

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Steven Brunk at 1:40 p.m. on March 14, 2011, in Room 346-S of the Capitol.

All members were present except:

Representative Fund – excused
Representative Huebert – excused
Representative Peterson – excused

Committee staff present:

Mike Heim, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Julian Efird, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Stephen Bainum, Committee Assistant

Conferees appearing before the Committee:

Representative Lance Kinzer
Dave Heinemann, Stand up for Kansas
Tricia Meyer, Sumner County
Graham Hamilton, Sumner County
Ron Swihart, Sumner County
Barbara Zimmerman, Sedgwick County
Dusty Tavares, City of Mulvane
Paul Sutherland, Sumner County
Randy Miller, Sumner County
Charla Hamilton, Sumner County
Representative Pete DeGraaf

Others attending:

See attached list.

The Chairman introduced a bill concerning changing the number of counties. It was received without exception.

The Chairman opened the hearing on **HR 6015 Resolution; requiring the Attorney General to bring suit to test constitutionality of a provision of Kansas Expanded Lottery Act.**

Mike Heim presented an amendment to **HR 6015 (Attachment 1).**

Representative Kinzer presented testimony as a proponent of **HR 6015 (Attachment 2).** Kansas law recognized the authority of the legislator to direct the Attorney General to bring litigation with respect to issues of public concern. This resolution asks the Attorney General to seek a judicial determination on the contract with Peninsula Gaming. Representative Brunk asked about the time frame. Is it appropriate to include a time frame? Representative Kinzer said that the statute does not specify a time frame in which the Attorney General must act. Representative Loganbill ask for an explanation of “to determine under what authority the gaming facility management contract with Peninsula Gaming was approved” from page 3, lines 24-25. Representative Kinzer said that that goes to the issue of the statutory requirement that says that a contract will not be entered into until such time as all local planning and zoning requirements have been fulfilled. They did not have authority to enter into a contract at the time that they did because those conditions were not met.

Dave Heinemann, Stand Up for Kansas, presented testimony as a proponent of **HR 6015 (Attachment 3).** He said that the county in which the casino was to be located did not have a binding resolution. He said that 82% of Mulvane registered voters live in Sedgwick County. In the 2007 referendum in Sedgwick County, 61% of these voters voted no on a casino. The devious, snaking, string annexation approach used by the City of Mulvane to annex land for the casino violates the intent of Kansas law. The City of Mulvane had not completed casino planning and zoning, as required by K.S.A. 74-8734(o), when the

CONTINUATION SHEET

The minutes of the House Federal and State Affairs Committee at 1:40 p.m. on March 14, 2011, in Room 346-S of the Capitol.

executive director of the Lottery signed the contract. Representative Loganbill asked why two different percentages were given. Dave said the 61% was the percent of Mulvane citizens who lived in Sedgwick County and voted against the casino. The 56% represents all the voters in Sedgwick County who were opposed to the casino in the 2007 county-wide casino referendum.

Tricia Meyer, Sumner County, presented testimony as a proponent of **HR 6015** ([Attachment 4](#)). She said that the planning and zoning for the Sumner County lottery gaming facility were improperly rushed through with little concern for the community.

Graham Hamilton, Sumner County, presented testimony as a proponent of **HR 6015** ([Attachment 5](#)). He said that due to the state entering into contract with Peninsula gaming before the zoning details were complete, we believe that key provisions of the Expanded Lottery Act have been compromised.

Ron Swihart, Sumner County presented testimony as a proponent of **HR 6015** ([Attachment 6](#)). He said that since the City of Mulvane has taken over the planning and zoning, plans for water, traffic and sewer are still being developed without public input.

Barbara Zimmerman, Sedgwick County, presented testimony as a proponent of **HR 6015** ([Attachment 7](#)). She said that Sedgwick County has had no input in the question of the casino. Drainage and traffic are a problem at the location. The City of Mulvane is totally disregarding the voice of the taxpayers and citizens, favoring the casino and the promise of revenue.

Dusty Tavares, City of Mulvane, presented testimony as a proponent of **HR 6015** ([Attachment 8](#)). She said that the infrastructure was still, as we speak, not in place. Water lines, electrical lines, sewer lines, EMS services and traffic control have not been presented or determined. This is the case even though the PUD has been approved by the Mulvane City Council.

Paul Sutherland, Sumner County, presented testimony as a proponent of **HR 6015** ([Attachment 9](#)). He said that he had attended the planning meetings of Sumner County and the City of Mulvane and they have been flawed and have repeatedly violated state law.

Randy Miller, Sumner County, presented testimony as a proponent of **HR 6015** ([Attachment 10](#)). He said that the plans put forward by the City of Mulvane are not even close to the plans that were put forward to the Gaming Commission.

Charla Hamilton, Sumner County, presented testimony as a proponent of **HR 6015** ([Attachment 11](#)). She said that her family had been left without representation in a matter that greatly affects our welfare and safety. Our Representatives have a constitutional duty to represent the people in their district. The Sumner County Commissioners attempted to exercise that duty by refusing to endorse the casino at exit 33. The City of Mulvane, by use of a devious snake annexation, controls the land adjacent to my subdivision and endorsed a casino 1000 feet from my home. Since we are not in the City of Mulvane the City Council has no concern for our opinions. The State of Kansas by citing the Kansas Expanded Lottery Act and Attorney General Six in his opinion of April 16, 2008 have denied my constitutional right to representation. My elected state representative will be given a class A misdemeanor if he attempts to perform his legislative duties.

Representative Pete DeGraaf presented testimony as a proponent of **HR 6015** ([Attachment 12](#)). He was concerned that the rule of law was not being enforced. Rather, big money and out of state attorneys have convinced local city and county planners to stretch and bend our rules to accomplish their objectives. It is unfortunate that Kansas is the only State in the Union to own and operate gambling establishments. Our regulators and even the AG office find themselves in an inherent conflict of interest. Instead of State agencies being in a position to protect the public, the State is now a partner with those who profit from the abuses that casinos bring.

Representative Holmes asked what was the result of the hearing on the snake annexation. Pete said that we spoke clearly that the intent of our annexation laws were absolutely disregarded by the Mulvane annexation. Representative O'Hara said that she understood that the city that annexes must provide services. How can they possibly provide services to a 100 foot swath of property? If they do not provide

CONTINUATION SHEET

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services within the time frame the annexation can be challenged. Representative O'Hara thought that in unincorporated areas it was 1000 feet rather than 100 feet. Mulvane declared that since they were a city they were only required to be 100 feet.

The following provided written only testimony as proponents of **HR 6015**.

Joan F. Storck, Salem Township ([Attachment 13](#)).

Jeanne Hall, City of Mulvane ([Attachment 14](#)).

Thomas and Verlene Griffin, Sumner County ([Attachment 15](#)).

Jean M. Laymon, Sumner County ([Attachment 16](#)).

Kristy Sutherland, Sumner County ([Attachment 17](#)).

The following presented testimony as opponents of **HR 6015**.

J. T. Klaus, City Attorney, City of Mulvane ([Attachment 18](#)).

Peninsula Gaming, Kansas Star Casino, LLC ([Attachment 19](#)).

Janis Hellard, Director, Sumner County Economic Development Commission ([Attachment 20](#)).

Representative O'Hara asked if the casino had been given any tax abatement? Ed Van Petten, Executive Director, Kansas Lottery said no, they have not been given a tax abatement. I will stand for any questions.

Representative Loganbill asked for an overview of how the whole process worked. Ed said he could give a minute and a half overview and more later. He said the Lottery is charged with setting forth the application guidelines. Various applicants then apply to the Kansas Lottery. The Lottery is charged with negotiating the best contract they can with each of the applicants. Every applicant is entitled to negotiate a contract. All contracts go before the Kansas Lottery Gaming Facility Review Board. That board is charged with determining the best of those contracts and approves one of those contracts. The Racing and Gaming Commission is charged with backgrounding and final approval. Once that final approval is final the contract is final.

Representative Seiwert asked in view of all the complaints from the people who live close to the casino, why did they pick this location, why did they not go down the road a little farther and find an area that was a mile from anybodies house? Ed said he would have no idea how to answer that. It is beyond the purview of the Lottery.

Representative Jim Howell, representing the City of Derby said that he was warned not to get involved with the casino. The only thing he has done is written letters to the new Attorney General and earlier to Attorney General Six. Our current Attorney General is reviewing the opinion of Attorney General Six and so far has not reached a conclusion. Right now we are in a kind of limbo and in the meantime the builders are operating, so I am concerned and want you to move this legislation favorably.

The hearing on **HR 6015** was closed.

The next meeting is scheduled for March 15, 2011.

The meeting was adjourned at 3:06 p.m.

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

3/14/11

ROOM 346-S

NAME	REPRESENTING
Steve Bradt	Ks. Craft Brewers Guild
Thomas C. Griffin	Sumner Co. Property Owners
Verlene Griffin	Sumner Co. Property Owners
Tricia Meyer	myself - Sumner Co. Property Owner
Dusty Tanares	myself - resident of Mulvane, Ks.
Linda Houser	Sumner Co. Property Owner
Jeanne Hall	myself - mulvane Property Owner
Karen Debraaf	Spouse
Dorothy Mills	resident Mulvane, Kans.
Patrick Skerley	Peninsula Janitor
Randall Miller	Sumner County Property Owner
Rebecca Ott	Sedgewick County Property Owner
Graham Hamilton	Sumner County Property Owner
Charla Hamilton	Sumner County Property Owner
Ron Ewbank	Sumner County Property Owner
Paul Sutherland	Sumner County property owner
Rachel Whitten	Kansas Reporter
Todd Fertig	Wichita Eagle
Kathleen Schler Lippert	KSBHA

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

3/14/11

ROOM 346-S

NAME	REPRESENTING
TED HENRY	CS
MARTHA GABEHART	KCDC
Joe Mosimann	PMCA of KS
Jim May	Peninsula Group
Ray Damm	" "
John A. Linegar	" "
[Signature]	" "
Wendy Dugger	KTA
MIKE Taylor	UNITED Government
Zac Kohl	Federica Consulting
Tom Burgess	ICAT
Berend Kops	Hain Law Firm
Jeff Botterby	Polshoff Shaght
John C. Botterby	KS ENTERTAINMENT
And Holloman	SELF
Buck Chantz	self
A June Horst	self
Priscilla Miller	self
Dupe Viles	self

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

3/14/18

ROOM 346-S

[illegible]

House Resolution No. 6015

By Committee on Federal and State Affairs

3-9

1 A RESOLUTION requesting that the Attorney General bring an action in
2 quo warranto in a court of competent jurisdiction against the Kansas
3 Racing and Gaming commission and its members, the Kansas Lottery
4 Commission and its members and the Kansas Lottery Gaming Facility
5 Review Board and its members and challenging the constitutionality
6 of K.S.A. 74-8762(e) and such other claims as the Attorney General
7 may deem warranted under the circumstances.

directing

2010 Supp.

8 WHEREAS, In 2010, Peninsula Gaming Partners LLC and Global
9 Gaming KS LLC submitted proposals to the Kansas Lottery Commission
10 for developing and managing a lottery gaming facility in Sumner County;
11 and

12 WHEREAS, In a meeting on September 8, 2010, the Kansas Lottery
13 Commission approved lottery gaming facility management contracts with
14 Peninsula Gaming and Global Gaming for a casino in Sumner County,
15 provided the companies received local planning and zoning approvals;
16 and

17 WHEREAS, In October, 2010, a special prosecutor for the state of
18 Iowa charged Peninsula Gaming Partners LLC and two executives of the
19 company, the chief executive officer and the chief operating officer, with
20 illegally funneling \$25,000 in contributions through a third party to the
21 re-election campaign of a candidate for governor; and

22 WHEREAS, The trial of this matter is scheduled to begin in June,
23 2011, in Iowa; and

24 WHEREAS, In a meeting on December 15, 2010, the Kansas Lottery
25 Gaming Facility Review Board selected Peninsula Gaming as the
26 developer and manager of the casino in Sumner County; and

27 WHEREAS, In a meeting on January 14, 2011, the Kansas Racing and
28 Gaming Commission approved the background checks of Peninsula
29 Gaming key officials and approved the casino development and
30 management contract with the company; and

. 2010 Supp.

