

Minutes of the Regular Meeting of the Board of Commissioners of the Lake Charles Harbor and Terminal District held at 3:00 P.M., Friday, April 8, 2011, in the Board Room of the Port of Lake Charles located at 150 Marine Street, Lake Charles, Louisiana.

In attendance and constituting a quorum, were:

- C. Wade Shaddock, Jr, President
- Walt M. Sanchez, Vice President
- Harry C. Hank, Secretary/Treasurer
- Kay C. Barnett, Assistant Secretary/Treasurer
- Elcie J. Guillory, Commissioner

Absent:

- John LeBlanc, Commissioner

Also Present:

- Bill Rase, Port Director
- Michael K. Dees, General Counsel
- Richert Self, Director of Administration and Finance
- Dan Loughney Lee, Creative Casinos, LLC
- John Pohorelsky
- Kirk England, Creative Casinos, LLC
- Billy Rimes
- Michelle Bolen, Executive Administrative Assistant

Mr. Shaddock called the meeting to order at 3:00 P.M. and asked Mr. Guillory to give the invocation. Mr. Hank led the Board and audience in the Pledge of Allegiance.

Mr. Shaddock made a statement reminding the Public of the Port's procedure for the Public to address an agenda item to the Board.

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1. Discussion and appropriate action concerning Discussion and appropriate action concerning Creative Casinos and Pinnacle, Inc. port property, lease and option to lease issues.
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Mr. Shaddock asked Mr. Rase to discuss the details of the issues concerning any possible action with Creative Casinos and Pinnacle, Inc.

Mr. Rase stated the Port, Creative Casinos and Pinnacle have been at odds with each other over the coming of Mojito Pointe. They have been working hard to come to some agreements to take care of everyone's concerns. This Resolution asks the Board to give them some more time to try to make that happen before the Port takes

any action in one direction or the other. Mr. Rase asked Mr. Dees to read the Resolution.

Mr. Dees read the Resolution 2011 – 019:

“A Resolution authorizing the Port Director to take certain actions relating to the leasing of property to PNK (Lake Charles), LLC or Pinnacle Entertainment, Inc. or Creative Casinos, LLC; authorizing notice to end the lease of a portion of the property currently leased to PNK (Lake Charles), LLC.

WHEREAS, in 2007, the Lake Charles Harbor and Terminal District (“District”) entered into a Ground Lease Agreement with PNK (Lake Charles), LLC and Pinnacle Entertainment, Inc. (collectively referred to as “Pinnacle”) for development of the Sugarcane Bay (“SCB”) gaming resort project, as described before the Louisiana Gaming Control Board at its meeting on August 15, 2006, on approximately 230 acres of property adjacent to L’Auberge du Lac Hotel & Casino (the “Property”); and

WHEREAS, in April 2010, after numerous promises to the contrary made to both the District and the Gaming Control Board, Pinnacle announced that the SCB resort development was being cancelled and that the gaming license issued by the Gaming Control Board for the SCB project was being returned to the Gaming Control Board; and

WHEREAS, subsequently, the Gaming Control Board announced that it would receive, through September 23, 2010, applications from interested parties for possible reissuance of the returned license; and

WHEREAS, on September 17, 2010, the District entered into a Non-Exclusive Conditional Real Estate Lease Option Agreement with Creative Casinos, LLC (“Creative”) for the development of Mojito Pointe gaming resort on the same site as Sugarcane Bay was proposed and the conceptual plans for such development have been publicly available to any concerned person, including Pinnacle since such date; and

WHEREAS, Pinnacle commenced filing suits against the District and Dan Lee, the principal owner of Creative, in a meritless effort to block or delay the approving action of the Gaming Control Board and the development of the competitive Mojito Pointe gaming resort; and

WHEREAS, on February 17, 2011 the Gaming Control Board awarded the available gaming license voluntarily given up by Pinnacle to Creative and established a required completion deadline for Mojito Pointe twenty-four months after commencement of construction as outlined in the Statement of Conditions to Riverboat Gaming License of Creative Casinos of Louisiana, LLC by the Gaming Control Board on February 17, 2011; and

WHEREAS, Pinnacle as well as Creative have asked the District to lease to each entity the entire 15-acre parking lot area formerly part of the Sugarcane Bay lease but currently under a temporary month-to-month lease with Pinnacle; and

