

**COMMISSION MEETING
THURSDAY, NOVEMBER 17, 2005
DRAFT MINUTES**

Chair Ludwig called the meeting to order at 1:30 p.m. at the DoubleTree Guest Suites located in Seattle. He introduced the following attendees present:

MEMBERS PRESENT: **COMMISSIONER CURTIS LUDWIG**, Chair, Kennewick
 COMMISSIONER ALAN PARKER, Vice Chair, Olympia
 COMMISSIONER JANICE NIEMI, Seattle
 COMMISSIONER JOHN ELLIS, Seattle
 COMMISSIONER PEGGY ANN BIERBAUM, Quilcene
 SENATOR MARGARITA PRENTICE, Seattle
 REPRESENTATIVE ALEX WOOD, Spokane
 REPRESENTATIVE JOHN SERBEN, Spokane

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

Staff Accomplishments:

Director Day and **Chair Ludwig** presented service certificates to Cam Dightman for 40-years of state service and to Judy Pittlekau for 10-years of state service.

1. Review of Agenda and Director's Report:

Director Day reviewed the agenda for Thursday and Friday and highlighted inserts added to the agenda packet since publication, many of which related to Item 4, consideration of the House-Banked Card Room Report on Casino Caribbean located in Kirkland. With Commission consensus, **Chair Ludwig** proceeded to Item 4 on the agenda.

4. House-Banked Card Room Report:

Casino Caribbean, Kirkland:

Chair Ludwig provided general ground rules for the report review, noting it would begin with a staff report by Mr. Trujillo, followed by an introduction of the applicants and any comments they have. **Chair Ludwig** advised he would allow one hour for public comments; 30 minutes for supporting comments and 30 minutes for opposing comments. He acknowledged the receipt of numerous e-mails and letters and affirmed they were part of the permanent record.

Dave Trujillo, Administrator-Licensing Operations Division reported that Casino Caribbean is seeking Commission approval to operate house-banked card games, punchboard/pull-tabs, and other gambling activities. Casino Caribbean hopes to be located at 12526 NE 144th Street in Kirkland, and they hope to be co-located with Sno King Amateur Hockey Association. Mr. Trujillo noted that ownership representations are reflected on the charts provided in the agenda packet. He reported that Commission staff conducted an in-depth pre-licensing investigation and a pre-operational review and evaluation. Based upon the results of both reviews, the staff recommends licensing Casino Caribbean as a house-banked card room authorized to operate up to 15 tables in accordance with the wagering limits set forth in WAC 230-04-120. Mr. Trujillo noted that owner Michael Marquess was present along with legal counsel, Frank Miller.

Mr. Marquess thanked Commission staff for their hard work in this licensing procedure and for recommending license approval. **Mr. Miller** advised he submitted a letter setting forth the licensee's position urging support for this application, and he requested an opportunity to address the Commission after the public comments have been delivered.

Commissioner Parker commented that he understood the licensee has a liquor license application pending. **Mr. Miller** affirmed and noted there was opposition to that license application by a local group as well as King County Commissioner Ron Sims, which formed the basis for initial denial. The Liquor Control Board denial is now on appeal and set for a February hearing. Mr. Miller advised he personally met with the representatives of King County and was advised to contact the City of Kirkland because the City of Kirkland was one of the main parties behind the liquor license opposition. Mr. Miller clarified the casino would not be in the City of Kirkland and they have no jurisdiction over this property. He acknowledged they may someday be annexed, and because there is a ban in the City of Kirkland, that issue would come to the forefront at that time. Commissioner Parker inquired what the Liquor Control Board stated in its action. Mr. Miller responded that there were numerous things; however, the real concern was the local opposition. The Liquor Control Board has the right to limit the number of licenses, and while there was not an issue with too many licenses in the surrounding county, given the strong opposition from the City of Kirkland, their real basis was that the locals did not want the liquor license approved. King County Executive Ron Sims supported them on this issue.

Chair Ludwig verified that the Liquor Control Board has much broader discretion than the Gambling Commission in terms of denying applicants. **Mr. Miller** affirmed the

Liquor Control Board has the ability to limit the number of licenses, it is posted in advance, and they take public input. If a County Executive opposes a liquor license, as a general rule that license will be denied initially and it would be up to the applicant to go before an Administrative Law Judge and hopefully have the decision overturned. Mr. Miller shared his opinion that the basis for this denial was not adequate, noting there haven't been any other denials in this area and there are numerous liquor establishments around this area. He noted it has become a very political issue and the local group has done a good job mounting their opposition in this case.

Commissioner Parker inquired if the Gambling Commission approved the application for a house-banked gambling license whether the licensee would open their doors for business in the absence of a liquor license or hold off until there is a determination in that matter. **Mr. Miller** responded that his client plans on opening their doors Saturday, November 19, if the license is approved. He reported 120 employees have been hired and are ready to go to work. He believed the location will be viable without liquor and projected that more pop and water would be served in this casino than any other casino in this state.

Dave Trujillo drew attention to various flip charts posted in the meeting room reflecting the current zoning and aerial photographs of the area depicting the surrounding businesses.

Chair Ludwig called for a recess at 2:10 p.m. and recalled the meeting at 2:20 p.m. He called upon Representative Nixon and the King County Council Representative.

Representative Toby Nixon 45th Legislative District thanked the Commission for allowing him to speak. He advised he was present at this hearing as a son, a husband, and a father of five children who lives four blocks from the proposed casino. He advised his family walks on the neighborhood streets, they ride their bikes and scooters on the neighborhood streets, and they drive their cars on the neighborhood streets. He emphasized the fact that the proposed casino is in the middle of his neighborhood and in the middle of a residential neighborhood area. He noted it will draw customers from a wide area—that it has to in order to be financially successful. He predicted that people will come at all hours of the day and night and will drive on the neighborhood streets because there is no other way to get there but to drive on the neighborhood streets—it isn't like other casinos that are right off a freeway exit—it is on a two-lane neighborhood street. Representative Nixon suggested that it was undeniable that the additional traffic from people who are unfamiliar with the neighborhood would increase the risk and danger to the families that live in the neighborhood. He affirmed the Gambling Commission does not have zoning authority and is not the local planning board; however, he believed that ultimately this wasn't a question of zoning or land use—it was a question of the public interest. He emphasized the Commission does have a responsibility under the law to act in the public interest. Representative Nixon asked if it was in the public interest to situate casinos in the middle of residential neighborhoods. He acknowledged there were neighborhood convenience stores, ice cream parlors, pizza places, schools, and banks; however, he questioned if the public really wanted neighborhood casinos.

