

**COMMISSION MEETING
THURSDAY, SEPTEMBER 8, 2005
MINUTES**

MEMBERS PRESENT: **COMMISSIONER CURT 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
 SENATOR JEROME DELVIN, Richland
 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

Chair Ludwig welcomed newly appointed Commissioner Peggy Ann Bierbaum from the Quilcene area, noting the Commission was pleased to once again have a full staff. He then called for a moment of silence in sympathy for and in honor of the people who lost their lives and/or suffered great hardships in New Orleans.

1. Review of Agenda and Director's Report:

Director Day reviewed the meeting agenda as posted and noted there were no changes or inserts to the agenda packet.

Presentation – Card Room / Casino Cheating:

Director Day called on Special Agent Jim Dibble from the agency's Criminal Intelligence Unit. He explained that Mr. Dibble is an agency computer forensic expert and that he has developed a presentation to attempt to capture (through the eyes of surveillance) what cheating schemes may look like, and to discuss how the rules and regulation fit in with the detection of cheating.

Agent Dibble provided perspective by taking a comparative view of 2004 and comparing it with 2005. In 2004, the Commission had roughly 105 reported cases of cheating—of those, 45 cases involved facilities or employees that were licensed by the Commission and 60 cases were unlicensed facilities or employees. He reported that from the end of August of 2004 until the end of August of 2005, the cases of cheating have gone from 68 to 79.

Agent Dibble explained that cheating means “to employ or attempt to employ any device, scheme, or artifice to defraud any other participant or any operator—to engage in any act, practice, or course of operation as would operate as a fraud or deceit upon any other participant or operator—or to engage in any act, practice, or course of operation while participating in a gambling activity with the intent of cheating any other participant or the operator to gain an advantage in the game over the other participant or operator; or to cause, aid, abet, or conspire with another person to cause any other person to violate subsections (1)-(3) of RCW 9.46.196.” He stated that cheating can be either a solitary event or it can involve two or more persons. The Revised Code of Washington (RCW) makes specific provisions for both types of cheating. Prior to 2002, all forms of cheating were misdemeanor offenses. In 2002, the RCW was changed to recognize two distinct types of cheating: First Degree cheating a Class C Felony, and Second Degree Cheating a Gross Misdemeanor. The difference between the offenses is that First Degree cheating involves two or more people conspiring to cheat, or cheating by a person that is licensed by the Commission.

Agent Dibble emphasized the key to detection involves quality detection equipment such as video surveillance. It also involves maintaining quality trained personnel who are more aware of the types of cheating that takes place. He affirmed there must be an awareness of player and dealer behavior. Agent Dibble provided a video demonstration of certain normal and atypical patterns, noting that player behavior and dealer protocols are major keys to detection. In the case of video surveillance, it is an opportune time for them to review the tape or the digital video and take a closer look to see what is happening or what may be the cause for the unusual pattern of behavior at the table. He demonstrated various dealer protocols and player behaviors such as peeking a card, capping bets, knuckling (marking) cards, players swapping cards, and post wagering. Mr. Dibble played a short documentary produced by television station KXLY at the Kalispel Casino. He noted that surveillance technology has steadily improved with the introduction of digital surveillance systems in the state, and he believed it was imperative that casinos move forward with the newer technology. Historically, prices have made it difficult for some casinos to purchase the equipment; however, he reported that prices for digital surveillance systems are decreasing.

Agent Dibble commented that it is prudent to expect that as long as players continue to frequent casinos and card rooms, they are going to be predisposed to deceit and deception, and the Commission would continue to see cheaters and cheating. He emphasized that in order to remain effective in ensuring that gambling is legal and honest in this state, the Commission needed to remain vigilant against this type of illicit activity.

Senator Prentice questioned how the decision is made as to where the cameras are aimed and whether that was an in-house decision. **Agent Dibble** replied that the final decision rests

with the specific card room agent. There were no further questions, and Director Day proceeded with his report.

Adjusted Cash Flow Update:

Director Day explained the Adjusted Cash Flow Report was provided for informational purposes. He explained that under the rule change, instead of looking at the adjusted cash flow requirements on a quarterly basis, the Commission looked at them on a calendar year basis. The report contains two actual quarters. To keep the Commission informed of the licensee progress, the report has estimated the next two quarters in this year based on 2004 numbers. At this point, two licensees of the 27 are not currently meeting the adjusted cash flow requirements. He suggested that as the Commission receives the actual numbers for the rest of the quarters, it is possible that the licensees may be able to meet the requirements, or, things may get more challenging. He affirmed the Commission will continue to be updated as the actual quarterly figures are posted.

Correspondence:

Director Day addressed the first issue of the agency's newest newsletter called "What's New and What's News"—created to improve communication particularly with the Legislature and other public officials. The newsletter will be issued at least twice a year. It appears to have been received fairly well. He then addressed the letter from Speaker of the House Frank Chopp documenting Representative Serben's appointment as an Ex Officio Member to the Commission.

Director Day announced the appointment of Terry Westhoff as the Business Operations Administrator, replacing Bob Sherwood; and drew attention to Mr. Westhoff's resume included in the agenda packet.

Monthly Updates:

Director Day drew attention to the Administrative Case Update and commented that a fairly significant cheating group was discovered (a series of dealers joining together) and they are facing charges. He also noted that Commissioner Parker asked about Senate Bill 1295, which was inserted in the agenda packet, and he affirmed staff will continue to follow up on that bill as the Senate continues to work.