WHEREAS, Pinnacle has expressed concerns about the placement of the planned Mojito Pointe gaming resort improvements and possible impacts to the operations of L'Auberge du Lac Hotel & Casino by the construction and operation of the Mojito Pointe gaming resort project; and

WHEREAS, the District specifically finds and concludes that the Mojito Pointe gaming resort is not an incompatible use with the adjacent L'Auberge gaming resort, particularly in light of the fact that it is the same use as proposed by PNK and Pinnacle for the Sugarcane Bay project, and, further, that the Mojito Pointe gaming resort will have no unreasonable negative operational impacts on the L'Auberge du Lac Hotel & Casino operations. Further, any possible concerns of PNK and Pinnacle about such possible negative effects can be satisfactorily addressed through landscaping and other mitigating design features based upon the review and recommendations of an independent architect and subsequent plan, particularly in light of the planned significant distance between the structures of each gaming resort.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE LAKE CHARLES HARBOR AND TERMINAL DISTRICT IN SPECIAL SESSION CONVENED THAT:

Section 1: All of the foregoing introductory provisions are hereby made a part of this Resolution and the Board of Commissioners of the Lake Charles Harbor & Terminal District does hereby authorize the Port Director to negotiate and execute, on terms and conditions deemed appropriate, an amendment to the Non-Exclusive Conditional Real Estate Lease Option Agreement with Creative or its subsidiaries or parent entities or successors that includes all or a portion of the 15+/- acre parking lot currently leased on a month-to-month temporary basis to PNK (Lake Charles), Inc. ("PNK") and provide for the termination, at a future date to be set by the Port Director, of this month-to-month lease between PNK and the Port of such parking lot area. The amendment may include provisions requiring Creative or its subsidiaries or parent entities or successors to construct its facilities a minimum of 300 feet from any currently existing Pinnacle/L'Auberge facility and require Creative, at its cost, to reasonably mitigate, by landscaping or other barriers, any noise, smell, and view issues which, based upon an independent architectural study commissioned by the Port and at the cost of Creative or related entities, may negatively impact operations at L'Auberge.

Additionally or alternatively, the Port Director is authorized to negotiate and execute, on terms and conditions deemed appropriate, an Amendment

Number Three (3) to the Ground Lease Agreement with PNK (Lake Charles), LLC effective August 19, 2002 that includes all or a portion of the 15+/- acre parking lot currently leased on a month-to-month temporary basis to PNK (Lake Charles), Inc. ("PNK"). Further, the Port Director may provide for the termination, at a future date to be set by the Port Director, of the month-to-month parking lot lease between PNK and the Port of such parking lot area. Additionally or alternatively, the Port Director may chose not to lease the 15 +/- parking lot either PNK or Pinnacle or Creative Casinos, LLC and undertake solicitation of another type of compatible development for this District property.

Section 2: Further, the Board of Commissioners of the Lake Charles Harbor & Terminal District does hereby authorize the Port Director to lease or, subject to applicable law, sell the 5+/- acre parcel north of SAM's Club to either Creative or PNK or other interested parties on terms and conditions deemed in the best interest of the District, if the Port Director deems a sale or lease appropriate.

Section 3: Further, any agreements with PNK or Pinnacle authorized above are conditioned upon Pinnacle dismissing with prejudice all litigation claims currently pending against the District and Dan Lee, all of which, in the view of the Board of Commissioners, are meant only to obstruct and delay the Mojito Pointe gaming resort project and Pinnacle paying the District \$9.8 million (subject to a credit for the \$5.0 million previously paid) in liquidated damages under the terms and conditions set forth in the Sugarcane Bay lease which is now dissolved.

Section 4: Further, the Board of Commissioners of the Lake Charles Harbor & Terminal District does hereby authorize the Port Director to give notice of and terminate, at a time to be determined by the Port Director, the property outlined in Exhibits "B" and "B-1" of Amendment Number One to Ground Lease Agreement between PNK (Lake Charles), Inc. entered into on May 27, 2005.

Section 5: Further, the Board of Commissioners of the Lake Charles Harbor & Terminal District does hereby authorize the Port Director to continue to work cooperatively with both Creative and Pinnacle in seeking a resolution of any and all development issues relating to the Mojito Pointe gaming resort project and any reasonable operational impact such development may have on the operations of the L'Auberge du Lac Hotel & Casino.

