

Pope County officials signaling split with exec on casino filing

Written by Administrator
Monday, 16 August 2021 05:25 -

Some members of the Pope County Quorum Court say they want the public to know that the county judge does not represent them when it comes to the casino controversy there.

Meanwhile, one of the contenders vying to operate a casino there announced that it is joining forces with an Arkansas-based contractor to break ground at its Russellville site.

[\[RELATED: See complete Democrat-Gazette coverage of casinos in Arkansas at arkansasonline.com/casinos/\]](https://arkansasonline.com/casinos/)

A special meeting of the Pope County Quorum Court is set for 5:30 p.m. today in Russellville to vote on a "Resolution of Disapproval" against Ben Cross, county judge of Pope County.

COURT FILING

LED TO RESOLUTION

The resolution, sponsored by District 12 Justice Joseph Pearson, comes after Cross filed an amicus curiae brief in support of Cherokee Nation Businesses in a case before the Arkansas Supreme Court.

Cherokee Nation Businesses is fighting for the Pope County casino license against Mississippi casino operator Gulfside Casino Partnership, which was awarded the license last year by the Arkansas Racing Commission.

"The judge has established a history of acting laterally and leaving the Quorum Court out of the discussion, not even notifying us of his actions, let alone including us in the decision making," Pearson said in an interview Friday. "It's just a public rebuke. That's all that a resolution can do. It doesn't have a rule of law to it. It just states the mood or the opinion of the court."

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District 11 Justice of the Peace Lane Scott said this is the third time in the past year that Cross has been warned by the Quorum Court. The first was in November, just prior to the election, when pro-casino justices of the peace adopted a resolution opposing Cross from involving Pope County in any casino litigation.

The second time was in January -- after six new members were voted into office, making the Quorum Court majority anti-casino -- when another resolution was adopted reiterating they opposed the county and Cross being involved in any casino litigation.

"Of course, he continues to inject himself in his official capacity. The heartburn we have with it is he claims to represent the county," Lane said. "He does, and was elected by the whole county, but 13 of us have discussed that we disagree with that."

The resolution chides Cross for continuing to interject himself without the support of the Pope County Quorum and the citizens of Pope County, "thereby creating the appearance of an impropriety and casting Pope County in a bad light."

"In recognition of the fact this is the [third] resolution against casino-related issues brought by the court in eight months, I totally understand there are still those who adamantly oppose anything to do with the word 'casino,'" Cross said. "However, as the office of county judge is statutorily charged with the fiduciary responsibility of all county financial issues by state law, it is only prudent to support what is financially in the best interest of the county."

The resolution also reprimands Cross for filing the brief even after being directed by the Quorum Court to keep the county out of the casino lawsuits.

The proposed resolution, just like all resolutions, has an "APPROVED" signature line for the county judge to sign.

CASINO CONTENDER

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PAID FOR BRIEF

Cross is also admonished in the resolution for allowing Cherokee Nation Businesses to draft and pay for the preparation of the amicus curiae brief, which "no longer creates the appearance of impropriety but creates an impropriety."

On page 11 of the brief, it notes that Cherokee Nation Businesses "made a monetary contribution" to pay for the attorney's preparation of the brief.

When asked how much the county paid for the brief's preparation, Cross said, "Nothing." When asked how much Cherokee Nation Businesses paid, Cross replied, "I do not know."

When asked why the casino operator would pay for the brief's preparation, Cross said, "Because they wanted to demonstrate their commitment to follow through on their promise to be a community partner if their litigation proves successful."

Cherokee Nation Businesses would not say how much money was contributed towards the brief's preparation when asked for the amount and the reason.

"The amicus brief was joined by the County Judges of every county in which casino gaming is authorized and others. CNB agrees with the counties, the legislature and the Racing Commission on their reading and implementation of Amendment 100," Cherokee Nation Businesses attorney Dustin McDaniel said in an email. "The Supreme Court Rules require that if counsel for a litigant edits or assists an Amicus brief's author or otherwise pays for the authorship, it must be disclosed to the Court. Pope County complied with the Supreme Court's rules in every way."

