

**COMMISSION MEETING
THURSDAY, MARCH 13, 2003
MINUTES**

Chair Orr called the meeting to order at 1:30 p.m., at the Phoenix Inn located in Olympia. He announced that Commissioner Parker was in New Zealand, and Commissioner McLaughlin was at Harbor View Hospital attending to her son who was critically injured in an auto/pedestrian accident. Chair Orr welcomed the attendees and introduced members and staff present:

MEMBERS PRESENT: **COMMISSIONER GEORGE ORR, CHAIR;
COMMISSIONER CURTIS LUDWIG;
COMMISSIONER JANICE NIEMI;**

OTHERS PRESENT: **RICK DAY, Executive Director;
ED FLEISHER, Special Asst., Policy & Government Affairs;
CALLY CASS-HEALY, Assistant Director, Field Operations;
JERRY ACKERMAN, Assistant Attorney General;
SHIRLEY CORBETT, Executive Assistant**

Employee Service Recognition Awards: **Director Day** noted that Fiscal Analyst, Ken DeKay had earned his 10-year service award, but due to illness could not be present today.

1. Review Of Agenda and Director's Report:

Director Day identified various inserts placed in the agenda packets after publication, and he reviewed the meeting agendas for Thursday and Friday.

Legislative Update:

Senate Bill 6009 - Multiple Daily Drawing On-line Games - was introduced by Senators Hewitt and Prentice. A similar version has been introduced under House Bill (HB) 2213. **Director Day** reported this bill is intended to allow Five-Minute Keno. The one concern of the Gambling Commission, which has been brought to the attention of the sponsors, is that the wording removes the restriction on drawings. Current law states that a drawing may only occur once every 24 hours. That restriction is removed to allow the Five-Minute Keno operation. This is a lottery game. As the bill currently reads, and because there is no minimum amount of the number of times it could draw, it could technically serve to allow the Lottery to conduct the Tribal Lottery System-type game through the Lottery. Although it is not directly under the jurisdiction the Commission, it could have an impact on tribal gambling if passed in its current form. **Chair Orr** asked for comments – there were none.

House Bill 1793 - Simulcast Horse Racing - **Director Day** noted this bill would allow signals from out-of-state races to be broadcast at satellite locations around eastern Washington. Today, that is not allowed. If passed, simulcast horse racing would be allowed to occur at Class I racing facilities and it would have an impact because it would allow tribes to do the same thing. The bill is still in House Committee. Although it is not directly under the jurisdiction the Commission, it could have an impact on tribal gambling if passed in its current form, and may require compact amendments. **Mr. Fleisher** clarified that most of the tribes would not require an amendment, because under the compacts, the Horse Racing Commission facilitates the actual regulation of the satellite wagering. **Chair Orr** asked for comments - there were none.

House Bill 1948 - Electronic Scratch Tickets – **Director Day** explained this bill has not had a full hearing in the House Commerce and Labor Committee. The bill would authorize the same number of machines currently authorized for tribal gambling, about 18,255. The bill would limit the number of machines by percentage of each category and per location—it allocates the machines according to a percentage to each category of license, and then limits those to a certain number per location. Staff completed the Gambling Commission’s part of the fiscal note to determine the fiscal impact from the agency’s perspective. The costs the Commission would incur would be paid for by fees, and not be a cost to either the tax or to the General Fund. Staff estimated approximately 49.5 FTE's and a central computer monitoring system. The computer system is a significant investment in this kind of a transaction, but is well worth the investment to the state and to the monitoring process. Staff has estimated the net revenue per day per machine at about \$120. It will take staff about nine months to become operational, which includes everything from when the bill is originally passed through the most complex part of the process, the identification and bidding of the central computer system. Staff has estimated an aggressive schedule of about two years from installation to full implementation at 1,900 locations across the state of Washington. The agency has not seen the revenue side of the fiscal note because the information on local jurisdictions was submitted less than a week ago. If the bill moves forward, Director Day affirmed there might be some regulatory and drafting issues that need to be addressed. **Chair Orr** called for questions - there were none.