Representative Nixon reported that all of the cities around Kingsgate ban card rooms because they are not consistent with community standards. Kingsgate is a proposed annexation area for the City of Kirkland, and when that happens, if this facility is operating, it would have to close down because the Supreme Court established a precedent that they can't be grandfathered in. He advised that he strongly supports the Hockey Association—that he does not oppose the Hockey Association raising funds through gambling, and that he doesn't oppose gambling per say. He acknowledged the Association does excellent work with the children; however, he believed there are better locations for a casino than in the middle of a residential suburban neighborhood. Representative Nixon asked the Commission to use their discretion and determine that as a matter of public policy it should not locate casinos in the middle of residential properties. He emphasized that the Nixon family respectfully asked the Commission to deny this application.

Kristine Jensen advised she was appearing on behalf of Kathy Lambert, the King County Councilmember who represents Council District 3. Ms. Jensen reported this issue is a priority for Councilmember Lambert and while she could not be present, she submitted a letter expressing her concerns. On behalf of Councilmember Lambert, Ms. Jensen voiced opposition for the proposed card room in the Kingsgate neighborhood and requested the Commission deny the application per the authority granted under RCW 9.46.075, based on the fact this situation is not in the best public interest; and, because the business is planned in a highly residential area which is not an appropriate placement for a card room. The King County Executive, several Legislators, local school representatives, and several colleagues at the King County Council have joined in to oppose locating this establishment in the King County neighborhood. Ms. Jensen noted that in contrast, the overwhelming number of those who support the card room do not live in the neighborhood that it will be affecting. She believed the gambling establishment is not compatible with the community as the property is abutted by many residential homes and enjoys a high density of children that live in the neighborhood. She noted the increased volume of traffic will create excessive traffic for the children present at the day care areas, the swimming pool facility, the schools, and the children that reside in the area and travel from home to home in the surrounding neighborhood. Ms. Jensen drew attention to the fact that negotiations are underway for the annexation of this neighborhood into the City of Kirkland. Kirkland's moratorium on the card room shows that this is not the type of project the local community wants or supports. Ms. Jensen also addressed the denial of the liquor license in part because of the large local community opposition. She believed it would be a poor precedent to establish a gambling establishment in this community, and appreciated the Commission's thoughtful consideration of the request for denial as this application was not in the public interest.

Chair Ludwig called upon the individuals interested in testifying in support of the application. The following citizens spoke in support and urged the Commission to approve the application for a house-banked card room license to be issued to Casino Caribbean: **Carol Brown**- parent, **Steve Cole** –President, Sno King Hockey Association, **Rob Cornfeld** - parent, **Nancy Share** - a long time supporter of Sno King Hockey

Bingo, **Dick Kappen** - 35 year resident, **Tina Soyman** - single parent, **Michael Bockcock** – Food and Beverage Manager for Mr. Marquess and local resident of Kingsgate, **Nareth Va** – a 20 year resident of Kingsgate, **Droy Ben-Memachem** – General Manager for one of the adult hockey franchises in the greater Seattle Hockey League, **Monty Harmon** - Harmon Consulting, **Ed Boyle** - hockey parent, **Robert Stevens** - employee at the Casino Caribbean, and **Kevin Williams** – parent of two kids in the organization.

The following citizens spoke in opposition and urged the Commission to deny the application for a house-banked card room license to be issued to Casino Caribbean: **Sandy Laurence** - community member and long time Kingsgate resident, **Bruce McIntosch** - Kingsgate community resident, **Susan Schilling** – 14 year Kingsgate resident, **Jeannette Elmore** - homemaker, **Irene Krippen** – 25 year resident of High Woodlands, and **Cindy Kline** 19 year resident of Kingsgate.

At the conclusion of the public comments, **Chair Ludwig** called upon the applicant’s attorney, **Frank Miller** who spoke on behalf of Casino Caribbean and responded to the many comments offered by the residents speaking in opposition of the license. He noted his client submitted an application in January of 2005. They paid \$35,000 for the application to go forward—they worked with Commission staff—their background was investigated—their sources of funds were completely examined and found to be suitable—the facility had to go through numerous inspections and internal controls, and they spent \$2.7 million along the way to appear today for consideration. In this particular situation, after 9 months and after expending \$2.7 million, the Commission staff recommended approval of this application because Casino Caribbean is qualified to possess a license. Mr. Miller reported that based on his experience and based on his knowledge regarding the history of this agency, he was not aware of one situation in 20 years where mere local opposition has resulted in a denial or delay of a gambling license. He emphasized the Commission was founded to keep the decision makers independent from that local input and to keep that input at a legislative level, or to give local government the opportunity to ban the activity in that jurisdiction. He agreed the concerns heard today were legitimate; but, he believed there is a fear. He clarified this is a facility with 15 tables—five of which will probably be a poker room. He projected that at 3:00 in the afternoon, there would probably only be 5 to 10 people playing poker. He responded to the comments regarding traffic and he reiterated there would be no alcohol in this establishment.

Mr. Miller explained this has been a process where an applicant goes through the process, spends a great deal of money, and comes before the Commission for final review. The real question is whether the Commission has heard anything today that would change the staff recommendation, or that would make Commissioners vote “no” on this applicant who has played by all the rules. He noted the Commission WAC’s say that all applicants that meet the qualifications for licensing will be certified by the Commission for initial license and are subject to re-certification by the Commission on an annual basis. Mr. Miller stated his client has gone through the entire process and they have met the qualifications. Public opposition to having a casino in a residential area is

not grounds for denial. He concurred there are specific grounds that reach grounds for denial; however this isn't it. He suggested that if the Commission were to substitute judgment and say this is somehow not in the public interest; that would effectively be zoning—because the Commission would be substituting its decision for King County, and this isn't King County. The remedy the people have is to go to King County Executive Sims and address this issue. In conclusion, Mr. Miller addressed RCW 9.46.470 which talks about the powers and duties of the Gambling Commission—that the Commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued. He urged the Commission to listen to what has been said today and to ask themselves if anything that has been said makes the applicant unqualified. He noted the applicant has played by all the rules. They have employees ready to go to work on Saturday. Mr. Miller asked for Commission support and approval. There were no further public comments.