31 WHEREAS, The Kansas Expanded Lottery Act (K.S.A. 74-8733 et.
32 seq.) was enacted with the specific requirement in K.S.A. 74-8734 that
33 the Kansas Lottery Commission "adopt standards to promote the integrity
34 of gaming and finances of lottery gaming facilities, which shall apply to
all management contracts, shall meet or exceed industry standards for

2010 Supp.

House Fed & State Affairs

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Attachment 1

1 monitoring and controlling the gaming and finances of gaming facilities
2 and shall give the executive director sufficient authority to monitor and
3 control the gaming operations and to ensure its integrity and security”;
4 and

5 WHEREAS, The Kansas Expanded Lottery Act (K.S.A. 74-8736)
6 requires the Kansas Lottery Facility Review Board determine that a
7 gaming facility management contract is the “best possible such contract”
8 prior to the contract becoming binding on the parties; and

2010 Supp.

9 WHEREAS, The Kansas Expanded Lottery Act (K.S.A. 74-8751)
10 requires the Kansas Racing and Gaming Commission to adopt rules and
11 regulations relating to certification requirements by implementing such
12 background investigations and standards for applicants, as may be
13 “necessary to determine whether such person’s reputation, habits or
14 associations pose a threat to the public interest of the state or to the
15 reputation of or effective regulation and control of the lottery gaming
16 facility.”; and

17 WHEREAS, The Kansas Expanded Lottery Act (K.S.A. 74-8751 and
18 74-8772) directs the Kansas Racing and Gaming Commission to adopt
19 rules and regulations for suspension, revocation or nonrenewal of a
20 certification and promoting the integrity of the lottery and racetrack
21 gaming facilities in Kansas; and

22 WHEREAS, K.A.R. 112-101-6(b) provides that a certification may be
23 denied, suspended or revoked if the certificate holder or its officers,
24 directors, key gaming employees, or any person directly or indirectly
25 owning an interest of at least 0.5% in the applicant, poses a threat to the
26 public interest or to the effective regulation of gaming; or creates or
27 enhances the dangers of unfair or illegal practices in the conduct of
28 gaming; and

29 WHEREAS, The Kansas Expanded Lottery Act (K.S.A. 74-8734(o))
30 provides that a lottery gaming facility shall comply with any planning and
31 zoning regulation of the city and county in which it is to be located and
32 that the executive director shall not contract with any prospective lottery
33 gaming facility manager who lacks proper approvals under the planning
34 and zoning requirements of the city or county in which the facility is to be
35 located; and

36 WHEREAS, Compliance with local planning and zoning requirements
37 for the proposed Sumner County lottery gaming facility requires zoning
38 changes, a special use permit, approval of a planned unit development
39 application, a variance, site plan and plat approval; and

40 WHEREAS, Final action by the appropriate local government entities
41 as to all planning and zoning matters was not complete at the time of the
42 approval of the Peninsula Gaming facility management contract; and

WHEREAS, The state has an interest in determining under what
authority the Peninsula Gaming facility management contract was

1-2

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

12549 S. BROUGHAM DR.
OLATHE, KS 66062
(913) 782-5885

STATE CAPITOL, ROOM 165-W
TOPEKA, KS 66612
(785) 296-7692
lance.kinzer@house.ks.gov



TOPEKA

LANCE KINZER
REPRESENTATIVE, 14TH DISTRICT

COMMITTEE ASSIGNMENTS
CHAIRMAN: JUDICIARY
VICE-CHAIRMAN: CORRECTIONS AND
JUVENILE JUSTICE
MEMBER: JOINT COMMITTEE ON
STATE-TRIBAL
RELATIONS
RULES & JOURNAL

HR 6015

"Kansas law recognizes the authority of the legislator to direct the Attorney General to bring litigation with respect to issues of public concern. This is not a power the legislature should exercise frequently. That having been said the recent decision to enter into a contract with Peninsula Gaming raises legitimate issues of public concern that justify taking this action in this case. The Resolution attempts to give a bit of background on the factual and legal context of the situation and then asks the Attorney General to seek a judicial determination on two issues. First, was it proper to enter into the contract prior to finalization of local planning and zoning approvals. Second, does the current statutory provision criminalizing attempts by public officials to influence action by the Racing and Gaming Commission violate the U.S. and State Constitutions. I hope you will support this Resolution."

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Attachment

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P.O. Box 780127 • Wichita, KS 67278 • (316) 634-2674

Testimony to House Federal and State Affairs Committee
On House Resolution 6015
March 14, 2011

Good afternoon Chairman Brunk and members of the committee. I am Dave Heinemann and I appreciate this opportunity to speak on behalf of Stand Up For Kansas. **We urge you to VOTE YES on House Resolution 6015.**

The process that state and local governments used to approve a casino in Sumner County was flawed in numerous areas and unfair to citizens in south central Kansas. Let me briefly provide you an overview of this process.

1. The county in which the Peninsula casino will be located, Sumner County, did not have a binding referendum on a casino. County commissioners labeled the referendum, held Dec. 20, 2005, as simply a "Special Advisory Mail Ballot Election." Since it was only advisory, many citizens did not take it seriously. Legislators made the advisory referendum binding in 2007 when they passed the Kansas Expanded Lottery Act, ignoring instructions the county provided previously to Sumner County citizens.
2. Sumner County commissioners have not determined that the Peninsula casino would be in the best interest of Sumner County, **as required by the advisory ballot**. The ballot stated, "Do you support a destination resort casino in Sumner County, Kansas in the event such is legally permitted by the state and is otherwise deemed **in the best interest of the County** by the Board of County Commissioners?" On Aug. 17, 2010, Sumner Co. commissioners endorsed the casino proposed by another company, **but they did not endorse the Peninsula casino**.
3. A large majority of Mulvane voters do not want a casino in their area. The vast majority (82%) of Mulvane registered voters live in Sedgwick County. In the 2007 referendum in Sedgwick Co., 61% of these voters voted NO on a casino.
4. A majority of citizens in Sedgwick County do not want a casino in the area. In the 2007 county-wide casino referendum, 56% of voters opposed a casino. Voters in the southeast section of the county opposed a casino by an even larger margin -- over 60%. Nevertheless, state agencies ignored this strong opposition and approved the Peninsula casino just a few feet south of the Sedgwick County line.
5. The devious, snaking, string annexation approach used by the City of Mulvane to annex the land for the casino violates the intent of Kansas law. Kansas statutes provide for two types of annexation: (1) "island annexation" when the land to be annexed is not contiguous to the city and (2) contiguous

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annexation when the land joins the city. Although the land for the casino was five miles west of the city boundary, the council chose to annex the land under the contiguous statute, because they knew Sumner County commissioners would not approve the annexation or the casino. The annexed string of land from the city to the casino was only 100 feet wide and provided no benefit to the city.

Sumner county officials had no voice in the annexation, even though the string of land extended five miles into the county. When the county challenged the annexation in the district court, the court ruled the annexation was illegal. But, when the city appealed, the Appeals Court ruled that the county had no standing to sue the city over the strip.

6. As outlined in the resolution, last October Peninsula Gaming Partners LLC and two executives were charged in Iowa with illegally funneling \$25,000 in contributions through a third party to the re-election campaign of the governor. The trial will begin in June. The three state agencies responsible for selecting a casino developer appeared to ignore these criminal charges and selected Peninsula as the developer.

The casino industry is notorious for white-collar crime and corruption. With the integrity of state-owned casinos on the line, the criminal charges against Peninsula and its officials are too serious to ignore. The state should have denied the contract to Peninsula or delayed the decision until the company and its principals were cleared of all wrong doing.

7. The City of Mulvane had not completed casino planning and zoning, as required by K.S.A. 74-8734(o), when the executive director of the Lottery signed the contract. Since other speakers will address the impact of this error, I will not discuss it.
8. Finally, according to the contract between the state and Peninsula Gaming, if the state terminates the contract, the state is not liable for damages, or any other compensation, except refund of the privilege fee.

The contract states:

*Section 8. **Kansas Expanded Lottery Act Litigation.** Manager acknowledges it enters into this Agreement with the understanding that the Kansas Expanded Lottery Act and/or the implementation of that Act by the Kansas Lottery or the Commission, may come under review by courts of competent jurisdiction from time to time during this Agreement's term. Manager agrees it will proceed with its responsibilities under this Agreement at its own risk as to the Kansas Expanded Lottery Act's validity, or the validity of the implementation of that Act by any state agency, except that nothing in this section will be interpreted to restrict, waive or delete any rights Manager may have to seek repayment of Managers' privilege fee if the Kansas Expanded Lottery Act were to be amended or repealed by a legislative body or declared unconstitutional in a future proceeding.*

In summary, the process for approving Peninsula Gaming as the casino developer contained numerous errors and questionable actions. We urge you to approve this resolution, directing the attorney general to challenge these actions in the court.

**Testimony to House Federal and State Affairs Committee
On House Resolution 6015**

Tricia Meyer

March 14, 2011

Good afternoon Chairman Brunk and members of the committee. Thank you for this opportunity to speak in support of **House Resolution 6015**.

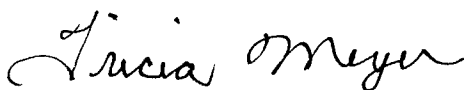
The zoning and planning for the site selected for the Sumner County lottery gaming facility at the intersection of Highway 81 and Highway 53 has not only not met the states deadline for zoning and planning but has also been improperly rushed through with little or no concern for the community in which the site selected has been placed.

I attended the training sessions for a planned unit development, and the two lengthy regular sessions of the Mulvane Planning Commission on February 10th and 19th of this year. The purpose for these meetings was to pass the zoning changes, preliminary PUD, and the final PUD for the proposed Sumner County Lottery Gaming Facility.

The training session for the PUD was short and succinct. The February 10th Mulvane Planning Commission meeting agenda items included for the South Central casino site; a zoning change, the preliminary PUD and the final PUD. Several of us that attended were appalled that all three items were planned for discussion in the same session. At the beginning of the meeting the Mulvane Planning Commission was so confused about the process that the Mulvane City Attorney, J. T. Klaus stood up and said he could not stand it anymore and gave them some advice on how to proceed in a more organized and timely manner. As the process proceeded it was obvious that not all of the agenda items could be addressed so the meeting was ended after midnight. An additional meeting date and time were selected to complete the process so that the Mulvane City Council could view and decide on the recommendations of the Planning Commission during the next city council meeting. This third meeting was on February 19, 2011 and it lasted the entire day. I believe that the process took a long time because of the lack of training and confusion about the PUD process.

These three meetings were not done with concern for the gaming and lottery facility being well planned and certainly not with concern for the community that the project is placed in the middle of, but to get the job done quickly so that the requirements could be checked off for this project

I strongly urge you to approve House Resolution Number 6015. Thank you for allowing me to speak and express some of my concerns.



Tricia Meyer

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**Testimony to House Federal and State Affairs Committee
On House Resolution 6015**

Graham Hamilton, Resident, 1000ft from casino site

March 14, 2011

Good afternoon Chairman Brunk and members of the committee. I appreciate this opportunity to speak to you on behalf my family and neighbors. **I urge you to VOTE YES on House Resolution 6015.**

As a father and citizen directly affected by the proposed casino development, I am very troubled by the break down in the integrity of the process that we thought was designed to protect both the state and the citizens who are directly impacted by this development.

How can the state be a party to this endeavor if at the very core the basic building blocks outlined in SB 66 and incorporated into the Expanded Lottery Act do not comply the with mandates of the Expanded Lottery Act itself?

Who is holding the local governing bodies accountable to maintain the integrity of the process? Who ensured that all local planning and zoning requirements were actually in place when the contract was entered in by the Racing and Gaming Commission?

We are a body of Laws not Men and if all levels from the local governing body to the state legislature do not comply with the explicit requirements, then the citizens interests and the State of Kansas is not being served with integrity.

