

PENNSYLVANIA GAMING CONTROL BOARD

PUBLIC MEETING

June 11, 2008, 12:30 p.m.

PENNSYLVANIA STATE MUSEUM
HARRISBURG, PENNSYLVANIA

BEFORE:

MARY DIGIACOMO COLINS, CHAIRMAN
RAYMOND ANGELI
JEFFREY COY
JAMES GINTY
KENNETH MCCABE
SANFORD RIVERS
GARY SOJKA

SHANNON MANDERBACH
REPORTER-NOTARY PUBLIC

CHAIRMAN COLINS: We will move now to the public meeting. I will thank everyone for joining us. We will begin by way of announcement. We had an Executive Session today, June 10th, in accordance with the Sunshine Act.

We discussed personnel issues, privileged agency business and consulted with counsel and other professional advisors to the Board concerning current litigation or matters in which complaints are expected to be filed.

Now we will move to a motion with the transcripts and the minutes.

COMMISSIONER SOJKA: Madam Chairman, I move that the Board approve the minutes and the transcript of the May 15th, 2008 meeting.

COMMISSIONER RIVERS: Second.

CHAIRMAN COLINS: All in favor?

COMMISSIONERS EN MASSE: Aye.

CHAIRMAN COLINS: Opposed?

(No response.)

CHAIRMAN COLINS: Motion carries. The next order of business will be the Executive Director's report. Frank Donaghue?

MR. DONAGHUE: Chairman Colins and Board Members, given the large number of items that the Board is

taking up today, I have nothing to report and we will follow up with a report at the next meeting.

CHAIRMAN COLINS: Thank you.

COMMISSIONER GINTY: Congratulations on your first report.

CHAIRMAN COLINS: Eileen McNulty now. This is the Chief Financial Office.

MS. McNULTY: Thank you, Chairman Colins. The first order of business is hiring of agency staff. Today we have one hire, Leanne Bianco, Administrative Assistant in the Bureau of Licensing.

Leanne is a 2007 graduate of Virginia Tech University with a Bachelor of Science degree in human development. Leanne has completed the Gaming Control Board interview process and background investigation and drug screening and is recommended for hire by Licensing Director Susan Hensel.

CHAIRMAN COLINS: Very good. May I have a motion?

COMMISSIONER RIVERS: Yes. Madam Chair, I move that the Board approve the hiring of the agency staff on the basis that the employee has completed the necessary background investigation and drug testing.

COMMISSIONER MCCABE: Second.

CHAIRMAN COLINS: All in favor?

COMMISSIONERS EN MASSE: Aye.

CHAIRMAN COLINS: Opposed?

(No response.)

CHAIRMAN COLINS: Motion carries.

MS. McNULTY: Thank you. Next is the financial report. This report covers expenses for Fiscal Year 2007 recorded by the Gaming Control Board through the end of May 2008.

Spending to date this fiscal year totaled \$23,822,258. May spending was \$3,055,508 or 12.8 percent of the year-to-date total. Payroll expense through May totaled \$18,990,402 or 80 percent of the total spending for the fiscal year. May's personnel expense reflected three payrolls and totaled \$2,484,687.

Operating expenses recorded in May totaled \$570,821, bringing the year-to-date total of operating expenses to \$4,831,883. Operating expenses were 19 percent of May spending and 20 percent of year-to-date spending.

Rentals and leases totalling \$1,529,147 is the largest category of operating expense to date and represents 32 percent of operating expenses for the period. May lease rental expense was \$155,818.

The second largest category of operating expense, accounting for 18 percent, is the other category.

Subscription costs to Choicepoint data services for background investigations represents two-thirds of this category. This category added \$77,298 to the month's operating expense and \$881,249 year to date.

Services is the third largest category for the year to date contributing \$819,812. It was the second largest category of operating expense for the month accounting for \$114,168.

Interagency billings account for \$341,051 or 42 percent of the year-to-date expense in this category. May service expenditures included \$34,320 for Pennsylvania State Police fingerprinting services; \$30,760 for PWC financial analysis; and \$29,908 for programming services from Computer Aid, Incorporated.

Telecommunication costs of \$617,162 comprise 13 percent of operating expenses so far this fiscal year. Travel expenses totalling \$445,032 represented 9 percent of operating expenses through the end of May. That completes the financial report.

CHAIRMAN COLINS: Thank you.

MS. McNULTY: Thank you.

CHAIRMAN COLINS: Next is Doug Sherman who is our Acting Chief Counsel.

MR. SHERMAN: Chairman Colins, during this portion of the presentation is when the motion with

respect to the approval of Mount Airy would be presented.

CHAIRMAN COLINS: We are going to take an Executive Session before we get to that motion. Thank you.

MR. SHERMAN: Chairman Colins, Members of the Board, I note the first thing on the agenda is the proposed regulations which are to be presented by Troy Beaverson.

CHAIRMAN COLINS: Do you want to move them back?

MR. SHERMAN: Can we move them back?

CHAIRMAN COLINS: Sure.

MR. SHERMAN: Thank you. The first matter then before the Board are withdrawals. The Board has received five unopposed petitions to withdraw applications which include four key employees and one principal entity waiver application.

A listing of the individuals in each category along with the licensing docket numbers has been provided to the Board. These petitions would all be granted without prejudice. The Office of Enforcement Counsel is present to represent its position with respect to these petitions.

Chief Counsel's Office submits the five petitions to the Board for consideration of a motion to

grant the petitions without prejudice. They include key employees Kelln, Miller, Sze, Prescott and the principal entity waiver application of Metropolitan Creditors Trust.

CHAIRMAN COLINS: Very good. Do I have a motion?