Assistant Director Trujillo affirmed that while staff does recommend approval, the Commission has three options: approval, denial, or to return the matter to staff for further investigation.

Chair Ludwig asked Assistant Attorney General Ackerman to comment about the comments by Mr. Miller comparing the Gambling Commission to the Liquor Control Board and how broad their discretion is and how narrow the discretion is for the Gambling Commission. **Mr. Ackerman** responded that the issue before the Commission isn't in relation to limiting the number of licenses—he didn't think anyone has suggested to the Commission that there were too many casinos and that the Commission should therefore not approve this license because it will increase the number of facilities in this state. Mr. Ackerman affirmed the Liquor Control Board has very broad authority with regard to the sites of establishments that receive liquor licenses. He noted they also have some very specific mandates. Licenses shall not be granted to establishments that are within 500 feet (he believed) of schools, churches, and other public institutions. The Liquor Control Board is also required to take into consideration the input from local jurisdictions; both in terms of the elected or appointed political officers in those jurisdictions, local law enforcement, and the local community. Mr. Ackerman affirmed the Liquor Control Board also makes specific licensee site decisions.

Commissioner Ellis asked Mr. Ackerman to address RCW 9.46.075, the statutory provision which is the source of the public interest provision that has been referred to several times. He advised he was specifically curious as to whether or not the Commission has broad authority to deny a license simply because the Commission makes a determination that it is not in the public interest in the general sense, or whether that provision had to be interpreted more narrowly. **Mr. Ackerman** acknowledged that a number of the opponents cited RCW 9.46.075; and, he noted that as with much of the Gambling Act, he has found that it is written in a somewhat ambiguous manner. RCW 9.46.075 says in pertinent part, that the Commission may deny an application or suspend or revoke any license or permit issued by it for any reason or reasons that deems to be in the public interest ... these reasons shall include, but not be limited to cases wherein the applicant or licensee or any person with an interest therein ... and it provides eleven

specific subsections as examples. Before Mr. Ackerman addressed the significance of the examples, he again noted that the language regarding “any reason in the public interest” language is general and broad language. He explained the statutory interpretation of broad language like that is achieved by looking to the specific examples that follow the broad granting of authority. In order to get a sense of what the Legislature meant when they said any reason to be in public interest, the Commission would look to the following eleven sections.

Subsection 1 - “Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by Chapter 9.46 RCW and the amendments thereto.” Mr. Ackerman noted, the Gambling Act in other words—and if an applicant has violated the Act or the WAC’s, that interpretation would be a reason to not grant the license. Subsection 2 deals with people who knowingly cause, aids, abets, or conspires with another to violate any of the laws of this state or the rules of the Commission. Subsection 3 deals with individuals who have obtained a license by fraud, misrepresentation, concealment, or through inadvertence or mistake. Subsection 4 allows the denial of a license to someone who has been convicted or forfeited bond upon a charge of, or plead guilty to forgery, larceny, and a number of other specific crimes. Subsection 5 says the Commission should exercise authority when a licensee fails to promptly produce for inspection or audit any book, record, document, or item required. Subsection 6 allows the Commission to deny the license or revoke the license of someone who failed to display their license on the premise as required by law. Subsection 7 says a person would lose their license for misrepresentation or failure to disclose material facts to the Commission—again going to the regulatory abilities. Subsection 8 deals with a failure to prove by clear evidence an applicant is qualified for the license in accordance with the provisions of the chapter. Subsection 9 allows the Commission to deny a license to an individual or entity that was currently under prosecution or current charges, or has been convicted and that conviction is under appeal for a variety of felonies that are listed in Subsection 4. Subsection 10 allows the Commission to deny a license to someone who has pursued or is pursuing economic gain in an occupation manner or context that violates the criminal or civil public policies of this state. Subsection 11 allows the Commission to deny a license to someone who is a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel ... essentially organized crime. The section concludes by saying that for the purpose of reviewing any application, the Gambling Commission may consider only prior criminal conduct of the applicant or licensee and other provisions of the chapter.

Mr. Ackerman suggested that when read in context, RCW 9.46.075 and the public interest language seemed to be dealing with the qualifications of the applicant, the person applying for the license, and/or the entity applying for the license. There isn’t anything that isn’t personal to the applicant—there isn’t a geographical component—there is nothing in 9.46.075 that states the Commission is supposed to make a site decision. It is all in the context of background, the history, and the appropriateness of the particular individual or entity to be licensed.

In contrast, the one portion of the chapter that deals with the sites of facilities is RCW 9.46.295, which needs to be read in context with 9.46.285. However, **Mr. Ackerman** reiterated that 295 is the only provision of the chapter that deals with the location of gambling facilities; and it indicates that gambling facilities may be banned by local jurisdictions. It places the ability to control the sites of facilities in the hands of cities, counties, towns, villages, or whatever other form of a local municipal organization the state law provides. In this case, King County has not chosen to ban gambling facilities; and that is where the Gambling Act seems to place the power to control site provisions. Mr. Ackerman emphasized that RCW 9.46.285 makes it clear that it does not divest local jurisdictions the authority to exercise normal zoning powers. By statute, local jurisdictions can't zone with regard to gambling—they can't have a gambling zone or no gambling zone. Mr. Ackerman explained that his review of the history of the Act goes back to the early 1970's when the Gambling Act was created and the Legislature debated and made quite clear that they didn't want to give local jurisdictions the ability to create what used to be called "red light districts" in which they would cluster the perceived sins of society. The ability to zone for gambling does not exist; however, King County could zone this property in the way it zones any other property. It could make it commercial, residential, it could grandfather in existing businesses, it could mandate the necessary number of parking spaces to be provided at the facility. The county may do any number of things it wants to with this facility; however, none of those powers are specifically delegated to the Gambling Commission. Mr. Ackerman advised that when he looked at the provisions, there was no case law interpreting 9.46.075, and if the Commission chose to interpret the provision as giving the Commission some sort of geographical site power; that will be the first exercise of the law for that purpose. As to whether or not that would be sustained, Mr. Ackerman suggested that would be something that a court would determine in the future if necessary.

