

**COMMISSION MEETING
THURSDAY, NOVEMBER 18, 2004
DRAFT MINUTES**

Chair Niemi called the meeting to order at 1:30 p.m., at the Red Lion Hotel-Yakima Center located in Yakima. She welcomed the attendees and introduced the members and staff present:

MEMBERS PRESENT: **COMMISSIONER JANICE NIEMI, Chair;**
 COMMISSIONER CURTIS LUDWIG, Kennewick;
 COMMISSIONER GEORGE ORR, Spokane;
 SENATOR MARGARITA PRENTICE, Seattle;

STAFF PRESENT: **RICK DAY, Director;**
 NEAL NUNAMAKER, Deputy Director;
 CALLY CASS-HEALY, Assistant Director-Field Operations;
 AMY BLUME HUNTER, Administrator-Legal;
 DAVE TRUJILLO, Acting Administrator-Licensing;
 JERRY ACKERMAN, Assistant Attorney General;
 SHIRLEY CORBETT, Executive Assistant

Commissioner Niemi commented on the passing of Commissioner Liz McLaughlin on October 30, and read into the record a letter Governor Locke wrote to her family. Several agency representatives attended the memorial service held on November 6.

Staff Accomplishments:

Director Day and **Chair Niemi** introduced Julie Lies, Program Manager for the agency's Tribal Gaming Unit, and presented her with a service pin and certificate recognizing 15 years of service with the Commission. Patty Jones, Secretary at the Spokane Office, was also introduced and recognized for 20 years of service with the state. Lastly, Director Day acknowledged that Agent Steve Steiner was recently certified as a Certified Fraud Examiner Examiner.

1. Review of Agenda and Director's Report:

Director Day identified the items hand-inserted in the agenda packet after publication. He reviewed the agenda for Thursday and Friday, and requested that the Default Hearing for the Shamrock Tavern be removed from Thursday's agenda. On Friday, the Petitioners for Item

15 and Item 16 have each submitted requests to withdraw their petition from the agenda. The Commission concurred. Director Day continued with his report:

Problem Gambling Update:

Director Day drew attention to the signed four agency Inter-Agency Agreement (Department of Social and Health Services (DASA), Lottery, Horse Racing, and the Washington State Gambling Commission). The agreement essentially identifies DASA as the agency to coordinate the delivery of training and awareness services. The agreement was designed to provide DASA with the flexibility to accommodate additional funding providers and any legislative action that may come in the future. It also focuses on training and awareness for fiscal year 05 and provides flexibility to fund the expansion of the Help Line for after-hour purposes upon agreement with the Problem Gambling Council. Director Day complimented all the agencies for their time and cooperative work on the agreement—he noted it was a great step forward in the problem gambling area. The Commission has, as agreed and as budgeted, transferred the \$150,000 for this purpose to DSHS for the support of problem gambling and awareness services. Director Day acknowledged Amy Hunter, Melinda Froud, and Bob Sherwood for their work in insuring the agreement was prepared technically accurate.

Legislative Issues:

Director Day commented that as we left the last legislative session, the Commission committed to a broader and more proactive approach with the Legislature. An agency team was formed and the members have been contacting various legislative members to share additional information about what the Commission does. Over 26 appointments were facilitated through the summer and new appointments are being made as the new legislative session approaches.

Non-Profit Work Session Report:

Director Day addressed the summary from the October 26 work session held to discuss the recommendations from the consultant regarding charitable non-profit gambling in this state. The summary highlighted the commissioner's major decision points. He noted staff would bring forward a draft policy statement, which would essentially be taken from the Commission rules already enacted. Staff will also present an update on how the adjusted cash flow and significant progress rules work today, and will generate discussion about the impact of licensee tax payments on the two formulas utilized. He recalled that the Commission has committed to taking the full list of recommendations, and working through it to determine if there are different/better ways to regulate non-profit charitable gambling.

Correspondence:

Director Day acknowledged the correspondence received from the RGA informing the Commission of their new lobbyist.

Monthly Update Reports:

Director Day addressed two articles in the Congressional Update. One was the Indian Gaming Regulating Act Amendments of 2003—the amendments deal with electronic games, Bingo and revenue sharing issues. He suggested this issue was important enough that the

Commission may want to weigh in with an official position in the future. Secondly, HR 4934 reflects the legislation that has been introduced to convert the newly acquired area for the Puyallup Tribe into trust land for their second location. Director Day noted the Governor signed that Compact Amendment on November 17, and the documents have been returned to the Tribe for filing with the Department of the Interior.

Director Day also addressed a new case relating to the seizure of over 20 tables taken from a storage area from an individual that did not hold a license for the distribution of gambling equipment. Lastly, Director Day focused attention on a press release from the Washington State Liquor Control Board. He reported the Commission had a complaint brought to its attention about potential underage gambling. As a result, Commission special agents initiated a cooperative enforcement effort with Liquor Control Agents and visited ten locations, using an underage volunteer. The operation was very effective from an enforcement point of view; six of the ten locations visited allowed underage individuals (ages 16 and 17) to gamble. Goldie's Shoreline Casino, the Great American Casino in Everett, Club Hollywood in Shoreline, and the Drift on Inn in Shoreline did not allow the minor to gain admission and gamble. On the other hand, the Silver Dollar in Mount Lake Terrace, the Crazy Moose in Mount Lake Terrace, Parker's in Shoreline, Annie Fannies in Spokane, Aces Sports Bar and Casino in Spokane, and the Classy Rock Casino in Spokane all allowed minors into the premise and allowed them to gamble. As a result they were each issued a notice of violation. Director Day advised that because this is an important issue, the Commission would increase their actions if there are repeated violations. He hoped that through this public information, the licensees and the public would become aware that the Commission is enforcing this issue and he urged the licensees to take additional care to ensure they have properly identified and determined the age of anyone gambling in their locations.