There were and continue to be crucial activities that were/are not completed when the State entered into contract with Peninsula Gaming. These activities were/are in progress months after the contract was signed. Therefore it was precipitous for the state to enter into a contract with Peninsula Gaming.

If all requirements were met at the time the contract was signed, then why all the recent meetings by the Mulvane planning and zoning board to zone and re zone what was necessary to have been completed prior to the state contracting with a casino developer, according to the Expanded Lottery Act.

The concerns of the residents, which originally led to the disapproval by the County zoning, have been ignored by the Mulvane planning and zoning activities in its haste by the City to break ground.

By not fulfilling the fundamental requirements of having firm planning and zoning in place prior to the State's contract, many of the concerns of the local residents, and the

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county commissioners were disregarded when the Mulvane planning and zoning apparatus took over. The subsequent zoning process gave the feeling that "approve it now; we will fill in the details later."

Why do citizens have to continue to file suit to get the governing bodies to follow their local ordinances and comply with the Expanded Lottery Act?

Due to the state entering into contract with Peninsula gaming before the zoning details were complete, we believe that key provisions of the Expanded Lottery Act, concerning both the integrity and the intent of the process have been compromised. Therefore, we ask you to **APPROVE** this resolution and direct the Attorney General to investigate these wrongs and protect my family from this type of deceitful activity.

Thank you,



Graham A Hamilton
1404 N Estate RD
Peck, KS 67120
316-522-7178

**Testimony to House and State Affairs Committee
On House Resolution 6015**

Ron Swihart
1416 N. Crow Rd.
Peck, KS 67120

March 14, 2011

Good afternoon Chairman Brunk and members of the committee. Thank you For this opportunity to speak. **I urge you to VOTE YES on House Resolution 6015.**

I live within 500 feet of the casino. The back of my house faces Highway 81 at the corner of 142 street north.

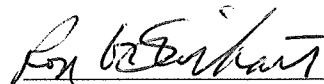
When Sumner County was in control of the casino zoning, They forced The Casino operators to return twice to improve and address **water, traffic, Sewer, and drainage at the site.** Area residents could see and understand the intent of the casino.

Since the city of Mulvane has taken over, the plans for water, traffic and sewer are **STILL** being developed without public input. **I do not know** what is going on. But yet, the Kansas Racing and Gaming Commission entered into a contract with Peninsula gaming with these things not done.

Mulvane is just rubber stamping everything the Casino wants with no regard to the people in the surrounding neighborhood.

With Mulvane in control, EVERYTHING is OUT OF CONTROL!

Ron G. Swihart



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Attachment 6

**Testimony to House Federal and State Affairs Committee
House Resolution 6015**

Barbara Zimmerman

March 14, 2011

Good afternoon, Chairman Brunk and members of the committee. Thank you for allowing me to speak today as a **proponent of House Resolution 6015. I urge you to VOTE YES on this Resolution.**

I live in Sedgwick County and have several concerns and unanswered questions about the process by which Peninsula Gaming has been allowed to move forward with the building of their Kansas Star Casino at Mulvane Exit 33.

We the people of Sedgwick County have had **NO REPRESENTATION** in this casino matter. The **"GAG ORDER" placed upon our representatives is UNCONSTITUTIONAL!!** We learned of Mulvane's snake annexation in the newspaper. We contacted our Sedgwick County Commissioners, and they did nothing to stop this questionable annexation. We have addressed this casino issue to our elected officials all the way to the Governor. As citizens and taxpayers, we have been wrongfully treated. No one has listened to us except the Sumner County Planning Commission and the Sumner County Commissioners, but they have been over-run by the Kansas Lottery Commission, the Kansas Racing and Gaming Commission and the Kansas Lottery Gaming Facility Review Board. The Sumner County Commissioners voted no to the Exit 33 location in order to protect the public health and safety of citizens living in the area. Traffic and drainage problems were unresolved.

I have had numerous telephone conversations with the **Review Board** members. They encouraged me to take up those local problems with the local governments, which we did. Why then, did they **over-ride local officials** who did recognize these problems?

The **traffic problems are real.** K-53 is the only route into Mulvane from the west, and during harvest, many farmers use this route. They will be hindered in their ability to carry on their livelihood. US Highway 81 is very busy. This highway is also used by farmers. It will be extremely difficult for the neighborhood to enter the roadway with all of the additional traffic. Several times the highway has had to be closed because of flooding to the south. The intersection of K-53 and US 81 is dangerous because traffic on US 81 does not stop. There have been fatalities at that location.

The **drainage problems are real.** The water table in this area is high. The proposed site does not drain well. To my knowledge, there was no final agreement with K.T.A. to drain water into their ditches. Those ditches rise to the south of the site, thus not being able to hold large amounts of water before it goes back into the township creating more problems for people downstream.

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Attachment

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The **City of Mulvane has plunged ahead** at every turn totally disregarding the voice of the taxpayers and citizens, favoring rather the casino and its promise of revenue. The Chairman of the Mulvane Planning Commission said last Monday night at the City Council Meeting that bringing a casino to their city is the pinnacle of his career. At the beginning of each meeting, the members of the Commission are asked if they need to be disqualified because of conflict of interest. He has exhibited bias toward the casino at each meeting we have attended. There has been a rush to get the planning pushed through their commission so Peninsula could move forward quickly.

We have attended most of the meetings and watched as Peninsula Gaming has made their presentation "fit the occasion" for each governmental group to which they spoke. Their presentation at the Mulvane Planning Commission PUD was not at all the same as it was presented to the Review Board in January. Four times they said that the **artist's rendering was "not an accurate depiction"** of what they intended to build. As neighbors and citizens, we wonder what IS the accurate depiction? What DO they intend to build? We have observed this developer being dishonest. They side-step questions and avoid being "pinned down" with the truth. Are they allowed to change their building plans without first addressing those changes to the Review Board?

Did the Kansas Lottery Commission do their job in **selecting a location per SB 66 p4(e)**? To our knowledge, it was never made public that the K-53 and Oliver site was ever abandoned. Is Peninsula holding that as a back-up site?

The **planning and zoning for Peninsula Gaming is not complete and was not complete** when the KS Lottery Gaming Facility Review Board approved their contract. The Review Board required Harrah's and Lakes to have their planning in place before a contract was approved; however, when Peninsula Gaming came before the Review Board in December, 2010, Chairman All told the Board Members that **it was not their responsibility to look into the planning** issues, but to look only at the contract. What changed? He also said it was not their responsibility to worry about the legal matters involving the casino. **What was their responsibility? WHO WAS RESPONSIBLE TO LOOK AFTER THESE THINGS?** It appeared that they overlooked their responsibility and "railroaded" the contract in order to get it in place before the new legislature took office.

Unresolved concerns and questions:

Why were our constitutional rights taken away in that we had no representation in the past three years concerning the placing of a casino in Sumner County.

Why did the Kansas Lottery Commission, the Kansas Racing and Gaming Commission, and the Kansas Lottery Gaming Facility Review Board over-ride the local government when they told us local concerns were the jurisdiction of the local government?

Are Peninsula's traffic study and drainage study adequate to meet the requirements of the

State of Kansas since Mulvane has given them much room for error.

Is Peninsula being held accountable to the State of Kansas for building what they presented to the Review Board?

Was the K-15 and Oliver site ever abandoned?

How was Peninsula allowed to forge ahead disregarding State Statutes by not having their planning in place at the time the contract was signed with the State of Kansas?

Will you please require the Attorney General to investigate the legality of the contract of Peninsula Gaming with our State by voting yes to House Resolution 6015.

Again, thank you for allowing me to speak today.

October 19 ,2010

Chairman Matthew All
Blue Cross Blue Shield
1133 S.W. Topeka Blvd.
Topeka, KS 66629

Dear Chairman All:

Thank you for considering input from citizens in the placement of the casino in Sumner County. In the past, you have told us that it is the responsibility of the local government to address zone changes and conditional use of properties designated for casinos. You told us to address these issues with our local government, which we have done. You have also said that you would not override the authority of the local government in your decision to place a casino in Sumner County. The Sumner County Commissioners have recognized the problems which a casino would generate with traffic, safety of nearby residents, ground water contamination, and drainage. The Commissioners denied the zone change and conditional use for Mulvane Exit 33 (K-53 and Highway 81 location) at their meeting last Tuesday, October 12.

At their meeting with Sumner County Commissioners, the Peninsula Gaming representative told the Commissioners that most of the truck/horse trailer traffic for the equestrian facility would use the existing turnpike exit, turn onto K-53 and enter the property from Highway 81 because it is the easiest route to the facility located on the west side of the property. Although most of the projected traffic count of 10,000 trips a day would use the direct turnpike ingress/egress, the horse trailer and truck traffic would be too great for the two lane highways of K-53 and Highway 81. Farmers use both of these highways to move their equipment, and K-53 is the only highway access to Mulvane from the west.

Enclosed are pictures of two lane bridges on K-53 – one just east of Hydraulic and another at the turnpike overpass – and then one on Hydraulic just north of K-53. Because of these two lane bridges, the roadways could not be widened without replacing the bridges.

In speaking with KDOT, we were told that there is very good reason to be concerned about the additional traffic on those two highways especially since a housing development is located directly across from the entrances. There have already been traffic fatalities at the intersection of K-53 and Highway 81.

Another problem area is southbound traffic approaching Mulvane Exit 33. There is very poor visibility of cars exiting the turnpike because of a hill directly north of the off-ramp. Since both a round-about and toll gate are planned for that area, cars could conceivably be backed up to the exit during times of heavy use. Please note enclosed pictures and article of fatality at that location. (There have been two fatalities at that same location in recent months.)

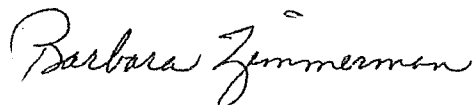
Peninsula Gaming plans to have an equestrian facility with initially approximately 400 stalls then later 700 stalls. The parking lot on which the horses will be loaded and unloaded is not paved. Even if the manure in the stalls is sanitarly disposed of, the manure and urine from the parking lot could contaminate the ground water in the area and for many miles downstream.

7-4

Drainage in this area is a major problem. Our township officers are very concerned about drainage in this area. They are sending you information on this issue. Again, our local government (elected officials recognize Exit 33 as a problem area for development of this magnitude. We ask you to deny any casino at either Mulvane Exit 33 location.

Thank you again for your work in deciding this important matter. Your decision will affect the lives of all Kansans for many years to come. We are praying for you.

Sincerely,

A handwritten signature in cursive script that reads "Barbara Zimmerman".

Barbara Zimmerman

Cc: Mr. James Bergfalk
Mr. Bob Boaldin
Mr. Garry Boston
Mr. Jack Brier
Mr. Dean Ferrell
Dr. Jacqueline Vietti



Skid marks on US Highway 81 at intersection of US Highway 81 and K-53



K-53 and US Highway 81 Intersection

7-6

March 14, 2011

Testimony to House Federal and State Affairs Committee On House Resolution 6015

Dusty Tavares
518 Olive Ct
Mulvane, KS 67110
316-777-4020

Honorable Chairman Brunk and members of the committee. Thank you for the opportunity to speak today. I urge you to vote YES on House Resolution 6015.

I have been a party to the City of Mulvane's actions since October of 2007 and an eyewitness to many meetings with the Mulvane City Council, Mulvane Planning Commission, multiple developers, consultants, Kansas Lottery, Kansas Lottery Review Board, Kansas Racing and Gaming Review Board, Sumner County Commissioners, Sumner County Planning and Zoning Commission and even the Federal Court of the United States of America I am most pleased to be here today to plead with the governing body of the State of Kansas to hear my petition.

The lengthy process that the state and local government used to approve the contract with Peninsula Gaming has been intentionally convoluted and confusing to state residents such as myself. As a result, it is difficult for me to narrow down the blatant violations of all the local governing bodies and state boards, but I will do so out of respect for your time and place of honor on this committee.