Commissioner Parker verified that as Mr. Miller suggested, the options for the residents of Kingsgate would be to contact the King County Council to make all of King County a no gambling area. **Mr. Ackerman** concurred that it was his understanding this is an unincorporated area in King County. If the county chose to propose a gambling ban, the ban would have to be county wide. However, the county may exercise other zoning powers with regard to this locale—there are questions about the number of parking places that are adjacent to the proposed facility, and if the county truly felt that was inadequate the county could act on that issue.

Senator Prentice commented that there was one other option, and she reported that there is a strong move underway by the City of Kirkland to annex the area. She noted 60 percent of the voters could submit a petition and an action could be taken by a vote of the people. She believed that looked like the most viable option. Then the city would have to work out with the card room how they would phase them out of business.

Commissioner Parker asked how many house-banked card room license holders are operating a house-banked facility without having a liquor license. **Mr. Trujillo** responded that there were none.

Commissioner Ellis advised that he was very sympathetic to all of the views expressed. However, given what Mr. Ackerman described as the limitations for the determination to deny a license based on the public interest, generally the Commission should look at the normal list of things such as whether or not an application may be backed by an organization or may result in fraudulent gambling practices etc. Commissioner Ellis advised that he was also reminded of the provision in Federal Law that when a tribal casino (in some circumstances) is being sited, a determination has to be made by governmental and federal agencies that the site will not impact the surrounding community. He noted the Legislature could have given the Commission that authority but chose not to.

Commissioner Ellis made a motion seconded by **Commissioner Bierbaum** that based on the investigation that has been conducted by staff; the Commission approves the license application of Casino Caribbean-Kirkland as a house-banked card room authorized to operate up to 15 tables in accordance with the wagering limits of WAC 230.04.120.

Commissioner Parker commented that as an agency of the government, he believed the Commission does a good job of providing an opportunity for the public to come and vent its views and to testify; and that public testimony is always very helpful and valued by the Commission. He agreed with the maker of the motion, and that in this situation based on the parameters of the Commission's decision making, there is no record to justify denying this application. *Vote taken: the motion passed unanimously.*

Chair Ludwig called for a recess at 3:50 p.m. and recalled the meeting at 4:05 p.m.

1. Director's Report (continued):

Director Day addressed the latest version (from the Code Reviser's Office) of the agency request legislation previously discussed regarding bracket and sports pool activities. The potential legislation is still pending consideration at the Governor's Office. The proposed bill will clarify this would be a permitted activity provided all the money is paid to the players and the total values of the pools do not exceed \$100.

2005 Fiscal Year Net Receipts:

Director Day explained the reason he distributes the annual pie chart is to provide a comparison of the total gambling net receipts for 2005 (which shows an increase from 2003 and 2004), and the total amount in all forms of gambling of just under \$1.7 billion dollars. The increase is primarily a result of tribal and card room activities. There continues to be a decline in bingo and punchboard/pull-tab activities.

Correspondence:

Director Day noted that there has been a request from the Skokomish Tribe and the Governor to commence negotiations for amendments to the Tribal gaming compact. Additionally, the Kitsap County Board of Commissioners submitted correspondence to the Governor expressing concerns about the Skokomish Tribe's request to negotiate. The Commission has not yet begun negotiations with the Skokomish Tribe. Director Day also

noted Governor Gregoire's letter requesting further negotiations with the Spokane Tribe, and the Commission's related letter that confirms that the party has agreed to withdraw the proposed comments and return to the table for further negotiations, which is why the Compact is not on the agenda for discussion this month. Director Day explained that in the event an agreement is reached, the Compact would be moved forward in the usual process with notice to Legislators, officials, and Commissioners for legislative hearings, followed by a hearing before this Commission. Director Day acknowledged the receipt of letters from Senator Harriet Spanel, Representative Dave Quall, and Representative Jeff Morris (40th Legislative District), and from the RGA, King County Prosecutor Norm Maleng, and Mike Heelan (O'Blarney's Irish Pub); with the combination of those letters all expressing their concerns about the proposed Spokane compact.

Monthly Update Reports:

Director Day commented that while there was not a Congressional Update of federal law in the agenda packet, at this point the Commission was not aware of any changes or new legislation particularly about IGRA. He advised updates will be provided as appropriate. He called attention to the Seizure Report which reflects that an Administrative Law Judge has forfeited two vehicles and \$35,000 in connection with a bookmaking case the Commission investigated; a petition for review has been filed and will be scheduled for Commission review at the January meeting.

Commissioner Parker addressed two letters, one from the Governor of Arizona and one from the Director of Administration from Wisconsin, both addressed to Senator McCain, expressing the view on behalf of their state that Senator McCain's proposal (under consideration in his committee) to essentially authorize the National Indian Gaming Commission (NIGC) to expand its regulatory power over Indian Gaming, should not necessarily be applicable in their states because in their states there was no need for an additional level of regulation or federal intervention. He inquired whether the Commission envisioned bringing that issue up for discussion. **Director Day** responded that he has attempted to reach Senator Cantwell's office to follow up on the status of Senate Bill 1295, and that the letters mentioned would be will provided along with an update at the next Commission Meeting.

Commissioner Niemi asked if there is a reason why the Commission's contact should only be with Senator Cantwell. She suggested it might be worthwhile to talk to the Governor's Office and that it might be appropriate for the Governor's Office to send a letter to Senator Cantwell. **Director Day** affirmed. He reported that Senate Bill 1295 was introduced by Senator Cantwell to provide the NIGC with the authority to increase the amount they assess Tribes and the Commission. Certain members of the Commission have raised some concerns about how that would impact the regulatory relationship that is currently in Washington; and due to the effective relationship that this state has with the Tribes, how that would affect the Tribes. Commissioner Niemi suggested that it would be worthwhile for the Governor to understand the issue as clearly as the Commission does; and, she requested that the Director and the staff talk to Governor Gregoire about this issue. Director Day affirmed.

Commissioner Parker responded that he was not suggesting that the Commission needed a resolution of the Commission at this time. However, he cautioned that if there is a federal law passed that would authorize the National Indian Gaming Commission to increase its dues in order that they might have a much more extensive roll in regulating—the Commission could fully expect that the Tribes in Washington might very well suggest a need to change their fee situation. He affirmed that currently there is adequate regulation and that it works well at the local level; which is as it should be.

