



COMMONWEALTH CASINO COMMISSION

Commonwealth of the Northern Mariana Islands

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MINUTES July 18, 2019

I. PRELIMINARIES:

A. Call to Order

Chairman Juan Sablan called the meeting to order at 11:05 am on Thursday, July 18, 2019 at the Conference Room located on the 2nd Floor of the Commission's main office at the Springs Plaza in Gualo Rai, Saipan.

B. Roll Call

Commissioners present at the meeting were: Juan M. Sablan (Chairman), Joseph C. Reyes (Vice Chairman), Ramon M. Dela Cruz (Secretary), Alvaro A. Santos (Treasurer) and Diego M. Songao (Public Affairs/Media Relations).

C. Adoption of Agenda

Vice Chairman Reyes made a motion to adopt the agenda, seconded by Commissioner Dela Cruz. The motion was put to a vote and unanimously approved.

II. REPORTS:

A. Report by the Chairman

The Chairman announced that he called this special meeting primarily because of the pending case between IPI and the CCC in the CNMI Superior Court. He noted that it is possible that Judge Govendo will render a decision on the case by July 19, 2019. He announced that the Commission initially presented a settlement offer to IPI which they rejected, and instead returned with a settlement counter offer. The Chairman elaborated that he has reviewed IPI's counter offer which is seeking the Commission's consideration to allow them 120 days to seek the legislature's assistance in amending the law regarding public disclosure. The Chairman acknowledged that IPI's counter offer seems to be reasonable and that should the legislature fail or refuse to amend the law, it will revert to the CNMI Superior Court for its decision. The Chairman commented that it's been over four years, and why is it only now that IPI challenging the law on public disclosure. He asked Counsel Ernest to elaborate further on the case in executive session. The Chairman informed the Commissioners that this meeting is an opportunity for the Commissioners to collectively decide on IPI's counter offer. He would like for IPI's Counsels to brief the Commission on what their counter offer entails.

B. Report by the Acting Executive Director

Mr. Charlie Atalig, Acting Executive Director, announced that the Executive Director is currently on personal leave and is expected to return by July 30th, just in time for the Commission scheduled meeting on July 31st. He noted that he will respectfully defer most of his report until the July 31st regular meeting, so that everyone can focus on the current litigation as noted under New Business.

Mr. Atalig reported that the Chairman received communication from the Saipan Northern Island Legislative Delegation (SNILD) regarding a request for input and recommendations on

House Local Bill 21-23, "A bill for an act to impose a 10% gambling revenue tax in the Third Senatorial District," which will be subject to the SNILD appropriation. He added that he has asked the managers to review the bill and collaboratively compile a draft response.

The Chairman asked that the written response be ready at least two days before the July 31st deadline. Mr. Atalig noted that the response is due within 10 business days from July 17, 2019. He also asked that Commissioners review and submit their individual comments, which will be compiled into a single response. Commissioner Santos suggested requesting an extension on the deadline to allow the Commission to thoroughly review the bill and give it adequate thought before submitting comments. He added that the Commission should not rush to provide comments on this type of bill as it will have large ramifications at the end. Commissioner Dela Cruz noted that one of his comments would be that this act be applicable to all gaming and not just the casino.

- III. PUBLIC COMMENTS -NONE
- IV. MISCELLANEOUS MATTERS - NONE
- V. OLD BUSINESS - NONE
- VI. NEW BUSINESS

A. Civil Action No. 19-0202-CV

The Chairman first shared that the Commission's bill, HB 21-11, which is still with the House, has a provision similar to the Nevada Gaming Law, regarding the release of confidential information. He suggested that it may be necessary to reexamine and polish the proposed bill by referencing the existing law and deleting those provisions that state that the information can be made public. The Chairman commented that HB 21-11 has been four years in the making with the addition of a few components such as the law enforcement authority. He added that initially, the Commission had a very comprehensive bill, but it was eventually trimmed down before the passage of P.L. 19-24, which is why H.B. 21-11 came about. Vice Chairman Reyes encouraged IPI to review HB 21-11 and to make their comments, if they haven't already done so. He also suggested that although Nevada Gaming Law might be a good model, the proposed bill should be more tailored to the needs of our island community.

Vice Chairman Reyes asked Counsel Ernest to brief the Commissioners on the status of the case. Counsel Ernest replied that any discussion that he or Counsel Petersburg would have on the case should be done so in executive session in the absence of the opposing parties.

The Chairman asked Ms. Viola Alepuyo to provide a brief statement to the Commission as to why the special meeting was necessary. He pointed out that there will be no debate or arguments on the matter. Ms. Alepuyo stated that because a counter-offer was made to the Commission as part of settlement, and that the case is still in litigation, she agreed with Counsel Ernest that discussions should occur in executive session until such time a settlement is approved by the court. Once approved, it will then become public, she said. However, she added that if the Commission decides that discussion should not be done in executive session, then they would rather have the discussion in public than not at all.