2. Qualification Review:

Spokane Youth Sports Association, Spokane:

Assistant Director Dave Trujillo reported this report is for the year ending December 31, 2004. The organization is located in Spokane and was originally formed in 1966. The organization has been licensed by the Commission since 1984. The Association's purpose is to instill sportsmanship and the ideals of good citizenship into the local area youth.

Staff reviewed the compiled financial statements for the year ending December 31, 2004, and the accompanying materials. Based upon that review, staff recommends certifying Spokane Youth Sports Association to conduct gambling activities in the state of Washington as a non-profit organization.

Jeff Barlow representing Spokane Youth Sports provided some history on the activities of the Spokane Youth Sports Association. **Commissioner Niemi** commented that she noticed the Association's net gambling income for 2004 were lower than in 2003. Mr. Barlow explained there was a management change in 2003. He reported that the staff at that time made changes almost on a weekly basis. Bingo players are creatures of habit and the constant changes destroyed the business. Under new management, things have turned around and appear to be headed in the right direction. **Mr. Trujillo** affirmed the issue was reviewed when Commission staff conducted the desk audit and reviewed the compilation of the financial statements.

Commissioner Parker made a motion seconded by **Commissioner Ellis** to certify Spokane Youth Sports Association to conduct gambling activities in the state of Washington as a nonprofit organization. *Vote taken; the motion passed with five aye votes.*

3. New Licenses, Changes, and Tribal Certifications:

Commissioner Niemi made a motion seconded by **Commissioner Parker** to approve the list of new licenses, changes, and tribal certifications as listed on pages 1-24. *Vote taken; the motion passed with five aye votes.*

4. Defaults:

Tuan Johnny Nguyen – Card Room Employee: (Mr. Nguyen was not present)

Arlene Dennistoun, Acting Administrator for the Communications and Legal Division reported that staff is requesting that Mr. Nguyen's license be revoked based on his wagering with a bookmaker and his failure to inform the Commission of bookmaking activity. Mr. Nguyen admitted to placing a bet with another employee and paying a ten percent fee/vigorish. The Director brought charges against Mr. Nguyen. The charges were sent by regular mail and there was no response from Mr. Nguyen. Staff also placed a courtesy call to Mr. Nguyen to remind him of his right to request a hearing—there was no response. By failing to respond, Mr. Nguyen has waived his right to a hearing. Staff requests a default order revoking Mr. Nguyen's license be entered.

Commissioner Ellis made a motion seconded by **Commissioner Niemi** to adopt an order revoking Tuan Johnny Nguyen's license to conduct gambling activities as recommended by the staff. *Vote taken; the motion passed with five aye votes.*

Truong V. Le – Card Room Employee: (Mr. Le was not present)

Ms. Dennistoun stated that staff requests that Mr. Le's license be revoked based on Mr. Le betting with a bookmaker and his failure to inform the Commission of his bookmaking activity. Mr. Le admitted to placing a bet with another card room employee and paying a five percent fee/vigorish. The Director brought charges against Mr. Le, they were sent by regular mail. The Commission did not receive a response. Staff placed a courtesy phone call to Mr. Le reminding him of his right to request a hearing. Mr. Le said that he was going to send a request for hearing, but never did. By failing to respond, Mr. Le has waived his right to a hearing and staff recommends that a default order revoking Mr. Le's license be entered.

Commissioner Parker made a motion seconded by Commissioner Ellis to adopt an order revoking Troung V. Le's license to conduct gambling activities as recommended by staff. Vote taken; the motion passed with five aye votes.

Regina Charles – Card Room Employee: (Ms. Charles was not present)

Ms. Dennistoun asked that Ms. Charles license be revoked based on her willful disregard for complying with court orders as shown by her failure to pay approximately \$3,900 in court fines. The Director brought charges against Ms. Charles and they were sent by regular mail. The Commission did not receive a response. A courtesy call was made to Ms. Charles reminding Ms. Charles of her right to request a hearing. Staff did not receive a response, and by failing to respond, Ms. Charles has waived her right to a hearing. Staff asks that the Commission enter a default order revoking Ms. Charles' license.

Commissioner Niemi inquired how the Commission found out that Ms. Charles failed to pay her court fines. **Ms. Dennistoun** responded that the judicial information system is one of the mechanisms staff uses to background people and to determine histories, convictions, and fines owed. Commissioner Niemi noted the licensee was licensed in April 2001, and that some of the violations happened before April 2001. Ms. Dennistoun affirmed Ms. Charles was licensed and then began to fail to pay her court ordered fines. Commissioner Niemi inquired if Ms. Charles was still working. Ms. Dennistoun affirmed the licensee is entitled to work until a final order is ordered by the Commission.

Commissioner Ellis noted that according to the staff note, the agent that was involved as of February 2005 spoke to the HR Department of Ms. Charles' employer, the Slow Pitch Pub and Eatery, and learned that they had not seen her for some time and were unable to contact Ms. Charles. **Ms. Dennistoun** affirmed that at the time the charges were issued Ms. Charles was not working at the Slow Pitch; however, the license is "good" until December 2005. Ms. Dennistoun suggested that Ms. Charles could very well put in an application at some other card room because her license is still valid, which is the reason why staff is recommending a default order revoking her license.

Commissioner Ellis made a motion seconded by Commissioner Niemi to adopt the default order revoking Regina Charles' license to conduct gambling activities. Vote taken; the motion passed with five aye votes.

Moon Martin - Card Room Employee: (Mr. Martin was not present)

Ms. Dennistoun reported that staff requests that Mr. Martin's application be revoked based on his failure to fully disclose his criminal history, which includes convictions for Fourth Degree assault, possession of marijuana and based on his five-year probation status. The Director brought charges against Mr. Martin through regular mail. The Commission received no response, and by failing to respond, Mr. Martin has waived a right to a hearing. Staff requests a default order be entered.