Commissioner Orr asked that a letter of acknowledgement and appreciation be sent to the businesses that did not allow underage individuals to gamble as well as to the staff members and cooperating agencies that participated in the investigation. The commissioners concurred.

Rules Simplification Process:

Director Day reported the agency's strategic plan initiated a process to review the chapters in the Washington Administrative Code applicable to the Commission to ensure they are readable, understandable, and to address any substantive issues that may become apparent. A chapter by chapter review is anticipated and as changes are developed, each of the chapters will find their way to the study sessions and then the commission meeting for consideration and possible action. Director Day introduced Rules Specialist Beth Heston, who was hired to specifically focus on this project.

Ms. Heston affirmed the Strategic Plan for 2003-08 designated rule simplification as an essential priority for the Agency in order to promote understandability of the Washington Administrative Code, and to keep government regulation of this business to a minimum. She noted the Commission strives to work with the licensees for voluntary compliance, and one of the ways to do that is by making things simpler—the goal is to conduct business as simply

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as possible and to promote that understanding. **Ms. Heston** identified the staff members directly involved in the Rules Simplification Project and affirmed the use of internal subject matter experts as well as external subject matter experts. The external stakeholders are the licensees—they are anticipated to be the largest external audience, in addition to the general public, other than law enforcement or regulatory and government agencies.

Ms. Heston provided an overview of the simplification project time line and noted the initiation stage has already begun and will hopefully be finished by January 3, 2005. The initiation stage started with a survey of internal and external customers. The internal customer survey will provide the subject matter experts needed to help with drafting new rules and rewriting the existing rules. The external customer survey was sent out in early November and Ms. Heston hoped the results, which would provide an outside view of the WAC's, would be returned by the end of December. Ms. Heston advised that she also attended the study sessions and that she intends to make personal contacts with the external customers in order to get input from the licensees. The planning stage (November 2005 through February 2005), will be focused on collecting the final surveys, compiling reports, and conducting discussions with the Rules Team to discuss the feedback about the reorganization, how to break titles up, and how to reorganize the rules. Ms. Heston advised she would then commence writing a detailed project plan which is meant to be a historical document. In reference to the reorganization of the WAC, she noted there are currently 12 chapters—the hope is to reduce down to nine chapters. Each chapter will be reorganized so that it will be clear to everyone exactly where the applicable information is contained. A database will be maintained (possibly on the web site) of the old and new number designations as well as previous interpretations and updates. Continuous updates will be provided to the Commission regarding the recommended revisions. Ms. Heston reviewed the first, second, and third draft revision process, the stakeholder review process, and noted the final edited proposals would be submitted to the Commission for consideration and final action. Ms. Heston estimated the project would be completed by September 2006. A closeout report and an outcome assessment will also be facilitated to incorporate the knowledge gained and to improve future processes.

The commissioners responded that they were impressed with the timetable and project as outlined and advised they were looking forward to the process of simplifying the rules so that people could understand and comply with the rules. They believed the timeline might be a little ambitious but were encouraged by Ms. Heston's enthusiasm. **Director Day** acknowledged that there appears to be some feeling that if the rules were more readable, easy to locate, easy to read, and if there were fewer rules, then people would be more inclined to read them, and therefore potentially reduce violations. **Commissioner Niemi** called for public comment on the rules simplification process.

Dolores Chiechi, Recreational Gaming Association, representing the non-tribal card rooms, advised that the RGA was really interested in this project and thanked the Commission for being invited to be part of the process to look at the rules with staff and present comments. She emphasized that the licensees want to voluntarily comply, and that when rules are written clearly and simply, it makes the compliance process much easier.

2. Qualification Report and Review:

Yakima Valley Opportunities Industrialization Center (OIC):

Deputy Director Neal Nunamaker pointed out changes to the report after the October meeting. Under staff findings, a notation has been added about the financial statements indicating whether they are compiled, reviewed, or, as in this case audited financial statements. The second page provides information about taxes; tax expenses and other expenses. Additionally, a footnote has been added to provide more information about some of the major other expenses.

Mr. Nunamaker reported the Yakima Valley OIC's review was for the fiscal period ending in December of 2003, and it was based on an audited financial statement. The organization was formed in 1971, and has been licensed by the Commission since December 1984. He then introduced Executive Director Henry Beauchamp, Bingo Consultant Tom Stafford, and Sandra Pieti, the Manager of the WIA Program. Mr. Beauchamp and Ms. Pieti provided a Powerpoint Presentation highlighting the activities and services the organization supports.

There were no other public comments.

Commissioner Ludwig made a motion seconded by **Commissioner Ludwig** that Yakima Valley OIC be certified to conduct gambling activities in the state of Washington as a nonprofit organization. *Vote taken; the motion passed with three aye votes.*

3. Manufacturer Report and Review:

LIF Capital Group, San Francisco:

David Trujillo, Administrator for Licensing Services, reported that LIF Capital Group was seeking to be a Class B Manufacturer. They want to manufacturer a turbo hand-held electronic Bingo device. Commission agents conducted a very extensive pre-licensing investigation in California. They visited Sacramento, Fremont, and San Francisco. Mr. Trujillo reported that the ownership structure is very simple, made up primarily of Lee and Nancy Fried, a revocable trust at 80 percent ownership. David Fried has 20 percent ownership. The company has only been in existence since 2002. They currently hold a gaming license in Kentucky and they have applied in Washington. Staff recommends they be granted licensure as a Class B Manufacturer. **Chair Niemi** called for public comments and there were none.

Commissioner Ludwig made a motion seconded by **Commissioner Orr** to license LIF Capital Group, LLC, as a Class B Manufacturer. *Vote taken; the motion passed with three aye votes.*

4. House-Banked Card Room Reviews:

Mr. Trujillo addressed a question submitted by Commissioner Orr at the last commission meeting regarding the ownership of the Bluz at the Bend and owner Randy Sines, and

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whether or not he had ownership in Marilyn's on Monroe. Mr. Trujillo affirmed Mr. Sines has an indirect ownership—he has 26 percent interest in DigiDeal, which has 50 percent ownership in Marilyn's. Mr. Trujillo noted that as a result of that question, the report has been modified to add ownership interests in licensees and applicants. Mr. Trujillo also reported that of the 89 licenses currently issued, approximately 34 have some form of out-of-state ownership—the majority are one or two limited liability members. With the nine applicants today, the numbers will change drastically; therefore, an updated report on card room multiple ownerships with out-of-state owners will be provided in January.

