming regulations should be by negotiated changes to the Compacts. Mr. Gessford submitted written comments to the Commission, which are incorporated into the minutes as Attachment D.

Sherry Rodriguez-Howell, La Jolla Gaming Commission, commented in opposition to CGCC-7, indicating that CGCC-7 provides no additional protection to the public than regulations already in place at the casinos.

Michele LeBeau, Holland & Knight, commented in opposition to CGCC-7, indicating that rejection of CGCC-7 by the Tribes stems from issue of jurisdiction and tribal sovereignty and not public safety.

Commissioner Smith moved to adopt Uniform Tribal Gaming Regulation CGCC-7, as revised by staff and presented to the Commission, to become effective immediately as to all Compact Tribes, together with staff-recommended findings of exigent circumstances, for submission to all Compact Tribes and the Association of Tribal and State Gaming Regulators in accordance with Compact section 8.4.1(d); and (2) readopt Uniform Tribal Gaming Regulation CGCC-7, as revised by staff and presented to the Commission, in accordance with Compact section 8.4.1(b), together with staff-recommended written responses to objections of the Association of Tribal and State Gaming Regulators to CGCC-7, for submission to all Compact Tribes. Commissioner Sasaki seconded the motion, which was unanimously adopted.

A copy of Uniform Tribal Gaming Regulation CGCC-7, the Findings of Exigent Circumstances, and Written Responses to Objections of the Association of Tribal and State Gaming Regulators to CGCC-7, are incorporated into the minutes as Attachments E, F, and G, respectively.

16. Request of United Auburn Indian Community that Uniform Gaming Regulation CGCC-2 be adopted immediately as to that tribe.

The Commission took no action on Item 16, which was tabled at the request of staff.

17. Proposed Uniform Tribal Gaming Regulation: Problem Gambling (referral to working group of Association of Tribal and State Gaming Regulators).

The Commission took no action on Item 17, which was tabled at the request of staff because the Association of Tribal and State Gaming Regulators had not acted to create a regulatory working group.

Scott Gessford, Gaming Commissioner, Colusa Tribal Gaming Agency, presented further comments in opposition to CGCC-7.

Les Miller, Scotts Valley Tribe, commented on a process for imposing interim regulations when an understanding by both parties cannot be reached.

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:

Briggs, Donna	Eagan, Mark
Hart, Joy	Hart, William
Kahler, Connie	Mann, Bradley
Montano, Jose	Rice, Arnold

b. Cher-Ae Heights Indian Community of the Trinidad Rancheria-
Cher-Ae Heights Bingo and Casino:

Lara, Roberta	May, Roy
Wedll, Samuel	

c. Jackson Rancheria of Me-Wuk Indians of California – Jackson Rancheria:

Baldwin, Sean	Harkness, Michael
Leon, Carol	

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

Dizon, Ronel	Halm, Gregory
Harney, Paul	Justus, Eugene
Kanemasu, Stephanie	Keo, Sinyan
Kinney, Harlod	Pfeiffer, Alan
Reach, Saveoun	

e. Viejas (Barona Long) Group of Capitan Grande Band of Mission Indians of
the Viejas Reservation – Viejas Casino and Turf Club:

Dons, Christopher	Kampmueller, Susan
Olsen, Helen	Phengmixay, Maniphone
Wild, James	

Deputy Director Qualset presented to the Commission for its consideration of the applications for Tribal-State Compact Key Employee Finding of Suitability Items 1a, 1b, 1c, 1d, and 1e. Commissioner Palmer moved to approve the Consent Calendar items listed as applications for Tribal-State Compact Key Employee Finding of Suitability for Items 1a, 1b, 1c, 1d, and 1e. Commissioner Sasaki seconded the motion, which was unanimously adopted.

PUBLIC COMMENT

No comments were presented to the Commission during this portion of the meeting.

CLOSED SESSION

Chairman Hensley announced that the Commission would be going into closed session. At 3:30 p.m. the Commission adjourned to closed session after Commission Counsel stated that discussions concerning litigation would take place under Government Code Section 11126(e), and personnel issues under Government Code Section 11126(a)(1).

RECONVENE OPEN SESSION

Chairman Hensley reconvened the open session at 5:30 p.m., and indicated that there were no announcements from closed session. Commissioner Smith moved to adjourn the meeting. Commissioner Palmer seconded the motion; the meeting was adjourned at 5:33 p.m.