Commissioner Niemi made a motion seconded by Commissioner Ellis ordering Mr. Martin's application to conduct gambling activities be revoked. Vote taken; the motion passed with five aye votes.

Carbonado Saloon, Card Room Employee: (Mr. Carbonado was not present)

Ms. Dennistoun recommended that the punchboard/pull-tab license for Carbonado Saloon be revoked based on their failure to timely submit quarterly activity reports for the first quarter of 2005. She reported the licensee has had a history of failing to timely submit the reports for seven out of the last eight quarters. The Director brought charges against the Carbonado Saloon, they were sent by regular mail. A courtesy phone call was also made to the licensee, reminding the licensee of their right to a hearing. No response was received and by failing to respond, the licensee has waived their right to a hearing. Staff requests a default order be entered revoking the punchboard/pull-tab license.

Commissioner Ellis made a motion seconded by **Commissioner Niemi** to adopt a default order for the revocation of the Carbonado Saloon's license to conduct gambling activities. *Vote taken; the motion passed with five aye votes.*

Saree Phriep, Card Room Employee: (Mr. Phriep was not present)

Ms. Dennistoun recommended that Mr. Phriep's license be revoked based on his theft of chips while dealing poker. Mr. Phriep admitted to taking approximately \$2,000 to \$3,000 over a period of two months. The Director summarily suspended Mr. Phriep's license by having him served personally. There was no response from Mr. Phriep and by failing to respond to the summary suspension Mr. Phriep has waived his right to a hearing. Staff requests a default order revoking Ms. Phriep's license be entered.

Commissioner Niemi made a motion seconded by **Commissioner Ellis** ordering Saree Phriep's license to conduct authorized gambling activities be revoked. *Vote taken; the motion passed with five aye votes.*

Sokchea Kha, Card Room Employee: (Mr. Kha was not present)

Ms. Dennistoun requested that Mr. Kha's license be revoked based on Mr. Kha cheating and his conspiracy activities with five other card room employees. The Director summarily suspended Mr. Kha's license by having him served personally. There was no response and by failing to respond Mr. Kha has waived his right to a hearing. Staff requests a default order revoking his license be entered.

Commissioner Ellis made a motion seconded by **Commissioner Niemi** to enter a default order revoking Sokchea Kha's license to conduct authorized gambling activities. *Vote taken; the motion passed with five aye votes.*

BJ Kostecky, Card Room Employee: (Mr. Kostecky was not present)

Ms. Dennistoun reported that staff is requesting Mr. Kostecky's license be revoked based on his admission to a Tribal Gaming Agent that he was overpaid by \$100 at the cashier's cage. The Director brought charges against Mr. Kostecky, they were sent by regular mail, and a courtesy call was made to Mr. Kostecky. Mr. Kostecky did not respond, and by failing to respond he has waived his right to a hearing. Staff recommends that a default order be entered revoking his license.

Commissioner Parker made a motion seconded by Commissioner Ellis ordering BJ Kostelecky's license to conduct authorized gambling activities be revoked. Vote taken; the motion passed with five aye votes.

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

Ric Newgard - Seattle Jr. Hockey Association distributed documentation regarding the negative impact smoking bans have had on the charitable Bingo industry within the applicable jurisdictions. He offered the material as a prelude to the November vote on Initiative 901. **Chair Ludwig** commented that while some of the commissioners might be very sympathetic to this problem, it was not within the Commission's jurisdiction.

Dolores Chiechi - Executive Director of the Recreational Gaming Association welcomed Commissioner Bierbaum.

Max Faulkner - President of Kegler's Inc. addressed the October meeting which will be held in Yakima. He reported arrangements were being made for a chauffeured wine tour following Thursday's meeting. He invited stakeholders, Commissioners, staff, and Ex Officio members.

Commissioner Niemi revisited the Spokane Youth Association qualification review and addressed the second page tax expense information. She advised she was interested in knowing what was going on with the casinos, the charitable/non-profits, and the for-profit gambling businesses. She asked what kind of taxes they all pay to the community (county and city taxes) and what kind of contributions they make to charitable organizations—actual dollar figures.

Chris Kealy - Ironhorse Casino advised that he spoke with Special Agent Tina Griffin in reference to compiling the audit information of 2004. He noted that in 2003, there were only 16 complete audits because the rule to have an audit wasn't in place until 2004. He affirmed that Ms. Griffin reported the information with the breakdowns would be available to hand out next month.

Commissioner Parker supported the question Commissioner Niemi raised, asking if the information could be made available as a part of the regular report and also made available to the public. Commissioner Parker believed it was a relevant piece of information that should be provided to the public or the Legislature, should they be interested. **Director Day** verified the information requested related to the taxes paid by commercial licensees—city, county, and B&O. **Commissioner Niemi** affirmed, and included the charitable non-profits and tribal charitable donations. Director Day noted that in February, staff presented the totals on the charitable donations of the Tribes and the total of the B&O taxes. He believed staff could collect the information, noting it may have to come from various sources, and present it to the Commission. Commissioner Niemi recalled a long list of tribal charitable contributions; however, she noted they weren't attributed by individual Tribes and to whom they contributed to. Director Day affirmed the presentation did not provide breakdowns by Tribe.

Senator Prentice asked what the point was—she noted the impact fees are known, that different communities charge different taxes, and, the Bingo industry taxes were limited to five percent. She didn't imagine anyone was paying any more. She suggested that other contributions could be all over the place and she affirmed that people have complained that the public doesn't know and doesn't appreciate the contributions. She noted that some entities have taken out ads to announce their contributions. Senator Prentice thought this might be adding another reporting function and she wasn't sure what would be done with the information.