Commissioner Parker advised that it was his understanding from colleagues that Senator McCain has been of the persuasion that if there is not federal oversight, there is an enhanced risk of organized crime intrusion into tribal gaming. He suggested that since Senator Cantwell is also on the committee, she could be asked to consider proposing that if the bill is introduced, that the state of Washington should be exempted from the coverage of that bill. He believed other state representatives would be taking a similar approach. Commissioner Parker agreed with Commissioner Niemi's proposal that the Governor should convey the official correspondence to Senator Cantwell, and officially suggest making a recommendation that the proposal should not be applied to Washington State; that there should be some language in the bill before it gets enacted by Congress that would allow states to opt out wherever there is a conclusion by the state that their relationship provides adequate protection of the public.

Commissioner Niemi, Commissioner Ellis and Chair Ludwig concurred. **Director Day** affirmed staff would prepare a draft letter to the Governor for Commission review and approval at the January 2006 meeting. In the meantime, Director Day advised he would continue to pursue contacting Senator Cantwell's office as well. There were no further comments.

2. **Defaults:**

Arlene Dennistoun, Staff Attorney/Temporary Acting Administrator for the Communications and Legal Department advised that staff is requesting two defaults this month.

Tina Damis – Card Room Employee: (Ms. Damis was not present)

Ms. Dennistoun reported that staff requests that Ms. Damis' Class III certification be revoked based on Ms. Damis admitting to spending advanced travel and expense funds of approximately \$1,095 which was intended for her attendance at a conference. She admitted she spent the money instead at a Portland casino. The Director summarily suspended Ms. Damis' Class III certification by serving her, and the Commission did not get a response. The legal secretary placed a call to Ms. Damis; however, the telephone number provided to the staff was disconnected. By failing to respond to staff on the charges Ms. Damis has waived her right to a hearing. Staff requests a default order revoking Ms. Damis' certification be entered.

Commissioner Ellis made a motion seconded by **Commissioner Niemi** to enter an order **substantially in the form presented by staff revoking Tina Damis' Class III certification to conduct gambling activities. Vote taken; the motion passed with five aye votes.**

Card Room Inc., d/b/a Porterhouse Restaurant & Lounge, Moses Lake:

Ms. Dennistoun reported that staff is requesting that Porterhouse Casino's license be revoked based on its failure to submit its compiled financial statements within 120 days after the end of the licensee's business year. The financial statement was due in May 2005. Two extensions were granted. As of the due date, no statement has been received, and there was no response to the charges that the Director brought against the Porterhouse Casino. Charges were sent by regular mail and a courtesy call was made reminding the licensee of the deadline to respond to charges. The agency's legal secretary spoke to the owner, Steve Cruthers, and he said he was aware of the deadline to respond to the charges but failed to do so. By failing to respond, Porterhouse Casino waived their right to a hearing and staff requests a default order be issued revoking the license.

Steve Cruthers and **Monty Harmon** were present and Mr. Harmon reported that he helped the Porterhouse with their original licensing in January of 2004. The license was issued on February 14, 2004, and this was the first year that financial statements would have been required.

Commissioner Niemi inquired if Mr. Harmon wanted the Commission to set aside this default hearing or to continue the default hearing. **Mr. Harmon** responded that he was not an attorney; however, he contacted two in an attempt to gain representation for Mr. Cruthers, both could not take the case on such short notice. Mr. Harmon then asked the Commission to continue the hearing; or, if possible to provide the licensee with a second opportunity since they have now provided the financial statements. Mr. Harmon indicated that Commission staff reviewed them and found them to be adequate. Mr. Harmon explained that the licensee was not able to get the CPA to provide the financial statements in a timely manner. Mr. Cruthers did not request a hearing because it was his understanding that without the financial statements, requesting a hearing would not be a useful or productive. **Chair Ludwig** verified that in essence, Mr. Cruthers was willing to submit to an Administrative Law Judge (ALJ) hearing now. Mr. Harmon affirmed.

Commissioner Niemi noted that one of the findings of fact said that as of October 19, 2005, no financial statements had been submitted. **Mr. Cruthers** advised that he gave them directly to the Commission on approximately Friday, October 28th. **Ms.**

Dennistoun affirmed the compiled statements were received as indicated and a financial investigative agent did review the statements; however, the issue before the Commission is failure to respond to the charges. A request for hearing has not been submitted, and staff has not received a response to the charges for failing to submit timely for those statements that are required. Staff therefore requests a default order be entered for the licenses issued.

Commissioner Ellis questioned if it was staff's position that the appropriate sanction is revocation based on the long day in submission of the financial statements along with the failure to respond to the charges. **Ms. Dennistoun** affirmed. Commissioner Ellis inquired what the appropriate sanction would be if staff were to set aside the matter of the failure to respond to charges—leaving only the matter of addressing the lengthy delay in the filing of the financial statements. Ms. Dennistoun believed staff could draft a

settlement scenario that would have some admission contained in the settlement that would help the licensee comply in the future; whether that is a change in procedure—a change in the way they pay attention to their mail, or, whatever procedure they may need to change in order to comply with Commission rules. **Commissioner Ellis** asked Mr. Cruthers whether the Porterhouse has continued to conduct all of the punchboard/pull-tab and house-banked card rooms activities continuously throughout this process. **Mr. Cruthers** affirmed. **Mr. Harmon** reported the licensee has been licensed since 1990 and he asked the Commission to extend grace and to refer this matter back to staff.

Chair Ludwig asked for clarification on the settlement issue. **Ms. Dennistoun** responded the settlement scenario she suggested would be if and when the Porterhouse reapplied for new licenses—the Commission would then enter into some kind of settlement in lieu of charges that would assure the Commission that they would comply. The reason staff believes that revocation at this point is an appropriate penalty is because the financial statements were due in May—it is now November. Essentially it took the licensee six months to submit their reports; and they were supposed to have responded to charges by a date in October. They ignored the charges and failed to respond to that as well. Chair Ludwig inquired if it would be as simple as denying a default order and letting the staff enter into negotiations for any penalty or resolution of the existing actual case. He asked what the easiest way would be for staff to calm the issue with the licensee. Ms. Dennistoun advised that with the failure to respond to the charges, a simple revocation would work at this point and then entering into a settlement. She reported there are other options; the Commission may decide to set aside this default by waiving the 20-day deadline and allowing the licensee to request a hearing. The licensee and staff may then proceed with settlement negotiations. She explained that if no settlement is reached, the matter would go before an Administrative Law Judge (ALJ).

