THE LAST WORD IN CASINO IS 'NO'

VOTER REVOLT IN MADISON

BILL LUEDERS

The movement that brought down a proposed Madison casino, which promised to rake in a billion dollars a decade for as long as grass grows and rivers run, began in a grocery store flu-shot line. It was early last December and the line was long because of well-publicized concerns about a shortage of flu vaccine. Dave Relles, a Madison trial attorney, got to talking with his fellow shot-seekers, and after a while asked a question on his mind: "What do you guys think about the casino?"

Most felt it was a bad idea, for various reasons. Relles shared that when he prosecuted embezzlement cases as an assistant district attorney in Appleton in the late 1970s, gambling was hardly ever a motivating factor in this kind of crime. But in the last ten years, since the advent of Indian gaming in Wisconsin, he had noticed a boom in gambling-related embezzlement. Relles, bearded and bear-like in physique, was struck that several weeks had passed since the City of Madison and Dane County announced they had reached agreements with the Ho-Chunk Nation regarding a casino plan, subject to countywide referendum approval on February 17, and there was no sign of any organized opposition.

"Let's start the grass-roots effort right now," declared one woman in line. Relles had no interest in doing this, but he and the woman exchanged business cards and pledged to try to find who was leading the opposition. He did some Web searches and made some calls, and his concerns were confirmed: Many people had problems with the plan, despite its promise to pour $91 million into city and county coffers in just the first 13 years, but no one was organizing against it. Eventually, he contacted an Iowa-based anti-casino group and was told, with regard to opposition in Madison, "There is a group, and it's you."

Relles didn't think so. He had no political experience. No organizing experience. No experience raising funds. No experience dealing with media. "I was a complete ingénue," he says. The woman he met in line soon abandoned the cause, saying the Ho-Chunk had promised to give money to the nonprofit

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group for which she worked. But Relles kept making contacts, which led to a meeting at his law office in mid-December. About two dozen people showed up, and the movement acquired a name: No Dane Casino.

In the money

The casino referendum, which ended up being an illuminating exercise in participatory democracy, began, ironically enough, as a shadowy exertion of executive power. Soon after taking office in January 2003, Wisconsin Governor Jim Doyle announced that he had secretly negotiated new gaming compacts with the state's Indian tribes. (It later emerged that Doyle, in the closing days of his campaign, benefited from $725,000 in soft-money contributions from state tribes, including a half-million dollars from the Ho-Chunk.)

These new compacts, which like treaties of old are supposed to last in perpetuity, allow the tribes to run 24/7 operations and offer a wider variety of games. The governor's deal with the Ho-Chunk also essentially forced Dane County to hold a referendum on whether to let the tribe turn its DeJope Bingo Hall on Madison's southeast side into a full-fledged casino. If the county refused, the governor could authorize the casino on his own. The referendum was not binding, but Doyle promised to abide by the decision of Dane County voters.

No doubt because of this need for referendum approval, the proposed DeJope casino pacts were far better than those for any of the state's sixteen existing Indian casinos, and arguably the best in the nation. The City of Madison and Dane County were each guaranteed about $3.5 million in annual payments, or 3.5% of the casino's net win, whichever was greater. For this latter provision to click in, the net win — the amount wagered minus payouts and prizes but before expenses — would have to top $100 million a year. This sounds fantastical, that gamblers at a single casino would collectively lose, on average, more than a quarter of a million dollars a day. But experts on both sides of the debate agreed the envisioned operation, with about 1,000 video slot machines and up to two dozen gaming tables, would indeed make that much. (In Milwaukee, the city and county last year collected $3.9 million each from the Potawatomi, representing 1.5% shares of the net win from its casino there; do the math and that's $260 million.)

Kathleen Falk, Dane County's formidable chief executive, promptly came out in support of the casino. Whereas the payments to the city, which account for about half of Dane County's 440,000 population, were meant to cover increased costs for services like police and fire protection, the county's share was pure gravy. Its role in the referendum, Falk acknowledged, was to deliver the votes. And that's just what she set out to do.

The money, said Falk, could be used to hold down property taxes and plug gaps in human services funding caused by cuts in state aid. She called the casino "a real social justice issue," noting that Native Americans had used gambling proceeds to better the lives of tribal members. (There are 6,300 Ho-Chunk, most in Wisconsin; each gets $12,000 yearly from the tribe's gaming largess.) She said officials in other counties, including Sauk and Milwaukee, "could not substantiate significant human service costs due to the casinos" in their midst. She claimed the Ho-Chunk had taken "extraordinary steps" to identify and exclude problem gamblers, by which she meant its policy of allowing problem gamblers or their families to provide a photograph for inclusion on a *persona non grata* register.

Falk's chief of staff, Topf Wells, cited Ho-Chunk surveys showing the typical casino patron to be white, male, upper-middle class, between the ages of 50 and 65, and "relatively conservative." And he pegged those who fretted about the few, rare casino patrons who don't fit this profile as smugly paternalistic do-gooders intent on micromanaging other people's choices:

> You tell me, 'Well, what about the working poor person who goes there and gambles. Isn't that terrible? [And] I say, let's be careful about reintroducing the lousy side of American Puritanism into Wisconsin civic culture. This notion that . . . the working poor should be out hiking or something

while we middle-class folks do whatever we want. And I don't buy it.