I implore you to VOTE YES on House Resolution 6015 based on one irrefutable fact; the infrastructure for the Kansas Star Casino is still not in place. The basic facilities and services needed for the development such as water lines, electrical lines, sewer lines, EMS services, material for parking lots and traffic controls have not been presented nor determined. This is the case, even though the P.U.D. has been approved by the Mulvane City Council. I must repeat myself to be clear. The Mulvane City Council approved the P.U.D. without presentation of a clear plan for any of the infrastructure. This once again shows the planning and zoning was not complete and has not been properly approved.

In summary, I request that you vote yes on House Resolution 6015 so that the Attorney General can bring an action in quo warranto in a court of competent jurisdiction against the Kansas Lottery Commission and its members, the Kansas Lottery Review Board and its members and challenging the constitutionality of K.S. A 74-8762(e) and such other claims as the Attorney General may deem warranted under the circumstances.

House Fed & State Affairs

Date: 3 - 14 - 11

Attachment 8

Testimony to House Federal and State Affairs Committee
On House Resolution 6015

Paul Sutherland
669 East 140th Ave N
Peck Kansas 6712
316-524-1319

March 14, 2011

Good afternoon Chairman Brunk and members of the committee. Thank you for the opportunity to speak today on this very important issue. I respectfully urge you to VOTE YES on House Resolution 6015.

My name is Paul Sutherland and I have lived in Kansas all my life. I moved my family to Sumner County over 20 years ago, so we could have a better life and build our dream home. I am a small business owner and I know that I would not enter into a contract with all the information I have regarding the pending casino in Sumner County. I have personally attended EVERY public hearing related to the proposed casino (Summer County Commissioners, City of Mulvane, and the Kansas Lottery) prior to and after the selection of Peninsula Gaming as the casino manager. I cannot emphasize enough that the process at both the state and local level has been flawed, unfair, and above all it has repeatedly violated state law. I will provide you with the facts and highlights regarding the issues of greatest concern.

In 2007, Senate Bill 66 passed the Kansas legislature and served as the enacting legislation for the establishment of several state-owned casinos. The provisions outlined in this law have been violated repeatedly. For example, the law required that all planning and zoning to be completed prior to the signing of the contract by the Executive Director of the Kansas Lottery. The Executive Director signed the contract in October 2010.

However, as recently as last week the Mulvane City Council approved Peninsula Gaming's zone change, special use, preliminary planned unit development, final planned unit development, and development agreement. This occurred 5 months after the contract was signed and it is in clear violation of the law.

There have been other repeated violations of the law when it comes to zoning, so much so local citizens have sued both Mulvane and Sumner County 3 times and those efforts resulted in rezoning under the correct parameters of the law. Furthermore, both Mulvane and Peninsula Gaming have abused zoning laws and have created 50 special exemptions and used a planned unit development (PUD) for the first time ever. When Mulvane authorized Peninsula Gaming to use the PUD it allowed many deviations from many zoning and subdivision regulations that are in place to protect adjacent properties. This creates a giant loophole and affords the casino great latitude and special treatment that no other entity has ever received from Mulvane. This was utilized to ramrod the zoning process of the casino at the expense of nearby residents. This is in clear violation of the law.

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Attachment

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On December 20, 2005 Sumner County residents were surveyed via mail (5 days before Christmas) in a non-binding advisory vote. The following question, "DO YOU SUPPORT A DESTINATION RESORT CASINO IN SUMNER COUNTY KANSAS, IN THE EVENT SUCH IS LEGALLY PERMITTED BY THE STATE AND IS OTHERWISE DEEMED IN THE BEST INTEREST OF THE COUNTY BY THE BOARD OF COUNTY COMMISSIONERS". When Sedgwick County voted against a casino this Sumner County non-binding vote became binding. Keep in mind this occurred a year and a half prior to Senate Bill 66 passing the legislature. Additionally, the city of Mulvane (located in Sedgwick County) annexed a 100 foot wide and 5 mile long path to the proposed casino location. This has created significant problems because Mulvane city council members are making incredibly important decisions that impact citizens that they were not elected by. In fact, Sumner County denied endorsement to Peninsula Gaming because they determined that moving forward would not be in the best interest of Sumner County residents. This clearly violates the law with regards to the local endorsement.

As if these clear violations of the law were not concerning enough, the criminal charges that the Chief Operating Officer and the Chief Financial Officer of Peninsula Gaming are facing in the state of Iowa are not only troubling they are absolutely in clear violation of the law. Thereby the state of Kansas would be entering into a 15-year contract with a company who's leadership is currently under indictment.

In addition, there are significant public safety concerns that as we sit here today that have not been adequately addressed. For example, the location of the casino site and nearby areas have historically faced significant flooding issues and as of today they still have not received approval from the Kansas Turnpike Authority (KTA) to drain their stormwater into the KTA drainage ditch. Additionally, the Kansas Turnpike has still not approved the traffic plans to and from the site.

Moreover, the revised plans for the casino have failed to live up to their promise to seamlessly integrate into the two surrounding neighborhoods. Their latest plan proposes 3 illuminated video billboards. Two of these billboards would be 120 feet tall, which is larger than the size of a basketball court. Another billboard would be 350 feet long, which is longer than the length of a football field. These signs would be illuminated and have video capabilities. These types of signs have raised public safety concerns in numerous communities across the country due to the distraction they create for drivers. The stated goal of the casino is for drivers to see these signs from 3 miles away.

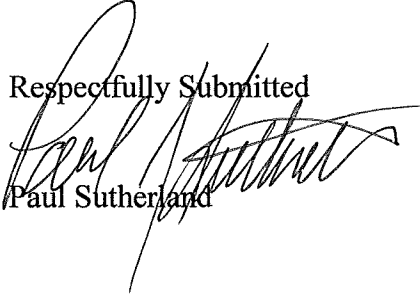
Furthermore, the original casino plans called for a 4-5 story hotel and now the revised plans call for a 120 foot tall hotel, which could be 10-12 stories tall. How do these issues reconcile with the casino's declared intentions to seamlessly integrate into the surrounding neighborhoods?

Finally, the citizens that are most impacted by the casino have not been afforded the representation they are entitled to. Senate Bill 66 had a laudable goal of trying to prevent

undue influence on the casino selection processes. As you have heard, this has not been the case and has resulted in the unintended consequence of prohibiting state legislators from being able to intervene on any of the above stated issues on behalf of their constituents. The consequence has resulted in our voices and concerns falling on deaf ears.

Thank you for allowing me the opportunity to testify on this very important issue in my community. This resolution is incredibly important because it will bring transparency and accountability to the process. Additionally, it will ensure that the citizens of this state are knowledgeable and aware with regards to the process of authorizing the casino and ensure that everyone is following the letter of the law. Finally, it will give the Attorney General the authority to conduct due diligence with regards to the long-term contract the state of Kansas and Peninsula Gaming have entered into, especially in light of the legal and ethical issues that Peninsula Gaming is currently facing. Thank you again for your time. I am happy to provide you with any additional information you may need, provide supporting documents, or answer any questions you may have.

Respectfully Submitted



Paul Sutherland

**MULVANE CITY COUNCIL
REGULAR MEETING AGENDA**

Monday, March 7, 2011

7:30 p.m. – City Hall

Call Regular Meeting to Order

Roll Call

Pledge of Allegiance and Invocation

Approval of Minutes of Regular Meeting of 02-21-11

Correspondence

Review and Closing of the Agenda

Appointments, Awards and Citations

- Proclamation – Problem Gaming Awareness Week – March 6 - 12

OLD BUSINESS

NEW BUSINESS

1. Safe Routes To School program – review potential application
2. Resolution of Support for a Safe Routes To School Grant Application
3. Public Safety Director - Review 911 system
4. Consideration of Zoning Case No. Z-11-1 request to change the zoning classification from a Sumner County Zoning classification to the B-4 Interchange Business District
5. Ordinance for Zoning Case No. Z-11-1
6. Consideration of Special Use Case No. SU-11-1: Request to establish a Lottery Gaming Facility and an Equestrian and Event Center in the B-4 Interchange Business District
7. Ordinance for Special use Case No. SU-11-1
8. Consideration of the Kansas Star Preliminary Planned Unit Development Plan
9. Consideration of the Kansas Star Final Planned Unit Development Plan
10. Ordinance – Planned Unit Development for Kansas Star Casino

RESOLUTIONS & ORDINANCES

CITY CLERK

ADMINISTRATOR

CITY ATTORNEY

1. Executive Session – matters privileged under attorney-client relationship
2. Developer's Agreement (workshop & consideration)

CONSENT AGENDA

1. Employee Payroll dated 03-04-11 (\$129,442.36)
2. Public Safety Dept. – Defibrillator Warranty & Maintenance Agreement (\$2,635.50)
3. Police Dispatch – Digital Logger Recorder – annual maintenance agreement (\$3,260.00)
4. Rice-Foster Planning Consultant Fees (3,581.56)
5. Legal Fees - Triplett, Woolfe & Garretson (\$8,991.69)
6. Wastewater Treatment Plant - repair of two Blowers (\$4,834.00 + shipping)

Announcements and Next Agenda Items

Adjournment

9-4

SUMNER COUNTY
SPECIAL QUESTION
ADVISORY ELECTION
DECEMBER 20, 2005

This is an advisory vote and non-binding
upon the Board of County Commissioners of
Sumner County, Kansas.

QUESTION SUBMITTED

DO YOU SUPPORT A DESTINATION
RESORT CASINO IN SUMNER
COUNTY, KANSAS, IN THE EVENT
SUCH IS LEGALLY PERMITTED BY
THE STATE AND IS OTHERWISE
DEEMED IN THE BEST INTEREST OF
THE COUNTY BY THE BOARD OF
COUNTY COMMISSIONERS?

☐ YES

☐ NO

**SAMPLE
BALLOT**

Site Location

The following map shows the location of our project, which is comprised of the two real estate parcels outlined on the map.



Proposed Project

Regional Destination Attraction

Kansas Star Casino, Hotel, and Event Center will be a regional destination attraction, offering first-class gaming and non-gaming amenities, with experiences tailored specifically for the people of Sumner County, South Central Kansas, and the entire state. It has been designed with the customer in mind, to meet and even beat their expectations for fun, excitement, friendliness and value.

The design of the facility will feature a ranch motif, with the exterior of the complex built with ruff hewn woods indigenous to the area, uniquely finished metals, and Silverdale limestone mined from local quarries. Incorporating prairie-style architecture and meticulously landscaped, Kansas Star Casino, Hotel, and Event Center will be seamlessly integrated into the surrounding environment. Kansas Star's interior will incorporate a richness of design, natural woods, specially treated metals, and attention to details that will create a memorable experience for our customers.

Casino and Resort

Our gaming area, with its arched ceiling and intricate lighting shining on state-of-the-art slot and video machines and an abundance of gaming tables, will provide guests and visitors with 24-hour fun, including live entertainment at the show lounge located right on the gaming floor, and a dedicated poker room with 5 tables.

Dining options include a 115-seat steakhouse and cocktail bar; a 250-seat live action buffet and a 40-seat food court. Our dining options will incorporate fresh ingredients purchased from local farms, dairies and grocers to provide our guests with great food with a local flair, while supporting local merchants and vendors. The casino bar will offer live music and Las Vegas-style entertainment.

Kansas Star Casino, Hotel, and Event Center will attract visitors from all parts of Kansas and across the region, starting with a 150-room suite hotel during the first phase, and expanding to 300 rooms during its second phase, with an indoor pool and spa, as well as meeting and conference space. In addition, during the first phase we will construct a 100,000 square foot event center with seating for 3,000 (expandable to 4,200 seats for concerts), including a banquet kitchen and snack bar, which can play host to world-class entertainment and sporting events.

Kansas Star Casino, Hotel, and Event Center, with its world class amenities and local flair, will be truly unique and will reflect the history and prosperity of the region. We truly believe that the Kansas Star Casino, Hotel and Event Center will make not only the residents of Sumner County, the South Central region, and the State of Kansas proud, but will become one of the state's leading tourist attractions.



**Testimony to House Federal and State Affairs Committee
On House Resolution 6015**

Randall S. Miller
1437 N. Crow Road
Peck, Kansas 67120

March 14, 2011

Good afternoon Chairman Brunk and members of the committee. Thank you for this opportunity to speak in favor of House Resolution 6015. I ask that you VOTE YES on this resolution.