Senate Bill 5019 - Horse Racing Commission – **Director Day** reported this bill still remains in the Senate Commerce and Trade Committee. It proposes the elimination of the Horse Racing Commission and consolidates the gambling and regulatory functions with the Gambling Commission. The promotion and horse health issues would go to the Department of Agriculture. This bill differs from HB1449, which is a proposal from the administration. **Chair Orr** asked if HB 1449 had been voted out of the committee yet. Director Day responded that HB1446, the Governor’s Proposal, has not been voted out of committee. Chair Orr called for questions - there were none.

Director Day provided the following Bill Status: HB1227 – Promotional contest of chance (vending machines) passed the House and is in Senate Commerce and Trade; HB1637 - Compulsive gambling (the Problem Gambling Council contract issue) passed the House and is in Senate Commerce and Trade; SB 5613 – the Senate duplicate, is now in Senate Rules; HB1667 - Zoning bill, passed the House and is in Senate Commerce and Trade; HB 1466 and HB 1366 – Consolidate and eliminate the Commission and transfers the fund balance to the General Fund – both bills are in House Appropriations at this time and neither have had a hearing. **Chair Orr** called for questions - there were none.

Correspondence:

Director Day reviewed correspondence inserted in the agenda packet: a letter from Governor Locke in response to the Commission's correspondence regarding the legislative consolidation proposal. **Commissioner Niemi** referred to paragraph three in the Governor's letter and read, "Under my plan, the essential activities of the Gambling and Horse Racing Commission will not be lost but transferred to a new department." She asked if that meant he was going to transfer the Gambling Commission to this new department. Director Day responded that the body of the letter is what staff are speaking of, and the functions of enforcement and regulation. The language that infers that there would be some substantial savings was addressed with the Committee. The savings contemplated, was by combining the two operations, bringing approximately 28 FTE's into the current Gambling Commission staff. Director Day noted that a lot of the 28 FTE's support an agency's fiscal functions, and the concept was that after the agencies were combined, 11 positions could be reduced through efficiency gains. Director Day believed there weren't efficiencies to be gained because in actuality the consolidation brings more individuals that need payroll and accounting services into the agency's existing workforce. He affirmed this is not a General Fund issue—and there are no General Fund savings.

Director Day addressed correspondence staff composed to legislative staff properly reflecting the Commission's position on each of the pieces of legislation addressed at the February commission meeting.

Correspondence was drafted in response to the questions Mr. Clyde Bock raised at the February commission meeting regarding why there wasn't a credit given for taxes paid. Staff researched the initial thought process, and the reason it wasn't taken into account was because there was a belief that the bottom line was set low enough to take that under consideration. Director Day referred to former Commissioner Forrest's comments: "The Commission is trying to set the floor that any charity has to produce some money for a charitable purpose." Commissioner Forrest also said: "The game isn't to support the municipality; the game is to support charity." Commissioner Forrest believed "this proposal fairly implements the legislative purpose. It is a privilege to have Bingo to support charitable activities and there has to be some minimum amount of cash that goes to the charitable activities to justify the operation of the game." From that content, staff believed, at the time, that the adjusted cash flow amounts were set at the floor regardless of the issue of the taxes.

Director Day addressed the dinner planned in conjunction with Problem Gambling Awareness Week, and reported the dinner has been canceled and will be rescheduled.

Adjusted Cash Flow Variance Review:

Director Day advised an updated report was inserted in the agenda packets, and emphasized that ten out of the top 25 licensees are currently facing, or have gone out of business (they had some issue with adjusted cash flow). Of the next 15 licensees, only four are facing adjusted cash flow action, or are out of business. He noted that as the Commission has struggled with this issue, the fact that ten out of the top 25 licensees facing some kind of adjusted cash flow problem, displays, or reflects, the reason why we are struggling with this issue, and he affirmed it is a significant issue for Bingo operations in this state.

