

PENNSYLVANIA GAMING CONTROL BOARD

\* \* \* \* \*

IN RE: PUBLIC MEETING

\* \* \* \* \*

BOARD ROOM, PGCB OFFICE

5TH FLOOR VERIZON TOWER

STRAWBERRY SQUARE

HARRISBURG, PA

THURSDAY, JULY 26, 2007

\* \* \* \* \*

BEFORE: (via telephone)

THOMAS DECKER, CHAIRMAN

RAYMOND ANGELI

MARY DiGIACOMO COLINS

JEFFREY W. COY

KENNETH McCABE

SANFORD RIVERS

GARY A. SOJKA



REPORTER: KENNETH D. O'HEARN

REPORTER - NOTARY PUBLIC

INDEX

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

<u>AGENDA</u>	<u>PAGE</u>
Call to Order - Paul Resch	3
Other Business - Frank Donaghue	6
Adjournment - Chairman Tad Decker	21
Certificate	23

1                   MR. DECKER:

2                   Good afternoon. I'm Tad Decker, the  
3 Chairman of the Pennsylvania Gaming Control Board.  
4 I'd like to welcome you to our public meeting today.  
5 Because the Board members are participating today by  
6 phone, I'd like to ask that Paul Resch, the Board  
7 secretary to call the roll. Paul?

8                   MR. RESCH:

9                   Commissioner Angeli?

10                  MR. ANGELI:

11                  Here.

12                  MR. RESCH:

13                  Commissioner Colins?

14                  MS. COLINS:

15                  Here.

16                  MR. RESCH:

17                  Commissioner Coy.

18                  MR. COY:

19                  Here.

20                  MR. RESCH:

21                  Commissioner McCabe?

22                  MR. MCCABE:

23                  Here.

24                  MR. RESCH:

25                  Commissioner Rivers.

1           MR. RIVERS:

2           Present.

3           MR. RESCH:

4           Commissioner Sojka.

5           MR. SOJKA:

6           Present.

7           MR. RESCH:

8           Chairman Decker.

9           MR. DECKER:

10          Here.

11          MR. RESCH:

12          Keith Welks, ex officio designee.

13          MR. WELKS:

14          Here.

15          MR. RESCH:

16          Good.

17          MR. DECKER:

18          Okay. Thank you. Is that it, Paul?

19          MR. RESCH:

20          Yes.

21          MR. DECKER:

22          Okay. Good. Thank you. Then a quorum  
23 of the Board is present, and this meeting is  
24 officially called to order. I'd like to ask the board  
25 members, anyone else who's going to make a

1 presentation to identify themselves prior to speaking.  
2 And finally, I'd like to remind everyone to turn off  
3 their cell phones and Blackberries during the meeting,  
4 which I will now do myself.

5                   Starting out as usual, would --- Anne,  
6 since you're in the room, could you please lead us in  
7 the Pledge of Allegiance?

8                   MS. NEEB:

9                   Yes.

10 PLEDGE OF ALLEGIANCE RECITED

11                   MR. DECKER:

12                   Thank you. New business. By way of  
13 announcement, the Board held an Executive Session  
14 prior to this meeting, and I apologize for the length  
15 of it. The potential acquisition and/or lease of real  
16 property and to consult with counsel and other  
17 professional advisors and the Board concerning  
18 litigation or matters in which complaints are expected  
19 to be filed.

20                   I'll tell you what. We have to be  
21 careful about shuffling paper. It's going to be hard  
22 for people to hear us.

23                   Moving on to the new business, before the  
24 Board considers the first item regarding suspicions  
25 held by HSP Gaming, L.P., also known as SugarHouse,

1 and Foxwoods, I have an announcement to make.

2 I've elected not to participate in the  
3 Board's consideration of these motions. The basis for  
4 this recusal is related to my prior affiliation with  
5 the Philadelphia based law firm, Cozen O'Connor, of  
6 which I explained fully during the December 20th  
7 licensing hearing.