Ringo's Little Vegas, Spokane Valley:

Mr. Trujillo reported that Ringo's Little Vegas is seeking authorization for 15 house-banked card room tables. Ringo's is not currently licensed with the Commission. The owners also have a representative ownership in Aces Sports Bar and Casino. Ringo's has passed all the investigation criteria, and staff recommends they be granted a house-banked card room license authorized to operate 15 tables in accordance with WAC 230-40-120.

Chair Niemi called for public comments. **Tom Schaefer**, Owner/Board Member, expressed his appreciation to Commission staff, and commented that they were excellent to work with.

Commissioner Orr made a motion seconded by **Commissioner Ludwig** authorizing Ringo's Little Vegas to be licensed as a house-banked card room authorized to operate up to fifteen tables with the maximum betting limit allowed under WAC 230-40-120. *Vote taken; the motion passed with three aye votes.*

Chair Niemi called for a recess at 3:00 p.m. and recalled the meeting at 3:15 p.m.

Gibson House, Centralia:

Mr. Trujillo reported the Gibson House is applying for a license for seven tables. The ownership structure is very simple; comprised of Alan and Penny McWain, who also currently own The Spar in downtown Olympia. As a result of the investigation, staff recommends the Gibson House be licensed for seven tables in accordance with the wagering limits set forth in WAC 230-40-120. **Chair Niemi** called for public testimony, and there was none.

Commissioner Orr made a motion seconded by **Commissioner Ludwig** authorizing the Gibson House to be licensed as a house-banked card room authorized to operate up to seven tables with the maximum betting limit allowed under WAC 230-40-120. *Vote taken; the motion passed with three aye votes.*

RC's Casino, Sunnyside:

Mr. Trujillo advised that RC's Casino is applying for a house-banked license to operate up to nine tables. This ownership structure was a little more complex; RC's limited partnership is seeking licensure, and he noted there was an additional limited partnership LLC embedded within that partnership, a trust, a partnership, and several other people. Some of the people have ownership interests in other licensees, Kegler's, Mickey's Sports Bar & Grill, Keglers

(a service supplier), and Presto Major (a service supplier). They also have representation in another applicant that will be presented later today. The investigations completed by the field staff and by the Financial Investigations Unit were completed, and based upon the results, staff recommends that RC's Casino be licensed to operate nine tables in accordance with WAC 230-40-120. **Sue and Rob Rice** were available to answer questions. **Chair Niemi** called for public comments and there were none.

Commissioner Ludwig made a motion seconded by **Commissioner Orr** authorizing RC's Casino to be licensed as a house-banked card room authorized to operate up to nine tables with the maximum betting limit allowed under WAC 230-40-120. *Vote taken; the motion passed with three aye votes.*

Iron Horse Casino, Everett:

Mr. Trujillo reported the Iron Horse Casino is applying for a house-banked card room license authorized to operate up to 15 tables. The ownership structure consists of: Iron Horse Everett LLC, and embedded within that LLC are multiple LLC's. Of particular interest in this case is that the Iron Horse is purchasing the existing Freddy's Casino in Everett. The property landlord is Freddie's Development, LLC, which mirrors the ownership structure for the Iron Horse Everett, LLC, except for Black Hills Capital, LLC, which is reduced from 55.9 percent to 51 percent. The Iron Horse has undergone the pre-licensing process, and based upon the results of the licensing investigation and the PORE, staff recommends approving Iron Horse Casino as a house-banked card room authorized to operate fifteen tables in accordance with the wagering limits of WAC 230-04-120. Staff also recommends licensing Iron Horse Casino after the final transfer of asset documents have been received, reviewed, and found to be in order. **Mr. Trujillo** emphasized this was a contingency and that staff would not issue the license until after the documentation of the transfer had been received and reviewed.

Commissioner Ludwig asked if the Commission could accept the staff's recommendations and pre-date the approval. **Chair Niemi** didn't believe that would be appropriate. **Assistant Attorney General Jerry Ackerman** asked if there was an estimate of when the contingency would occur. **Mr. Trujillo** responded that it would take place upon authorization for licensure, estimated to be within a day or two.

Chris Kealy, representing Iron Horse Casino LLC Everett, advised the intention was to be assured they weren't buying an asset that couldn't be licensed to conduct gambling activities. He affirmed he was intending to purchase the property in late November or early December, would close it for two days, conduct all site inspections, and then reopen. He requested a maximum of 30 days to obtain the cash final approval. **Chair Niemi** advised that she was uncomfortable authorizing a license until the purchase was complete. **Mr. Kealy** countered with a December 1 deadline, noting that the people currently employed at the facility would have to wait from the time of purchase until licensure to go back to work. **Chair Niemi** inquired when it would be appropriate to license. **Mr. Trujillo** responded it would be appropriate once the transfer of the records had been verified.

Commissioner Ludwig inquired if the Commission could authorize the Director to issue the license when he was satisfied that the sale was completed. **Director Day** suggested licensure contingent on the final execution of the transaction. **Mr. Ackerman** responded that he was concerned because under the statute, the Commission is supposed to vote on the issuance of the license. He thought the recommendation sounded like delegating a portion of that decision to staff. **Chair Niemi** and **Commissioner Ludwig** affirmed that was not their desire. Mr. Ackerman explained that by law, three commissioners are required to concur that the license should be issued—in other words, that the Commission was satisfied that all the prerequisites for the license have been met. Chair Niemi inquired whether the decision could be executed by telephone. Mr. Ackerman affirmed, with proper special meeting notice. **Commissioner Orr** suggested a teleconference call special meeting on Wednesday, Dec. 1. **Chair Niemi** concurred, and for the record, provided public notice of the Commission's intent to conduct the special meeting via teleconference call on December 1, 2004, for the sole purpose of ratifying the licensure of the Iron Horse Casino.