Counsel Benjamin Petersburg, AAG, who is representing the Commission in this case, stated that the executive session is defined in the Open Government Act as the Commission with Counsel, or just the Commission alone. By having other members of the public in attendance, whether or not it's part of a litigation, would break the confidentiality. He recommended discussions be in public as it will have to be one way or the other. The only other way, he pointed out, would be through closed settlement negotiation in court but because the matter is before a public meeting, then discussions should be in public.

Ms. Alepuyo, with her client's permission, stated that the reasons why settlement discussions are taking place is that not only is it better for litigation, Judge Govendo had encouraged it from the parties. She recognizes that it's actually the Legislature that should decide what the law is and what it isn't. However, she stated that IPI believes that these are very important

issues that deal with constitutional rights and protections, and that IPI's right to due process, that is protected by the Constitution, may have been violated. She explained that her client and affected parties brought the issue before the court for its decision because they want to avoid this from happening in the future.

Ms. Alepuyo reiterated her closing statement in court when she said that her client did not get to the point of filing a TRO because they did not want the CCC to do something or didn't like what the CCC did. She explained that they understand that the CCC was doing what they needed to do pursuant to their interpretation of the law. However, IPI felt that because there is ambiguity in the law, the information contained in financial statements and the confidentiality of such information is unclear, and they needed to be protected. Their objection is not only as it pertains to the financial statements of the years 2015 through 2018, but also moving forward, she stated.

Ms. Alepuyo elaborated that she believes her statement in court made it clear that the 3 types of information they are trying to protect are tax information, confidential information and information about other companies that are not subject to PL 19-24, as they are not the licensee's. She explained that IPI's settlement counter offer is proposing that all parties come up with a way to allow the legislature to make the recommended amendments so that IPI and CCC, along with Imperial Pacific Properties (IPP) and Grand Mariana (GM), can jointly seek the legislature's assistance in making the changes. She divulged that they have already spoken with the leadership of the legislature, as well as the Acting Governor, and that they are in support of an amendment, because they want to make sure that the company's information that are confidential are protected. She added that if the licensee needs to provide information that the CCC needs in order to regulate them, there will be no objections with the CCC receiving the information.

Ms. Alepuyo noted that IPI in good faith wishes to settle, and that they are requesting for 120 days to allow the legislature to settle the budget as it is taking a lot of their time. She added that getting the legislature's assistance would be something very important that they would move forward advocating for. She noted that the 120 days is just a number that they put forward that would allow a cushion, but the CCC may choose to shorten it if it feels necessary. She noted that they are willing to work with all parameters that both parties can agree to, as long as they are reasonable.

Vice Chairman Reyes recalled that the CCC attempted to address this type of issue in H.B. 20-82 but it did not go through as evident in P.L. 19-24. He asked Counsel Ernest if any provision in the proposed H.B. 21-11 would take care of this issue. Counsel Ernest replied yes, and pointed out to Section 12 of H.B. 21-11 which would address this issue. Chairman Sablan shared that he spoke to Speaker BJ Attao to inquire if the 120 days IPI is requesting would be sufficient for the House to address the issue, but the Speaker could not provide a definitive answer as he will need to speak with the other representatives.

Vice Chairman Reyes commented that he himself as a businessman understands and respects people's and corporation's privacy, and also understands the need for transparency in government. However, he questioned whether a compromise between parties would really help the situation as it the case is already in court for its disposition.

Mr. Matt Gregory, Attorney representing Imperial Pacific Properties and Grand Marianas, explained that the two subsidiaries of IPI had financial information that was disclosed to the public which is the issue in this case. He added that his suggestion would be that they are litigating the ambiguity of the current statute in conjunction with the Open Government Act, tax laws and due process. He noted that if the legislature amends the law clarifying the ambiguity, it would provide the parties enough justification for a settlement in the way the situation is treated in the past as opposed to post amendment. He said that if the legislature were to fix the issue through an amendment, the court can approve a preliminary injunction to resolve the issue, and declare that the Commission was following the law which was ambiguous at the time, therefore making it a valid settlement of the current case and moving forward.

Vice Chairman Reyes inquired if the proposed amendment would be retroactive, to which Mr. Gregory replied that it cannot be, but the legislature can say that their prior statute was

ambiguous and that the goal of the new statute is to clear up the ambiguity. He explained that it would then be rational to ask Judge Govendo and possibly the Supreme Court to resolve the ambiguity. Ms. Alepuyo informed the Commission that IPI's position is that there's information in the consolidated financial statement that are indeed subject to public disclosure, however, their opposition is the release of a very few information that are confidential which were redacted and are not available for public viewing. She stressed that although the information is not available for public disclosure, it is and will be available to the CCC as a regulatory agency and any other law enforcement. She noted that everything else already in the CCC's public folder besides item F. is not a problem as the issue at hand is solely the financial statements and nothing more.

Commissioner Dela Cruz inquired what is foreseen to happen if the CCC accepts IPI's counter offer and the legislature fails to amend the law within the 120 days. Ms. Alepuyo replied that the court will then have to issue its decision on the case. Vice Chairman Reyes asked if the CCC will be exposed to any type of liability. Mr. Gregory response is, "not that he can think of." Commissioner Songao shared that he believes that it's important for the licensee to seek the legislature's assistance in clearing the ambiguity in case a similar issue arises in the future.