COMMISSIONER GINTY: Madam Chairman, I move that the Board approve the order to withdraw the employee applications as described by the Office of Chief Counsel.

COMMISSIONER COY: Second.

CHAIRMAN COLINS: What is the Office of Enforcement Counsel's position, please?

MR. MILLER: Good morning, Madam Chair. Dustin Miller on behalf of OEC. The Office of Enforcement Counsel has no objection with regard to these withdrawals.

CHAIRMAN COLINS: Very good. Are there any questions?

(No response.)

CHAIRMAN COLINS: All in favor?

COMMISSIONERS EN MASSE: Aye.

CHAIRMAN COLINS: Opposed?

(No response.)

CHAIRMAN COLINS: Motion carries.

MR. SHERMAN: The next matter is a withdrawal petition which is being presented to the Board which is the joint petition for withdrawal of applications

for MH Investors Gaming, LLC, MH Equity Managing Member II, LLC and Steven Hilbert.

These principal applications were filed in the matter of the Valley View Downs Category 1 slot machine application. The petition, answer of enforcement counsel and supporting materials are being presented by way of documentary hearing.

Counsel for petitioners, Valley View Downs and the MH Investors Group along with counsel for the Office of Enforcement Counsel are present to respond to any questions the Board may have, after which the matter would be appropriate for the Board's consideration.

COMMISSIONER SOJKA: Madam Chair, could I please read a statement into the record at this point?

CHAIRMAN COLINS: Yes, absolutely.

COMMISSIONER SOJKA: In accordance with 1202.1 of the Pennsylvania Race Horse Development and Gaming Act, I must recuse myself from consideration of the joint petition for withdrawal of the application filed by MH Investors Gaming, LLC, MH Equity Managing Member II, LLC and Steven Hilbert.

I take this action in abundance of caution given I was previously a pre-public offering stockholder in Consecro, Incorporated, a company founded by Steven Hilbert. I do not personally know Mr. Hilbert and I am

sure that I could act objectively in any matter involving him.

Nevertheless, I feel the act and the PGCB Code of Ethics requires that I remove myself from any matter involving Mr. Hilbert in that my previous involvement with a business operated by him could be perceived as a conflict of interest.

In accordance with Section 6 of the PGCB Code of Ethics, I have provided each of my Board colleagues with a written explanation of the basis of my refusal and am also providing a copy to the Board's secretary so that the same may become part of the public record. Thank you.

CHAIRMAN COLINS: Thank you very much.

(Commissioner Sojka exits meeting.)

CHAIRMAN COLINS: Let me turn to the Office of Enforcement Counsel and ask for their comments regarding this petition.

MR. CREANY: Thank you, Madam Chairman. This is Barry Creany on behalf of the Office of Enforcement Counsel. The Enforcement Counsel's Office entered into a Stipulation in this matter relative to the withdrawal of MH Investors. We are, at this point, not objecting to a withdrawal based upon a proposed order that would include some conditions.

Those conditions are that Centaur Gaming is going to use its best efforts or at least commercially reasonable efforts to expeditiously resolve this financing deal with MH and, at the same time, within a six-month period will work to have that resolved.

If that doesn't happen in that six-month period, the Bureau of Licensing would have an opportunity to make a determination whether to recommend the Board exercise its discretion in calling for licensure of the entities and that, throughout, Valley View Downs, LP will continue to provide any information that is required in the licensing.

CHAIRMAN COLINS: Let's be specific. What do you mean by Centaur will resolve issues with MH? Tell us what that means.

MR. CREANY: We are looking to have Centaur make efforts to refinance or to eliminate the loan it has currently with MH Investors. It's a \$200 million note. It's a pick note. It doesn't require payments right now. They have done things to eliminate any monies flowing into Pennsylvania on that loan or out of Pennsylvania. But the objective is to have that resolved within the next six months.

CHAIRMAN COLINS: Thank you. Are there any questions? I see Mr. King is here on behalf of valley

view. Mr. King, do you want to make a statement? If not, you can just wait to see if we have questions.

MR. KING: I have no statement at this time. I am available for questions. I do have one procedure request but that can wait until the end.

CHAIRMAN COLINS: Any questions regarding this?

COMMISSIONER MCCABE: I guess I need a point of clarification then. Are you saying that we're not to be able to go forward for six months or until we accept -- that they meet this debt?

CHAIRMAN COLINS: Let's ask our Counsel. Just procedurally outline what this is and where we are with it.

MR. SHERMAN: where we are is that the --

CHAIRMAN COLINS: what is this before us?

MR. SHERMAN: This is simply a petition to withdraw the principal application of the MH Investor Group. Other proceedings will continue in the normal course. If the release of this note is not obtained, it could come back before the Board. But this process does not hold up staff's consideration of other aspects of the application of Valley View Downs.

COMMISSIONER MCCABE: Thank you. That helps me.

MR. KING: If I could just add one other point of clarification, certainly it is under the statute and the regs that it is at the Board's discretion as to whether it requires licensure of a lender.

Initially, there was a feature of this loan that allowed MH to have an equity position in Valley View Downs. By filing this petition, they are signaling their intention not to exercise that equity option. So they become a lender only at this point.

Again, it is at the Board's discretion whether to seek licensure of any lender. As we said, we will make the best efforts, commercially reasonable efforts to redeem that note. Hence, we are hoping that the licensure process would then not be necessary.

CHAIRMAN COLINS: This is a decision by the Board on whether or not to approve the petition to withdraw with the stipulations articulated by Mr. Creany and we are not ruling or making any decisions on whether or not we exercise our discretion to license a lender?

MR. KING: Correct.

CHAIRMAN COLINS: Very good. May I have a motion?

COMMISSIONER GINTY: Madam Chairman, I move that the Board approve the Order to withdraw the application as described by the Office of Chief Counsel.

