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November 20, 2007

Leonard K. Bernstein
Philadelphia Water Department
ARAMARK Tower - 5th Floor
1101 Market Street
Philadelphia, PA 19107-2994

Re: Sugarhouse Casino – Sewage Facilities Planning Module

Dear Mr. Bernstein:

I write today to submit our public comment to the Sugarhouse Casino's proposed Sewage Facilities Planning Module. In reviewing the submission I have come to have numerous questions and comments. I look forward to each item being addressed.

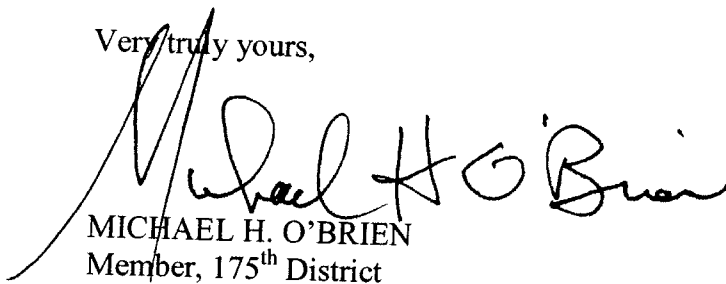
1. On the site plan provided, I have been unable to locate any flood plain or wetlands information. Page 5 section 3 of the proposal requires this information to be addressed.
2. The October 22, 2007 letter from the Philadelphia Water Department states "Upon submission of application to and *issuance* of applicable permits by the Department of License and Inspections of The City of Philadelphia...the Philadelphia Water Department will provide domestic water and fire water service to the Project". It is our understanding the Department of License and Inspection has not issued any permits for the project.
3. Page 5 of the Sewage Facilities Planning Module the applicant is marked as yes for conflict with the Historical Preservation Act. The applicant acknowledges this in their public notice. Unfortunately, there is no documentation included in this application, no correspondence or studies showing investigation or resolution to this issue. The historic preservation act section of the Sewage Facilities Planning Module requires documentation. Obviously, this information needs to be made available for the public comment period. I assume I will have 30 days to review these documents when they become available.

4. Section P, question number 10 of the application, under public notification requirements, the applicant replies yes there is a conflict resolution that needs to be addressed to comply with the Pa Code Sec. 71.21 (a)(i), (ii), (iii). Has this conflict been resolved?
5. Sec. 4B – the Sewage Facilities Planning Module Component – County Planning Agency Review prepared by the City of Philadelphia Planning Commission, notes in section C number 6 the development will require PADEP encroachment permits Section C 7 requires PHMC Clearance. In addition, section C number 10 states the project and property do not have proper zoning. They require a zoning ordinance for a “CED District”. This zoning change has not been passed by City of Philadelphia City Council. The current zoning classification is G-2 and a slots parlor and commercial entertainment is not an allowable use.
6. In the project narrative, the applicant is misleading in their assertion of their ability to build on the entire site. I believe a majority of the site is riparian lands, lands which belong to the Commonwealth of Pennsylvania. We have notified the applicant of this issue which needs to be worked out and their inability to build upon lands which they do not have clear title to. As the administration is aware, this is an outstanding issue which has to be resolved before any permit can be issued.
7. On pages 2 and 3 of the PADEP Environmental Assessment form the site was flagged for the potential presence of Red Bellied turtles, the Phase one report stated the potential for a breeding ground on the site and they state a Phase two study is needed. Obviously, the protection of this endangered species needs to be addressed. Also, the National Marine Fisheries Services flagged the federally endangered shortnose sturgeon may be present from May to October. What actions has the applicant taken with the Army Corp of Engineers to assess the impact of this endangered species?
8. Page 4 of the PADEP Environmental Assessment form the applicant states they anticipate the fill they are proposing for the river is acceptable, while I appreciate their optimism has there been any approvals from the City, State or Federal authorities for this filling of the river?
9. Page 6 of the PADEP Environmental Assessment form, the applicant states they have entered into a purchase agreement for the site. It appears they do not own the land they are applying for. The applicant states they anticipate the Commonwealth will deed, lease, license or other instrument for the development of the property, as the Commonwealth has title interests. This is presumptuous as there has been no legislation introduced for any conveyance of the Commonwealths interests. Without this conveyance, the applicant cannot implement their sewer and stormwater management plans as presented in this application.

10. Page 8 of the PADEP Environmental Assessment form, notes anticipated fill of the river. This applicant does not have the right to fill this area of the river since the General Assembly has not passed legislation allowing them to do so.
11. Page 9 section 3(a) paragraph 3 of the PADEP Environmental Assessment form, the applicant states they have designed their stormwater management controls underneath the public access walkway which is located on the submerged lands of the Commonwealth and the applicant cannot construct a permanent structure on lands they do not own.
12. Page 12 Section 5 (e), the question asks what dams, encroachments or water obstructions may or will be needed. The applicant does not answer the question, the applicant states other dams, water obstructions or encroachments will not be affected by this project. The applicant does not divulge any other potential activities as requested.
13. Enclosure D, the Habitat Assessment Report, dated February 2007 for Red Bellied Turtles recommends a Phase II Survey be conducted during breeding season. According to the report breeding season has passed since the date of the report and this public comment period. Has this study been conducted and what are the results.
14. The DEP General Information sheet which is a part of the regulatory documents submitted is perplexing. On page 3 under land use information the applicant obviously erred when they answered no to question 7 and 8. This property does require rezoning and there is currently legal proceeding occurring regarding the zoning.
15. Finally, The DEP General Information sheet submitted is not executed by Gregory Carlin, CEO. The document requires a signature to verify the accuracy of the information submitted.

Thank you in advance for your consideration of our comments, we look forward to receiving your response to these very important issues.

Very truly yours,



MICHAEL H. O'BRIEN
Member, 175th District