Mr. Cruthers responded that he has held some type of gambling license since 1990; and, 2004 was the first year for his casino activity. He explained this was the first time this has ever happened and he assured the Commission it won't happen again. He asked the Commission to settle for something other than the revocation and he requested a hearing.

Assistant Attorney General Ackerman addressed procedure. He believed the word default was confusing. He suggested that the undisputed factual procedure was that Steve Cruthers has not responded to the paperwork that has been sent to him and hasn't complied with the deadlines to request a hearing. The matter is now before the Commission to decide whether to enter a default in terms of adjudicating this matter. Mr. Ackerman advised that the Commission could accept Ms. Dennistoun's assertions that the licensee has waived his right to a hearing by failing to do what is required under the statute. At this point, the Commission may enter a default and revoke his license. The other option would be (and the licensee is asking for) an opportunity to actually resolve the matter by remanding this matter to an Administrative Law Judge for a hearing on the merits of the violation—for not submitting his financial reports—which then provides the opportunity for the licensee and Commission staff to settle the matter if they can. If they cannot, then the ALJ would take into consideration both the substance of the charges—the failure to submit, as well as the other violations that flow from that such as the

violation of not submitting the paperwork on time and not submitting to the notices and requesting a hearing on time. Mr. Ackerman suggested the choices at this point are to enter what is truly a default and conclude the matter, or remand it for hearing to the Administrative Law Judge.

Mr. Ackerman clarified that Mr. Cruthers did not comply with the statutes and that is sometimes referred to as a “default”—which is where the confusion has come in. The terms of ordering a default is something the Commission may chose to do or not do. That is the legally effective default. He noted that defaults are normally not favored in the law and presumably if the Commission enters one, the licensee would have an opportunity to appeal that in Superior Court. Mr. Ackerman reiterated the choices are to either enter an order of default, or terminate the legal action before this Commission, or remand it to an Administrative Law Judge on the merits of the charges.

Commissioner Niemi made a motion seconded by **Commissioner Ellis** to remand this issue to an Administrative Law Judge for determination based upon the charges staff filed, for full findings and a recommended order. *Vote taken; the motion passed with four aye votes, Commissioner Bierbaum voted nay.*

Representative Serben questioned the time commitment and cost impacts of a decision to revoke and have a licensee reapply for their license (a time consuming process) versus negotiating a settlement and/or conducting hearings. **Ms. Dennistoun** affirmed and noted that because in this case the decision was made to remand the matter to an ALJ, staff will schedule a hearing date; however, that does not preclude the involved parties from settling this matter. The Administrative Procedure Act allows the Commission to formally settle cases, resolve cases, and dispose of them in a way that is most expeditious. Ms. Dennistoun commented that if this licensee can show staff that they have changed their processes and can comply, in all likelihood this would be a case that could be settled before going to an ALJ.

Director Day reported that of the more than 90 licensees in the state, only three did not comply. He reiterated that the licensee didn’t file the financial reports and didn’t even respond; and, basically the staff gets to a point where they really don’t have much choice but to make the legal action decision. He emphasized that staff works with the licensees as much as possible. **Chair Ludwig** commented that in some cases, things don’t get resolved, which is troubling; however, in this case Chair Ludwig believed the Commission needed the ALJ’s help this time.

3. New Licenses, Changes, and Tribal Certifications:

Commissioner Parker made a motion seconded by **Commissioner Ellis** to approve the list of new licenses, changes, and tribal certifications as listed on pages 1-18. *Vote taken; the motion passed with five aye votes.*

4. **House-Banked Card Room Report - Casino Caribbean, Kirkland** – previously addressed, out of agenda order.

5. **Other Business/General Discussion/Comments from the Public:**
Chair Ludwig called for public comments and there were none.

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

At 4:55 p.m. **Chair Ludwig** called for an Executive Session for the purpose of discussing pending and potential litigation. He advised that no action will be taken subsequent to the Executive Session. The open public meeting was called to order at 6:30 p.m., and immediately adjourned.

Minutes submitted by,

Shirley Corbett
Executive Assistant

**COMMISSION MEETING
FRIDAY, NOVEMBER 18, 2005
DRAFT MINUTES**

Chair Ludwig called the meeting to order at 9:30 a.m. at the DoubleTree Guest Suites located in Seattle. The following attendees were present:

MEMBERS PRESENT: **COMMISSIONER CURTIS LUDWIG, Chair**, Kennewick
 COMMISSIONER JANICE NIEMI, Seattle
 COMMISSIONER JOHN ELLIS, Seattle
 COMMISSIONER PEGGY ANN BIERBAUM, Quilcene
 SENATOR JEROME DELVIN, Richland
 REPRESENTATIVE ALEX WOOD, Spokane
 REPRESENTATIVE JOHN SERBEN, Spokane

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

7. Approval of Minutes – October 13-14, 2005:

A consensus of the Commissioners approved the minutes of the October 13-14, 2005, Commission Meeting Minutes as written and presented.

8. Motion to Vacate Default Order Hearing:

O’Finnigan’s Pub:

Bruce Marvin, Assistant Attorney General and **Arlene Dennistoun, Acting Administrator-Communications & Legal** presented the motion to vacate. **Mr. Marvin** requested that the Commission deny the motion to vacate the default order and allow the final default order to stand—for the failure of the respondent to submit QARs for the first and second quarters for 2005.

Catherine Lorch appeared on behalf of the petitioner. A recording and a transcript of the hearing is available upon request.

Following comments by the Assistant Attorney General and the Petitioner, **Chair Ludwig** called for an executive session to deliberate the case (at 10:10 a.m.) and he recalled the meeting at 10:25 a.m.

Commissioner Bierbaum made a motion seconded by **Commissioner Niemi** to grant licensee Catherine Lorch's motion to vacate the order of default that was entered by the Commission in October of 2005, and that this matter be remanded to the staff for further proceedings.