Chairman Sablan, at this point, excused IPI's representatives from the meeting as further discussions will be taken up in executive session. He informed their counsels that they will be contacted when the CCC reaches a decision or if there's a need for them to return to the meeting.

Commissioner Dela Cruz made a motion to enter into executive session to discuss IPI financial matters and others, and to hear reports from the Commission's Audit Division and Legal Counsel. The motion was seconded by Commissioner Songao and was put to a roll call vote with all Commissioners voting yes. The Chairman announced that the Executive Session will last about one hour. Executive Session began at 11:48 am.

VII. EXECUTIVE SESSION:

- A. IPI Financial Matters
- B. Report by the CCC Audit
- C. Report by the Legal Counsel

Commissioner Dela Cruz made a motion to exit from executive session, seconded by Vice Chairman Reyes. The motion was put to a vote and unanimously approved. Chairman Sablan called the meeting back to order at 12:20 pm.

The Chairman announced that the Commission discussed Civil Action No. 19-0202 CV in detail during executive session, more specifically regarding IPI's settlement counter-offer.

Commissioner Santos made a motion to proceed and wait for the ruling of the court on July 19, 2019, as well as to deny the proposed settlement counter offer by IPI. The motion was seconded by Vice Chairman Reyes, was put to a vote and unanimously approved.

Counsel Petersburg informed the Commissioners that he will convey the outcome of the meeting and the action of the Commission to the Attorney General. Counsel Ernest noted that the decision whether to bring the case to Federal Court or not lies with the Attorney General and not the Commission. Vice Chairman Reyes asked Counsels Ernest and Petersburg if they are ready and prepared to take the case to wherever it has to go. Counsel Ernest informed the Commission that they will do their best.

Commissioner Songao asked Counsel Ernest if H.B. 21-11 has similar verbiage to the Nevada Gaming Law. Counsel Ernest responded that the Commission may want to rethink its position on the matter in light of the lawsuit. He explained that the Commission has been trying for several years to have the law changed to incorporate the Nevada Gaming Law but have been unsuccessful. He elaborated that in the 19th Legislature, the Attorney General instead inserted language similar to the New Jersey gaming law making it apparent that he will fight against any

changes. He shared that in the 20th Legislature, the change from New Jersey to Nevada was inserted which would clamp down on all the information and would take away any of these issues. The proposed bill had a provision that would basically state that nothing could be released to the public. He explained that the bill was unanimously passed by the House with the change relatively unnoticed, passed by enough members in the Senate, then went back to the House with amendments but unfortunately, did not garner enough votes to pass in the lame duck super majority. He pointed out that it's different now because of the attention IPI has brought with the case. Additionally, Counsel Ernest said that there are new members of the House that may see things differently, and he is uncertain that the change from New Jersey to Nevada would be acceptable to the Gaming Committee, the rest of the members of the House, and the Attorney General. He stressed that if the Commission were to take a position to make the changes now, it will most certainly take a publicity hit. He announced that he will continue to ask for the passage of H.B. 21-11 until the Commission instructs him otherwise. He shared that the Attorney General has instructed him to cease discussions with the legislature about the change as referenced in Section 12 of H.B. 21-11. However, he stated that he will do as the Commission asks, and noted that it will be a political decision that the Commission has to make in taking a position on the matter.

Commissioner Santos made a motion to recess until tomorrow, July 19, 2019 at 10:00 am, seconded by Commissioner Dela Cruz. The motion was put to a vote and unanimously approved. Recess was called by the Chairman at 12:28 pm.

Chairman Juan Sablan called the meeting back to order at 10:14 am on Friday, July 19, 2019 at the Conference Room located on the 2nd Floor of the Commission's main office at the Springs Plaza in Gualo Rai, Saipan. All Commissioners were present.

Commissioner Dela Cruz made a motion to enter into executive session to receive IPI's report, as well as a report from the Legal Counsel. The motion was seconded by Commissioner Songao, and was put to a roll call vote with all voting yes. Executive session began at 10:15 am.

Commissioner Dela Cruz made a motion to exit from executive session, seconded by Vice Chairman Reyes. The motion was put to a vote and unanimously approved. Chairman Sablan called the meeting back to regular session at 11:02 am on Friday, July 19, 2019.

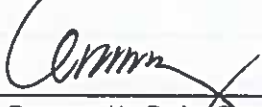
VIII. ADJOURNMENT

Commissioner Santos made a motion to adjourn the meeting, seconded by Commissioner Songao. The motion was put to a vote and unanimously approved. Meeting was adjourned at 11:05 am on Friday, July 19, 2019.

Prepared by:  Date: 7/15/19
Elicia San Nicolas, Executive Secretary

And  Date: 07/15/19
Ruth Ann P. Sakisat, Executive Assistant

APPROVED AND ADOPTED ON: 28th day of August, 2019.

 Date: 08/28/19
Ramon M. Dela Cruz
Commission Secretary