"This will pass easily"

From the start, the odds seemed to favor the casino. The Ho-Chunk Nation, flush with cash from its three existing state casinos — in Nekoosa, Black River Falls and Baraboo, near Wisconsin Dells — had the ability to pour almost unlimited amounts of money into the race. The tribe hired top-shelf spinsters to make its case, including Madison attorney Tom Springer and union lobbyist Joe Wineke, both former state lawmakers. It enlisted the services of costly consultants and advertising agencies to help craft its message. And, in what was perhaps its smartest move, the tribe picked Lisa Pugh as spokesperson of its pro-casino front group, verbosely named the Coalition for Fair Indian Gaming and Shared Revenue Agreements.

Pugh had worked professionally, and as a volunteer advocate, on behalf of young children with developmental disabilities and their families. Her preschool daughter has a rare genetic disorder similar to Down Syndrome, and her family is among hundreds in Dane County on waiting lists for services. Attractive and articulate, Pugh had what she calls a "hidden agenda" — to use the referendum to focus attention on human service needs.

Madison Mayor Dave Cieslewicz, whom Falk helped elect in 2003, said early on that while he remained personally opposed to the casino, he didn't "feel an obligation . . . to beat the bushes against it." The Ho-Chunk had, in fact, drafted a provision in the agreement to bar the mayor from actively campaigning against the referendum. This was removed at his request, but tribal leaders still felt they had the mayor's word to this effect.

Other local politicians were also mostly — and atypically — quiet. Soon after the formation of No Dane Casino, former Madison Mayor Paul Soglin, who Cieslewicz had beat out for the job, charged that "the silence of local officials has been bought, and it's been bought cheaply." Soglin predicted, as did just about everyone else, "if nothing changes, and the No Dane Casino group doesn't expand its base, this will pass easily."

As it turned out, No Dane Casino never expanded its base beyond about a dozen core members. It never had its own office or anointed any leaders, although Relles remained a major player and media contact. He put in 50-hour weeks for the cause, while his billable hours as a lawyer dropped to about five per week. He and other casino foes spoke at area churches and passed out flyers at the rallies of the presidential aspirants who passed through town. They stressed that because of the disparity in resources between the two sides, it wasn't enough for casino foes to vote against the referendum; they had to talk to their friends, neighbors and coworkers. Relles' slogan: "Spread the word — and the word is 'No.'"

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The local media treated the referendum as though it were the Second Coming. Madison's two daily newspapers jointly ran more than 350 articles, columns, editorials and letters in the three months before the vote. Every conceivable aspect of the issue, from quarrels over referendum wording to where state students could pursue a degree in casino management, became fodder for the daily deluge of stories.

Ho-Chunk tribal leaders were reluctant to be pulled into this limelight. Thoughtful and deliberate, they were never able to provide definitive answers to questions about the casino's opera-

tion, even whether it would serve alcohol or be open 24 hours a day. They said they didn't know what else — a hotel? a restaurant? a theater? a water park? a shopping mall? — the tribe might build on the land it owns around the proposed casino. They were probably being honest in saying none of these decisions had been made, but the uncertainty fed into people's fears.

Battle lines

The referendum issue didn't just cut cross ideological boundaries; it sliced and diced them. Many Madison "progressives" opposed the casino, saying it would prey on the poor. Others, like Bert Zipperer, a local leftist activist who finished third in Madison's mayoral sweepstakes, became prominent casino proponents, because of the good it would do the Ho-Chunk. Proponents decried anti-casino arguments as anti-Indian bigotry; one letter to the editor accused casino foes of "the type of prejudice previously reserved for the Jews." Some Ho-Chunk tribal members apparently agreed, including one who demanded, at a referendum debate, "When is this termination talk going to stop?"

Dane County District Attorney Brian Blanchard opposed the casino; the sheriff deputies association backed it. The Dane County Medical Society urged a "no" vote, citing the health problem of pathological gambling; the Developmental Disabilities Coalition and AIDS Resource Center of Wisconsin pushed for passage to ease the pain of people in need.

Labor unions representing construction workers and public employees emerged among the casino's strongest backers, even though Indian nations are exempt from federal laws that give workers basic protections, including the right to form unions. They hailed the tribe as a good employer, with hired-gun unionist Joe Wineke proclaiming that casino jobs would pay "$12 to $14 an hour, plus tips." The Ho-Chunk's posted job openings the week he said this showed a median wage of $9, with only one job paying as well as his range. It was for "casino security shift supervisor," at $13 an hour. Plus tips of course.

Concerns that the Ho-Chunk would build a medium-sized entertainment venue, as the agreements allowed, became a major issue. The operators of struggling local theaters predicted the tribe would snatch away acts and undercut their prices, by subsidizing shows with casino revenues. The head of Madison's quasi-public Overture Center performing arts space drafted a letter warning about this possible impact, which several theaters and arts groups distributed to patrons. (Falk helped block this from happening at Overture, through her appointees on its board.) The tribe insisted it had no desire to compete, and mouthpiece Wineke kept saying, impoliticly, that most of the entertainers who play the Ho-Chunk Casino in Baraboo are lame has-beens like Chubby Checker. But the concern was never assuaged.