Roxy's Bar and Grill, Seattle:

Mr. Trujillo reported that the ownership group for Roxy's Investment Group was a fairly simple structure although they have some ownership in several familiar facilities. Roxy's Bar and Grill is applying for a 12 table house-banked card room license—they only plan to open 11 tables initially. Staff recommends they be licensed to operate up to 12 tables in accordance with wagering limits set forth in WAC 230-40-120.

Glenda Harrell and **Max Faulkner** were present, representing Roxy's Bar and Grill. **Chair Niemi** called for public comments and there were none.

Commissioner Orr made a motion seconded by **Commissioner Ludwig** authorizing Roxy's Bar and Grill to be licensed as a house-banked card room authorized to operate up to twelve tables with the maximum betting limit allowed under WAC 230-40-120. *Vote taken; the motion passed with three aye votes.*

Gold Strike Casino, Walla Walla:

Mr. Trujillo reported that the name of the company submitting the application was Walla Walla Gaming Inc. This facility was formally known as the Bowl-Away Restaurant and Casino. Having passed the pre-licensing investigation, staff recommended they be licensed for up to nine tables in accordance with WAC 230-40-120. Max Faulkner was present and introduced. **Chair Niemi** called for public comments and there were none.

Commissioner Orr made a motion seconded by **Commissioner Orr** authorizing Gold Strike Casino to be licensed as a house-banked card room authorized to operate up to nine tables with the maximum betting limit allowed under WAC 230-40-120. *Vote taken; the motion passed with three aye votes.*

Silver Dollar Casino/Renton, Renton:

Mr. Trujillo reported that Little Nevada Inc., was seeking a license for up to 15 tables. Mr. Trujillo explained the ownership structure for Washington Gaming Inc. was more complex and involved a number of other licensees. He noted the Silver Dollar/Renton leases the premises property in conjunction with Imperial's Bingo, a licensed Bingo operation. Imperial's Bingo is an IRS 501-C(3) operation. He affirmed the licensee has taken steps to ensure that the facility is kept separate and apart from the house-banked card room operation. Mr. Trujillo distributed photographs and noted that based upon the investigation results, staff recommends the Silver Dollar Casino/Renton be licensed to operate up to 15 tables in accordance with WAC 230-40-120. He introduced Monty Harmon from Harmon Consulting, representing the business.

Commissioner Orr questioned what charity Imperial's Bingo has supported. **Mr. Harmon** responded that it was the Music Works Northwest Drum and Bugel Corp. Commissioner Orr questioned how the segregation of the businesses occurred. Mr. Harmon explained that during the times the Bingo parlor is closed, those doors would be locked and secured.

Commissioner Ludwig and **Chair Niemi** raised several questions regarding the property owner and landlord. **Mr. Harmon** explained the lesser is the landowner, the Little Family Trust; however, the original lessee was the Silver Dollar Casino, the sub-lessee is the Bingo hall, and he noted the landlord has approved that arrangement. The Bingo hall is paying the Silver Dollar Casino and the Silver Dollar Casino is paying the full lease to the landlord. Commissioner Ludwig explained that he was interested in finding out if Music Works Northwest and Imperial's were making a substantial profit off of this property with the potential opening of Silver Dollar. Mr. Harmon responded that his understanding of the transaction was that the non-profit was financially distressed—they were the landowners—they had some delinquent notes, and with the sale of the property to the current landowner, they were able to get out from that burden.

Chair Niemi commented that Mr. Trujillo would be providing the Commission with an updated report on the properties with cross ownerships, and, in time, she believed the Commission should take a look at the issue and determine whether or not to do something about it to simplify it for Commission use, or for anyone else looking at an ownership structure.

Mr. Ackerman questioned if there was any overlap in ownership, operation or management of Music Works Northwest, Silver Dollar Casino/Renton or the Little Family Trust, and if there were any interlocking boards. Mr. Ackerman explained that he had a concern, noting the Commission is currently in litigation regarding a WAC that says a non-profit license holder can't also hold a commercial license. The WAC speaks in terms of ownership, operation, and management. He suggested that if the Commission didn't know who the principals were of the Little Family Trust and Music Works Northwest, the Commission would not know whether the WAC was satisfied. Mr. Ackerman emphasized the WAC currently does not allow that sort of interlocking ownership or interest, and that it would be some time before the Commission received a ruling from the court regarding a similar issue.

Director Day asked for verification that the Silver Dollar owned or leased the entire facility

and subleased to the Bingo facility, and whether there was any kind of ownership overlay between the Bingo operation or management and the Silver Dollar. If so, he affirmed it would be a violation for the Bingo operation. He verified that in this case, the staff looked at whether or not the Silver Dollar was qualified to operate a house-banked card room at this location and whether the facility was set up properly. Staff's report indicates the investigation has determined that the applicants are qualified for that purpose. Director Day affirmed the more frequent presence of both operations in one building is a concern; but, has been permitted in previous applications.