COMMISSIONER COY: Second.

CHAIRMAN COLINS: All in favor?

COMMISSIONERS EN MASSE: Aye.

CHAIRMAN COLINS: Opposed?

(No response.)

CHAIRMAN COLINS: Motion carries. Thank you very much.

MR. KING: Madam Chair, just procedurally as part of the record before you, there are certain exhibits to an affidavit that was submitted by our Chairman, Mr. Rod Radcliff.

Those documents are already before staff and the Board as part of our application. They are all financial documents. We simply ask those be treated confidentially under the reg and the statute, the loan agreement and things of that nature.

CHAIRMAN COLINS: Very good. We will review, as we do in all cases, all documents in terms of whether or not information is designated confidential by regulation and the statute and comply with the statute in that request.

MR. KING: Very good. Thank you.

(Commissioner Sojka enters meeting.)

CHAIRMAN COLINS: Okay.

MR. SHERMAN: The next matter are Report

and Recommendations. The Board has received two Report and Recommendations following hearings relative to applications for two Non-gaming Registrations. The Report and Recommendations along with the records pertinent to each hearing have been provided to the Board in advance of this meeting.

In addition, in each case, the applicants have been notified that the Board is considering the Report and Recommendation today and that they have the right to be present to address the Board. If any of the individuals are present today, they should come forward when their name is announced.

The first matter is of Matthew F. Coyne. This Report and Recommendation before the Board, again, is for Matthew Coyne. He submitted an application for a Non-gaming Employee Registration to work as a barporter at Philadelphia Park.

Coyne reported on his application that he had been arrested and convicted of resisting arrest and possession and sentenced to probation. During the background investigation, it was discovered that Mr. Coyne had been charged on five separate occasions with drug or alcohol-related offenses, some of which were graded felonies and all of the incidents occurring in a 2006 to 2007 time period.

Coyne requested and appeared for a hearing on March 19th in which he testified and provided proof that he completed a rehabilitation program. The Hearing Officer issued a Report and Recommendation on April 23rd, 2008 which recommends that based upon the nature of the criminal offenses which resulted from drug and alcohol use, the type of job applied for and the short period of time since Coyne's release from the rehab treatment facility, that he be denied Registration at this time.

It's now appropriate for the Board to consider a motion relative to adopting that recommendation and to deny the Registration.

CHAIRMAN COLINS: May I have a motion, please?

COMMISSIONER ANGELI: Madam Chairman, I move that the Board accept the Report and Recommendation of the Office of Hearings and Appeals and deny the Non-gaming Registration for Matthew F. Coyne as described by the Office of Chief Counsel.

COMMISSIONER SOJKA: Second.

CHAIRMAN COLINS: Any questions or discussion?

COMMISSIONER GINTY: Yes, Madam Chairman. I am going to vote no on this for a couple of reasons. The Chief Counsel gave the background.

This applicant is 21 years old. A couple years ago when he was 19, over a period of 10 months, he had a number of drug and alcohol-related offenses, some of which are felonies, although he did not serve any prison time or jail time for those felonies.

He voluntarily checked himself into a rehab facility which he successfully completed. He is currently on probation and subject to parole and there are no restrictions on the parole as to his working in an area that has alcoholic beverages.

Additionally, the applicant has been consistently employed since he got out of rehab and intends to go to technical school. He requested a hearing before the Hearing Examiner and, unlike a lot of the applicants we see here, actually appeared pro se and presented evidence.

Now, I think the Hearing Examiner did a laudable job on bringing out of the facts in this case in a very objective way. I think he did a very good job of summarizing the applicable law. Importantly, the Hearing Examiner did not discredit the applicant's rehabilitation efforts.

But in the Hearing Examiner's opinion, as the Chief Counsel related, he concluded that the one-year period between the applicant getting out of rehab and

assuming this job was, in the Hearing Examiner's viewpoint, not a long enough time to enable the applicant to show that he was suitable to be put in the proximity of alcoholic beverages.

I'm going to vote no for two reasons. I believe the Hearing Examiner overstepped here. I would, at a bear minimum, believe that -- and while I understand the burden of proof is on the applicant, I believe that a one-year period of rehabilitation creates at least a presumption that the applicant has been rehabilitated and the record contains no support or evidence for the Hearing Examiner's opinion that the one-year period was not long enough.

I would also note that the applicant would continue to be subject to his parole and the supervision of his parole officer as well as being supervised by his management at Philadelphia Park.

Now, the second reason I am voting no on this is to draw the Board's attention to the problem of recidivism. Too many of those who get out of prison go right back into prison and that presents social costs and real costs to society and to the taxpayers.

Mayor Nutter in my City of Philadelphia has identified this issue as a large issue and has asked the business community in Philadelphia to cooperate with his

Administration in addressing the problem, to be able to provide jobs to those who are getting out of prison that are qualified and safe to do so but to try and get at this problem.

Now, one of the purposes of the Gaming Act was to provide thousands of jobs throughout the Commonwealth and that these thousands of jobs are going to permit us the ability to address the issue of recidivism in a very major way. That is particularly true in Philadelphia.

I urge the Board to understand this issue, to work with our Chief Enforcement Counsel, to work with the appropriate bureaus and with the industry to develop a policy and guidelines which will let us address this issue as we go forward.

CHAIRMAN COLINS: Thank you. Any further comments or questions?

COMMISSIONER MCCABE: Yes, Madam Chair. I believe Commissioner Ginty brings up some good points. However, on his application, he only stated that he had been arrested and convicted of resisting arrest and possession and sentenced to probation.