An even bigger blow to the pro-casino side came when a member of No Dane Casino obtained, via an open-records request, a previously unreleased staff report projecting between $25 million and $85 million a year in county social costs due to problem gambling. Falk's staff was accused of spiking the report, which was deemed "not useful to us," and the county executive's credibility on the issue tumbled. In the end, 23 of the 26 County Board members who staked out a position on the casino sided with the opposition.

No Dane Casino came up with $3,500 to hire a gambling expert, William Thompson of the University of Nevada-Las Vegas, to do an economic impact study. He concluded that since most major cities already had closer casinos, about 80% of the DeJope casino's $100 million annual net win would come from Dane County residents. Figuring in the payments to local government and other benefits, as well as the costs from problem gamblers who commit crimes, go bankrupt or kill themselves, Thompson estimated that the casino would constitute about a $74 million direct annual drain on the county's economy.

The pro-casino side countered with a $18,000 report by NorthStar Economics of Madison. It concluded that the casino would

create 1,400 new jobs, including 600 casino positions, and generate $47 million a year in new "economic activity" in Dane County. The report didn't specify where all this new money would come from, prompting Thompson to dismiss it as "a cost-benefit analysis without the cost."

Ultimately, No Dane Casino raised about $70,000, most from small individual contributions. It erected billboards showing the word "casino" with the last two letters highlighted, and printed flyers which volunteers handed out at events and delivered door to door. On the Sunday before the referendum, it paid to have "Vote No!" post-it notes stuck on the front page of *Wisconsin State Journal*. The pro-casino side, meanwhile, spent at least $1.3 million, mainly for ubiquitous television commercials.

Down to the wire

Thirteen days before the referendum, Mayor Cieslewicz held a press conference to raise a public concern. Despite weeks of behind-the-scenes effort, he said, the city still had not received the assurances it sought that the agreements were legally enforceable. The tribe had not passed the requisite resolutions in a manner that conformed to its own constitution, nor had it demonstrated to the city's satisfaction that the tribal membership could not subsequently kill the deal. Moreover, the federal authorities who needed to sign off on the deal had not done so. Without these pieces in place, warned the mayor's spokesperson, "we could end up with a casino and no revenue."

The Ho-Chunk Nation took great umbrage at this, noting that it had never "welched" on any of its other intergovernmental agreements. Relates Pugh, "The tribe's integrity was questioned. Their trustworthiness was questioned. And I think they were terribly insulted by that." This bad feeling only got worse when the mayor taped a radio ad for No Dane Casino. The tribe accused Cieslewicz of a double-cross — or, as one radio commentator translated, "paleface speak with forked tongue." Still, despite volleys of legal paperwork right up until 7 p.m. on the eve of the referendum, the tribe never provided the city with the assurances it sought.

In other respects, the final days before the referendum were a disaster for the pro-casino side. News accounts reported for the first time that, if the Ho-Chunk made the payments it pledged to Dane County, it could under the terms of its compact trim up to $4 million from the $30 million a year it is now paying the state. This fueled long-standing concerns that the Legislature might reduce state aid to Madison and Dane County to offset any payments they got from the tribe.

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The *State Journal* cried foul when Pugh's group reprinted the paper's editorial endorsing the casino, with various criticisms omitted, without permission. Milwaukee County District Attorney E. Michael McCann came to Madison to warn about the crime and corruption he believes casinos bring. A Madison television station ran a series documenting the social problems and costs attributable to the Oneida casino in Green Bay. "Suddenly," recalls Relles, "we were on the offensive."

But still, support for the casino appeared strong, buoyed by people who wanted the jobs, tax relief, human service dollars and/or gambling opportunities it promised. Even those who thought the referendum would be defeated predicted a very close vote. When the totals came back nearly two to one against the casino, 93,530 to 51,543 votes, with Madison and the more conservative surrounding areas all solidly

opposed, Relles was "completely shocked." Jim Voss, Madison's acting city attorney, had a similar reaction:

> I guess I didn't give the voters of Dane County credit for being able to see through the media blitz and all of the spin that was being put on things. But I think they did.

Pugh reflects that her side did not have enough time to "make people feel safe" voting for the casino. She says the complexity of the issues allowed the opposition "to mount a campaign of confusion. And a confused voter votes no." She wishes her side had been able to "rely less on advertising and more on conversation" — pretty much exactly the approach of No Dane Casino.

Now that the referendum has been defeated, the Ho-Chunk say they'll seek a new casino site (the tribe's compact with the state allows it to have four) and revive plans to develop the land around the bingo hall. Although they could still seek federal court approval to site a Madison casino, tribal leaders disavow any such intent. "We're not going to go places where we're not wanted," remarks John Dall, a Ho-Chunk legislator. "It's just not healthy for us." Tribe president George Lewis, addressing casino backers on election night, had this to say: "The people have made their choice. It's not our loss. It's the loss of the taxpayers of the county and city."