8 In order to avoid any appearance of  
9 impropriety, normal deliberations and proceedings  
10 relating to these motions. In this regard, I would  
11 like to now turn it over to Commissioner Colins to  
12 preside over this agenda item. Mary?

13 MS. COLINS:

14 Well, thank you, Chairman Decker. At  
15 this point, I'd like to ask our Executive Director, or  
16 our Chief Counsel if they would like to direct the  
17 Board regarding these petitions that have been filed.

18 MS. NEEB:

19 I'm going to turn this over to Frank  
20 Donaghue, who is Chief Counsel, who is handling these  
21 motions.

22 MS. COLINS:

23 Thank you.

24 ATTORNEY DONAGHUE:

25 Okay. And Mr. Chairman, just for the

1 record, is it correct that due to your recusal, you  
2 did not participate in any of the substantive  
3 discussions in Executive Session regarding these  
4 petitions?

5 MR. DECKER:

6 That's correct.

7 ATTORNEY DONAGHUE:

8 Okay. Thank you. The Board has received  
9 two separate motions, one filed each by HSP Gaming and  
10 Philadelphia Entertainment and Development Partners,  
11 Foxwoods, related to the payment of the \$50 million  
12 each it's required to pay for its Category 2 slot  
13 machine license.

14 The Race Horse Development and Gaming Act  
15 provides at Section 1209 that at the time of issuance  
16 of the licenses, the Board shall impose a one-time  
17 slot machine license fee to be paid by each licensee  
18 in the amount of \$50 million to be deposited into the  
19 State Gaming Fund.

20 Under Section 1301 of the Act, a license  
21 can be issued as soon as the licensee fulfills all  
22 required conditions of the license and the Board's  
23 decision approving the application is a final binding,  
24 non-appealable determination not subject to legal  
25 challenge.

1           While the Gaming Act does not specify a  
2 precise time period for payment after those events  
3 occur, the Board's order granting the licensees  
4 provided for the payment to be made ten days after any  
5 appeals become final.

6           As we all know, the Supreme Court  
7 affirmed the grant of the licenses to HSP and Foxwoods  
8 on July 17th, 2007, which would make their payment due  
9 under the terms of the order by tomorrow, July 27th,  
10 2007. While I believe it was contemplated that all  
11 applicable conditions would be fulfilled by the time  
12 the Supreme Court issued its decision on the appeal,  
13 both entities have indicated in their motions that  
14 this is simply not the case, through no fault of their  
15 own.

16           Both entities have requested that the  
17 ten-day time period, as specified in the prior Board  
18 Order be temporarily stayed for the reasons set forth  
19 in the motion.

20           I will first address the HSP petition.  
21 HSP asserts that it has been prevented from beginning  
22 construction due to impediments to obtaining permits  
23 and approvals necessary to be --- to begin  
24 construction in the City of Philadelphia.

25           HSP first requested the Board issue a



1 temporary stay of HSP's obligation to pay the license  
2 fee, and that it be extended until the Board can  
3 dispose of the motion for an extension. Second, the  
4 motion for an extension requests that the deadline for  
5 HSP to submit the license fee be extended until the  
6 earlier of December 31st, 2007, or ten days following  
7 the date upon which HSP has received all applicable  
8 final and unappealable permits, zoning approvals and  
9 consent required for the commencement of construction  
10 of its facility.

11           This petition involves very serious  
12 matters, very serious to the Commonwealth and the  
13 Board and concerns actions currently pending in the  
14 City of Philadelphia, which calls for further  
15 development of a factual record. Given the importance  
16 of these issues and the expediency with which these  
17 issues must be acted on, it would be appropriate for  
18 the Board to require additional legal briefing and to  
19 receive a presentation from HSP representatives, so  
20 that the Board may fully understand the issues and the  
21 reasons for the request for an extension.