Director Day addressed a summary financial report furnished in response to Commissioner Niemi's request at the February meeting. This is for Group IV and Group V licensees, and it provides summary information of gross Bingo, the gross gambling dollars, the dollars after prizes are paid, the net, what is available to move toward the charities, and the principal that an amount equal to 60 percent is to be used for that charitable purpose. The report is based on 2001 figures because organizations are essentially a year behind by the time the financial statements are received and because there is an allowance of 120 days to turn them in. About 7.5 percent of gross (\$7 million) was available through charitable nonprofit purposes gambling in 2001. Director Day noted that was one of the major facts that surfaced, and according to that review, all the organizations met the Commission's significant progress requirements laid out under the qualification review process.

Monthly Update Reports:

Director Day briefly highlighted the Administrative Case Report, the Congressional Report, and Tribal Update. The Commission received a request for compact negotiations from Port Gamble. Staff will be reviewing and very likely discussing that request at the next Commission meeting.

News Articles:

Director Day briefly reviewed the news articles contained in the agenda packet. **Chair Orr** called for public comments.

Steve Strand, President of Washington Charitable and Civic Gaming Association, commented in regard to the earlier discussion about the Fourth Quarter results for 2002. He noted that was the first full quarter of the implementation of last year's legislative bill allowing for additional days of play for charitable nonprofit gaming. This is the first quarter the organizations have seen significant activity, and to determine what the market would bear in any given geographical area. He cautioned the activity and the results are not necessarily indicative of a standard or usual progress of business. There were no further public comments.

2. Group V Qualification Review:

Northern Lights Drum & Bugle Corps Association, Longview:

Linda Waters, Financial Analyst, reported that this review covers fiscal year ended December 31, 2001. The organization was formed in 1989 and has been licensed since 1994. They currently hold a Class M Bingo license and a Class M Pull Tab license. The organization sponsors winter color guards, which perform and compete throughout the Pacific Northwest, the West Coast, and at yearly world championships in Ohio. The qualification review indicates that Northern Lights continues to meet significant progress requirements and qualifies as a nonprofit organization. Staff recommends that Northern Lights Drum & Bugle Corps be certified to conduct gambling activities in the state of Washington as a nonprofit organization. She introduced Sheri Evald, Chief Executive Officer of Northern Lights.

Ms. Evald said they had prepared a presentation and they planned to send it to the commissioners so they may view it at a later time. **Chair Orr** applauded the Corps' effort. **Commissioner Niemi** questioned Ms. Evald about the date the organization began to participate in Pull Tabs and Bingo since the organization was formed in 1989. **Ms. Evald** called upon Mr. Conrad to explain the historical aspect of their organization because she and several others had only joined the organization in the late '90s. **Todd Conrad**, Bingo Manager, advised the organization didn't start

until 1994. **Commissioner Niemi** asked why they began to participate in Pull Tab and Bingo. **Ms. Evald** explained the former director was familiar with gaming and recognized that charity gaming, especially in 1998, was fairly healthy for generating revenues for nonprofit organizations. **Commissioner Ludwig** asked how many Bingo operators were in the greater Vancouver area. Ms. Evald explained that her organization is located just outside of Longview and they are basically alone at this time, however, there is one facility in Cowlitz, and three in Clark County. Commissioner Ludwig noted the qualification reviews in their general area, including Clark and Cowlitz, always seem to be way ahead of the statewide average. He noted their organization had at least a third or more of their net receipts go to the charitable purpose. Ms. Evald clarified the figures were for 2000, and 2001 had them at \$690,000 and then \$480,000. Commissioner Ludwig asked if geography might be the primary difference for difference in returns. **Mr. Conrad** responded that southwest Washington does not have any tribal facilities, and Vancouver does not have house-banked card rooms. Longview has two. Commissioner Ludwig responded that they were in a good market.

Commissioner Ludwig made a motion seconded by Commissioner Niemi to certify Northern Lights Drum & Bugle Corps Association to conduct gambling activities in the state of Washington as a nonprofit organization. Vote taken; the motion passed with three aye votes.