Chair Ludwig commented that he would go along with that motion in order to support it; however, he emphasized that he continues to be amazed at how little respect and concern licensees have for keeping their license. He asked Ms. Lorch to be sure and tell all her colleagues in the gambling business that it is important to respond to the letters and calls from the Commission. *Vote taken; the motion passed unanimously.*

9. Petition – Drift on Inn Casino – Increasing a Card Rake from \$1 to \$2.

WAC 230-40-610:

Chair Ludwig noted the next item on the agenda is the petition for rule change by the Drift On Inn Casino. He advised that he among one or two other commissioners have considered the fact that this petition is up ahead of the petitions submitted by the RGA, which are slated for further discussion. Even though this is separate and distinct from the RGA's proposed petitions, Chair Ludwig suggested setting this matter over to the January meeting so that it may be considered at the same time. The reasons offered: while they are separate and distinct and they weren't filed together, and while the maker of the motions didn't intend they be considered together, they all involve the same rules regarding rakes and fees for jackpots. He inquired if the maker of the petition would have a strong objection to holding the matter over.

John Mitchell, Petitioner, respectfully asked the Commission to vote on the petition today if possible. He didn't believe the Commission would learn any more information in the next couple of months. Mr. Mitchell advised this is something the players really want. He reported that 90 percent of what he was asking for goes right back to the player, and he stated there were no hidden fees.

Gary Murray, President of the Recreational Gaming Association addressed a procedural point. He commented that if this item is set over to January, the effective date would either be 30 days if implemented immediately, or July 1. He verified that if action is taken today, the rule could have an effective date of January 1. If the petition isn't acted upon until January, the effective date would be six months later.

Assistant Director Cally Cass provided the staff report noting that Item 9 is a proposed amendment to WAC 230-40-610. It is a petition submitted by John Mitchell of the Drift

On Inn Casino in Shoreline. Mr. Mitchell is requesting the PSJ rake limit be increased from \$1 to \$2. As mentioned, it is up for final action as presented. She explained that a player-supported jackpot is a poker game in which the player puts in a set amount per hand, generally taken by a PSJ rake to a separate jackpot prize pool. The prize pool is won through pre-established criteria and may be awarded in increments or as a whole depending on the criteria. A PSJ rake is then taken from the poker pot and put aside in a separate jackpot which is considered the player's money. The petitioner is requesting that the PSJ limit, which is the jackpot, be increased from \$1 to \$2 per hand. The petition deals solely with that particular wagering amount. It does not deal with the administrative fees.

Ms. Cass reported that at this point, the Commission has received no statements against the proposed petition. If approved, the effective date would be January 1, 2006. If the Commission chooses to hold it over to January; the rule could be effective either 31-days after approval or effective July 1st whichever the Commission chooses.

Commissioner Niemi questioned if there was anything more to this petition other than raising this from \$1 to \$2. **Ms. Cass** replied there wasn't, with this specific petition. However, she noted that one of the other petitions addresses the percentage of administrative fees that can be taken; and, if the results of the two petitions were combined it would increase the amount significantly that the house may take for fees.

Commissioner Bierbaum inquired why the amount was even put into a WAC and why a regulatory body would even care whether the amount was \$1 or \$2; or why would it have mattered in the beginning. **Ms. Cass** responded that when wagering limits are discussed, the Commission is fairly conservative when we know that it affects the amount that the player can win. When the amounts were initially introduced, the staff thought that \$1 was an adequate amount for this type of activity. In response to whether there are regulatory concerns with raising the PSJ rake to \$2, she advised that staff doesn't have any regulatory concerns with that as a single issue. **Mr. Ackerman** went on to say a lot of these decisions are historical. The Commission is charged by statute to set wagering limits and part of that is to make a determination as to how much of the money that is wagered should go to the players and how much should be retained by the establishment. He explained these games were authorized by the Legislature as a commercial stimulant to what are supposed to be food and beverage businesses—they weren't supposed to be primarily engaged in conducting gambling activities. Historically, the idea has been to make sure that these activities principally were to benefit the players and secondly to be a commercial stimulant for businesses that existed to sell food and drink. Historically the Commission has limited the amount that could be devoted to these types of activities.

Ms. Cass explained there are different styles of awarding jackpots. For instance, a Monte Carlo, based on certain criteria may be awarded in little pieces of the jackpot at a time—it could be \$25 or \$100. Another style called the Bad Beat Jackpot has been as high as \$100,000, and the awards are in addition to what normally may be won through the poker game itself. **Commissioner Ellis** commented that this is an area where there could be an abuse. This rule authorizes the house to reach into a pot and take out a dollar and if there

was an unlimited amount by houses to go in and start removing money from pots, that could be an area that may result in an unfair abuse for the player. **Ms. Cass** affirmed that the staff has had some problems with the administration of PSJ jackpots. **Director Day** urged caution in not getting the two rules confused. This particular request is to allow an increase in the amount that goes totally toward the player-supported jackpot; however, the administrative fee of the rake petition submitted by the RGA hits more directly on the issue just raised. **Commissioner Ellis** agreed and noted he was also raising a general issue as to whether the Commission should be regulating the extent of which houses are able to take money out of the pot for any purpose.

Chair Ludwig called for public comments.

Max Faulkner, Vice President for the Recreational Gaming Association and supervisor of some of the smaller clubs advised he was in favor of the \$2. He explained the players can see the money go down the slot; therefore it is not a hidden thing. He reported that his clubs have two PSJs, and they found out that sometimes the PSJs at even a dollar caused the game to deteriorate because it was taking too much money out of the pot. Consequently, his clubs discontinued one of the PSJs. He believed the bigger clubs might be able to support a \$2 PSJ rake. Mr. Faulkner commended the field staff, noting they have been doing a good job of monitoring the PSJs around the state. There were no further public comments.

Commissioner Ellis made a motion seconded by **Commissioner Niemi** to adopt an order to amend WAC 230-40-610 and increasing the authorized PSJ rake from \$1 to \$2 as proposed. *Vote taken: the motion passed with four votes.*

10. Petition – Increasing Administrative Fees for Player-Supported Jackpots from 10 percent to 35 percent.

WAC 230-20-610:

Assistant Director Cass reported that four petitions were submitted by the Recreational Gaming Association and have been previously discussed. Item 10 is a request to increase the percentage allowed for administrative fees for a PSJ, which was also discussed as a part of the previous petition.