Dolores Chiechi reported that the RGA members rely on the information produced by the Gambling Commission because it is unbiased—the data is collected and presented by the Gambling Commission. She advised the RGA tracks a lot of that data and provides it to Legislative members as appropriate. Ms. Chiechi commented that it is perceived that their industry doesn't pay taxes to the state (or not enough taxes), and that it has been helpful to be able to hold up the Commission's report in response. She affirmed that listing the charitable contributions by the Tribes would be certainly useful.

Director Day verified that staff would provide an annual report based on the taxes paid and B&O taxes paid by commercial and non-profit licensees; and inquired if January 2005 would be adequate—and that the report on charitable and non-profit contributions paid by the Tribes be broken out by individual Tribe the next time that report is generated. Commissioner Niemi affirmed.

Mr. Kealy echoed the comments regarding the integrity of a report which is generated by the Commission; and commented that January might be one or two months too late for the upcoming legislative session. He emphasized the report would be useful to communicate information to the Legislature through an unbiased source. **Senator Prentice** responded that she didn't believe it was the Commission's job to produce a report for the industry to use in an attempt to influence the Legislature.

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

With no further comments, **Chair Ludwig** called for an executive session at 3:15 p.m. to discuss pending investigations, tribal negotiations and litigation. He announced no action would be taken subsequent to the executive session. At 4:40 p.m., Chair Ludwig recalled the public meeting and adjourned the meeting until 9:30 a.m., Friday, September 9, 2005.

Minutes submitted by,

Shirley Corbett
Executive Assistant

**COMMISSION MEETING
FRIDAY, SEPTEMBER 9, 2005
MINUTES**

Chair Ludwig called the meeting to order at 9:35 a.m. at the Pasco Red Lion hotel.

MEMBERS PRESENT: **COMMISSIONER CURT LUDWIG**, Chair, Kennewick
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 COMMISSIONER JANICE NIEMI, Seattle
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 JERRY ACKERMAN, Assistant Attorney General
 SHIRLEY CORBETT, Executive Assistant

7. Approval of Minutes – August 11-12, 2005:

Chair Ludwig dispensed with a motion to accept the minutes by accepting the minutes of the regular meeting of August 11-12, 2005 as submitted.

8. Petition for Review: Petitioner not present - the review was conducted later in the meeting.
Cascade Pizza & Italian Cuisine, White Salmon:

Petition for Review:

George Trad, Card Room Employee:

Assistant Attorney General Sara Olson was present for the State as well as **Petitioner George Trad**.

Petitioner George Trad and Assistant Attorney General Sara Olson presented their cases. A copy of the hearing transcript is available upon request. At the conclusion of the testimony,

Chair Ludwig recessed the meeting at 9:40 a.m. and called for an Executive Session to deliberate the matter. He recalled the public meeting at 9:50 a.m.

Commissioner Ellis made a motion seconded by Commissioner Niemi that the Commission adopt an order sustaining the Administrative Law Judge (ALJ's) initial decision revoking Mr. Trad's license. *Vote taken the motion passed unanimously.*

9. Petition for Reconsideration:

The Roost, Inc. d/b/a/ Woodshed, Belfair:

Assistant Attorney General Sara Olson was present for the State as well as Dawn Harvey and Terry Campbell attending on behalf of Lersedna Campbell, owner of The Roost Inc., d/b/a The Woodshed.

Ms. Dawn Harvey, Ms. Terry Campbell and Assistant Attorney General Sara Olson presented their cases. A copy of the hearing transcript is available upon request. At the conclusion of the testimony, Chair Ludwig recessed the meeting and called for an Executive Session to deliberate the matter. He recalled the public meeting at 10:35 a.m.

Commissioner Ellis made a motion seconded by Commissioner Niemi to enter an order granting the petition, vacating the Commission's prior Order of Revocation and Suspension and imposing a new sanction based on the conduct identified in the ALJ's Initial Order of a suspension that began on the date the gambling equipment was seized—July 2; and that the suspension terminate as of the date the order is signed. *Vote taken; the motion passed unanimously.* (Commissioner Bierbaum recused herself from this matter.)

Petition for Review:

Cascade Pizza & Italian Cuisine, White Salmon:

Assistant Attorney General Sara Olson was present for the State. She reported that a notice of hearing was sent and that she had not heard from the licensee. At this time, and in the absence of a representative from Cascade Pizza and Italian Cuisine, Ms. Olson recommended that a default order affirming the Initial Order revoking the license of Cascade Pizza and Italian Cuisine be entered.

Commissioner Niemi made a motion to affirm the order of the Administrative Law Judge revoking the licensee's license because of Cascade Pizza's extensive history of failure to comply. Commissioner Ellis seconded the motion. *Vote taken the motion passed unanimously.*

10. Raffles:

WAC 230-20-325 and WAC 230-20-335:

Arlene Dennistoun, Acting Administrator reported the raffle rules in Item 10 were up for final action. The rules are very similar. One speaks to the manner of conducting raffles by the charitable non-profit organizations to the public and the second rule addresses member only raffles. The rules were first presented in June. The rules were designed to streamline the approval processes for discount schemes on selling raffle tickets and for alternative drawing formats for raffles. All raffles have three requirements that must be met: every participant must have an equal chance at winning the raffle, all tickets must be sold for the

same price, and all tickets must be sequentially pre-numbered. Over the years, alternative drawing formats have become fairly standardized. They are very creative. Initially, a typical format would have been to throw all sequentially numbered tickets into some form of a receptacle and draw a winner. Currently, there are all types of ways to alternatively pick winners. Rather than having a Commission Special Agent approve the formats on a case by case basis, they have been outlined and quantified in the rule.