3. House-Banked Public Card Room Reviews:

Billie's Casino, Renton (Charles McSwain, Bill and Soo An)

Rodney Joubert, Supervisor, Licensing Division, reported that the applicant applied for a license to operate 15 tables of house-banked card games. The organization was formed as a limited liability company (LLC) in September 2002. Their headquarters are located in Olympia. He provided the organization's ownership information, and noted they have no other licenses at this time. However, Charles McSwain has a substantial interest in Hawks Prairie Casino in Lacey.

Special agents from the Financial Investigations Unit conducted a criminal and personal background investigation on all substantial interest holders and initiated and completed a financial investigation on both the LLC and personal member finances. No disqualifying information was found that would preclude any substantial interest holder or the LLC from involvement in the operation of a house-banked card room. During the pre-license investigation, staff learned that a minor investor, Billie's Investment Casino LLC, has a contract with the Gambling Commission to provide and coordinate first aid training for Commission staff. Mr. Hayback, the primary owner of Emergency Medical Training Association, Inc., has 1.28 percent interest in Billie's Investment Casino LLC. Special agents also completed a Preoperational Review and Evaluation (PORE) in accordance with the rules. The applicant was found to be in compliance with the rules of the Commission. Based upon the licensing investigation and the PORE, staff recommends Billie's Casino, LLC, d/b/a Billie's Casino, be licensed as a house-banked public card room and be authorized to operate up to 15 tables with a maximum betting limit of \$25. Mr. McSwain and Chris Buitron were present for questions.

Mr. McSwain commented that going through the process wasn't easy; however, staff made it easier because they were friendly and helpful. He especially appreciated Dorris Rocha, Silvia Reyes, and Bill Kesel, who had tough jobs but were always smiling and helpful.

Commissioner Niemi made a motion seconded by Commissioner Ludwig to approve licensure of Billie's Casino, LLC, d/b/a Billie's Casino, as a house-banked card room authorized to operate up to fifteen tables with a maximum betting limit of \$25. *Vote taken; the motion passed with three aye votes.*

House-Banked Public Card Room Statistical Report

Mr. Joubert reported there are now 80 licensed house-banked card rooms currently operating; three are not operating at this time. There are nine pending applications.

Chair Orr called for questions, and there were none. He then called for a recess at 2:35 p.m. and reconvened the meeting at 2:45 p.m.

4. New Licenses, Changes, and Tribal Certifications:

Commissioner Ludwig made a motion seconded by Commissioner Niemi to approve the new licenses, changes and tribal certifications as listed on pages one through 16 on the approval list. *Vote taken; the motion passed unanimously.*

5. Staff Presentation - Mandatory Training:

Special Agent Cindy Reed introduced herself as the Coordinator of the Mandatory Licensee Training Program. She provided a brief history on the mandatory training program and highlighted some recent changes that have been made. The program was established in 1988 through WAC 230-04-020(5)(b): "Prior to issuing a license, the commission will require all persons who sign the application...plus the manager...to complete a training course as established and provided by the commission."

Who Must Receive Training

Owners of the commercial businesses, the chief executive officers of any nonprofit organization, gambling managers, card room employees, and distributor representatives.

When Must Training Be Received

New applicants: within 60 days of application and prior to being granted a license; Renewals: newly designated officers within 60 days of renewal date; Change of managers: within 60 days after the first day of work; Card room employees and licensed managers: not later than 30 days after first day of work

How Is Training Conducted

Four to five classes are provided each month across the state, instructors are commission field agents. Bingo and Punchboard/Pull Tab classes last two hours, all other activities offered take approximately one-hour or less. A verification sheet is signed by the applicant and agent at the end of each class and is sent to Licensing for entry into the database. Several years ago it was determined that the instruction offered to the nonprofit organizations tended to be more specific to the actual conducting of the activity, and wasn't relevant for the chief executive officers of the nonprofit organizations. They believed the training focus should be to explain the fiduciary responsibilities as chief executive officers, and modifications to the program were made.