He didn't talk about the three narcotic offenses on one date, another date two felony narcotics and then a month later more narcotics. I think he tried

to mislead us on his application by just putting resisting arrest and possession and not really list that he had been arrested on five separate occasions, one totally a year apart from his first arrests.

I feel if he had reported that, yes, I've been arrested on this date, this date, this date, this date for those offenses and then the Hearing Officer made those same recommendations, I would then be willing to agree with you that he has been rehabilitated, that this warrants denying and giving him a license.

But I think, at the beginning, he tried to mislead us. I know that was not what the decision of the Administrative Law Judge was based on. But that's how I am reading some of the record when I looked at it.

COMMISSIONER GINTY: The Hearing Examiner did address that in his opinion and found that it was not an attempt to mislead. The Hearing Examiner's opinion was based on the one-year period.

COMMISSIONER RIVERS: Madam Chair, I think today we speak as regulators, not as social scientists. There are a lot of ills that are plaguing our society that, unfortunately, we don't have the right at this particular juncture to change. I think this, to me, represents one of those cases.

I think in my role as a regulator, I have

to do what I think is right as it relates to what we are trying to accomplish. Given the extent of alcohol and drug use that is plaguing our society, I'm glad that there are programs for people like this and I'm glad that people like this participate in those programs. But I just don't think a year is a long enough period to say that this person has been rehabilitated.

I appreciate my fellow commissioners' concerns and comments but I'm not in agreement with those comments.

CHAIRMAN COLINS: Then if there are no further comments or --

COMMISSIONER COY: Madam Chair, I can't resist. When my fellow Commissioner from the City of Brotherly Love stated the city administration's concern for jobs and economic investment, I can think of two projects on Delaware Avenue on the Delaware River in Philadelphia that would immediately provide for a lot of jobs in economic development and think maybe a lot of interest could be placed in those.

COMMISSIONER SOJKA: I would add one quick thing. I did spend several years chairing the board of an organization in another part of the state specifically organized to deal with the issue of recidivism. It is a major problem.

Everything that Commissioner Ginty has mentioned I think is worthy of consideration. And even though we are not social scientists, I think we can think about these things.

But one could also be concerned about what would be our stalking horse or our lead case. I'm not convinced, as a person who has spent many years worrying about this issue, that this would be the best place to start.

CHAIRMAN COLINS: Okay. I view the issues as being very simple as designated by statute, whether or not the evidence presented to us indicates that this individual has met the burden of demonstrating that they have good character such that they are suitable and fit. That's my view of the issues. We can take a vote now. All those in favor of the motion?

COMMISSIONER RIVERS: Aye.

COMMISSIONER SOJKA: Aye.

CHAIRMAN COLINS: Aye.

COMMISSIONER MCCABE: Aye.

COMMISSIONER COY: Aye.

COMMISSIONER ANGELI: Aye.

CHAIRMAN COLINS: Opposed?

COMMISSIONER GINTY: Opposed.

CHAIRMAN COLINS: Motion carries. Thank

you very much. Thank you, Commissioner Ginty, for your insights and your comments on this issue. I appreciate it.

MR. SHERMAN: The second Report and Recommendation is that of Shawn Zero. Mr. Zero was issued a Non-gaming Registration on September 5th, 2007 and was employed as an HVAC worker at Mount Airy.

On December 29th, 2007, Zero was involved in an incident in which he was alleged to have participated in conduct against his manager in retaliation for comments made about Mr. Zero.

Subsequently, Mount Airy submitted to the PGCB a notice of employee termination indicating that Mr. Zero had been terminated. On January 9th of this year, the State Police filed a criminal complaint against Mr. Zero to which he pled guilty to one count of summary harassment based upon that workplace incident.

Thereafter, the Office of Enforcement Counsel filed a complaint requesting that the Board revoke the Non-gaming Registration. Zero filed an Answer and requested a hearing which was held on March 25th, 2008. The Hearing Office issued a Report and Recommendation recommending to revoke the license.

Based upon the Report and Recommendation, the records presented, Zero's conduct and guilty plea, it

would be appropriate for the Board to consider a motion revoking that Non-gaming Employee Registration.

CHAIRMAN COLINS: May I have a motion?

COMMISSIONER SOJKA: Yes. Madam Chairman, I move that the Board accept the Report and Recommendation of the Office of Hearings and Appeals and revoke the Non-gaming Registration as described by the Office of Chief Counsel.

COMMISSIONER ANGELI: Second.

CHAIRMAN COLINS: Any questions or comments?

(No response.)

CHAIRMAN COLINS: All in favor?

COMMISSIONERS EN MASSE: Aye.

CHAIRMAN COLINS: Opposed?

(No response.)

CHAIRMAN COLINS: Motion carries.

MR. SHERMAN: Madam Chairman, the next matter on the agenda would be the Mount Airy Petition.

CHAIRMAN COLINS: We will take a recess and go into deliberations. We will reconvene as soon as we have finished our deliberation.

(Recess.)

CHAIRMAN COLINS: We will reconvene. In the matter of Mount Airy # 1, LLC, I will ask whether or

not we have a motion as to their petition.

MR. DIEHL: Briefly, Madam Chair, I had two procedural matters I did want to address.

CHAIRMAN COLINS: Okay. Very good.

MR. DIEHL: The first of which would be the moving of the exhibits from the earlier presentation, the first being Dr. Ceddia's report that was earlier brought forth in his presentation as well as the second item which would be Mr. Smiles' report which he addressed during his testimony. My understanding is both reports have already been circulated and I do not anticipate an objection to their movement.

CHAIRMAN COLINS: Any objection?

MR. SKLAR: No.

CHAIRMAN COLINS: Very good. You are moving them into evidence?

MR. DIEHL: I am moving those into evidence.

CHAIRMAN COLINS: They are accepted.