Ms. Dennistoun explained the old rule made it very clear that only licensed charitable non-profit organizations may conduct raffles; however, that language was inadvertently left out of the proposed rule. She asked that the Commissioners approve a rule that specifically addresses that only charitable non-profit licensed organizations may operate raffles under the prescribed conditions—the rule describes how, what requirements must be met in order to have discount schemes, and alternate drawing formats.

Chair Ludwig inquired whether staff proposed this rule. **Ms. Dennistoun** affirmed it was proposed as a part of streamlining to the reduced budget. She went on to advise the Commission received a public comment in reference to requiring that members or volunteers of the organization must not be paid for selling tickets, or for managing or operating a raffle. It was suggested that organizations have a difficult time finding volunteers or members to manage a raffle and that consideration should be given to being able to use paid staff members. Staff researched the requirements and found that the Commission is statutorily required not to allow paid members, or, people paid specifically to operate or manage or sell raffle tickets. **Ms. Dennistoun** believed the intent behind that rule was that someone paid specifically to do the raffle, could have an interest in the outcome. **Chair Ludwig** called for public comments and there were none.

Commissioner Niemi made a motion seconded by **Commissioner Parker** to adopt the effective changes for WAC 230-20-325 and WAC 230-20-335, to become effective 31-days after adoption. *Vote taken; the motion passed unanimously.*

11. Credit and Pricing Restrictions:

WAC 230-12-330, WAC 230-12-340, WAC 230-12-345, WAC 230-12-350, and WAC 230-12-320:

Deputy Director Nunamaker reported that Item 11 contains a series of five rules involving credit and pricing restrictions, and they are all up for final action. He noted at the August Commission meeting there were three questions that were asked of the staff. The first question was whether the price lists filed by manufacturers and distributors were subject to the Public Disclosure Act. Mr. Nunamaker affirmed the lists are subject to public disclosure. The second question related to the Model State Charitable Gaming Act. Mr. Nunamaker explained the Model State Charitable Gaming Act was written by a subcommittee of the National Council of Legislators from Gaming States. The drafting began in 1997, and took approximately a year and a half. In Section 8, the Act suggests that manufacturers report delinquent accounts to the “department” after 60-days, while distributors should report after 30-days. Nothing in the Act calls for any further action such as stopping sales to delinquent account holders. The third question was raised by a licensee who asked why the Commission did not address the issue of credit between distributors and operators in the amendment to the

current rule. **Mr. Nunamaker** explained the rule amendments and repeals were suggested to allow for a reduction in staff workload as a result of the budget reduction package. Distributor to operator credit has been prohibited since inception of regulated gambling in Washington, and staff saw no budgetary impact in changing the rule.

Commissioner Ellis referenced the Model State Charitable Act and questioned whether there was anything in the Act that addressed how firms may price their products. **Mr. Nunamaker** responded that it does not address that issue at all.

Mr. Nunamaker addressed WAC 230-12-330, noting the rule currently requires providing services and products to all licensees without discrimination, and that they shall be offered for the same price and terms. The current rule contains a number of exceptions including marketing level, short term price reductions (such as sales), delivery location differences, discounts based on transaction size and payment methods, and minimum purchasing requirements. The staff is recommending repeal of this rule.

WAC 230-12-340 currently requires that gambling equipment must be purchased on a cash basis. The current rule contains a number of exceptions from manufacturer or distributor sales. They may utilize trade accounts for Bingo cards and supplies provided payment is made no later than 30-days. The amended rule would allow operators to use credit cards to make purchases and it removes provisions for manufacturers reporting of delinquent distributor accounts. It also allows a rental of non-consumable gambling equipment to licensed operators. Staff is recommending adoption.

WAC 230-12-345 is a repealer. Sections of this rule have been moved to WAC230-12-340 where the principal issues are covered. One item that was not included in the prior rule was the provision for notification to the Commission should lease or rental payments become delinquent, and subsequent action by the Commission to commence administrative action based on receipt of credit. The agency will no longer be involved in the collection of lease or rental payments. Staff is recommending repeal of this rule.

Mr. Nunamaker advised that WAC 230-12-320 currently prohibits gifts, free merchandise, service credit, or rebates by manufacturers and distributors. It prohibits the solicitation of gifts by operators. It provides a number of exceptions such as: promotional merchandise with nominal value, promotional merchandise to distributors, and nominal value to operators that are \$15 in value. It provides exceptions for promotional merchandise to distributors of \$25 per item and \$1,000 cumulative to distributor employees, and it provides exceptions for entertainment of distributors to a collective value of \$1,000. There are exceptions for trips to manufacturer facilities and exceptions for loaning equipment for displaying and training purposes. The repeal removes the current restrictions. Staff is recommending repeal of the rule.

WAC 230-12-350 stipulates how checks will be used to purchase gambling equipment services, and how these checks are handled to make sure that they are not utilized in a way of unauthorized credit. The amendment would allow the use of credit cards as a use of payment

and keeps the Commission from handling dishonored checks. Staff is recommending adoption of WAC 230-12-350. **Chair Ludwig** called for public comments.

Dan McCoy, McCoy's Distributing, again voiced his opposition to the proposed repeal of the pricing and credit rules. His opposition to the proposal has been documented in letters and testimony over the last several months. He noted he has spoken about the 32-year history while the five rules have been in place and the impressive results the credit policy had in stabilizing an "out of control" industry. He also spoke about the importance of the pull-tab industry being the biggest revenue source to the Commission budget. The pull-tab industry has also offered overwhelming opposition to the proposed rule change.