Mr. Ackerman responded that his concern related to the operation of both facilities in the same building. If the Little Family Trust turned out to have an operational or management ownership interest in Music Works Northwest or in the Silver Dollar Casino of Renton, there could be a risk of having a shell corporation set up to isolate either the charitable non-profit from the commercial or the commercial from the charitable non-profit. He emphasized the Commission must know the principal owners of both the Little Family Trust and Music Works Northwest. Until that is known, staff could not establish whether or not the WAC was satisfied. **Director Day** advised that he wasn't sure about the application of the rule. He affirmed the Silver Dollar was leasing the entire premise, and they were subleasing a portion to the Bingo operation. He wasn't sure that the rule being talked about was necessarily applicable. He reiterated the Commission has an application that has been investigated and is qualified on its face; there is no evidence in the report, or in the rule that there is any kind of a direct violation. Mr. Ackerman agreed; however, he noted the report didn't answer his questions, and if there was an overlap in ownership, operation, or management of the Little Family Trust and one or both of these other facilities, the WAC could be violated, especially if the Commission didn't know who the principals of those concerns were. Director Day responded that the report indicates that there are no unreported people or businesses involved that have a substantial interest. **Mr. Trujillo** affirmed the Financial Investigations Unit (FIU) would have looked at and finely scrutinized the leases that were involved and any sort of financial interest holder or beneficiary. **Chair Niemi** inquired whether staff knew who bought the Little Family Trust. Mr. Trujillo affirmed he could ascertain that information from FIU via a phone call.

Monty Harmon responded that it was his understanding that a non-profit organization could not benefit from the operation of the house-banked card room. In this particular situation, this is a house-banked card room that is 100 percent owned by Washington Gaming Inc. All benefits and any proceeds from the operation of the card room go directly to Washington Gaming Inc. There are no other payments. The lease payments go to the Little Family Trust; that is an investment. He noted that even if a non-profit organization were to buy a property and wanted to lease that property, there would be an issue with the ownership of that property. Mr. Harmon advised that he was willing to testify that the non-profit organization didn't have any ownership in the Little Family Trust.

Director Day suggested setting this application aside to allow staff the opportunity to confirm that that relationship was explored, can be identified, and to bring the information back before the end of the meeting. **Mr. Ackerman** reaffirmed his question was simply if staff knew who the principals were and whether there were any overlaps. He advised there

wasn't a specific quantum of proof that he was asking for, and, if staff was satisfied that there were no overlaps because they looked and they would have caught it if there were, then that would answer his question. Director Day affirmed and reiterated that he was proposing to have staff recheck to make sure and report back. **Chair Niemi** concurred.

Northstar Casino, SeaTac:

Mr. Trujillo reported that the Northstar Casino is located in SeaTac. The applicant organization is Stars Casino, LLC, and the location was formerly known as Funsters. The ownership of the organization is fairly simple—they have an ownership interest in Hawk's Prairie Casino in the Lacey area. The applicant is applying for a house-banked card room for up to 15 tables. Staff recommends they be granted licensure to operate up to 15 tables in accordance with WAC 230-40-120. Mr. Trujillo introduced two representatives: Dave Whitney and John Kapp.

Commissioner Orr observed that approximately 40 percent of this business is owned by residents from Canada, and questioned how that fit with Commission policy. **Mr. Trujillo** affirmed that ownership by people "not in this state" has not been a bad thing at the present time. Commissioner Orr asked Mr. Whitney and Mr. Kapp if they thought Canadian residency could pose some problem for the corporation. **Mr. Kapp** responded, not this particular corporation as it stands—he advised they have several businesses in the states.

Commissioner Orr made a motion seconded by **Commissioner Ludwig** authorizing Northstar Casino to be licensed as a house-banked card room authorized to operate up to fifteen tables with the maximum betting limit allowed under WAC 230-40-120. *Vote taken: the motion passed with three aye votes.*

Mr. Kapp thanked Special Agent Bill Kesel and Special Agent Danny Lisa for their work on the application, and he thanked the Commission for their consideration.

Season Ticket Sports Spirits and Grub, Spokane:

Mr. Trujillo advised two representatives from Season Ticket, Charles and Kathleen Randazzo, were present and applying for 12 tables. They were previously affiliated with the former licensee called Viking Tavern out of Spokane, and hope to operate five Lucky Ladies tables, two Fortune Pai-Gow tables, two Spanish 21 tables, one Three Card Poker table, one Let it Ride, and one Big Raise Hold-Em table. Mr. Trujillo reported staff has been through their licensing, pre-authorization review and evaluation, as well as the pre-licensing investigation conducted by the Financial Investigations Unit. Staff recommends that Season Ticket Sports, Spirits and Grub be granted licensure to conduct house-banked card room activities for 12 tables in accordance with the wagering limits set forth in WAC 230-40-120. **Chuck Randazzo** and **Kathy Randazzo** introduced themselves.

Commissioner Ludwig noted the Randazzo Company appears to have ownerships amounting to 106 percent, and questioned how that was possible. **Mr. Trujillo** explained that it was two different types of ownerships; one is 100 percent ownership in Class A

(commercial amusement) games and the other refers to a Class B (punchboard/pull-tab) games, which was similar to the difference between common stock and preferred stock. **Mr. Randazzo** affirmed the extra 6 percent represented non-voting memberships.

Commissioner Orr made a motion seconded by **Commissioner Ludwig** authorizing Season Ticket Sports, Spirits and Grub to be licensed as a house-banked card room authorized to operate up to twelve tables with the maximum betting limit allowed under WAC 230-40-120. *Vote taken; the motion passed with three aye votes.*

Mr. Trujillo reported that with the seven establishments approved today, there are currently 98 active house-banked card room licenses issued, and nine are pending.

5. New Licenses, Changes, and Tribal Certifications:

Commissioner Ludwig made a motion seconded by **Commissioner Orr** to approve the new licenses, changes, and Class III tribal certifications as listed on pages one through 26 on the approval list. *Vote taken; the motion passed with four aye votes.*

6. Default:

Chub's Pub:

Amy Hunter, Administrator for Communications and the Legal Division stated that staff is requesting that the pull-tab license for Chub's Pub be revoked based on their failure to submit two quarterly activity reports and their history of non-compliance in submitting reports late. After the charges were issued, staff learned that the business had been sold and while the license has now lapsed, the Commission still had jurisdiction over that action because at the time the charges were issued, the person was licensed. The charges were sent and the owner said she probably would not be responding. Based on their failure to respond Chub's Pub has waived their right to a hearing and staff is requesting a default be entered.