11. Petition – Card Games Rules of Play.

WAC 230-40-010:

Ms. Cass stated that **Item 11** is a request to change the rules for play of card games, which would allow games such as Mini-Baccarat in house-banked card rooms.

12. Petition – Increasing Poker Wagering Limits.

WAC 230-40-120:

Ms. Cass noted that **Item 12** is a request to increase the wagering limit for poker in house-banked card games from \$25 to \$100.

13. Petition – Increasing House-Banked Card Game Wagering Limits.

WAC 230-40-120:

Ms. Cass reported that Item 13 is a request to change the wagering limits on limited tables to \$200 on all games at house-banked card rooms. Ms. Cass affirmed all four rules are up for discussion only. **Chair Ludwig** called for public comments.

Gary Murray representing the Recreational Gaming Association encouraged the Commission to take each rule as individual items in the future because some of them are more contemptuous than the others and would have somewhat different influences. He advised the RGA would reserve final arguments and their final pitch until January. **Chair Ludwig** affirmed. There were no other public comments on the four petitions.

14. Petition – Cash Defined.

230-02-101:

Assistant Director Cass reported that Item 14 is a petition by Harmon Consulting to change the definition of cash in WAC. The new section proposed is in section 230-02-101. This definition of cash would extend the methods players use to participate in gambling activities and receive their winnings. Mr. Harmon has indicated to staff that the intent of the change is to allow patrons to use guest cards to purchase pull-tabs and allow pull-tab winnings to be added back to the guest cards. **Ms. Cass** highlighted the fact that if this proposal is approved as presented this month, it would apply to all gambling activities. She advised that staff has spoken with Mr. Harmon and is working on an alternative package that may be presented at some future time. **Director Day** addressed the nature of the alternative that staff is developing related to Chair Ludwig's suggestion last month to develop something that addresses the pull-tab section and allows for gift cards to be allowed to purchase pull-tabs. He verified that staff wasn't contemplating the concept of crediting anything back on the pull-tab. **Chair Ludwig** called upon Mr. Harmon.

Monty Harmon, President, Harmon Incorporated affirmed he met with Deputy Director Nunamaker to discuss a change that would facilitate some of the current day practices so that pull-tabs could be purchased using gift certificates. He mentioned he was also interested in developing an agreement where the winning values could be added back on to the cards, which is independent of any other issues the staff is working on. He went on to relay a recent experience while traveling internationally and his difficulties in being able to use traveler's checks and American dollars. He was ultimately referred to a cash machine and he noted that electronic cash systems are now in place internationally. The systems have been installed (a sign of the times) as a result of counterfeit money and counterfeit gift certificates. Mr. Harmon noted that the electronic information recorded on the transactions such as the date and time all add to the security of the transaction.

Mr. Harmon acknowledged discussing with staff the purchase of the gaming equipment, or the opportunity to purchase/play, and the prize aspect. He advised that when a winning pull-tab is presented to the operator, the employee must go to the cash drawer, open up the register, access the cash, come back to the winner, and give the player their winnings.

The player must then ask for that to be placed on the gift card. They give the money back, the employee goes back in the secured area, back to the cash drawer, and at that point they are able to swipe the card and add the value back on to the card. That process is something Mr. Harmon would like to address or have the Commissioners think about. He noted the state has passed some laws with regard to a “stored value card.” He distributed related RCWs and provided examples of cash cards. He drew attention to The Buzz Inn sample, noting the dates on the receipts go back to September, and while Mr. Tackett is no longer adding prizes to his cards, in September it was allowed and worked well. Commission staff asked Mr. Tackett to discontinue that practice until this rule is addressed. In closing **Mr. Harmon** again mentioned that licensees are held accountable if they employ a scheme that does serve to defraud the public (WAC 230-12-070). **Chair Ludwig** asked if the alternative proposed rule would be ready for the January hearing. Mr. Harmon affirmed.

Ms. Cass addressed a question from Commissioner Parker last month about how and if cash cards were utilized for gambling activities in other states. She reported she received seven responses. Five states do not allow cash cards for gambling activities, two other states don’t currently allow them; but, they expect cash cards might be allowed in the future. Ms. Cass reported that staff’s recommendation at this point is to deny the petition.

15. Activity reporting Charitable and Nonprofit Organizations:

WAC 230-08-120, WAC 230-08-125, WAC 230-08-180 and WAC 230-08-250

Mr. Trujillo reported the four related rules are up for discussion and possible filing. They are all similar reporting and streamlining rules. Item 15 (a) is an amendment to WAC 230-08-120—Quarterly Activity Reports for operatives of bingo games Class III and above. Staff has proposed this change. The current rule requires or includes very specific information for reporting purposes. Staff is asking that this information be included in the instructions instead of by code so that if future reporting changes are needed the instructions may be adjusted without having to amend the Administrative Code. Hopefully this will also speed the journey to on-line reporting. The reporting requirements are consistent with the other changes implemented earlier in 2005 for commercial operators. Staff recommends filing this rule for further discussion.

Commissioner Niemi made a motion seconded by **Commissioner Ellis** to file WAC 230-08-120 for further discussion. **Chair Ludwig** called for public comments and there were none. *Vote taken; the motion passed unanimously.*

Mr. Trujillo explained that Item 15 (b) is an amendment to WAC 230-08-125—Annual Activity Reports for certain activities operated by charitable or non-profit organizations. Item 15 (c) is a proposed amendment to WAC 230-08-180—Annual Activity Reports by commercial gaming operators. Item 15 (d) is a proposed amendment to WAC 230-08-250—Annual Activity reports by agricultural fairs and other bona fide charitable or non-profit organizations with special occasion licenses to conduct bingo, raffles and amusement games. Staff proposes changes to the rules for the reasons cited under Item 15 (a). Staff recommends filing the three rules for further discussion. **Chair Ludwig** called for public comments and there were none.

Commissioner Ellis made a motion seconded by Commissioner Niemi to authorize the filing of WAC Section 230-08, Subsections 125, 180, and 250 as proposed by staff for further discussion. *Vote taken; the motion passed with four ayes.*

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

With no further public comments, **Chair Ludwig** recessed the meeting at 10:57 a.m., and noted the next meeting will be held January 12-13, 2006, at the DoubleTree Guest Suites at South Center/Seattle.

Minutes submitted by,

Shirley Corbett
Executive Assistant