Mr. McCoy acknowledged there has been some support for this proposal for budgetary and philosophical reasons. With regard to the staff's budgetary concerns, he noted a solution has been presented which effectively takes Commission staff out of any involvement and dissemination of the price list and the sales notices. That solution involves manufacturers and distributors being responsible for the promotion of their own price lists and sales notices on the Commission web-site. Field agents would then be able to independently access the information as needed. With regard to the amount of time agents dedicate to the auditing of manufacturers and distributors, Mr. McCoy explained that when the casino industry became a huge and necessary focus of time for staff several years ago, the amount of time dedicated to the auditing of the pull-tab industry correspondingly diminished. He agreed that random and occasional spot checks are all that is needed. He affirmed the industry has become accustomed to living with the rules, self regulating, and voluntarily complying; however, he emphasized it will only work as long as the rules are in place.

With regard to the philosophical reasons for repealing these rules and why the prices should be a concern to the Commission, **Mr. McCoy** believed the answer related to the fact that the Commission made it their concern 32 years ago when the rules were created. He noted licensees that have been involved in the industry for 32 years have made investments and business decisions based on these rules. McCoy's Distributing was one of the first companies granted a license in 1973 and they have made the business decision to remain a regional mid-sized company based on the fact that the rules package made for a level playing field for big and small companies. Mr. McCoy emphasized his opinion that it would be highly inappropriate and very unfair to make such an industry changing rule given the successful history with the rules and the opposition which has stated the rules have created, not hindered, a highly competitive industry. He noted that Washington State is reported to have the lowest price per game of any state in the country; a direct result of the competitive nature of the industry. Mr. McCoy believed if the budgetary concerns could be solved effectively and the rules kept intact with a practical solution for all, the Commission shouldn't be opposed to maintaining a set of rules that have had a beneficial impact on the industry.

Responding to the casino industry support of the proposed repeal of the pricing and credit rules, **Mr. McCoy** offered an alternative resolution. He reported the original rules of 1973 and in 1997 were written specifically for the pull-tab and bingo industry. The mini casino industry was not yet established. While the rules have served the distributors and

manufacturers with exceptional results, he acknowledged they have caused the casino industry to be burdened with rules that don't work well for them. **Mr. McCoy** proposed that staff add language at the start of the pricing and credit WACs (230-12-320, 330, 340, 345 and 350) to make the rules punch board/pull-tab and bingo specific. The pull-tab industry would be able to keep the much-desired rules in place, and the casino industry would be free to do business in a way more applicable to their needs. The proposal would also free Commission staff from collecting and maintaining price lists and sales notices, and would significantly reduce the time spent auditing manufacturers and distributors. Mr. McCoy respectfully asked the Commission to reject the proposed rules package repeal and to request that Commission staff hold industry meetings to pursue the recommendations presented as well as other possibilities.

Chair Ludwig asked Mr. McCoy when he addressed "casinos" whether he was referring to card rooms or tribal casinos. **Mr. McCoy** responded strictly the mini-casinos/card rooms. Chair Ludwig inquired if Mr. McCoy's suggestion was to reject the proposal and wait for some other proposal. Mr. McCoy affirmed.

Commissioner Ellis asked Mr. McCoy if he has discussed his proposal to retain the rules as being applied strictly to the pull-tab, punchboard, and bingo industry with Commission staff. **Mr. McCoy** advised he was new to the process; he wrote letters, attended the meetings, and provided testimony when he became aware of the proposal and the potential impacts to the industry. Mr. McCoy explained that he formulated his proposal within the last ten days and therefore hasn't discussed the proposal with Commission staff. Commissioner Ellis said he appreciated Mr. McCoy's efforts in gathering the historical background material and information regarding the rules and the insights relating to the effect of the proposed changes.

Commissioner Parker asked staff to comment on Mr. McCoy's proposal. **Deputy Director Nunamaker** didn't believe it would be as simple of a fix as presented. The rules apply across the board for manufacturers and distributors; they are not only for pull-tabs. He suggested that segregating the rule to only make it applicable to pull-tabs would eliminate the regulation—then there would have to be new rules to regulate the rest of the industry. While the process would be more complicated than suggested, he affirmed it certainly was a direction that could be pursued if desired.

Director Day noted the basic question raised in this process hasn't been answered; whether the rules that are subject for amendment and repeal fit in with what the Commission is responsible to do within its mission and statutory foundation. Staff reached the conclusion it did not and subsequently proposed the rules package identifying the rules that could be eliminated. Director Day clarified this particular rule package represents five rules that either are being amended or reduced fairly significantly—the five rules require enforcement by this agency from agents, all the way through the specific designated half time position that was previously addressed. **Director Day** cautioned against focusing on just the half-time position. He recalled the budget decisions necessary required the Commission to reduce over 20 positions. In that process, staff identified the exact mission of this agency and tried to balance the budget/staff reductions against eliminating tasks and holding the line on fee increases. The budget reduction decisions resulted in a conservative budget based on a

concept of eliminating tasks in the rules that may not be directly connected to the statutory responsibility of the Commission.

Chair Ludwig inquired how many staff members were involved just in credit and pricing responsibilities. **Director Day** identified a coordinator that spent half her time specifically on that issue. However, he emphasized that each one of these rules is enforced by Commission agents; therefore that responsibility is spread throughout the entire agent staff. He noted the Commission has not increased agent staff—agent staffing has been reduced under the concept of trying to hold the line on some of these activities. Every rule adds another duty, and the question remains whether these rules are something the Commission wants the agents to enforce.