Chair Niemi inquired if there was anyone present to represent Chub's Pub, and it was determined there was not.

Commissioner Orr made a motion seconded by **Commissioner Ludwig** to revoke license number 05-05-723 issued to Chub's Pub's to conduct gambling activities. *Vote taken; the motion passed with three aye votes.*

Shamrock Tavern:

This default was removed from the agenda as previously noted.

Celio Penamante, Card Room Employee:

Ms. Hunter reported that staff is requesting that Mr. Penamante's card room employee license be revoked based on his criminal history, his failure to notify the Commission of

charges that were pending, and based upon his current probation situation. Charges were brought and sent by certified mail. They were not returned. The legal secretary left a message with the licensee's mother and the licensee called back and said that he did not intend to request a hearing. By failing to respond, Mr. Penamante has waived his right to a hearing and staff is requesting a default order be entered revoking his card room employee license. **Chair Niemi** inquired if Celio Penamante was present and it was determined he was not.

Commissioner Orr made a motion seconded by **Commissioner Ludwig** to accept the findings, conclusions, decision, and final order in default in the case of Celio Penamante and ordered the revocation of his license to conduct gambling activities. *Vote taken; the motion passed with three aye votes.*

Brian C. Williams, Card Room Employee:

Ms. Hunter explained that staff is requesting that Mr. Williams' application be denied, based on his criminal history and his failure to fully disclose the history. Charges were brought against him and they were not returned to the Commission. Staff tried to contact Mr. Williams and found the number was disconnected. By failing to respond Mr. Williams has waved his right to a hearing and staff is requesting that a default order be entered denying his application for a card room employee license. **Chair Niemi** inquired if Brian Williams was present, and it was determined he was not.

Commissioner Orr made a motion seconded by **Commissioner Ludwig** to accept the findings, conclusions, decision, and final order in default in the case of Brian C. Williams and ordered that his application for a license to conduct gambling activities be denied. *Vote taken; the motion passed with three aye votes.*

Stephen Van Anda, Card Room Employee:

Ms. Hunter reported that staff is requesting that Mr. Van Anda's card room employee license be revoked, based on a theft of approximately \$1,600 in chips from Goldie's Casino. The Director brought charges against Mr. Van Anda and they have not been returned. Staff tried to contact him and was unable to do so. By failing to respond, Mr. Van Anda has waved his right to a hearing. Staff is therefore requesting a default order be entered revoking Mr. Van Anda's card room employee license. **Chair Niemi** inquired if Mr. Van Anda was present, and it was determined that he was not.

Commissioner Orr inquired whether the local law enforcement agency had been advised about the incident and if any charges had been brought against Mr. Van Anda. **Ms. Hunter** affirmed the case was referred to King County and apparently they were very close to filing. **Mr. Ackerman** inquired if Mr. Van Anda may possibly still be in custody. Ms. Hunter believed not. Mr. Ackerman noted that if Mr. Van Anda was unable to be present because he was in custody, he could certainly come in at a future date and move to set aside the default.

Commissioner Orr made a motion seconded by Commissioner Ludwig to accept the findings, conclusions, decision, and final order in default in the case of Stephen Van Anda and ordered that his license to conduct gambling activities be revoked. *Vote taken; the motion passed with three aye votes.*

House-Banked Card Room Review - Silver Dollar Casino/Renton - continued:

Director Day reported that Deputy Director Nunamaker has checked with the investigators responsible for this process and staff could now answer the questions that were raised. **Mr. Trujillo** affirmed the Financial Investigations Unit looked at the principals of both the Little Family and Music Works Northwest. Staff also looked at Tim Isley and his group and affirmed with utmost assuredness that there were no cross-overs. Staff therefore recommends the license for the Silver Dollar Casino/Renton be granted with the wagering limits set forth in WAC 230-40-120.

Commissioner Orr made a motion seconded by Commissioner Ludwig authorizing Silver Dollar Casino/Renton to be licensed as a house-banked card room authorized to operate up to fifteen tables with the maximum betting limit allowed under WAC 230-40-120. *Vote taken; the motion passed with three aye votes.*

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

Chair Niemi called for public comments. **Monty Harmon**, Harmon Consulting offered his client's appreciation for their approval action.

8. Executive Session to Discuss Pending Investigations, Tribal Negotiations and Litigation/Adjournment:

At 4:33 p.m., **Chair Niemi** called for an Executive Session to discuss pending investigations, tribal negotiations, and litigation. At 5:05 p.m., Chair Niemi recalled the public meeting and announced that Friday's meeting would commence at 9:30 a.m., and adjourned the meeting.

Minutes submitted by,
Shirley Corbett, Executive Assistant

**COMMISSION MEETING
FRIDAY, NOVEMBER 19, 2004
DRAFT MINUTES**

Chair Niemi called the meeting to order at 9:30 a.m., at the Red Lion Hotel-Yakima Center located in Yakima. The following members and staff were present:

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

STAFF PRESENT: **RICK DAY, Director;**
 NEAL NUNAMAKER, Deputy Director;
 CALLY CASS-HEALY, Assistant Director-Field Operations;
 AMY BLUME HUNTER, Administrator-Legal;
 DAVE TRUJILLO, Acting Administrator-Licensing;
 JERRY ACKERMAN, Assistant Attorney General;
 SHIRLEY CORBETT, Executive Assistant

8. Approval of Minutes:

Commissioner Orr made a motion seconded by Commissioner Ludwig to approve the meeting minutes of the September 9-10, 2004, regular meeting. Vote taken; the motion passed with three aye votes.

Commissioner Orr made a motion seconded by Commissioner Ludwig to approve the meeting minutes of the special meeting/teleconference call of October 19, 2004. Vote taken; the motion passed with three aye votes.

Commissioner Orr made a motion seconded by Commissioner Ludwig to approve the meeting minutes of the special meeting/work session regarding the charitable non-profit report of October 26, 2004, as presented. Vote taken; the motion passed with three aye votes.