Alternatives to Classroom Instruction:

Videos and handbooks are sent to the chief executive officers of the nonprofit organizations to explain their responsibilities when overseeing gambling activities. Another training alternative is Web-based training, which is available for Raffles and Punchboards/Pull Tabs. It provides a way for the trainee/user to access the agency Website, take the training, which is recorded, and posted to their training record. **Ms. Reed** demonstrated the Website access process.

Ms. Reed briefly addressed Attendance Trends primarily in the card room arena. She also discussed Card Room Training Issues and the need to have different lesson plans for owners/managers versus card room employees. Another training consideration pertained to the time of day the training was provided and how that may or may not relate to the employees' work schedule. Another consideration related to English as a second language for some card room employees. There was a need for more one-on-one training that an instructor could not provide in a classroom setting. The Commission also provides owner/manager training, and provides training materials so the card room owners may train their card room employees themselves. The Commission subsequently made changes to the card room training, the changes reflect a better delivery system to better accomplish the purpose of giving the people the information they need prior to starting conducting their activities, and so they are aware of and don't violate Commission rules.

In closing, **Ms. Reed** emphasized that the Commission continues to look for improvements and efficiencies in the licensee training program that offers training in the most effective way possible. The agency is currently considering methods to provide training via video presentations and CD disks.

6. Other Business/General Discussion/Comments from the Public:

Chair Orr called for public comments. There were none.

7. Executive Session To Discuss Pending Investigations, Tribal Negotiations, and Litigation:

At 3:10 p.m., **Chair Orr** called an Executive Session, and recalled the meeting at 3:45 p.m., to adjourn. He noted Friday's meeting would commence at 9:30 a.m.

**COMMISSION MEETING
FRIDAY, MARCH 14, 2003
MINUTES**

Chair Orr called the meeting to order at 9:30 a.m., at the Phoenix Inn located in Olympia, and welcomed the attendees.

MEMBERS PRESENT: **COMMISSIONER GEORGE ORR Chair;**
 COMMISSIONER CURTIS LUDWIG;
 COMMISSIONER JANICE NIEMI;

OTHERS PRESENT: **RICK DAY, Executive Director;**
 ED FLEISHER, Special Asst., Policy & Government Affairs;
 CALLY CASS-HEALY, Assistant Director, Field Operations;
 AMY PATJENS, Administrator, Communications & Legal;
 JERRY ACKERMAN, Assistant Attorney General;
 SHIRLEY CORBETT, Executive Assistant;

7. Minutes: Regular Meeting, February 13 and 14, 2003 – Olympia:

Commissioner Ludwig made a motion seconded by Commissioner Niemi to approve the regular meeting minutes of February 13 and 14, 2003, as presented. *Vote taken; the motion passed with three votes.*

8. Petition for Review:

David Yamashita, Card Room Employee Revocation, Golden Nugget

David Yamashita represented himself, and **Paul Goulding, Assistant Attorney General** appeared on behalf of Commission staff; both parties presented their testimony. A transcript of the hearing is available upon request.

At 9:55 a.m. **Chair Orr** called for an executive session to deliberate the case. The open public meeting was reconvened at 10:10 a.m.

Chair Orr asked the Petitioner when he normally renewed his license. **Mr. Yamashita** responded the he renewed his license every year in December.

Commissioner Niemi made a motion to affirm the judgment of the Administrative Law Judge, and to change the penalty somewhat, instead of a revocation, to suspend the license for six months from today's date. Commissioner Ludwig seconded the motion. Vote taken; the motion passed unanimously.

Chair Orr explained the Petitioner would be suspended for six months. He noted that it appeared to the commissioners that there was more going on than the Petitioner was involved in, and this was much different than most cases heard because there were so many people involved, which made for some very strange and extenuating circumstances. **Mr. Yamashita** verified whether after six months he could go back to work, or whether he would have to reapply for a license.