Dan McCoy rebutted Mr. Nunamaker's comments suggesting a rewrite of additional rules for the casino industry. He commented that staff is proposing repealing three-fifths of the rules as it is—leaving the casino industry without a guideline anyway. He again suggested that by leaving the pull-tab industry as is and specifying specifically that the rules apply to the punch-board/pull-tab bingo industry only wouldn't affect what the future would have been for the casino industry. In response to the time spent in the field enforcing the rules pertaining to punchboards, pull-tabs, and bingo, Mr. McCoy reiterated that it is significantly less than it ever was—Commission staff have been doing this a long time, they know what they are looking for, they know the random aspects regarding audits, and they are very efficient. He emphasized that agents do not need to spend great amounts of time enforcing what he considered to be extremely effective rules that have served the industry well.

Mary Magnuson representing the National Association of Fund Raising Ticket Manufacturers (NAFTM) affirmed she also provided letters over the course of the last couple of years. She thanked the Commission for their thoughtful and careful consideration on this issue. She noted that NAFTM is most concerned about two particular rules—they do not oppose the amendment to allow operators to purchase products via credit card, and they don't oppose the Recreational Gaming Association's desire to see the rules not apply to them. Ms. Magnuson agreed that if the rules simply were applied to manufacturers of pull-tab and bingo paper (which they were designed to apply to initially), that would be fine. In an April 2005 letter, Ms. Magnuson advised she attached some proposed amendments. Those amendments were written in such a way that the rules would have only applied to manufacturers of consumable gambling products—the producers of bingo paper and pull-tabs. Ms. Magnuson noted that during the May Study Session, a conversation was held about whether there may be a difference between consumable and fixed products, and whether or not it may make sense to apply these rules to consumables rather than fixed products. She explained that when there is a fixed product such as tables and chairs and things like that, if somebody is in default in payment, that product can be recovered—or at least a portion of what one may be entitled to—that would not be the case in consumables because the product is typically gone. Ms. Magnuson suggested one option might be to simply apply these rules to the consumable product vs. the fixed product, or possibly apply them simply to pull-tab and bingo manufacturers, which again would be the people the rules were designed to apply to in the first instance.

With respect to the staff time, **Ms. Magnuson** advised that NAFTM is very open and always has been very open to work with the staff to try to figure out how the rules might be able to stay in place with a very minimal impact on the staff. NATFM continues to be willing to sit down and try to work something out. Ms. Magnuson said she understood that the Commission has budgetary concerns. She acknowledged every state has issues with budgetary concerns and everyone is grappling with fewer dollars to do more work. She pledged that NAFTM would do whatever they could to accommodate those concerns and she hoped to minimize the staff's concerns while at the same time keeping the rules in place.

Ms. Magnuson agreed the philosophical issues were more difficult. She stated it is the Commission's business to control or at least regulate and oversee prices and credit. As previously stated, some of these rules have been in effect for 32-years and people have built their businesses on the existing playing field. There has been control over who licensees may sell their product to, how they may sell that product, and the price at which the product may be sold. The credit rule has only been in existence for approximately 10-years, but it was designed to deal with some very serious problems. She explained the scenario of a \$5.1 million debt—distributors who were not able and never could have paid that debt had the Commission not intervened and allowed for the opportunity to convert that debt into promissory notes and pay over a period of time. NAFTM believes these rules make good sense from a regulatory perspective and that they should be continued to be part of the Commission's regulatory activity to retain the stable competitive environment that exists. She emphasized the rules have created a regulated competition; but a good and fair competition for large distributors, small distributors, large manufacturers, and small manufacturers. They have a very competitive but a very level playfield in which to operate.

Ms. Magnuson believed that by repealing the rules, it would create unfettered competition—competition that wouldn't be an equal playing field for the large and small companies to co-exist. She believed there will be some significant changes in the market if these rules are repealed and noted that some people think it's a good idea that will bring about good changes. Most people think it would be bad—the small distributors and small manufacturers would be disproportionately affected. There would be some who would exist and would gain in business because they have the financial where-with-all to offer large pricing discounts, kick-backs, rebates, and other incentives to certain people who are capable of buying the product. Ms. Magnuson stressed that it will be a big change, it is a big deal, and a very significant decision. She believed some industries such as liquor, utilities, and gambling, are better suited to regulation and a more controlled environment. Historically they have always been more regulated.

Ms. Magnuson commented that this industry has done very well. It is not as robust as it used to be from the pull-tab and bingo perspective. There is a lot of competition and people are trying very hard to keep their businesses intact. She suggested the repeal of these rules will be a major change in the way that business is conducted in Washington, and probably not for the best—there are going to be some people who will have to close their doors because they won't be able to compete in the market place.

Gary Murrey on behalf of the Recreational Gaming Association pointed that in WAC 230-12-340, the operator or the end user, is not included in the repeal of the credit opportunities that exist between manufacturers and distributors. He questioned if there was a statutory responsibility to regulate whether or not credit may be used between manufacturers and distributors, why there is one between an operator and not the other levels. Regarding staff time, he commented that additional staff time is needed to ensure that bills are paid on time, that invoices are paid immediately, and that the credit isn't being extended. He inquired if the credit elimination was approved, why it wouldn't be eliminated for the industry rather than only the manufacturers and distributors. **Mr. Nunamaker** acknowledged that Mr. Murrey had raised this issue before, and frankly, the staff just didn't consider it—and affirmed it is something that could be considered. He noted that credit has never been allowed on this level and the Commission has had very few problems. Because there wouldn't be a lot of savings in manpower by changing the rule, it was simply put off the table and never considered for its own merits.