9. Hearing:

Fraternal Order of Eagles #24, Aberdeen:

Jack Burtch, Attorney representing the petitioner and **Sara Olson, Assistant Attorney General** presented their cases. A transcript of the testimony is available upon request.

At 10:15 a.m., the commissioners convened an executive session to deliberate the case. At 10:30 a.m., **Chair Niemi** recalled the public meeting. She noted discussion about several points that were brought up in both of the oral arguments, mainly about how many people within the organization, including the father-in-law, were or could have been aware of Mr. Barklow's prior criminal convictions. There was a felony and misdemeanors; the point being whether enough people in the Eagles were aware of his prior criminal convictions while also running a non-profit gambling establishment. Chair Niemi reported the commissioners decided to affirm the ruling by the Administrative Law Judge. Commissioner Ludwig and Commissioner Orr affirmed they concurred with the decision.

10. Problem Gambling Awareness and Training Fee:

WAC 230-04-208:

Ms. Hunter explained the Problem Gambling Awareness and Training Fee was created to provide a more permanent funding source for problem gambling. It is designed to be a separate fee from the license fee; however, it would be based on a percentage of the license fee. Small operators pay a smaller amount and large operators would pay a larger amount. The fee could range from approximately \$11 a year to \$1,200 and provides approximately \$230,000 in revenues per year. The rule would be effective June 30, 2005.

The title was changed to *Problem Gambling Awareness and Training Fee* to make the purpose very clear. Last month, Dolores Chiechi testified against the rule proposal and submitted a letter offering some language changes relating to a sunset clause. Staff also received a letter from Michael Transue asking that the Commission postpone looking at this rule based on the work that the Governor's workgroup has been doing on this issue, and he noted they plan on having a legislative proposal dealing with problem gambling in 2005.

Ms. Hunter explained that staff drafted different language with the sunset clause contained in Alternative #1; that language is preferable to the language that was submitted by the Recreational Gaming Association (RGA) because it doesn't refer to a specific date and would be ongoing. Staff recommended final action on Alternative #1, with the effective date of June 30th.

Chair Niemi commented that she has always had very strong doubts about things like sunset provisions; however she noted the rewrite helped her overcome her doubts. Chair Niemi also advised that she had strong problems with unfounded liabilities created by the Legislature—noting they could easily pass a law involving problem gambling and awareness and not put any general fund money with it, and then various agencies would have to cough up the money. She verified that if the Legislature passed a law with appropriated funds for this program, this rule would automatically go away. **Ms. Hunter** affirmed.

Dolores Chiechi, Executive Director, Recreational Gaming Association, commented that the RGA has been speaking against this rule, and she affirmed submitting a letter raising the RGA's concerns and talking about their involvement with the Governor's Task Force on

Problem Gambling. **Ms. Chiechi** stated the RGA remains hopeful that there will be a resolution for this issue, including attached funding that comes from proportionality all segments of the gaming industry. She reiterated the RGA's opposition to the rule.

Don Kauffman, President, Washington Charitable and Civic Gaming Association, advised he has also spoken against this rule in the past; however, he endorsed Alternative 1 at this point and time. Mr. Kauffman believed that in the long run, the best way to handle this situation would be to get all aspects of the in-state gambling industry involved in funding this issue. He affirmed that everyone had a responsibility and currently only the commercial and charitable nonprofit licensed operations are carrying the load. The WCCGA hoped the Commission would recommend to the Governor and his Task Force that they come up with a finalized process. **Chair Niemi** responded that a memorandum of understanding exists between the Horseracing Commission, the Lottery, DSHS and the Gambling Commission as a funding mechanism. Mr. Kauffman affirmed and noted the compacted organizations aren't currently at the table, and he would like to see all aspects of gambling fund this program.

Ronnie Strong, President, Charitable Nonprofit Voice, supported the amendment before the Commission and hoped for an approval vote from the commissioners.

Commissioner Orr made a motion seconded by **Commissioner Ludwig** to adopt Alternative #1 of WAC 230-04-208 with an effective date of June 30, 2005. *Vote taken; the motion passed with three aye votes.*

11. Verifying Winning Hands in House-Banked Card Games:

WAC 230-40-825:

Ms. Hunter noted that Item 11 was originally a petition for rule change filed after the August meeting by Robert Dayton. Under the current rule, if there is a winning hand in excess of \$500, surveillance must put their PTZ (pan, tilt and zoom) camera on the winning hand, the amount of wager, and the player that won the prize. Mr. Dayton was asking that the threshold amount be increased to \$1,000. He felt that having it at \$500 took away from some of the other important work that surveillance needs to do; as well as taking the floor supervisors away from their duties. He also felt that with the change in betting limits, more hands would need to be verified. At the August meeting the Recreational Gaming Association testified that they felt the threshold amount should be \$2,500 rather than \$500 or even the proposed \$1,000 amount. After the September Meeting, Mr. Dayton withdrew his petition with the understanding that staff would continue to look at this and provide an alternative recommendation or solution.

Subsequently, staff conducted a survey of five card rooms to determine how many times payouts were above the \$500 amount, and found that it varied from 3 to 213 times a month. For the \$1,000 amount, it varied between 0 times and 42 times, and for the \$2,500 amount there were 3 card rooms that had no payouts in a month's time and 2 that had 8. Based on this information, staff recommended final action on Mr. Dayton's original proposal, which means the threshold amount would be increased from \$500 to \$1,000. Staff believed this

was the proper amount to still have player protection and still allow a licensee, through their internal controls, to choose a different amount if they prefer to maintain a lower threshold.

Mr. Ackerman questioned procedure and clarified this was the petition that was filed by Mr. Dayton originally; however, it is an amended form of the original petition that is up for final action. He clarified that Mr. Dayton's petition was never formally withdrawn by the Commission. **Ms. Hunter** affirmed.