The process the state and local governments used to approve the Peninsula Gaming Contract is flawed and illegal. The process was unfair and violated many of our rights. I would like to take this time to discuss these items.

1. The city of Mulvane had not completed casino planning and zoning as Required by K.S.A. 74-8734(o), when the executive director of the Kansas lottery signed the contract. On March 7, 2011 the Mulvane City Council approved the zone change, conditional use, preliminary PUD, final PUD and the development agreement. The Executive Director of the Kansas lottery signed the contract on October 20, 2010.
2. On December 7, 2010 the Lottery Review Board held a teleconference Meeting and at the ten minute mark Chairman Matt All requested from staff to have a representative from Mulvane to be at the December 15, 2010 meeting. He said that he and other board members have had correspondence from residents that live in the area with concerns of Peninsula Gaming's lack of required local approvals. He is quoted as saying "Um, so, just to make sure we have all the zoning and platting and all of that kind of stuff taken care of."
3. On December 15, 2010 no documentation was presented or even asked for during the meeting relating to zoning and platting approvals.

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Attachment 10

4. On December 15, 2010 the Kansas Lottery approved the Peninsula Gaming contract without planning and zoning approvals. After Peninsula Gaming was awarded the contract they submitted the application for a Preliminary PUD, signed by the applicant on February 3, 2011. Peninsula Gaming's PUD had several changes from what was presented to the Kansas Lottery Review Board. These changes include changing the hotel from a four or five story hotel to a 120 foot tall hotel. This could be as high as twelve stories. Changing the 2 Pylon signs from 60 feet tall to 120 feet tall and permitted square footage from 300 to 5000 square feet per side.
5. Mulvane has statutes limiting signage to be a maximum of 300 square feet with a limit on lighting hours if the signage is in a residential neighborhood. Well, they are allowing up to 3500 square foot per side signs and up to 50 portable signs with all of this light allowed 24 hours a day with all this within 1000 feet of two different residential neighborhoods. There will also be all of the unspecified building and parking lighting that will greatly impede on the solitude of these residential areas.
6. Peninsula Gaming's application to The Kansas Lottery showed art renderings of their hotel that is four stories tall or within Mulvane's B-4 zoning regulations, although that is not what they indicated at PUD meeting. Peninsula's art renderings of the casino are much different from what was approved in Mulvane's PUD. Mulvane has a height limit for buildings and signage of 60 feet and paid no heed to Their own statutes.

Thank you again for this opportunity.

**Testimony to House Federal and State Affairs Committee
On House Resolution 6015**

Charla Hamilton, Resident 1000 ft. from casino site

March 14, 2011

Good afternoon Chairman Brunk and members of the committee. I appreciate the opportunity to speak on behalf of my family and neighbors. **We urge you to VOTE YES on House Resolution 6015.**

Members of the committee, I would like to bring to your attention the facts that due to the snake annexation, a decision by the Kansas Lottery Review Board, and state statute and Attorney General ruling, I and my neighbors have been left without representation in a matter that gravely affects our family's welfare and safety.

My home is located at the very northern edge of Sumner County. My **ONLY** elected **representatives are the Sumner County Commissioners, Peter Degraff, and Steve Abrams.** These individuals have a constitutional DUTY to represent the people in their districts and protect their safety and welfare.

My County Commissioners attempted to act in the best interest of the residents in my area by refusing to endorse the casino at exit 33. It was stated at the November 12, 2010 meeting that placing a casino at exit 33 would not be in the best interests of the surrounding resident's safety and welfare. (Those most directly affected by the casino)

The City of Mulvane, by use of a devious snake annexation, limited the ability of my elected officials to represent the needs of my family and neighbors. Due to the annexation, the City of Mulvane has control of the land adjacent to my subdivision. They hijacked the process and endorsed a casino 1000 feet from my home.

Although I am now 1000 feet from Mulvane, I am still not within the city limits. Since I am not a resident of the City of Mulvane, I have no voice on the City Council. I can neither vote for the members nor can I run against them. Due to the fact that we have no direct way of voting against the council members, all pretense of concern for the welfare of the area and residents who will be most affected by their decisions has been abandoned.

Mayor Ford has denied people their right to speak and in one instance was sued for violation of a person's First Amendment Right. (Jacque Farnsworth vs. City of Mulvane Kansas. Civil Action No. 08-1150-MLB (Jacque Farnsworth won her suit.)

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Attachment) |

When the Kansas Lottery Review Board selected the casino at exit 33, they denied my elected representatives, the Sumner County Commissioners, any further ability to act on my and my neighbor's behalf.

The State of Kansas by citing the Kansas Expanded Lottery Act (K.S.A. 74-8762e) and Attorney General Six in his opinion of April 16th 2008 have denied my **constitutional right to representation**. My elected state representatives will be given a class A. misdemeanor if they attempt to perform their legislative duties (Article 2 of the Constitution of the State of Kansas) for the area residents in their concerns, as they relate to the casino. In no other area have they been forced to abandon their constituents.

Due to these facts, the residents directly impacted by the casino have had no other recourse than to act on our own behalf and force our local governing bodies to adhere to the local ordinances and state statutes. (Sutherland vs. Sumner County case No. 2010 CV75; Sutherland vs. Mulvane case No. 2010CV1817; Sutherland Etc. vs. Sumner County and the City of Mulvane Case No. 2010 CV 186)

When expedient, laws are being twisted and ignored just to get this casino up and running. There is no regard for the residents whose safety and welfare should be of primary concern, those that will bare the brunt of the casino's impact. These residents have been left, "**VOICELESS.**"

Therefore, we ask you to **APPROVE** this resolution and direct the Attorney General to investigate these wrongs.

Thank You

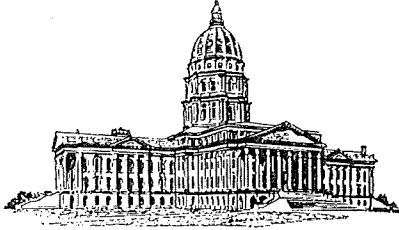


Charla Hamilton
1404 N. Estate Rd.
Peck, Kansas 67120
316-522-7178

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

Home:

1545 E. 119th Street
Mulvane, KS 67110-8039
316-613-1899 Cell Phone
PeteDeGraaf@att.net



COMMITTEE ASSIGNMENTS

VICE CHAIR: GENERAL GOVERNMENT BUDGET
MEMBER: APPROPRIATIONS
GOVERNMENT EFFICIENCY

JOINT COMMITTEES:
CHILDREN'S ISSUES
LEGISLATIVE STREAMLINING

Monday, March 14, 2011

PETE DEGRAAF

81ST DISTRICT

TO: Chairman Steve Brunk, House Federal & State Affairs Committee
and other Committee Members

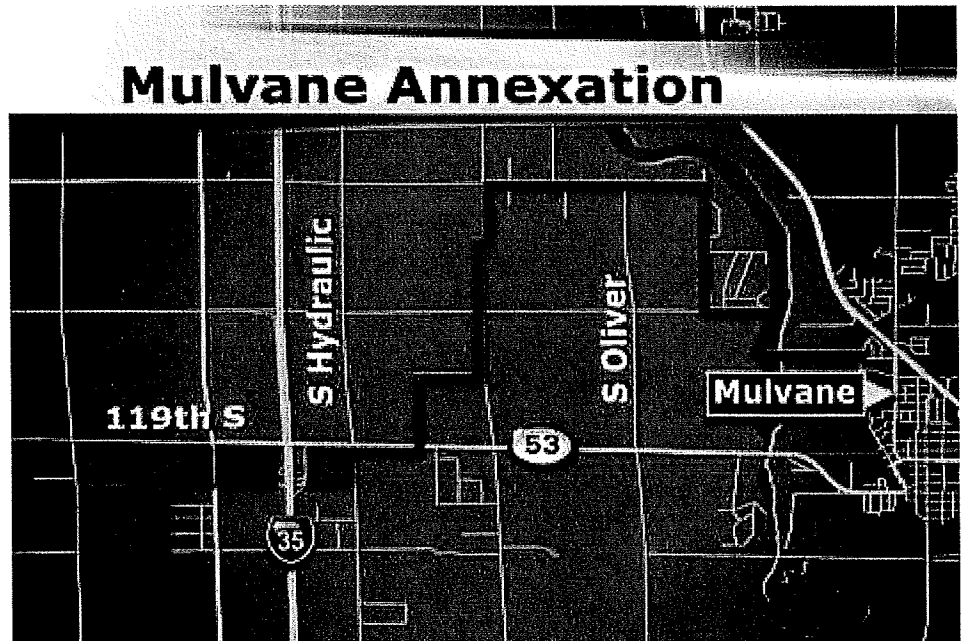
SUBJECT: Testimony in **SUPPORT of HR 6015** – Requiring AG to bring Action

Chairman Brunk, thank you for granting me an opportunity to stand before you this afternoon in support of House Resolution 6015. This is not an issue about whether we will or will not have state owned casinos. **The question before you is primarily one of either respecting and enforcing the rule of law or allowing others to ignore our laws because we hope to profit from their shady practices.**

I and many others believe Senate Bill 66 – the Kansas Expanded Lottery Act - violates our State's Constitution, in that you and I are not allowed to represent our constituents as it relates to the possible selection and placement of a Casino in your district. Previous Attorney Generals have given a formal opinion that we have a gag order placed on us with the threat of a misdemeanor. Page 3 of the resolution, lines 3 through 13 attempts to deal with this issue.

As you have heard in testimony today, big money and out of state attorneys have convinced well meaning local city and county planners and council members how to stretch and bend our rules to

accomplish their objectives. A number of you may not be aware but Turnpike Exit 33 is the sight of the **infamous Mulvane Snaking Annexation**. We were repeatedly assured that the



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Attachment

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process would be “squeaky clean.” It has not. The voice of those I represent have been marginalized, ignored, and even scoffed at. City officials have not listened to concerns of their own citizens; yet alone the voices of those living in the county within a few feet of the project. Peaceful, law abiding people have been silenced and escorted by police out of meetings. **1st amendment rights are still being violated**; personnel property rights are being trampled, local, county, and state common practices, ordinances, and even **laws have been disregarded and ignored.**

It is my hope that no matter where you are on the casino issue that each of you will rise to support our laws and ask that all levels of government function within the intent of the law and actively enforce our rules and way of life.

You may be asking, “**Is House Resolution 6015 really necessary?**” Why not simply ask the Attorney General to look into the matter. The reality is he and others in his office are aware of the issues and have received numerous documents and briefings as to laws that were broken. They are aware of the lawsuits that have been filed and have been asked, even pleaded with to proceed. If he had wanted to, the AG could have already started an investigation, requested that the Lottery Review Board reconsider their actions, and could have ensured that agencies operate above reproach. He could have demanded that we reverse contracts with people who have been accused of illegally funneling \$25,000 to influence votes. At the least, he could have called for an injunction to stop bulldozers and earth movers from starting to build a casino before platting, drainage, traffic studies, lighting, and even basic architectural drawings are complete.

I am concerned that the opening line (line 1 page 1) of this resolution is not strong enough in that it is “**requesting** that the Attorney General bring an action...” We are beyond asking, begging, or even requesting. Respectfully, I request that when you work this resolution that you consider changing the word to: **requiring** or **directing**, or even **demanding**.

It is unfortunate; but because **Kansas is the only State in the Union to own and operate gambling establishments**, our regulators and even the AG office find themselves in an inherent conflict of interest. Instead of State agencies being in a position to protect the public, the State is now a partner who has the potential of profiting from the abuses for which casinos, animal races, and other forms of gambling are so well known. How does the State hold itself and its partners accountable when relationships are enmeshed and traditional boundaries have become blurred or non-existent?