Commissioner Ludwig stated Mr. Yamashita's license would not have expired at the end of six-month suspension. It was affirmed the Petitioner should check with staff regarding the appropriate process to return to work

Chair Orr recessed the meeting at 10:14 a.m., and called the meeting back to order at 10:30 a.m., when the second petitioner arrived.

9. Petition for Review:

Byron Desautel, Card Room Employee Revocation, Silver Dollar Casino:

John Scannell, Attorney appeared on behalf of Petitioner Byron Desautel and **Paul Goulding, Assistant Attorney General** appeared on behalf of Commission staff; both parties presented their testimony. A transcript of the hearing is available upon request

Chair Orr called for an executive session to deliberate the case at 11:00 a.m., and the open public meeting was called back to order at 11:15 a.m.

Commissioner Ludwig made a motion that the Commission affirmed the Findings, Conclusions, and Initial Order of the Hearing Officer for the reason that Mr. Desautel did not meet his burden by convincing the staff with clear and convincing evidence that he was qualified to receive a license. Commissioner Niemi seconded the motion. Vote taken; the motion passed unanimously.

Chair Orr addressed the Petitioner, and explained that page seven of the ALJ's opinion, notes the Commission may deny an application, or suspend, or revoke any license or permit for any reason or reasons that is deemed a public interest. It further states that it is the applicant's burden to establish he is presently fit for the license. Chair Orr commented the applicant's character has been called into serious question by having employed a scheme to defraud an innkeeper and engage in the act, he specifically referenced RCW 9.46.075 and 9.46.196.

10. Petition for Reconsideration

Sno-King Amateur Hockey Association Inc., Kirkland:

Petition held over to the April 2003 commission meeting with concurrence by the Petitioner and the Commission.

RULES UP FOR DISCUSSION

11. Digital Surveillance for Card Rooms:

WAC 230-40-625, WAC 230-40-825, WAC 230-40-550, WAC 230-40-815, WAC 230-40-860, WAC 230-40-875 and WAC 230-40-895:

Cally Cass-Healy, Assistant Director, Field Operations, reported that Item 11 contains rule amendments to allow digital surveillance in card rooms. The package was filed last month for further discussion. The rules were written with the concept that the technical details would not be included in the rules any more than necessary because technology may become obsolete. Instead, the rule sets forth the minimal standards for digital surveillance. Items A and B have proposed language changes requiring a vote for amendment; Items C through G are housekeeping changes and are up for discussion only.

Item A-WAC 230-40-625 and Item B-WAC 230-40-825, set forth the regulatory requirements for closed circuit television system surveillance in Class F and house-banked card rooms. Safeguards were established to ensure the authenticity, integrity, and readability of recordings and to ensure the current regulatory program is not compromised by the use of digital surveillance. **Ms. Cass-Healy** noted that based upon comments received last month and further review of the rules, staff recommended the following changes:

Subsection 2C - a change to require dealers to be monitored on camera with the players. That is something the Commission has been requiring by policy, but this would make that clearer.

Subsection 3A(1) – the term “pictures” was changed to “frames” to correspond with industry terms.

Subsection 3B(i) - language regarding system security was moved to a new subsection in subsection ii – it is a change in language, but essentially means the same thing.

Subsection 3B(4) - language was added to ensure the original authenticity watermark is included in all copies.

Subsection 3B(10) - if the system fails, there isn't a capacity for audio alarm; therefore, the language was removed and instead, an uninterruptible power source was required so that a licensee has the ability to shut down and get their assets under control before their system goes down.

Subsection 3B(11) - was added to require backup power.

Ms. Cass-Healy reminded the Commission that Mr. Ray Orme testified last month, and provided written documentation addressing three main issues. He would like to see a minimum of 20 frames per second as opposed to the 25 staff is recommending. After staff discussed the recommendation, they determined that would leave a perceptual difference; it is not real time, which would cause some jerky movements and would miss things. Ms. Cass-Healy advised that in fact, if staff could go back and change the audio requirements, they would probably make the 25 frames 30 frames. Staff was not comfortable lowering the standard. The second issue had to do with resolution, and Mr. Orme said he wanted to be able to record at a lower resolution, which is the 340 standard, and be able to play it back at 680. Staff determined, that when one records at a lower resolution and blows

it up to a larger resolution, it makes the picture grainy and harder to follow. Staff decided if someone could record at the lower resolution, and still play it back with a quality picture at the high resolution, then that would be fine; however, the standard would be that it needed to be a clear picture at the higher resolution. Mr. Orme's third concern was the audible alarm, and staff did make a change to address the concern about the licensee having enough power to continue their operation long enough to get their assets under custody.