MR. DIEHL: Thank you. As the second procedural issue, I just simply wanted to highlight that although the Office of Enforcement Counsel does not object to Mount Airy's petition, I did want to indicate that that position was subject to six conditions that had already been set forth in OEC's answer to their petition which I'm

prepared to read into the record today, if requested.

CHAIRMAN COLINS: Go ahead.

MR. DIEHL: The Office of Enforcement Counsel does not object to Mount Airy's petition for approval of modifications to its financing and its project development plan subject, however, to the following six conditions:

Number one, Mount Airy shall provide the financial investigations unit with monthly internal financial statements as available.

Number two, Mount Airy shall provide the financial investigations unit with loan covenant calculations and reporting made to JP Morgan including copies of all worksheets and correspondence.

Number three, Mount Airy shall provide the financial investigations unit with all final loan documents and closing information as soon as they are executed.

Number four, Mount Airy shall insure that the investments made pursuant to the Omnibus waiver and Amendment Agreement by Louis A. DeNaples are capital investments to Mount Airy and will not incumber Mount Airy to any loan obligation.

Number five, Mount Airy shall provide the financial investigations unit with detailed schedules of

all capital contributions, loan receipts, loan principal payments and capital distributions from the inception of Mount Airy to date.

Lastly, number six, Mount Airy shall provide the financial investigations unit with documentation to support the loan transfer from Keystone Landfill, Inc. and Keystone Sanitary Landfill, Incorporated to Louis A. DeNaples.

That concludes the conditions that the Office of Enforcement Counsel will be seeking.

CHAIRMAN COLINS: Thank you very much. Are there any questions regarding those conditions by anyone?

(No response.)

CHAIRMAN COLINS: Then may I have a motion?

COMMISSIONER RIVERS: Yes. Madam Chairman, I move that the Board approve the petition submitted by Mount Airy # 1, LLC and as described by the Office of Chief Counsel and that the confidentiality of the financial documents and their analysis be maintained.

CHAIRMAN COLINS: May I have a second?

COMMISSIONER MCCABE: Second.

CHAIRMAN COLINS: Any questions or comments?

(No response.)

CHAIRMAN COLINS: All in favor?

COMMISSIONERS EN MASSE: Aye.

CHAIRMAN COLINS: Opposed?

(No response.)

CHAIRMAN COLINS: Motion carries. Thank you.

MR. SHERMAN: Madam Chairman, there is one other petition before the Board today before we move to the regulations. The Board has received a request from the Office of Enforcement Counsel to conduct a hearing regarding the validity of the issuance of an Emergency Order to suspend the Non-gaming Employee Registration of Sheena L. Darby.

Darby was issued a Non-gaming Employee Registration on February 13th, 2008 for a position at Harrah's Chester Casino and Racetrack. BIE was notified by the Pennsylvania State Police that Darby was arrested on May 18th and charged with several criminal charges including one felony of aggravated assault charge.

OEC filed a request for Emergency Order Suspension of that Registration and that Order was signed by the Acting Executive Director. Board regulation provides that a temporary Emergency Order be presented to the Board for a hearing or assignment to the Office of Hearings and Appeals to conduct a full evidentiary hearing as to the validity of the suspension.

In this case, the Office of Chief Counsel recommends that the Board consider a motion to refer the matter to the Office of Hearings and Appeals to promptly schedule a hearing and issue a Report and Recommendation to the Board regarding the suspension.

CHAIRMAN COLINS: Can I ask a question?
And the Temporary Order would stay in force?

MR. SHERMAN: Yes, that's correct.

CHAIRMAN COLINS: For how long?

MR. SHERMAN: Until such time as the recommendation came to the Board and the Board would act upon that recommendation.

CHAIRMAN COLINS: Thank you. May I have a motion?

COMMISSIONER MCCABE: Madam Chair, I move that the Board issue an Order directing the Office of Hearings and Appeals to promptly conduct a hearing and to issue a Report and Recommendation. I move that the Board further order that the Emergency Suspension of the Non-gaming Employee Registration remain in effect until such time as the Board makes a ruling on the Report and Recommendation.

CHAIRMAN COLINS: May I have a second?

COMMISSIONER ANGELI: Second.

CHAIRMAN COLINS: Any questions or

comments?

(No response.)

CHAIRMAN COLINS: All in favor?

COMMISSIONERS EN MASSE: Aye.

CHAIRMAN COLINS: Opposed?

(No response.)

CHAIRMAN COLINS: That motion carries.

MR. SHERMAN: Madam Chairman, the final matter is the presentation of proposed regulations. Assistant Counsel Troy Beaverson will be presenting that matter.

MR. BEAVERSON: Good afternoon. We have for the Board's consideration Proposed Rulemaking No. 125-91. This proposed rulemaking replaces the permitting requirements for individuals and labor organizations with registration requirements and adds a new chapter that sets forth the requirements for certification of on-site shopkeepers and their regulatory responsibilities.

On-site shopkeepers are businesses that conduct any commercial activities at a licensed facility which typically may include restaurants, bars or retail shops. I ask for a motion for approval.

CHAIRMAN COLINS: May I have a motion?

COMMISSIONER MCCABE: Madam Chair, I move that the Board adopt Proposed Regulation No. 125-91

amending Chapters 401a, 438a and 441a and adding Chapter 434a, that the Board establish a public comment period of 30 days, and that the proposed regulation be posted on the Board's web site.

COMMISSIONER GINTY: Second.

CHAIRMAN COLINS: All in favor?

COMMISSIONERS EN MASSE: Aye

CHAIRMAN COLINS: Opposed?

(No response.)

CHAIRMAN COLINS: That motion carries.