It is therefore all the more important that legislators be vigilant and hold our state agencies accountable to ensure all forms of gambling **be held to the highest standards possible and that all transactions be above reproach.** It concerns me greatly that the Legislative Post Audit reported that over the last four years the Lottery’s internal controls are materially weak or show significant deficiency and **may not prevent or detect fraud.**

It is time to call for the Attorney General to do a full review of:

the Kansas Racing and Gaming Commission,

the Kansas Lottery Commission, and

the Kansas Lottery Facility Review Board

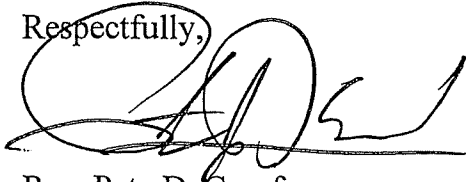
to ensure our rules are being followed, that the highest standards are maintained, that the integrity and security of operations are impeccable, that background investigations are thorough to ensure only those of the highest quality are involved, and standard accounting practices be adhered to. That all planning, zoning, platting, traffic, drainage and flood controls studies are complete, community concerns addressed, and other rules followed before contracts are signed.

It is time for the Peoples' House to rise up and direct our Attorney General to protect our people, preserve our rule of law, and ensure that we only do business with those worthy of our sacred trust. The contracts with Peninsula Gaming and Global Gaming should be null and void and the process started over.

As you work this resolution in committee, it has also been brought to my attention that you might consider a technical amendment (see balloon) changing line 26 on page 3 to reflect K.S.A 74-8734(o) instead of K.S.A 74-8762(e).

I appeal to the Chair to consider working this resolution today. It is my prayer that the resolution move to the House Floor even stronger than when it came to you and that **you all move quickly to report the resolution, as amended, favorable for passage.**

Respectfully,

A handwritten signature in black ink, appearing to be "Pete DeGraaf", written over a horizontal line.

Rep. Pete DeGraaf

Testimony in SUPPORT of HR 6015

Monday, March 14, 2011

Dear Chairman Brunk and other Committee Members,

LOCAL GOVERNMENTS

The Townships surrounding the Exit 33 proposed site, grouped together and tenaciously sent documentation to the Committees/Review Boards regarding our concerns with the location chosen. Our concerns were accepted but ultimately not addressed by any of the three appointed Boards/Committees assigned to review the applicants and the **location**.

I HEARBY TESTIFY TO THE LACK OF INTEGRITY OF THE BIDDING PROCESS.

Each step of the way, each committee and planning commission denied any responsibility to address concerns regarding the **public safety, health and welfare**, even up to the last step completed this week by the City of Mulvane with the PUD (Planned Unit Development). Area residents' pleas for protective fencing, less intrusive lighting, safety from the increased traffic...all these concerns were heard but not addressed. In fact the Mulvane Planning Commissioners allowed scoffing aimed at us while at the podium.

As noted in this Resolution before you today [page 3, lines 3-9], and the wording in SB 66, the residents of both Sumner and Sedgwick County, were **denied REPRESENTATION**.

Please reread a very important part of SB 66.

New Sec. 31 (a) (2) (F) (e) No state or local official shall influence, or attempt to influence, by use of official authority, the decision of the Kansas lottery commission, lottery gaming facility review board or Kansas racing and gaming commission pursuant to this act; the investigation of a proposal for a lottery gaming facility or racetrack gaming facility pursuant to this act; or any proceeding to enforce the provisions of this act or rules and regulations of the Kansas lottery commission or Kansas racing and gaming commission. Any such attempt shall be reported promptly to the attorney general.

Now please read the statistics of said LOCAL governments. Those listed in red voted NO or presented documentation to the review committees of our non-approval of placing the facility at the Sedgwick Co. line.

Townships, Drainage Districts	population
Belle Plaine Township, Sumner Co	1,688
Palestine Township, Sumner Co	237
Salem Township, Sedgwick Co	4,371
Cowskin Drainage District	N/A
County Commissions	
Sumner County	25,749
Sedgwick County	455,516
City Governments	
City of Mulvane	5,245
City of Wellington	8,515

NOTE: The only local government that endorsed Exit 33 is in blue (and please remember, the appointed Mulvane Planning Commission and the Mulvane City Council were NOT elected by the County residents whose property values and lives this facility will impact.

NOTE: Sumner County appointed planning commissioners and elected County Commissioners - the only elected representation allowed to vote concerning the Exit 33 location, denied Peninsula! They were legal representation of almost 26,000 people. Sedgwick County voters said NO, and that should be

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counted as 455,000 NO votes. The voters have spoken the ONLY way we could, but the Kansas Lottery/Gaming review boards did not listen to us. We pray that YOU will listen to us today and move this resolution into the proper hands to defend our rights as voters in the State of Kansas.

Due to my job conflict, I cannot attend the hearing, I apologize to you, but I pray that you will consider my testimony as a representation of a number of taxpayers that have been **denied elected representation**.

Sincerely,

Joan F. (Joanie) Storck, Salem Township (316) 304-2475 storckranch@yahoo.com

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MEMORANDUM

TO: MATT ALL, CHAIR
KANSAS LOTTERY GAMING FACILITY REVIEW BOARD

FROM: TOWNSHIP OFFICIALS OF LONDON, PALESTINE, BELLE PLAINE
AND HARMON TOWNSHIPS (SUMNER COUNTY, KANSAS) AND
SALEM TOWNSHIP (SEDGWICK COUNTY, KANSAS)

DATE: DECEMBER 10, 2010

RE: LOCAL GOVERNMENTS/TOWNSHIP DRAINAGE CONCERNS

THE PROPOSED PENINSULA CASINO SITE AT EXIT 33 ON THE KANSAS TURNPIKE IS LOCATED AT THE NORTHERN BOUNDARY OF BELLE PLAINE TOWNSHIP IN SUMNER COUNTY AND ADJOINS THE SOUTHERN BOUNDARY OF SALEM TOWNSHIP IN SEDGWICK COUNTY, KANSAS.

GROUND WATER:

GROUND WATER IS THE ONLY SOURCE OF WATER TO THE VAST MAJORITY OF THE AREA'S POPULATION, INCLUDING THE FIVE TOWNSHIP AREA OF LONDON, PALESTINE, BELLE PLAINE, AND HARMON TOWNSHIPS IN SUMNER COUNTY AND SALEM TOWNSHIP IN SEDGWICK COUNTY. THE GROUND WATER HERE IN QUESTION IS DEFINED AS "SENSITIVE" (SEE PAGE 5, OF ATTACHMENT 'A' KANSAS CORPORATION COMMISSION). "SENSITIVE AREA" HAS BEEN DEFINED AS A GEOGRAPHIC AREA WHERE THERE IS A SIGNIFICANT RISK OF GROUNDWATER DEGRADATION FROM ACTIVITIES CONDUCTED AT OR NEAR THE LAND SURFACE. THE CASINO COMPLEX AND ACCOMPANYING EQUESTRIAN CENTER, BUILT ON A SITE DETERMINED A "SENSITIVE" GROUND WATER AREA, WILL HAVE AN ADVERSE EFFECT ON THE QUALITY OF GROUND WATER CONSUMED BY THE LOCAL POPULATION.

SURFACE WATER:

THE CASINO/EQUESTRIAN COMPLEX AT EXIT 33 WILL DISPLACE 220 ACRES OF SURFACE WATER. ALTHOUGH ATTRIBUTING PROPER DRAINAGE ENGINEERING TO THE COMPLEX ITSELF, PENINSULA'S SURFACE WATER EFFORTS NEGLECT THE ADJOINING RESIDENTIAL AREA(S). PENINSULA'S STUDIES AND PLANS ARE, AT THE LEAST, INCOMPLETE, IF NOT INEFFECTIVE, TO ELIMINATE THE CONCERNS OF NEIGHBORING RESIDENTS AND THOSE DOWNSTREAM. FOR EXAMPLE, STUDIES SUBMITTED BY THE DEVELOPER TO DATE CONCERNING THIS SURFACE WATER SITUATION ADDRESS ONLY TWO MILES TO THE SOUTH, WHEN IN FACT THE SURFACE WATER AFFECTED IS KNOWN TO HAVE AN IMPACT ON

Page 1 of 2

EIGHT THOUSAND ACRES AND PROCEEDS SEVEN MILES TO THE SOUTHEAST. LIKEWISE, ANY DEVELOPMENT ALONG HIGHWAY 53 BETWEEN MULVANE AND EXIT 33 WILL ALSO ADVERSELY EFFECT THE FLOW OF SURFACE WATER IN THE AREA.

PLANNING AND LAND DEVELOPMENT:

PLANS AND ENGINEERING (I.E., DRAINAGE, TRAFFIC, ETC.) ARE INSUFFICIENT AND OTHERWISE INCOMPLETE. THE CITY OF MULVANE'S PLANNING CONSULTANT HAS STATED, ON THE RECORD, THAT A "PLANNED UNIT DEVELOPMENT (PUD)" MUST BE ACCOMPLISHED TO ADDRESS DRAINAGE AND TRAFFIC. TO DATE NO PUD HAS BEEN UNDERTAKEN.

TRAFFIC:

THE DEVELOPER HAS SUBMITTED PLANNED HIGHWAY IMPROVEMENTS, BUT NOT SPECIFICS. LACK OF IMPROVEMENTS ON HIGHWAY 81 AND HIGHWAY 53 WILL CONTRIBUTE TO INCREASED TRAFFIC ON TOWNSHIP ROADS, AND INEVITABLE INCREASES IN COSTS OF MAINTENANCE TO THE TAXPAYERS.

FIVE TOWNSHIPS AND THE COWSKIN DRAINAGE DISTRICT HAVE PARTICIPATED AND SIGNED AN AGREEMENT ON THE INFORMATION CONTAINED IN THIS DOCUMENT. (ATTACHMENT 'A' TITLED DOCUMENTATION TO BE REVIEWED - SUBMITTED BY AREA ELECTED TOWNSHIP AND DRAINAGE DISTRICT OFFICIALS), ATTACHMENT 'A' WAS PREVIOUSLY PROVIDED THE GAMING FACILITY REVIEW BOARD THE WEEK OF OCTOBER 24, 2010.

STEVEN C. WARNER
CASSIE MURRAY
RHONDA WOMACK

BELLE PLAINE TOWNSHIP

JEFF HATFIELD
DANIEL AST
RANDY GRISSOM

PALESTINE TOWNSHIP

JOAN F. STORCK
PAUL L. BRANCH

SALEM TOWNSHIP

JEFF HATFIELD

COWSKIN DRAINAGE DISTRICT

SHAWN HANSON
ROLLAND MCADAM
DEBBIE TUSSEY

LONDON TOWNSHIP

LINDLEY ZIMMERMAN
ODIE WARREN
MIKE NEISES

HARMON TOWNSHIP

**Written Testimony to House Federal and State Affairs Committee
On House Resolution 6015**

Jeanne Hall, Mulvane Property Owner

March 14, 2011

Chairman Brunk and members of the committee:

I urge you to VOTE YES on House Resolution 6015.

According to the rules of the casino selection process the companies were supposed to have all approvals in place prior to the selection process and prior to being awarded a contract. The presentation, which was made to the lottery review board by Peninsula Gaming and what they are now proposing, is completely different. They have not received all the approvals and in fact it is still evolving. So much is left on done that everyone is confused as to what is really happening. They have held meetings that have lasted well into the night and have shoved things through without even taking the time to discuss and get input on them.

Many things have not been addressed and resolved such as traffic issues, lighting, signage, water and impact on the neighboring subdivisions.

Over and over we have heard that the casino operation needs to be squeaky clean given the reputation of corruption in the gaming industry. However, a contract was awarded to Peninsula Gaming despite the knowledge that criminal charges have been filed in Iowa against two of their executives.

Beyond that, the local officials have refused to listen to the concerns and needs of the residents and citizens of this area. We have repeatedly been shut down when we have asked relevant questions and tried to get answers concerning issues surrounding this casino.

I would urge you to approve the resolution so that these issues can be investigated and challenged.

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We ask you to support Resolution HR 6015. We live 1/2 mile from the site for the casino at Exit 33 of the Kansas Turnpike in Sumner County.