22           However, given the extremely short time  
23 frame, from filing to the special meeting, it might be  
24 more practicable to schedule that matter for another  
25 date when the licensee is able to fully present all

1 relevant evidence to this Board and permit the Board  
2 to receive questions from the representatives.

3           Given the situation, I suggest it would  
4 be appropriate for the Board to entertain a motion to  
5 temporarily stay HSP's obligation to make the payment  
6 by Friday, July 27th, 2007 and to continue that stay  
7 until such time as the Board can --- will fully  
8 consider the basis for an extension during a regular  
9 board meeting.

10           The authority for this Board to grant a  
11 stay of a time for payment as establishing the Board's  
12 order of February 1st, 2007 is the Board's order  
13 inherent power as a sole regulator of all activities  
14 related to gaming and licensing of slot machine  
15 facilities.

16           At this time, it would be appropriate to  
17 hear a motion regarding HSP.

18           MS. COLINS:

19           I would like to make a comment, but go on  
20 --- Commissioner Coy, please go on.

21           MR. COY:

22           Madam Chair, could the Chief Counsel  
23 explain the motion that I provided?

24           MS. COLINS:

25           What I was going to say, before the

1 motion was offered, I just wanted to state that I  
2 think the issues raised in the petition --- well, I  
3 concur with Chief Counsel that the issues raised in  
4 the petitions are very significant issues that this  
5 Board will have to consider. And I feel very strongly  
6 that I would like additional information and a  
7 briefing by the petitioners, and also additional  
8 information from our Department of Bureau of  
9 Licensing, our Chief Counsel, regarding significant  
10 issues of law to this extent. What is the standard of  
11 proof, or what's the burden that the petitioners have  
12 in this situation? Do we have the authority to change  
13 the order that we've already issued?

14 I would like some more factual  
15 information. So I think there's ample reason for us  
16 to request further legal briefing and then factual  
17 information from the petitioners, and that's my  
18 suggestion with what the Chief Counsel supported.

19 ATTORNEY DONAGHUE:

20 And the motion that would be appropriate  
21 for consideration would be for a motion of extension  
22 of time for the payment of the license fee, the  
23 provisions of the Pennsylvania Race Horse Development  
24 and Gaming Act, and the Act accompanying regulations,  
25 it is ordered that any and all obligations for HSP

1 Gaming to submit payment of the license fee required  
2 pursuant to 4 PA C.S. Section 1209 is stayed, pending  
3 the disposition by the Pennsylvania Gaming Control  
4 Board of HSP Gaming, LP's motion for an extension of  
5 time.

6                   Secondly, HSP Gaming, LP shall file a  
7 brief addressing the legal merits of its request for  
8 an extension and fully setting forth a factual basis  
9 for the request no later than August 27th, 2007, and  
10 the Board shall conduct a hearing on September 6th,  
11 2007, in Harrisburg, to receive evidence from HSP  
12 Gaming in support of its request for an extension.

13                   MR. COY:

14                   Madam Chair, I move that the Board adopt  
15 the resolution just offered by the Chief Counsel, and  
16 I add to it my thought that this is not an open-ended  
17 situation that the Board intends to bring this to  
18 conclusion, but that we have matters of law to study  
19 and be briefed on in the meanwhile.

20                   MS. COLINS:

21                   Thank you very much, Commissioner Coy.  
22 Is there a second?

23                   MR. ANGELI:

24                   Ray Angeli, second.

25                   MS. COLINS:

1                   Are there any other comments or  
2 questions?

3                   MR. SOJKA:

4                   Yes. This is Gary Sojka, and I would  
5 just say that as the one commissioner who was not a  
6 member of the Board, at the time these licenses were  
7 issued, I'm very grateful for this opportunity to be  
8 able to have these petitions presented in more detail  
9 and have more opportunity to study them, but I'm ---  
10 I'm still trying to catch up a bit, and I want to make  
11 sure that I understand the necessity for this. And  
12 that is --- I assume the intent was that when the  
13 licenses were to be issued and the payments were to be  
14 due, it was assumed there --- at least it would be  
15 reasonable that the holders of the licenses would be  
16 able to proceed. And this is all being made necessary  
17 by actions taking place in Philadelphia; is that  
18 correct, which will preclude these people from moving  
19 forward and might even make it --- should we require  
20 that they pay the \$50 million fee, should they not be  
21 able to build, we would have to give that back; is  
22 that correct?