Commissioner Ludwig made a motion to allow the petitioner to withdraw his petition. There was no second and **Chair Niemi** announced *the motion failed for lack of a second.*

Commissioner Orr made a motion seconded by **Commissioner Niemi** to adopt the alternative to WAC 230-04-825 raising the threshold to \$1,000 and to deny Mr. Dayton's request to withdraw the petition.

Chair Niemi called for public comments.

Dolores Chiechi, Director, Recreational Gaming Association, spoke in support of the rule change, noting it would help the licensees keep their games flowing, as well as keep the protections in place designated by the Commission.

Chris Kealy, Iron Horse Casino supported the rule change and pointed out that surveillance is in essence a record keeping tool most of the time.

Vote taken; the motion passed with three aye votes.

12. Card Room Supervision: Chief Executive Officer (General Manager) Acting as the Gaming Operations Department Manager:

WAC 230-40-554:

Ms. Hunter reported this rule deals with the CEO being able to also act as the Gaming Operations Department Manager. Gary Murrey submitted the petition on behalf of the Recreational Gaming Association. The current rule requires the two positions be separate. This has been required since the inception of house-banked card rooms to prevent people from having incompatible functions. The agency's rules team discussion lead to the decision that if there are proper internal controls in place, this change would work. Staff felt that at some level, this was very much a business owner decision on whether they want to have two people in that position or one. Staff recommended final action. **Chair Niemi** called for public comments.

Gary Murrey, representing the Recreational Gaming Association, thanked staff and the rules team for the new rules process and cooperative work spirit. He advised the RGA would appreciate a positive vote on this rule.

Commissioner Ludwig made a motion seconded by Commissioner Orr to adopt WAC-40-554 with an effective date of January 1, 2005. Vote taken; the motion passed with three aye votes.

13. Verifying Winning Hands in Poker Games:

WAC 230-40-610:

Cally Cass-Healy, Assistant Director explained this rule dealing with player-associated jackpots was up for final action. At the August Commission Meeting, the Commission adopted an amendment to 230-40-070 allowing Poker games to be played with non-logo cards. In conjunction with that change, staff recommended an amendment to WAC 230-40-610 requiring dealers to verify under surveillance that the correct cards were in a deck when a player supported jackpot was paid out. Staff recommends that this rule become effective at the same time as WAC 230-40-070 becomes effective, which would be January 1, 2005.

Chair Niemi called for public comments.

George Teeny, representing the RGA, reported that information regarding some inadequacies about suppliers in the state was brought to light several months ago, and staff graciously looked at the information and affirmed the credibility. The Commission's rules team and the RGA's rules team have been reviewing the rule and developed the rule proposal before the Commission. He explained the licensees are the custodians of the player-supported jackpot; however, an extra level of security absolutely must be provided because the money actually belonged to the players. If a part of the jackpot is won by a player, the cards will be shown by counting the deck down to show that there are indeed 52 cards in the deck. That verifies that there was no duplication of cards, and it absolutely sterilizes the situation so that the player who wins the money, actually should win the money, and it assures that everything is legitimate within the organization. Mr. Teeny hoped the Commission accepted the rule as submitted.

Commissioner Ludwig made a motion seconded by Commissioner Orr to adopt the amendment to WAC 230-40-610 with an effective date of January 1, 2005. Vote taken; the motion passed with three ayes.

14. Petition for Rule Change – RGA – Prize Payouts for Poker Games:

WAC 230-40-610:

Cally Cass-Healy noted that Dolores Chiechi on behalf of the Recreational Gaming Association submitted the petition for rule change to amend WAC 230-40-610 subsection 5. The rule currently sets operating restrictions for Poker games offering player-supported jackpots (PSJ). Currently, the rule allows licensees to pay \$500 or less in cash to players who have been awarded a PSJ prize. Prize amounts not awarded in cash must be paid within 24-hours by check (the type which provides a duplicate copy). For example, if a player was awarded a PSJ prize for \$2,000, the player could be awarded \$500 in cash and then issued a check for \$1,500.

This proposal would increase the cash portion of payouts from \$500 to \$2,500. In other words the licensee could pay out the whole \$1,500 prize in cash at the time it was won. It also allows checks written for those prizes to be cashed on the licensed premises. **Ms. Cass-Healy** advised that the staff was comfortable with the proposal as submitted and recommends adoption with an effective date of January 1, 2005. **Chair Niemi** called for public comments.

Dolores Chiechi, Director, Recreational Gaming Association, announced that the RGA appreciated the Commission staff working with the RGA on the rule change. The requirements for recording the name, social security number, and other information from the players is still in the rule, and she suggested it would make a lot of the players more content that they will get the money they won. They will also appreciate being allowed to cash those checks on the premises. She reported the RGA was in full support of the rule change.

Commissioner Orr made a motion seconded by Commissioner Ludwig to accept the amendment to WAC 230-40-610 (5) as recommended with an effective date of January 1, 2005. Vote taken; the motion passed with three aye votes.

15. Petition for Rule Change – RGA – Gambling Service Supplier:

WAC 230-02-205:

Cally Cass-Healy reported that Items 15 and 16 both were filed as petitions for discussion. Both have been requested for withdrawal by the associated petitioner.

Commissioner Orr made a motion seconded by Commissioner Ludwig to accept the withdrawal of the petition to amend WAC 230-02-205. Vote taken; the motion passed with three aye votes.

16. Petition for Rule Change – Ronnie Strong- Renaming Event Pull-Tabs:

WAC 230-30-033:

Commissioner Orr made a motion seconded by Commissioner Ludwig to accept the withdrawal of the petition to amend WAC 230-30-033. Vote taken; the motion passed with three votes.

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

At 11:05 a.m. **Chair Niemi** called for public comments. There were none, and she adjourned the meeting, noting that a Special Meeting may be scheduled on December 1, as previously discussed; the next regular meeting has been scheduled for January 13-14, 2005.

Minutes submitted by:

Shirley Corbett
Executive Assistant