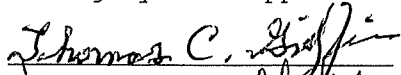
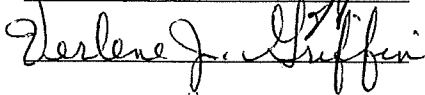
Regulations for being granted the contract to build the casino require that all planning and zoning be in place prior to approval of the contract. That did not happen. Peninsula Gaming was chosen on December 15, 2010 by the Kansas Lottery Gaming Facility Review Board. The city of Mulvane was still holding planning and zoning meetings as late as the first weeks of March to approve changes that should have been completed months ago.

The plans for lighting, signage, and the hotel that is to be built that have been presented to the Mulvane Planning and Zoning and City Council are all different than those presented to the Review Board. The signs are now larger, the lighting more flashy and bright, and the original plans for a 4 story hotel have now been changed to 10 stories. The residents in the area have asked all along that those be kept to a minimum. We have been led to believe they would be. Now it appears our wishes have been totally ignored. We believe these change would have not occurred if Planning and Zoning had been in place prior to the selection of the casino management contract.

Also all the planning is not complete such as water, sewer, electrical, how and where these utilities will get to the site. There are no more public hearings to allow us to speak after they decide how and where they will install it as required by law. Even when there were public hearings, we were often told what we could and couldn't say before we were allowed to speak. What happened to freedom of speech and the right to express one's opinion? The city of Mulvane (which is 2/3 in Sedgewick County) annexed the property to build a casino, but did not include any of the residences in the area. Our elected Sumner County commissioners, who repeatedly recommended that the state gaming boards not accept the proposals for Exit 33, are powerless to represent us now. That leaves us with no voice as to what happens to our neighborhoods, safety, and property values.

We question the integrity Peninsula Gaming. They are involved in a lawsuit in Iowa for illegal campaign contributions. Is it really good business for the state of Kansas to become business partners with a company that cannot be trusted?

We urge you to approve Resolution HR 6015.

 Thomas C. Griffin
 Verlene J. Griffin

838 E. 140th Ave. N.
Peck, KS 67120

House Fed & State Affairs

Date: 3-14-11

Attachment 15

Testimony to the House Federal and State Affairs Committee
IN SUPPORT OF
House Resolution 6015

Jean M. Laymon
870 E 144 Ave N
Peck KS 67120

Within 1000 feet of the proposed casino in Sumner County

For March 14, 2011, hearing

Dear Chairman Brunk and members of the committee:

As a landowner within 1000 feet of the casino, I have a vested interest in these proceedings and thank you for the opportunity to approach you in regard to HR6015 and urge you to vote **"YES"** on this resolution.

The proposed casino in Sumner County is not a squeaky clean "Mom and Pop" operation as officials and others would like for you to believe and if it was **REALLY** about providing jobs, a casino would **already be up and running in Sumner County**.

When the casino selection process started several years ago, I recall one zoning meeting in Wellington that, unfortunately, set the tone for subsequent meetings for all developers and brings us to this current quandary. A question had been raised and someone on the zoning board said to the developer, somewhat in a jesting manner, "If you were nice guys, you would do ____ (whatever the request was). The response from the developer and/or attorney was stellar, "We're not nice guys", and, to my dismay, almost everyone in the room laughed! Probably the only totally truthful thing said and laughter was the response. Although the original story was not about the current developer, the same theme has resonated through each casino selection process. Being a "nice guy" is not a prerequisite to good business management, but the opportunity was missed early on in the proceedings (from bottom to top) to hold each and everyone to a high standard and, **knowing the whole ilk may not be "nice guys"**, to be very prudent and diligent in working with them. It appears the Kansas Racing and Gaming commission and its members, the Kansas Lottery Commissions and its members and the Kansas Lottery Gaming Facility Review Board and its members have ignored this reality and have "laughed" as well as they have overlooked some very disturbing information which questions the integrity of certain executive officers of the proposed developer.

In the early stages of the process for Peninsula Gaming and Global Gaming's casino when it was still in the hands of Sumner County, the zoning commission denied certain zoning and the Sumner County Commissioners upheld their decision—the whole zoning process has never been completed, **but I hear the heavy equipment operating over there right now** as things have proceeded like nothing is amiss or, if it is, so what? The final decisions on zoning have not left Sumner County, yet, we, as landowners and taxpayers, have no recourse and no representation. The "powers that be" beyond the elected local officials took it upon themselves to disregard the actions and recommendations of the

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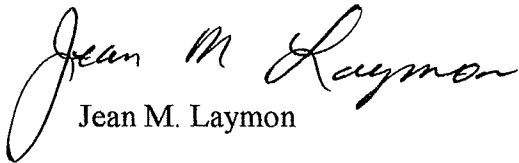
Attachment 16

Sumner County Commissioners and proceeded forward with vital underpinnings ***not all in place!*** One of the reasons the zoning was denied was for lack of safety and realistic plans in the ***overall traffic designs*** presented. In my opinion, this currently leaves the ***state and county*** wide open for negligence and/or major liability when an accident happens on either Highway 81 or Highway 53 for not insisting a safe plan be in place before single clod of dirt was turned. The county has tried by not passing the zoning, but the lottery officials have “laughed” at that, too, putting the State of Kansas in jeopardy as well.

On page 9 of Peninsula’s “Kansas Star” casino proposal on the Sumner County website, they state the casino will be “seamlessly integrated into the surrounding environment”. At the meetings I attended last fall, there was a lot of talk of phases and horses and how “user friendly” the whole atmosphere was going to be to the neighborhood. In perusing a copy of the Report of Planning Commission on Preliminary Planned Unit Development Plan, Case No. PUD-P-11-1 with hearings held in Mulvane KS on February 10 and 19, 2011, there are many revisions to the original plans and the little “neighborhood horse and pony show” has turned into **an urban commercial nightmare** for us, the residents who live near the proposed casino and the county in general.

Please give this whole situation a fresh look through due process of law by **passing HR6015** and bring the overseers of this whole debacle to account for their actions or lack thereof.

Yours very truly,


Jean M. Laymon

**Testimony to House Federal and State Affairs Committee
on House Resolution 6015**

Kristy Sutherland
669 E. 140th Ave N
Peck, KS 67120
316-524-1319

March 14, 2011

To the Honorable Chairman Brunk and the honorable members of the committee. I would like to present written testimony, though I will not be speaking. **I urge you to VOTE YES on House Resolution 6015.**

The approval process that was used to approve the casino in Sumner County has had many problems regarding drainage, zoning and legal issues. The concern that I am addressing today is the Lottery Review Board and the Kansas Racing Commission's approval of the contract for the South Central Kansas Casino to Peninsula Gaming. The chief executive and chief financial officer of Peninsula Gaming are facing charges for an illegal campaign contribution. The alleged contribution was given to the Governor of Iowa. The contribution was given in the name of another and they willfully failed to report the contribution to state officials. The contribution was given when the Iowa Gaming and Racing Commission was considering a casino application for Fort Dodge, Iowa. The application was later withdrawn.

Why would the State of Kansas sign a contract with a company that is obviously unethical and violates state and federal laws? Corporate culture is formed from the top down. These men are the top officials of Peninsula Gaming. If the officers are convicted of these charges it would show that this corporation has serious ethical problems and disregard for the law. Their actions were deliberate, planned, and their intent was to "buy" approval for their casino application. I would not do business with a corporation with this type of ethics. I am very disappointed that the State of Kansas would choose to be business partners with them.

The contract violates Senate Bill 66, page 16 and 17, where it states that officers or key employees convicted of **any** crime involving moral turpitude prior to applying for a certificate or thereafter shall be determined unfit. Moral turpitude is "conduct that is considered contrary to community standards of justice, honest, or good morals". The charges against the CEO and CFO are violations of ethics. The Kansas Racing and Gaming Commission rules and regulations provide them with the authority to deny a gaming certificate if the officers of the applicant pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unfair or illegal practices in the conduct of gaming. They failed to use this authority.

If convicted, Peninsula Gaming's officers have publicly offered to step aside. That action is not sufficient to change the corporate culture of the company they ran.

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I strongly object to the State of Kansas entering into a management contract with a company that has serious moral and ethical issues. I do not believe this is the image that the State of Kansas would want to project to other states that are watching Kansas complete the process of a state-owned casino. We are counting on our representatives to use any influence that they have available to protect the residents and the State in this matter.

Thank you for your time and consideration of this testimony, if you need further information or resources please contact me.

Kristy Sutherland

Kristy Sutherland



TRIPLETT, WOOLF & GARRETSON, LLC

L A W F I R M

Thomas C. Triplett
John P. Woolf
Thomas P. Garretson
James A. Walker
Timothy E. McKee
Theron E. Fry *
Eric B. Metz
Ron H. Hamden
Tad Patton
Rachael K. Pirner
Jeffrey D. Leonard
* Admitted in Kansas & Texas

2959 North Rock Road, Suite 300
Wichita, KS 67226

Email: jtklaus@twgfirm.com

TELEPHONE
(316) 630-8100

FAX
(316) 630-8101

Jeffery C. Dahlgren
J.T. Klaus
Jerald W. Rogers
Ross E. Hellwig
Amy Fellows Cline
Tyler E. Heffron
Paula D. Langworthy
Andrew N. Kovar
Shane A. Rosson
Mary F. Carson, *Of Counsel*

March 14, 2011

STATE OF KANSAS
House of Representatives
Committee on Federal and State Affairs
300 S.W. 10th St.
Topeka, Kansas 66612

RE: *House Resolution No. 6015*

Dear Chair Brunk and Committee Representatives:

I am writing you as the City Attorney for the City of Mulvane, Kansas regarding House Resolution No. 6015 which I understand was just recently introduced in the House and is now being worked by your committee. Please accept the following as my testimony regarding said Resolution:

Resolution No. 6015 suggests that Peninsula Gaming did not have all the necessary local governmental approvals when the Lottery Commission signed the Management Contract. You should know that this is not correct. Senate Bill 66 provides that "the executive director shall not contract with any prospective lottery gaming facility manager for the operation and management of such lottery gaming facility *unless such manager first receives any necessary approval under planning and zoning requirements of the city or county in which it is to be located.*" As of October 7, 2010, Peninsula Gaming had all *necessary* approvals required by the City of Mulvane for a lottery gaming facility and equestrian and event center in Mulvane. The Management Contract was executed by the Executive Director of the Kansas Lottery on October 19, 2010.

Our City has been through the preliminary process for management contract approval three times, with five or more developers over the last three years. Our city has been promised much, but never requested anything. Without exception, Peninsula Gaming has, to date, been the absolute best of these developers. Peninsula has provided clear and concise answers to the questions of our community, not just telling us what they think we want to hear. More

TWG REF: 354539

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18

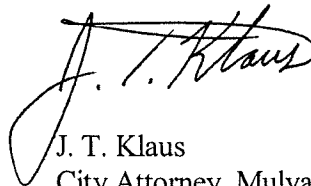
importantly, Peninsula then honored those commitments, whether or not they were in writing, usually without being asked and always without hesitancy or delay.

Peninsula has been driven to perform, on time, as promised, and has been the best of corporate citizens to our community, addressing the will of the many, but also frequently satisfying the concerns of the few, even when not legally required to do so.

Peninsula Gaming was selected to manage the State's casino at Exit 33 by a non-partisan lottery review board. The selection was based on the merits of their proposal, with all factors being considered. The Racing and Gaming Commission conducted an unbiased review of the background of the winner, and the State executed and awarded the contract to the best proposal.

Please let us as a State, now lead by example with our own business ethics. Let us honor the spirit of the Expanded Lottery Gaming Act by not attempting to influence the objective outcome of the process with the politics of the day. Instead, let us be forthright in our approach, honor our commitments, keep our promises to others, preserve the fiscal advantage to our State's budget and let the Attorney General do his job, without the strange and unusual involvement of the legislature, driven by those who are somehow unhappy with the results of the objective process we created.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. T. Klaus". The signature is stylized with a large, sweeping initial "J" and a long, horizontal stroke extending to the right.