23                   ATTORNEY DONAGHUE:

24                   That is correct.

25                   MR. SOJKA:

1                    Depending on what's happening in  
2 Philadelphia?

3                    ATTORNEY DONAGHUE:

4                    That is correct, Commissioner. That is  
5 what these petitions allege.

6                    MR. SOJKA:

7                    Thank you.

8                    MS. COLINS:

9                    Are there any further comments or  
10 questions?

11                   MR. RESCH:

12                   Mary, can we call a roll call vote?

13                   MS COLINS:

14                   Hearing none then, we'll role call the  
15 vote. Paul?

16                   MR. RESCH:

17                   Commissioner Angeli?

18                   MR. ANGELI:

19                   Yes.

20                   MR. RESCH:

21                   Commissioner Colins?

22                   MS. COLINS:

23                   Yes.

24                   MR. RESCH:

25                   Commissioner Coy?

1           MR. COY:

2           Yes.

3           MR. RESCH:

4           Commissioner McCabe?

5           MR. MCCABE:

6           Yes.

7           MR. RESCH:

8           Commissioner Rivers?

9           MR. RIVERS:

10          Yes.

11          MR. RESCH:

12          Commissioner Sojka?

13          MR. SOJKA:

14          Yes.

15          MR. RESCH:

16          Chairman Decker recuses.

17          ATTORNEY DONAGHUE:

18          And Madam Chair, next is the matter of  
19 the Foxwoods motion. Foxwoods motion indicates ---.

20          MS. COLINS:

21          Frank, before you go any further, let me  
22 just declare that the motion carries. All right.

23 Continue.

24          ATTORNEY DONAGHUE:

25          Madam Chair, next is the matter of the

1 Foxwoods motion. The Foxwoods motion indicates that  
2 it similarly has been prohibited from complying with  
3 certain conditions for issuance of its license due to  
4 delays and obstacles in the City of Philadelphia in  
5 the zoning and permitting process, which Foxwoods  
6 represents are factors beyond its control, including  
7 the action of City Council in re-zoning Foxwoods'  
8 property to residential after the Board has granted  
9 the license. The matter has spawned more litigation  
10 currently pending before the Pennsylvania Supreme  
11 Court.

12           Once again, as with the HSP motion. The  
13 importance of these issues and the expediency with  
14 which these issues must be acted on, I suggest that it  
15 would be appropriate for the Board to require further  
16 briefing and to entertain a presentation from  
17 Foxwoods' representatives in order to permit the Board  
18 to explore and fully understand the issues and the  
19 reasons for this request.

20           The short time frame the Board is  
21 operating under on this matter which made it necessary  
22 to call this special meeting suggests that it might be  
23 more prudent to schedule that matter for another date  
24 when the licensees can fully present its evidence  
25 supporting the request and permit the Board a fuller



1 opportunity to question the Foxwoods' representatives.

2           Given this situation, I suggest that it  
3 would be appropriate for the Board to entertain a  
4 motion to temporarily stay the Foxwoods obligation to  
5 make the payment by Friday, July 27th, 2007 and to  
6 continue that stay until such time that the Board can  
7 fully consider the basis for an extension after  
8 briefing and during a regular board meeting.

9           Once again, as stated with respect to  
10 HSP, the authority for this Board to grant a stay of  
11 the time for payment as established in the Board's  
12 prior order is the Board's inherent power as the sole  
13 regulator of all activities related to gaming and the  
14 licensing of slot machine facilities.