Ms. Cass-Healy reported that staff recommends amending WAC 230-40-625 and WAC 230-40-825, as noted. **Chair Orr** called for questions, there were none.

Ms. Cass-Healy noted that Items 11C through 11G are housekeeping only. Terminology was changed to make the language compatible with digital surveillance. The word "tape" was removed or changed to "recording" and, headers were added to some rules for clarity. The rules include WAC 230-40-550, 230-40-815, 230-40-860, 230-40-875, and 230-40-895, which are up for further discussion. **Chair Orr** called for questions, there were none.

Commissioner Niemi made a motion seconded by **Commissioner Ludwig** to amend Item A (WAC 230-40-625) and Item B (WAC 230-40-825) as proposed. *Vote taken; the motion passed unanimously.*

Chair Orr called for public input. There was none.

12. Bingo Adjusted Cash Flow - Petition and Variance Procedures:

WAC 230-20-059:

Amy Patjens, Manager, Communications and Legal, reported that at the January Commission meeting, the commissioners asked staff to bring forward a rule that would repeal the current variance process for the adjusted cash flow cases. Staff did so, and at the last meeting, the Commission voted to file the proposed rule. The rule deletes Section 5, which is the variance process. The current variance process adds an extra step in the administrative process because after a licensee receives charges when they're not meeting their requirements, they may do two things: one is to request a variance; the other, is to request a regular administrative hearing. Staff's proposal is not to have the variance process. The director would issue charges for revocation, the licensee could request an administrative hearing, have that hearing before an administrative law judge, and then either party could appeal to the Commission, which is the way the current process works in most cases.

The other change that was made dealt with the definition of Bingo operation, to make it clearer that raffles are only to be included when the raffle is actually part of the Bingo game—not when it's a completely separate item. **Ms. Patjens** addressed a letter from Don Kaufman expressing concern about not having the variance process, and she noted that staff added the minutes from two years ago, when the cash flow rules were discussed. She noted there were many references to the new requirements being the minimums that would be acceptable, and that everyone was encouraged to strive for more than the minimums. Staff recommended further discussion.

Chair Orr called for public input. **Steve Strand**, Washington Charitable and Civic Gaming Association, said they understand and agree with the desire to clarify the process for going through the waiver process. However, the association disagreed with the methodology in the proposed

change. The WCCGA provided the Commission notice that they would submit (in writing) an alternative proposal for consideration. Their desire is to work within the system as it currently stands, but clarify the process and the logistics of where the flow of information would go. They also intend to include some of the criteria that could be discussed relating to the clarity they felt was missing in the existing rule; such as what kind of information was relevant for variance request considerations.

Matt Blondin, Executive Director of Sno-King Amateur Hockey Association, expressed his concern with staff's current proposal to eliminate the variance altogether. He expressed his concern that when the matter goes to the administrative law judge, the administrative law judge would only be able to rule on whether the licensee was out of compliance or not. The previous process was a team approach between licensees, the Gambling Commission, and staff, and the proposed process is an administrative chopping of that WAC, which does not take into account the many hours of the previous teamwork, and goes in a different direction than what the task force was put together to do. Mr. Blondin was concerned about the number of Bingo operations and operators that are going out of business, which may not be the concern of the Commission. However, he emphasized that it was a concern for him as an operator, and it is a concern for him as nonprofit executive officer that nonprofit organizations are losing a vital source of revenue. **Chair Orr** called for further comments, there were none.