MR. SHERMAN: That concludes the Office of Chief Counsel's report in all matters. Thank you.

CHAIRMAN COLINS: Thank you. Susan Hensel?

MS. HENSEL: Thank you, Chairman Colins and Members of the Board. The first item on the Bureau of Licensing's agenda is to inform you about the issuance of a permanent license to Washington Trotting Association, Incorporated, also known as the Meadows, which has been operating under a conditional license.

As with the issuance of each of the other permanent licenses, we received a request for the permanent license, verified that the approved licensee had fulfilled all conditions and verified that the licensee was in substantial compliance with the statement of conditions.

As a result of our review, we have determined that Washington Trotting Association is eligible to receive its permanent license which we plan to send to them today. I am also pleased to announce that with the issuance of the Washington Trotting license, all 11 of the permanent licenses awarded by the Board will now have been issued.

Next on the agenda are temporary licenses for Key Employees. Prior to this meeting, the Bureau of Licensing provided you with a proposed Order for 57 Temporary Key Employee licenses. I ask that the Board consider the Order granting these licenses.

CHAIRMAN COLINS: May I have a motion?

COMMISSIONER MCCABE: Madam Chair, I move the Board approve the Order to issue the Temporary Key Employee licenses as described by the Director of the Bureau of Licensing.

COMMISSIONER ANGELI: Second.

MR. PETRI: The Office of Enforcement Counsel does not object.

CHAIRMAN COLINS: All in favor?

COMMISSIONERS EN MASSE: Aye.

CHAIRMAN COLINS: Opposed?

(No response.)

CHAIRMAN COLINS: Motion carries.

MS. HENSEL: The Bureau of Licensing also provided you with an Order and a list of 127 individuals who the Bureau has granted occupation permits to and 119 individuals who the Bureau has granted registrations to under the authority delegated to the Director of Licensing. I ask that the Board adopt a motion approving the Order.

MR. PETRI: The Office of Enforcement Counsel does not object to the issuance.

CHAIRMAN COLINS: Thank you.

COMMISSIONER ANGELI: Madam Chair, I move that the Board approve the Order to issue the Gaming and Non-gaming Permits and Registrations as described by the Bureau of Licensing.

COMMISSIONER SOJKA: Second.

CHAIRMAN COLINS: All in favor?

COMMISSIONERS EN MASSE: Aye.

CHAIRMAN COLINS: Opposed?

(No response.)

CHAIRMAN COLINS: Motion carries.

MS. HENSEL: Finally is our proposed Orders regarding vendors. First, you have been provided with a proposed Order approving the certification of the following two vendors: Carl Walker Construction Group, LLC and McGregory Industries, Inc. I ask that the Board

consider the proposed Order.

MR. PITRE: The Office of Enforcement Counsel does not object to the issuance.

CHAIRMAN COLINS: Thank you. May I have a motion?

COMMISSIONER SOJKA: Madam Chairman, I move that the Board approve the Order approving the applications for Vendor Certification.

COMMISSIONER RIVERS: Second.

CHAIRMAN COLINS: All in favor?

COMMISSIONERS EN MASSE: Aye.

CHAIRMAN COLINS: Opposed?

(No response.)

CHAIRMAN COLINS: Motion carries.

MS. HENSEL: The Bureau of Licensing also provided you with an Order and attached list of 14 registered vendors. I ask that the Board adopt a motion approving the Order registering these vendors.

MR. PITRE: The Office of Enforcement Counsel does not object.

CHAIRMAN COLINS: Thank you. Motion, please.

COMMISSIONER RIVERS: Yes. Madam Chairman, I move that the Board approve the Order approving the application for Vendor Registration.

COMMISSIONER COY: Second

CHAIRMAN COLINS: All in favor?

COMMISSIONERS EN MASSE: Aye.

CHAIRMAN COLINS: Opposed?

(No response.)

CHAIRMAN COLINS: Motion carries.

MS. HENSEL: Thank you.

CHAIRMAN COLINS: Thank you, Susan. Office of Enforcement Counsel now.

MR. PITRE: We have two Consent Agreements for the Board's consideration today. I would ask that a representative for Philadelphia Park come forward.

MR. DOWNEY: Madam Chair, Bill Downey from Fox Rothchild. With me today is Tom Bonner from Philadelphia Park.

CHAIRMAN COLINS: Good afternoon. Proceed.

MR. MILLER: Madam Chair, I'm Dale Miller, Deputy Chief Enforcement Counsel for the Eastern Region. Madam Chairman, we have before you today two Consent Agreements involving Philadelphia Park and the Office of Enforcement Counsel involving four instances of underage gaming at Philadelphia Park.

The first agreement involves three instances of children under the age of 18 on the gaming floor. Those instances stem from originally an incident

where a five-year-old child was brought onto the gaming floor by his grandfather, remained on the gaming floor for a short period of time before he was discovered by Philadelphia Park.

There are two other instances that are part of that Consent Agreement because they were brought forth in an amended complaint. They involve a four-year-old and a two-year-old. The incidents happened, the first one on March 3rd, 2007, the second on September 16th, 2007 and last on September 24th, 2007.

Philadelphia Park has agreed to enter into a Consent Agreement that those events, in fact, occurred, that it is against our regulations and against the Act to have a person under the age of 18 on the gaming floor at Philadelphia Park.

The Consent Agreement has been submitted for your consideration. It's been signed by Philadelphia Park through counsel and us. The Consent Agreement calls for a fine of \$18,000 payable within five days of approval by the Board and it calls for Philadelphia Park to make a donation to the compulsive and problem gambling treatment fund in the amount of \$3,000 payable within five days of the date of the Board's approval.