THUS PASSED AND ADOPTED at Lake Charles, Louisiana, on this 8<sup>th</sup> day of April, 2011.

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C. W. SHADDOCK, JR., President

I HEREBY CERTIFY that the above and foregoing is a true and correct copy of a Resolution adopted by the Board of Commissioners of the Lake Charles

Harbor & Terminal District in special session convened on the 8<sup>th</sup> day of April, 2011.

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H. C. HANK, Secretary/Treasurer"

Mr. Dees stated it is the recommendation of the staff that the Board approve the Resolution.

Mr. Shaddock stated the Board is here today to authorize the Port Director to continue taking certain actions. He knows Mr. Rase and Mr. Dees have met with PNK and Creative Casinos and Creative and PNK have met together and there has been considerable amount of progress but believes there are still several minor points such as the parking lot to 15 acres, the placement of the buildings, architectural work, roads and another 5 acres that need to be worked.

Mr. Shaddock called on Mr. Dan Lee, Creative Casinos, to address the Board. Mr. Shaddock asked Mr. Lee that since the Board is here specifically for this Resolution, why he is here and what his objective is with them today.

Mr. Dan Lee, Managing Partner of Creative Casinos, handed out a presentation to the Board. He stated he was here because they are ready to start surveying the land and start geotechnical work and so on. It occurred to them that they need to know precisely where the casino is going to go so they can have the surveyors out there and geotechnical work done. They would like to have a decision on the 15 acres that is in between. They would like, and it would be helpful to them, to have the area where Sugarcane Bay was previously. It would be easier to get permits. It happens to be of a stronger soil so it will be easier for them to build there. The golf course is a little short on the acreage and they would like to have a sufficient golf course. So if they have some acreage to move the building over and that moves the driveway over then that adds about 24 acres to the golf course.

There was discussion on whether the buildings would be too close together so they did an analysis. Mr. Lee referred to the presentation.

He stated from the first slide showing the distances if you add the 15 acres onto their lease. The two buildings at the closest point would be 445 feet. From front door to front door is approximately 1,850 feet. Their intentions are to build a riverwalk. They can only build to their property line. L'auberge would have to build theirs to their property line. If they do not, they will have to explain to their customers why they do not have a sidewalk for them. This would be about 1,350 feet distance. Ideally, he would put the two buildings even closer together. Four hundred and forty-five feet, when you put that into perspective (slide #2), slide #2 shows Tiger Stadium with the football field being 300 feet but from scoreboard to scoreboard it is 762 feet. Three hundred feet is a football field.

Slide #3 shows that you could put Tiger Stadium in the area. Mr. Lee said they are talking about them trying to put this too close together. He thinks they are too far apart. He would like to get closer. These are not that close if you can put Tiger Stadium between the buildings.

Slide #4 shows Tunica, MS casinos. They are a similar in gaming. They are in a very rural area. The most successful casinos in Tunica are the Horseshoe, which is owned by Harrah's and the Goldstrike which is owned by MGM. The third one is Roadhouse which is also run by Harrahs. They kind of run it as an annex of the Horseshoe. These are not the closest casinos to Memphis. You drive past others to get there. But they are the most successful casinos in Tunica precisely because they form this cluster so it is easy to walk from one to another. The Horseshoe and Goldstrike from door to door is 145 feet. From front door to front door is 660 feet. They intentionally built them close together and it has worked well because people walk from one to another. The service yard of the Goldstrike is in back facing the river and the trucks drive through between them and the Horseshoe. This 145 feet is actually a service road that services Goldstrike and the back of the house for the Horseshoe. You are actually crossing the service road and they tuck those casinos in tongue and groove as closely as they can get.

Slide #5 shows Atlantic City, NJ. The casinos are boom, boom, boom – Bally's, Caesars and Trump right along the boardwalk. There is 100 feet apart between Trump and Caesars and 430 feet from the pool at Caesars and Bally's door to door. That is from the edge of building to edge of building. They are not walking edge to building to edge to building. In their case it would be roughly here to here. But the idea that they are too close together is a little bit laughable. In Atlantic City, interestingly enough, the cars come in from above and this is the boardwalk along the ocean, which is not dissimilar to the riverwalk he is talking about.