15           At this time, it would be appropriate for  
16 the Board to consider such a motion.

17           MS. COLINS:

18           Is there a motion at this time?

19           MR. RIVERS:

20           Based on the recommendation of the Chief  
21 Counsel, I move that we consider the Philadelphia  
22 Entertainment and Development Partners, known as  
23 Foxwoods, and grant them a stay of extension for the  
24 time.

25           ATTORNEY DONAGHUE:

1           And Madam Chair, would you like me to  
2 read the motion again?

3           MS. COLINS:

4           If you would --- if you would read the  
5 specific motion and the provisions regarding the  
6 briefing dates and the next hearing schedule.

7           ATTORNEY DONAGHUE:

8           Okay. Based upon the full and careful  
9 consideration of Philadelphia Entertainment and  
10 Development Partners, LP, a motion for an extension of  
11 time for the payment of the license fee, the  
12 provisions of the Pennsylvania Race Horse Development  
13 and Gaming Act and the Act's accompanying regulations,  
14 it is hereby ordered that any and all obligations for  
15 the Philadelphia Entertainment Development Partners,  
16 LP to submit payment of a license fee required  
17 pursuant to 4 PA C.S. Section 1209 is stayed, pending  
18 the disposition by the Pennsylvania Gaming Control  
19 Board of the Philadelphia Entertainment and  
20 Development Partner, LP's motion for an extension of  
21 time.

22           Philadelphia Entertainment and  
23 Development Partners shall file a brief addressing the  
24 legal merits of its request for an extension and fully  
25 setting forth the factual basis for this request, no

1 later than August 27th, 2007. And the Board shall  
2 conduct a hearing on September 6th, 2007, in  
3 Harrisburg, to receive evidence from Philadelphia  
4 Entertainment Development Partners in support of its  
5 request for an extension.

6 MS. COLINS:

7 Okay. Thank you. Commissioner Rivers  
8 will you adopt that as your motion?

9 MR. RIVERS:

10 That's so moved, yes.

11 MS. COLINS:

12 Is there a second?

13 MR. SOJKA:

14 Gary Sojka, second.

15 MS. COLINS:

16 Any questions or comments? Hearing none,  
17 will Secretary for the Board, Paul Resch, please call  
18 for a roll call vote.

19 MR. RESCH:

20 Commissioner Angeli?

21 MR. ANGELI:

22 Yes.

23 MR. RESCH:

24 Commissioner Colins?

25 MS. COLINS:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Yes.

MR. RESCH:

Commissioner Coy?

MR. COY:

Yes.

MR. RESCH:

Commissioner McCabe?

MR. MCCABE:

Yes.

MR. RESCH:

Commissioner Rivers?

MR. RIVERS:

Yes.

MR. RESCH:

Commissioner Sojka?

MR. SOJKA:

Yes.

MR. RESCH:

Chairman Decker recuses.

MS. COLINS:

The motion carries. Thank you.

MR. DECKER:

Thank you, Commissioner Colins.

MS. COLINS:

Thank you very much.

1                   MR. DECKER:

2                   Are there any other items to come up  
3 today? As far as I know, that completes our agenda.

4                   MS. NEEB:

5                   That completes the special agenda, yes.

6                   MR. DECKER:

7                   Then that wraps it up. Is there any  
8 other items to come before the Board? A reminder, our  
9 next meeting will be held on August 8th at the North  
10 Office Building, Hearing Room One. The meeting will  
11 begin at 11 o'clock. Again, no final questions or  
12 comments? Hearing none, may I have a motion to  
13 adjourn?

14                   MR. ANGELI:

15                   So moved, Ray Angeli.

16                   MR. DECKER:

17                   Thank you. Is there a second?

18                   MR. COY:

19                   Second.

20                   MR. DECKER:

21                   All in favor?

22 AYES RESPOND

23                   MR. DECKER:

24                   Any opposed?

25 NO RESPONSE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. DECKER:

We're adjourned.

\* \* \* \* \*

PUBLIC MEETING CONCLUDED AT 3:15 P.M.

\* \* \* \* \*