I would note that within the Consent Agreement, Philadelphia Park has agreed to make changes in

their security, to reinforce training for underage gaming and they have done that. That is part of the agreement. We have worked with them and it's been a long and involved process to try to get a handle on why we've had underage gaming in Philadelphia Park.

We think they have got a good handle on it. We think that the procedures they have developed and the things that they have done that are listed in the Consent Agreement will go a long way toward making Philadelphia Park a better place and lessening the chances of persons under the age of 18 on the gaming floor and certainly underage gaming.

It has done so. We have looked at the statistics. What they have done, since revamping these procedures, is working and we are happy with it. Now, I mention that because we have a second Consent Agreement involving a 19-year-old who was not just on the gaming floor, but was actually gaming for about an hour.

The 19-year-old male was not noticed originally by Philadelphia Park security guards, got on the gaming floor, gamed for a while and was only found out when he tried to cash a voucher and was asked for identification, didn't have it, admitted he was 19.

I bring that up because that incident happened in October of 2007, just around the same time as

we were having the problems with the smaller children at Philadelphia Park. We were working with Philadelphia Park to develop these new security procedures to help prevent that in the future.

We have entered into that agreement which calls for a donation of \$5,000 to the Board's controlled problem gambling fund. We have entered into that agreement. We ask the Board to ratify that agreement because we want this to be a new beginning for Philadelphia Park.

We have got them with their new security arrangements. We want to finalize the underage gaming problems and we want to say to Philadelphia Park, this is it. Anything beyond this date, you're in serious trouble with underage gaming.

The reason for the fine in the second agreement and the donation of only \$5,000 is simply because it's a different category. We have a 19-year-old rather than toddlers running around on the floor.

CHAIRMAN COLINS: Thank you.

COMMISSIONER GINTY: I don't understand that.

COMMISSIONER SOJKA: You have a couple of us confused. Is it fair to ask a question at this point?

CHAIRMAN COLINS: Sure.

COMMISSIONER SOJKA: It looks like, when you total it up, three toddlers, 18,000 in fines and 3,000 contribution or 21,000 or 7,000 a head for toddlers and 5,000 for a 19-year-old who is actually gambling. It strikes some of us that that might be a reversal of what we would expect.

One looks like a conscious attempt to circumvent the law that people fail to get and the other looks like somebody may have accidentally done something that wasn't caught.

CHAIRMAN COLINS: Could I ask that we put the burden on Philadelphia Park to explain that to us.

MR. DOWNEY: Madam Chair, this is actually a subject that was long discussed with BIE. While I acknowledge Mr. Sojka's consideration of the application of the penalty, BIE made the argument to us -- and, ultimately, it was something that we were willing to get on board with -- that in the instances where we had toddlers on the floor, there were people who were involved, from our security perspective, who had the opportunity in a very obvious context to identify and to stop.

In the context of the 19-year-old, not so. There is a measure of discretion there exercised by the security officers in determining who is appropriate for

carding and who is not appropriate for carding. That's the general basis of the distinction.

COMMISSIONER SOJKA: That does help. It just takes a minute to get it.

CHAIRMAN COLINS: Let's talk about some of these new procedures that you have in place now to keep this from happening again and to be vigilant with respect to underage gaming. What are some of these procedures to give us some assurance that you're doing this?

MR. DOWNEY: Madam Chairman, I'm going to ask Mr. Bonner to address those issues.

MR. BONNER: Madam Chairman and Commissioners, working to a great extent with the Gaming Board on-site and staff, we have substantially revamped our security staffing at the property.

The staffing that we have in place today is approximately 50 percent greater than the staffing that was approved when we initially opened the property.

I think, most importantly, we have added some fixed posts at points that would be possible points through which underage individuals could gain access to the casino. One of these posts came on-line as recently as in the past couple of months, as you have approved incremental slot machine additions to our property.

In addition, we have stepped up the

aggressiveness with which we card individuals who seek to enter the casino. Our standard policy since opening has been that anyone who appears to be under the age of 30 gets carded.

We have continued that but by placing additional security officers at additional posts, we have been able to stop and identify more individuals. A year ago we were probably checking IDs of maybe 12,000 persons a month, which is a large number in and of itself. Last month it was 22,000 and, on average, it's been 17,000 or 18,000. We have significantly stepped up the physical stop and check as people seek to gain admission to the casino.

I think a third comment is we have expanded the heightened awareness among our employee base so that it is not just security officers who are being constantly reminded of the importance of checking ID, but also all other frontline employee contact positions, player services representatives, food and beverage representatives in particular.

That has, in part, led to the increase in the number of IDs that we have been checking because people are being pointed out. So we think the combination of these factors has enabled us to do a better job and to be more vigilant.

There is no question that we do not want underage individuals on the floor. We want no part of that. We think that these measures that we have implemented have shown positive results, as Mr. Miller has indicated.

CHAIRMAN COLINS: Thank you. All right. Anything further?

MR. PITRE: The only thing that I wanted to add, Madam Chair, is that the situation at Philadelphia Park is what I like to refer to as a perfect storm.

You had three things basically that caused Philadelphia Park problems. You had a facility that was not the best facility for a casino. It had a number of entrances, a number of internal stairwells and all those instances had to be addressed in some form or fashion.

You also have the act that allows an individual between the years of 18 and 21 to be on the floor. You also have the location where Philadelphia Park is located which is within walking distance to a large population. It took some time to get the security staffing and the assignments. I wouldn't say it was perfect, but it's as good as it can be right now.

COMMISSIONER GINTY: I might have misunderstood you. You can be 18 and go on the floor?

MR. PITRE: That is correct.

CHAIRMAN COLINS: Yes.