Slide #6 shows Laughlin, NV. Again the casinos are right next to each other. This is 185 feet from side door to side door, for example, between the Aquarius and the Edgewater. But people do not walk from front door to front door, which is 1900 feet, which is approximately what they would have for them here. There is a boardwalk along the river.

Slide #7 shows Las Vegas, NV. In Las Vegas Excalibur, Luxor and Mandalay Bay have a 650 foot pedestrian walkway from Mandalay Bay to Luxor and 410 feet walkway from Luxor to Excalibur. If you go front door to front door it is 1,350 feet from Mandalay Bay to Luxor and 1,800 feet from Luxor to Excalibur – almost exactly what they have been talking about. These are much bigger hotels. The Excalibur has 4,000 rooms, the Luxor has 4,500 rooms and the Mandalay Bay has 4,000 rooms. These are huge buildings located about the same distance apart as what he is proposing between the two here.

Slide #7 shows Paris and Bally's in Las Vegas. They are 150 feet apart with a walkway connection. If you go front door to front door it is 1,050 feet. He wanted to show this for another reason. Bally's pool is close to the Paris' loading docks and

their own loading docks. It is screened and there is landscaping and you would never know the pool was that close to those loading docks.

Slide #9 shows Treasure Island and the Mirage in Las Vegas. It is 1,300 feet from door to door. There is a monorail that connects them as well. People do walk the sidewalks there but notice how they are tongue and grooved. Ideally he would like to go that way here but he cannot. There is a lot of synergy in having them close together and yet not be that close.

Mr. Shaddock asked Mr. Lee if he was finished. Mr. Lee stated he wanted to make the point that they are trying to get going on this. They are trying to get a resolution on this. He cannot drag this on very long. At this point every week they put this off they are adding a week to the opening date. They need to get going on this.

Mr. Dees asked to have the presentation to be part of the minutes. Mr. Sanchez offered a motion to include the presentation in the minutes. Ms. Barnett seconded the motion and it carried unanimously. The presentation is included after the minutes.

Mr. Hank stated he wanted to thank Mr. Lee for his presentation and also encourage the Port Director to move this along as Mr. Lee has requested. He feels like Pinnacle has already caused them to lose time that was not necessary to lose. He knows it is written in the Resolution but he wanted to second the fact that in the view of the Commissioners that this has been obstruction and delay of this project and they frankly are a little tired of it. They would like to get things moving.

Mr. Rase stated he understands and they will make all the effort to conclude this week. If they cannot, they will have to do what the Port seems best for the Port.

Mr. Sanchez stated he thinks this Board has been impressed with the level of commitment and the work that has been done by Mr. Lee and Creative Casinos and trying to make this project a reality and the existing relationship with L'auberge. He wants to honor those commitments to the letter. But if this litigation continues and if they continue to try to delay this, he just wants to make sure this Board does not go beyond their obligations to L'auberge or Pinnacle other than what the Port is already contractually bound. Their request for accommodation in light of their action seems to be unreasonable and he wants to do everything they can to facilitate the project they have in front of them that will fulfill what they always planned for that property. This was originally planned as a dual project with first class, world class facilities and he wants to see that happen. He does not want this litigation or this Resolution to be used to slow that down anymore. He wants to make sure that unless this litigation is dropped by Pinnacle, that they do not extend any lease on this property at all.

Mr. Rase stated he understood.

Mr. Shaddock stated they do appreciate the work everyone has done. It has been quite distasteful. He is hoping the two parties will settle this between themselves but if they cannot the Port has this Resolution authorizing the Port Director to go ahead.

There are certain steps that if they are not able to conclude an agreement that the Port can take. He hopes they do not get to that. It is a great economic development project that they hope to be a destination resort. He hopes it all works out. Finally, he thinks there should be some kind of time limit on this. He did not think that was in the Resolution. It has been quite a while.

Mr. Rase stated he did not mind if they wanted to set a time limit now.

Mr. Sanchez asked Mr. Rase what he suggested for a time frame. Mr. Rase stated he thought next Friday would be good – April 15, 2011.

Mr. Shaddock asked if it should be put into the Resolution. Mr. Dees stated it did not need to be.