J. T. Klaus
City Attorney, Mulvane, Kansas

JTK:pjg



**Testimony to the
House Committee on Federal and State Affairs
House Resolution 6015
March 14, 2011**

Mr. Chairman and members of the Committee, this testimony is presented to the House Federal and State Affairs Committee in opposition to HR 6015 on behalf of Peninsula Gaming LLC and its wholly-owned subsidiary, Kansas Star Casino, LLC ("Peninsula Gaming"), the developer of, and the State's partner in the operation of, the Kansas Star Casino, Hotel and Event Center located in the South Central Gaming Zone. This partnership will provide the State with more than 1,600 jobs in the construction phase and more than 1,400 permanent jobs upon its completion, and represents an unprecedented single investment into the State and local economies in South Central Kansas. The State of Kansas' consultants project that this development will provide approximately \$360 million to the State and local entities in the first seven years alone.

Peninsula Gaming's purpose for responding to the proposed Resolution is to correct a number of factual inaccuracies contained within HR 6015, and to provide this Committee with a summary of the extensive work and expense incurred by Peninsula Gaming and state and local agencies in approving Peninsula Gaming's contract under the terms of the Kansas Expanded Lottery Act. In short, Peninsula Gaming has fully complied with every provision and requirement of the Kansas Expanded Lottery Act, including obtaining all required zoning and planning approvals from the City of Mulvane.

Peninsula Gaming's Contract with the State of Kansas

After two prior failures to obtain state partners for the South Central Gaming Zone, on April 23, 2010, the Kansas Lottery Commission approved the reopening of bids for that zone. Three applications were filed with the Kansas Lottery and Peninsula Gaming was one of the applicants (one applicant ultimately dropped out of the process). Pursuant to the Kansas Expanded Lottery Act, the Kansas Lottery, on behalf of the State of Kansas had 90 days, until October 20, 2010, to review the applications, and negotiate and execute contracts with the applicants. The Kansas Lottery is charged with the responsibility under the Kansas Expanded Lottery Act of negotiating the Management Contracts and is required to determine during the evaluation process whether the applicants have sufficient access to financial resources, are current in filing all applicable tax returns and payment of all taxes, interest and penalties owed to the State of Kansas and have three consecutive years' experience in the management of Class III gaming. Peninsula Gaming spent considerable time and expense in responding to the State's due diligence efforts, including hiring a local team of consultants to assist in the preparation of its bid and subsequent contract negotiations. The Kansas Lottery hired experts, at the applicants' expense, to assist it in fulfilling its responsibilities. During this period of time Peninsula Gaming expended significant time and financial resources obtaining all required governmental approvals from the City of Mulvane. Peninsula Gaming hired architects, design specialists, engineers and local counsel to assist in satisfactorily addressing any concern the local government might have with Peninsula Gaming's proposal, including traffic, drainage and environmental impact issues. Following numerous meetings and significant work with the City of Mulvane, Peninsula Gaming obtained all necessary governmental approvals required under the Kansas Expanded Lottery Act, including obtaining a resolution of endorsement by the City of Mulvane on August 16, 2010 and the necessary zoning change and a special use permit to construct a Lottery Gaming Facility. This process was consistent with the procedures followed in all of the other proposed contracts considered by the Kansas Lottery in the South Central zone and the other gaming zones.

After obtaining all governmental approvals required under the Kansas Expanded Lottery Act and following a long and extensive negotiation process and the approval of the Kansas Lottery Commission, the Executive Director of the Kansas Lottery executed two contracts with the remaining applicants for the South Central Zone. The contracts were then forwarded to the Kansas Lottery Gaming Facility Review Board (the "Review Board") pursuant to the Kansas Expanded Lottery Act. The Review Board is a seven member board appointed to review the contracts approved by the Kansas Lottery Commission and determine the "best possible contract" for the State of Kansas in the gaming zone. The members of the Review Board are appointed under the following process: three members by the governor, two by the president of the Senate and two by the Speaker of the House of Representatives. In accordance with the Kansas Expanded Lottery Act and Peninsula Gaming's contract, on or about November 16, 2010, Peninsula Gaming paid the \$25 million dollar privilege fee to the State of Kansas that was ultimately deposited in the State's General Fund.

Under the Kansas Expanded Lottery Act, the Review Board had 60 days to select the "best contract", considering the required statutory requirements of: 1) maximizing revenue; 2) encouraging tourism; and 3) being in the overall best interest of the State of Kansas. To assist in this process, the Review Board employed some of the most highly regarded experts in the United States to assist in the review of the proposals and applicants. The expense of employing these experts was assumed entirely by the applicants, as were any and all expenses associated with the selection process with the Kansas Lottery Commission, Review Board and the Kansas Racing and Gaming Commission ("KRGCC"). To date, Peninsula Gaming has paid more than \$3.2 million to the State of Kansas for these expenses.

The Review Board held several public meetings, reviewed thousands of pages of information, and listened to numerous presentations from the applicants, Review Board experts and opponents. After considering all the testimony and information the Review Board selected Peninsula Gaming's contract on December 15, 2010, having determined that Peninsula Gaming's contract best maximized revenue, encouraged the most tourism and was in the overall best interest of the State of Kansas. The Review Board vote was an unprecedented show of support by the bi-partisan Review Board, resulting in Peninsula Gaming receiving 6 of 7 votes in favor of its contract. No other applicant in any competitive zone had ever received more than 5 votes from the Review Board.

Approval of Peninsula Gaming's Background

The final step in the process of approving Peninsula Gaming was the approval of the background of Peninsula Gaming and its principals by the Kansas Racing and Gaming Commission ("KRGCC"). Under the Kansas Expanded Lottery Act, all persons holding a .5% interest or greater in the company were subjected to a significant background check, the strictest standard in the United States. All of Peninsula Gaming's officers, directors and key employees were subjected to the highest level of review, including their finances, an extensive criminal background check, review of relatives and associates and personal interviews with law enforcement for each officer, director and key employee. Following this extensive review of Peninsula Gaming and its principals' background, the KRGCC met on January 14, 2010 and approved the background and licenses for Peninsula Gaming and all of its principals by a vote of 4-1.

This entire process requiring review and approval by a state appointed board, two separate commissions and one local government body pursuant to the Act was the same procedure used in the review of every other proposal in each round of proposals in each of the four zones, southwest, south central, southeast, and northeast. Peninsula Gaming and the three statutorily-authorized bodies fully followed and complied with every requirement of the Kansas Expanded Lottery Act. Peninsula Gaming is confident, that if asked, representatives of each of the three statutorily-authorized bodies would agree that the process fully complied with the Kansas Expanded Lottery Act. Finally, three Kansas Assistant Attorney Generals were involved in the approval process.

Throughout this process Peninsula Gaming has acted both in good faith and in full reliance on the provisions of the Act and the actions of the three statutorily-authorized bodies that approved Peninsula Gaming's contract with the State of Kansas. In so doing, Peninsula Gaming has expended approximately \$55 million dollars to date including the privilege fee in reliance on its partner, the State of Kansas, to develop a destination resort casino in the South Central Gaming Zone. The project is now under construction, quite literally heavy equipment is on site and construction activity is well underway.

The Benefits of the Peninsula Gaming Investment in Kansas

Peninsula Gaming's contract stands alone among the contracts negotiated by the Kansas Lottery Commission in its benefits to the State of Kansas. In addition to a premier gaming facility, Peninsula Gaming will construct a multi-purpose equestrian center that will become the pride of the Midwest and generate millions of dollars in tourism revenue that is currently leaving Kansas due to the lack of adequate facilities. Peninsula Gaming has also agreed to provide a one-of-a-kind education advancement fund, the "Ad Astra" fund that will provide \$1.5 million per year for the benefit of all students in Sumner County and the City of Mulvane. Finally, Peninsula Gaming's contract contains a number of increased monetary incentives to the State of Kansas based on revenue targets and has committed to have its facility opened no later than February, 2012. The analysis performed by the State's independent experts show that the benefits to the State and to Sumner County in particular are material and unprecedented as a single investment in the region, as demonstrated by the following;

- Total investment in Sumner County - \$260 million dollars by January, 2015
- State and local Tax benefit – Approximately \$50 million dollars per year
- Benefit to Sumner County - \$20.9 million in first 7 years
- Construction jobs – more than 1,600
- Permanent jobs – more than 1,400
- Construction impact - \$239 million
- Operations impact - \$189 million

Peninsula Gaming has relied on the good faith of the State of Kansas under its approved contract in making this investment and committing to the much larger investment to generate the benefits that will accrue to Kansas and Sumner County in future years. The procedures followed by Peninsula Gaming and the State throughout this process were established by this same Kansas Legislature and cannot and should not now be altered or abrogated. An attempt to do so would not only impact Peninsula Gaming in the South Central zone, but also the Hollywood casino approved for the Northeast Zone, and the Boot Hill casino in the Southwest zone. The effects of any reversal or modification of this law and the procedures under which it was carried out would have an enormous adverse impact on future Kansas and local government revenues and would result in the loss of thousands of badly needed jobs, which would not only be harmful to the State, but would have the long term adverse effect of undermining the integrity and credibility of the State when dealing with other companies seeking to invest capital and resources in the future.

Peninsula Gaming respectfully requests this committee reject HR 6015 in its entirety. Thank you for your time and consideration of this critical matter.



Sumner County Economic Development Commission

Physical Address: 123 N. Jefferson, Wellington, Kansas 67152

Mailing Address: P. O. Box 279, Wellington, Kansas 67152

Office Phone Number: (620) 326-8779 Office Fax Number: (620) 326-6544

Email Address: scedc@co.sumner.ks.us

Website: www.gosumner.com

TO: Chairman Brunk
Members of the House Federal and State Affairs Committee

RE: House Resolution No. 6015

**2011
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Director

Tiffany Bonfiglio
Administrative
Assistant

The Sumner County Economic Development Commission is very concerned about House Resolution No. 6015 being brought forth for the following reasons:

- The Kansas Lottery Commission, the Lottery Review Board and Kansas Racing and Gaming all worked diligently and in good faith to provide the State of Kansas with what they believed to be the best possible contract and that choice was Peninsula Gaming.
- The Kansas Racing and Gaming conducted background checks as called for the Kansas Expanded Lottery Act. Although there is a pending case in Iowa, no one has been found guilty of anything at this point. As our constitution provides, they are presumed innocent until proven guilty. Even if they are found guilty of what we understand to be a misdemeanor, the individuals from Peninsula have stated they would remove themselves from the Kansas project. If there was any doubt about the selection of Peninsula, action should have taken place during the approval process, not now.
- The Kansas Lottery Commission Director has been given the authority to monitor and control gaming operations. Should at any time during the casino's operation there be a question as to the integrity and security of the operation, the Director has the authority to take appropriate action. Why should we not let him do his job?
- Compliance with what was required by local planning and zoning was completed prior to approval.
- To question the Kansas Lottery Act regarding the authority of state legislators' role in this process is to question the legislators' own integrity. The legislators are the ones who drafted and enacted the law and wisely set those parameters to alleviate political pressure being used to influence the process. Should the legislators not have wanted their powers limited in this process; they would not have enacted the law with that wording included.
- The State of Kansas took Peninsula's \$25 million fee in good faith and Peninsula Gaming has begun construction on this project in good faith. If this process is overturned, how will we be able to recruit any new business to Kansas without them fearing we will change our minds on promises we make to them.
- The State of Kansas needs the funding this project will create. We do not need to delay the process and deny our citizens the much needed additional revenue for the State.

SCEDC

Committed to Improving the Economy of Sumner

House Fed & State Affairs

Date: 3-14-11

Attachment 20

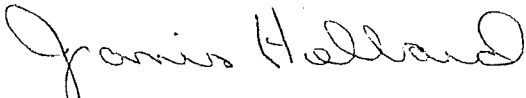
March 14, 2011
Page 2

Revenue which can be used to ease the tax burdens placed on our citizens and help ensure needed services to our citizens will continue to be provided.

We ask that you take these concerns into consideration as you proceed in your deliberations regarding House Resolution #6015. We hope that you will find this resolution unnecessary and decide not to send this resolution forward.

Thank you for your time in considering our concerns.

Sincerely,

A handwritten signature in cursive script that reads "Janis Hellard". The signature is written in dark ink and is positioned above the printed name.

Janis Hellard, Director

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