MR. PITRE: You can work on the gaming floor at 18. You can access the gaming floor at 18. You can't gamble. It's one of those things that because 18-year-olds can bet on a race at the racetrack, there's no requirement of the act that keeps 18, 19 and 20-year-olds off the gaming floor.

COMMISSIONER GINTY: Then, quite truthfully, I sympathize a lot more as a result of that than I was prepared to.

MR. MILLER: It's a particular problem for Philadelphia Park because, unlike some of the other casinos such as Harrah's and the other ones where they have one main entrance to go into the gaming floor, there is just a number of them in Philadelphia Park.

COMMISSIONER GINTY: From what I understood, you can go on the gaming floor if you're 18?

MR. MILLER: You can. You certainly can't when you're four or five.

COMMISSIONER GINTY: Well, somebody was asleep on that one. I want to follow this through. You can be under 21 and you can be on that floor?

MR. PITRE: According to the act, that's correct.

COMMISSIONER GINTY: Why are we punishing

them for having 4-year-olds on the floor?

COMMISSIONER SOJKA: Because they are under 18.

COMMISSIONER GINTY: Okay.

COMMISSIONER COY: And they can't reach the machines.

CHAIRMAN COLINS: The 19-year-old was actually gambling.

COMMISSIONER GINTY: What's the law on that?

MR. PETRI: It's somewhere in the act.

CHAIRMAN COLINS: It's specifically in the act and it's in our regulations also.

COMMISSIONER GINTY: You can be 18 and --

CHAIRMAN COLINS: Yes. The reason for that, I was told, was that the Liquor Control Board regulations allow anyone over 18 to serve alcohol, I think. So people can be employed at the casino between the age of 18 and 21. This is just information I have heard. In order to not carve that population out of working at the casinos, the statute allows for them to be on the floor, I think.

COMMISSIONER GINTY: That's crazy.

CHAIRMAN COLINS: If there are no further comments, why don't we have a vote on it.

MR. BONNER: Madam Chairman, just one other comment. By no means are we diverting our attention from this issue. I think, to the contrary, we have indicated how focused we are on it.

However, many of the facility-related problems that have led to these issues will go away when we open our new casino by the end of '09.

There will be only three public entrance points, all of which will be patrolled by security on a 24/7 basis. Now we have over a dozen. So better times are ahead, we believe. But between now and then, we will maintain our vigilance.

COMMISSIONER GINTY: Let me follow this up. The issue isn't the entrance points because if a kid is 18 or 19, he can get on the gaming floor. That might be part of it but it doesn't help you.

MR. BONNER: Our policy today, Commissioner, is that no one under 21 is permitted entrance to the casino.

COMMISSIONER GINTY: You can do that?

MR. BONNER: We, by choice, do that to try to facilitate compliance. Again, if you appear to be 30 or under, we card you just to be sure.

COMMISSIONER GINTY: Okay.

CHAIRMAN COLINS: Thank you. May I have a

motion?

COMMISSIONER COY: We have two.

CHAIRMAN COLINS: Let's go for a motion on the three toddlers. Let's do the first motion, please.

COMMISSIONER GINTY: I got it. Madam Chairman, I move that the Board approve the Consent Agreement submitted by Greenwood Gaming and Entertainment, Inc. for three separate instances involving underage patrons on the gaming floor.

COMMISSIONER COY: Second.

CHAIRMAN COLINS: All in favor?

COMMISSIONERS EN MASSE: Aye.

CHAIRMAN COLINS: Opposed?

(No response.)

CHAIRMAN COLINS: Motion carries. Next motion to approve the next Consent Agreement,

COMMISSIONER MCCABE: Madam Chair, I move that the Board approve the Consent Agreement submitted by Greenwood Gaming and Entertainment, Inc. for underage gambling on the gaming floor.

CHAIRMAN COLINS: May I have a second?

COMMISSIONER GINTY: Second.

CHAIRMAN COLINS: Comment?

COMMISSIONER MCCABE: I have a comment on this one. Because this is for less, I was reluctantly

going to approve it partly because I think we are also at fault for this. I think if we would have aggressively addressed the issue in March when this first happened, these maybe three or four instances may not have happened.

So not only are they maybe at fault, but I think we, as an entity, may be at fault to keep on letting this happen without moving quicker to tell them and let them know we won't accept this. I really think, this being the fourth one, it should be for more money.

But because of all the issues that have been brought up here about them being allowed to be on the gaming floor between and 18 and 20, I also think we would have acted in March, April, May -- it was six months between the March to the September one.

If we would have acted in between there and alerted them that you have a problem and this is what we see as your weaknesses, it may not have happened to them. I just wanted to say that.

I also think I wanted to go on record to say, I think if this happens again, I want the fine to be more than \$5,000.

CHAIRMAN COLINS: In terms of future matters, those things will have to be considered by the Office of Enforcement Counsel and then, when it happens, we will consider it. But I appreciate your thoughts about

that. May I have a vote? All those in favor?

COMMISSIONERS EN MASSE: Aye.

CHAIRMAN COLINS: Opposed?

(No response.)

CHAIRMAN COLINS: Motion carries. Thank you very much. We had advertised that we have public comment. We were going to set aside 15 minutes. If there is anyone who would like to come and make public comment and have signed up in accordance with our procedures -- Doug is shaking his head no.

That being the case, we have no one here for public comment. So now we will adjourn. The next meeting will be July 10th at 11:00 a.m. in the North Office Building, Hearing Room No. 1.

Motion to adjourn, please.

COMMISSIONER ANGELI: So moved.

COMMISSIONER COY: Second.

CHAIRMAN COLINS: We are adjourned. Thank you.

(Meeting concluded at 1:25 p.m.)

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes

taken by me on the within proceedings and that this is a correct transcript of the same.

Shannon L. Manderbach
Notary Public