Mr. Dees also stated that they do understand the Board's frustration. They have been as frustrated and hope they can get it worked out. He has been around so long and would like to point out that they have worked with Pinnacle and the successor corporate entity, Hollywood Casinos, since 1997, so they are going on fourteen years or so. The Port has made every accommodation, met every request used their expropriation powers, negotiated endlessly with the City and Parish and have done everything they have asked except one thing. Mr. Lee asked that the Port never put gaming next door to L'auberge. The Port told him no. He is grateful the Port did that today. It has always been envisioned that there would be another casino. At the time L'auberge was built that was the last license, but they figured at some point in the future another casino would be available and this site was God made for this type of development. He hopes things can get worked out and the two thousand jobs will be created and all of the impact to the area will happen.

Mr. Shaddock stated this has been very frustrating for everyone and they do not want to take sides on this but there are a lot of jobs that are hanging in the balance and things need to get done for economic development and so forth. They have been good partners with what is there and want to continue with both and be a destination resort and hopefully all three can work together for the betterment of the community and certainly it goes beyond Lake Charles and Southwest Louisiana to the entire state and beyond.

Ms. Barnett asked what the objection is to putting a date on the Resolution. Mr. Dees stated there is no objection. Ms. Barnett stated it would be a stronger message from them as a Commission. Mr. Dees suggested they say "no later than April 15, 2011." Mr. Rase might determine that next Wednesday might be the day.

Mr. Dees asked if a motion to adopt the Resolution was on the table. Mr. Sanchez stated there has not been one.

Mr. Sanchez offered a motion to adopt Resolution 2011 - 019 as written at present and read by Mr. Dees, authorizing the Port Director to take certain actions relating to the leasing of property to PNK (Lake Charles), LLC or Pinnacle Entertainment, Inc. or

Creative Casinos, LLC; authorizing notice to end the lease of a portion of the property currently leased to PNK (Lake Charles), LLC. Mr. Hank seconded the motion.

Ms. Barnett offered an amendment to Resolution 2011 – 019 the words “no later than Friday, April 15, 2011” to the end of the original Resolution. Mr. Sanchez seconded the motion.

Mr. Guillory asked that they want to expedite this as quickly as they can, however, they do not want to lock in to a point where in case they cannot do it by next Friday, hopefully it can be done by then, but if it takes a little longer than that he hopes this does not lock the Port Director into something.

Mr. Shaddock stated Mr. Rase could let the Board know prior to April 15. Mr. Rase stated he could come back to the Board but thought they needed to really make April 15 the goal. They need to live by it.

Mr. Sanchez stated either the litigation will be dropped by Pinnacle before then or it will not. He thinks that is the key thing from the Board’s perspective, if it is not, then they want to move forward to take whatever steps they need to do to make this project a reality and proceed from that point.

Mr. Shaddock recognized Mr. Lee to address the Board.

Mr. Lee stated they have a time schedule they have to live up to and at some point if they keep putting them off they will just have to say they will build in another area further away. That would be a shame. If it becomes two weeks, three weeks, then there comes a time then they will have to go and start surveying the other land they have.

Mr. Shaddock asked for a vote on Resolution 2011 – 019 to read: A Resolution authorizing the Port Director to take certain actions relating to the leasing of property to PNK (Lake Charles), LLC or Pinnacle Entertainment, Inc. or Creative Casinos, LLC; authorizing notice to end the lease of a portion of the property currently leased to PNK (Lake Charles), LLC no later than April 15, 2011.

The motion passed unanimously.

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2. Executive Session.  
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Mr. Shaddock asked for a motion to enter into Executive Session to discuss the following item:

- a. PNK (Lake Charles), LLC vs. Lake Charles Harbor and Terminal District; 14<sup>th</sup> Judicial District Court; Parish of Calcasieu; State of Louisiana, Case No. : 2010-5508; Division: A

Mr. Dees stated there was no need to enter into Executive Session.

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- 3. Other Matters which may properly come before the Board.
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There being no further business to come before the Board, Mr. Shaddock asked for a motion to adjourn. Mr. Hank offered a motion to adjourn. Ms. Barnett seconded the motion and it carried unanimously. The meeting adjourned at 3:34 p.m.

All discussions held on the above items were recorded on Compact Disc Number 1, and filed in the Executive Offices of the District.

Please note that when the votes are shown as unanimous, it is the policy of the Board that the President does not vote except in the event of a tie vote by the rest of the Board and/or unless otherwise indicated.

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C. W. Shaddock, Jr., President

ATTEST:

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H. C. Hank, Secretary/ Treasurer