RULES UP FOR DISCUSSION AND POSSIBLE FILING

13. Financial Reporting by Licensees:

WAC 230-12-305:

Cally Cass-Healy, Assistant Director, reported licensees are required to submit updated documents and information. Under this rule, all licensees must submit new or updated information. The reason the change in the introduction was made was to clarify that all information after the licensing process that is listed in this rule must be submitted in a timely manner.

In Subsection 3, some changes were made to clarify that all contracts and agreements, whether oral or written, which relate to gambling activities or alter the organizational structure of the licensee or its business activities in Washington State must be submitted. This is to clarify that all agreements must be submitted. This allows staff to source funds to ensure that monies are clean and persons with ties to criminal activities do not benefit from gambling activities in Washington State.

Under Subsection 4, the changes addressed that all cash or asset contributions, and/or draws from lines of credit and loans from other than recognized financial institutions must be submitted. This ensures that staff is fully informed on all licensee's financing activities.

Lastly, the \$2,000 threshold was no longer considered material in today's environment and that was changed to \$10,000. **Chair Orr** called for questions, there were none.

14. Equipment Review and Approval Process:

WAC 230-12-315, WAC 230-12-316, WAC 230-02-412 and WAC 230-04-110:

Cally Cass-Healy, Assistant Director, reported Items 14A through D were up for discussion and possible filing. The Gambling Commission is authorized to control equipment used in conjunction

with activities authorized under RCW 9.46. Currently, procedures for reviewing equipment for integrity and compliance are set by policy. The intent of this package is to codify these policies and set forth the regulatory framework to support staff's efforts in reviewing and testing equipment used in conjunction with gambling activities.

Item 14A, WAC 230-12-315 clarifies that all electronic and mechanical gambling equipment will require approval from staff prior to being operated in Washington. It also provides for billing time for this review.

Item 14B, WAC 230-12-316 explains clearly when electronic and mechanical gambling equipment requires staff approval. Under Section 1, manufacturers may be required to submit electronic or mechanical gambling equipment for review, continued testing and training. In Section 3, it explains that equipment operated in Washington State must be identical to the version approved by the director, and under Section 4, it says any equipment that hasn't been approved, that we may want to go back and approve, may continue to operate until such time the equipment can be reviewed.

Item 14 C WAC 230-02-412 includes software related to electronic gambling systems, or accounting packages, and Keno systems and equipment in the definition of gambling equipment. This clarifies a practice that we are currently doing.

Item 14D WAC 230-04-110 - under licensing by manufacturers, simply adds a provision to exempt amusement game manufacturers from requiring licensure. We have not required manufactures of amusement games to be licensed although we include amusement games in the gambling equipment definition.

Ms. Cass-Healy noted a list of currently approved gambling equipment amusement games and PCOC (promotional contests of chance) devices have been placed in back of the rules package. **Chair Orr** called for questions. There were none. He then called for public discussion.

Derrick Young appeared on behalf of Mr. Woodring, representing Bullseye Amusement, and distributed written testimony on behalf of Mr. Winfrey for the Commission's review and consideration. He explained they have concerns about the criteria being used, and the possibility for vagueness in the proposed rule changes. **Commissioner Niemi** asked if his client had spoken to staff about his concerns. Mr. Young did not know. **Director Day** confirmed that staff has not heard from either Mr. Woodring or Mr. Winfrey at this point.

Commissioner Ludwig made a motion seconded by **Commissioner Niemi** to file the rules under Item 13 for further discussion. *Vote taken; the motion carried unanimously.*

Commissioner Ludwig made a motion seconded by **Commissioner Niemi** to file the rules under Item 14 for further discussion. *Vote taken; the motion carried unanimously.*

15. Other Business/General Discussion/Comments from the Public:

Chair Orr called for public comments. There were no further comments.

With no further business, **Chair Orr** adjourned the meeting at 11:35 a.m. The next meeting is scheduled for April 10 and 11, 2003, in Bellingham.

Minutes submitted by:

Shirley Corbett
Executive Assistant