The amicus brief was submitted by Clay McCall of the McCall Law Firm in Russellville. When Cross was asked how much McCall was paid for filing the brief, he said "\$1."

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"Clay McCall resigned his position as county attorney in January and subsequently executed a separate independent contract with the office of county judge to expressly continue to represent my office in matters of casino litigation due to his extensive knowledge of the subject matter," Cross said. "Therefore, he serves as county attorney only in matters involving casino issues, and by contractual agreement, will be compensated the sum of one dollar."

HIGH COURT CASE

Gulfside filed the suit against the Racing Commission after its license application was initially denied by the commission, which said the casino's required letter of local official's support was signed by County Judge Jim Ed Gibson just days before his term expired on Dec. 31, 2018.

While Amendment 100, approved by voters in 2018, requires local endorsements, it does not stipulate when the endorsements have to be dated or submitted.

Amendment 100 authorized the expansion of gambling operations at racetracks in Hot Springs and West Memphis into full-fledged casinos. It also allowed the Racing Commission to issue one casino license each in Jefferson and Pope counties.

A Racing Commission rule and a state law required the endorsements come from local officials in office at the time of application for a license, but they were deemed unconstitutional and struck down twice by Pulaski County Circuit Judge Tim Fox -- who said the rule and the law added an extra requirement to constitutional Amendment 100.

The Racing Commission last year awarded the license to Gulfside, but the lawsuit continued with Cherokee Nation appealing Fox's decision to the state Supreme Court.

Final briefs in the case were filed Aug. 9 and the Supreme Court returns to session Sept. 9.

GULFSIDE'S PLANS

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Meanwhile, Gulfside is moving forward with its plans to open a casino in Russellville at 51 Bradley Cove Road. It recently gained a 7-1 approval of its development plans from the Russellville Planning Commission. A temporary annex that could house a small casino during construction of the main project was also approved.

On Thursday, Gulfside announced at the Conway Chamber of Commerce's annual meeting that it has formed a joint venture with Arkansas-based Nabholz Corp. and AnderCorp -- the company that built Gulfside's Island View Casino Resort in Gulfport, Miss. --to oversee the construction of the Pope County project, River Valley Casino Resort.

"The Nabholz team is looking forward to working with AnderCorp, as well as local subcontractors and vendors, to help build this economic engine for our state," incoming CEO Jake Nabholz, said in an emailed statement. "Our firm has fostered a strong relationship with AnderCorp's [chairman] and CEO, Roy Anderson III, over the past two decades, and we anticipate a successful project because of our similar attributes and cultures."

AnderCorp has been responsible for more than 20 major gaming and hospitality projects.

"I've known the co-owners of Gulfside Casino Partnership, Rick Carter and Terry Green, for more than 40 years," Anderson said in an emailed statement. "This facility will be a testament to their commitment to being a strong community partner to Russellville and the entire River Valley."

Green, one of Gulfside's co-owners, showed video depictions at the chamber meeting of the \$254 million casino and resort with 1,900 slot machines and 500 hotel rooms near Russellville north of Interstate 40.

He said some of the other applicants "do not see the real future in this project."

"This has been a long process, over three years, but the Arkansas Racing Commission gave us the license to Gulfside Casino Partnership," Green said. "We're very excited about it and we are going to build one of the best resorts in the whole southern United States."

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McDaniel said that Gulfside promises a "massive project," but actually just obtained permission from the city of Russellville to proceed with the design phase "of a project that the Racing Commission has not approved and is about the size of a Walgreens with no hotel at all."

"We appreciate the County Judges of every county in the state in which casino gaming is authorized joining the Racing Commission and the Attorney General in asking our Supreme Court to revoke Gulfside's status as an applicant," McDaniel said. "If that happens, this is all moot. If not, litigation will continue in front of Judge Griffen in Little Rock over the application process and Judge Wright in Pope County to prevent Gulfside from building their downsized project instead of what was in their application."

Saracen Development opened a small temporary casino in 2019 in Pine Bluff shortly after being awarded the license while the main project was being built. Today, the \$240 million project located near The Pines mall is open and operating.

Read more <https://www.nwaonline.com/news/2021/aug/16/jps-signaling-split-with-exec-on-casino-filing/>