Commissioner Parker inquired if this is a policy consideration that staff is now aware of and giving fuller consideration. **Mr. Nunamaker** responded that staff has not discussed the matter further. He indicated that he was aware there may be a petition submitted to the Commission requesting a change to the rule—or that it may be something staff could discuss with the licensees and it might be handled at the time staff addresses the rules within the rules simplification process. Commissioner Parker commented that since the rules were up for final action, wouldn't it suggest holding off on that particular piece of the package. **Director Day** clarified that the package of rules are primarily directed to the manufacturers and their general relationships. The question is whether the Commission should go further than that and eliminate credit restrictions at the operator level. Director Day believed that staff was prepared to recommend that may be the next logical step; however, because it is a larger issue, the staff would want to address it at a later time. He affirmed there are two separate issues—credit vs. operators and essentially wholesale manufacturers.

Mr. Murrey affirmed that the distributor cannot deal credit to the licensee. As an example he explained that he could not buy anything from a distributor on credit as the rule is proposed; however, that distributor may buy on credit from the manufacturer, and he must sell it on a cash basis. He questioned why the distributor (in the middle in this example) is allowed to buy on credit but has to sell on cash—and why they can't extend that credit basis to the operator/end user that is really using the item. He suggested the middleman gets all the benefit. **Mr. Nunamaker** replied that WAC 230-12-340 currently allows operators to use credit cards to purchase items—that would be recognized as making a cash purchase.

Mr. McCoy responded to Mr. Murrey's concern about the lack of credit being offered to the operator level, and reiterated that his proposal solved this issue for the casino industry. He went on to say that separating the industry from the casino industry is reasonable when it comes to Mr. Murrey's concerns. The end user of pull-tabs actually consumes the product, it can no longer be repossessed—it has been opened and it is a dead product. Mr. McCoy affirmed the casino industry has hard goods; therefore, adopting the proposal he presented makes sense for Mr. Murrey's concerns. Credit being offered to the operators of pull-tabs allows for the product to be consumed and not retrievable

Mr. Ackerman commented that the Commission was about to consider a number of policy arguments from the industry and from staff. He affirmed the Commission is well informed with regard to the policy on the issues the presenters have raised; however, he felt obliged to remind the Commission that to the extent the Commission makes policy decisions, the Commission must do so within their legal authority. The Commission exists to effectively regulate gambling—that is the authority for the Commission’s ability to promulgate rules. Mr. Ackerman advised he was not involved in 1993 or 1997 when the rules came into effect. However, he has considered them to be within the Commission’s rulemaking authority because when the rules were enacted, they were deemed to be necessary to the regulation of gambling. Mr. Ackerman commented that the Commission is not the Federal Trade Commission, it is not the Utilities and Transportation Commission, and it doesn’t exist to control monopolies or to do anti-trust work. The Commission exists by statute to make sure that gambling is honest and legal. It does not exist to level playing fields or to control commercial competition. Mr. Ackerman suggested that if the Commission can no longer identify a regulatory purpose for these rules, then these rules no longer fit within the Commission’s statutory authority. On the other hand, if they are deemed to be necessary and right for the effective regulation of gambling, then he continued to believe that they were within the Commission’s authority.

Commissioner Parker concurred that Mr. Ackerman’s comments were very much on point. He advised he wasn’t entirely comfortable about whether or not there is an unforeseen consequence to withdrawing a regulatory system that might have some impact on the public beyond that which the Commission can identify at this point and time. Commissioner Parker also expressed concern regarding an appearance that the Commission was “backing into” this issue—the Commission was forced to do some budget cutting—and management came up with a good proposal to cut the budget. He questioned if the Commission would be making a policy change as a consequence of budget cutting that really is a different issue than budget cutting issues. He believed the policy that is on the table is questionable as to the proper roll of the Commission given the environment of the 21st Century. Commissioner Parker advised that he was comfortable with the proposal to put the rules into place because he agreed with the interpretation of the Commission’s role and the policy that was attempting to be achieved. He explained that he was not particularly comfortable with how the Commission got here in the first place. Commissioner Parker advised he would be prepared to vote in favor of the rules package because of the policy issue and that he would like to keep that as a separate issue from the budget issue. He acknowledged the arguments made on behalf of the proponents not to adopt this rule change; however, the argument that he was persuaded by was that this was an appropriate way to refine the role of the Commission given the environment the Commission is currently operating in, and, he was in favor of these changes.

Commissioner Ellis agreed with much of what Commissioner Parker said and he indicated that he could understand Commissioner Parker’s concern. Commissioner Ellis suggested the tail might be wagging the dog in the sense of the regulatory issues and the issues concerning the appropriate role of the Commission, the associated legal issues that Mr. Ackerman outlined, as well as the long run to cure the Commission’s budget issue. He acknowledged that the Commission was having to cut back (as are other state agencies), and therefore

identified some areas that do not appear to be crucial to the central mission. **Commissioner Ellis** didn't think the enforcing of the credit or the pricing rules was crucial to the Commission's performance. He advised that he has not been able to identify any way in which they directly or indirectly further the Commission's important business of keeping organized crime out of gambling and protecting the public from fraudulent gambling practices; therefore, these cuts were certainly easier than most.

Commissioner Ellis expressed concern after listening to Mr. McCoy and other speakers about the potential impact on small business; however, he felt that would lead to the question of why small businesses in this industry need price and credit regulation by a government agency in order to avoid being forced out of business. He explained this country relies on free enterprise and free economic systems, and normally small businesses come before the Legislature or an agency to complain about the impact of regulatory rules that are being imposed on them by government—rather than asking government to retain the rule. Commissioner Ellis affirmed it was unusual that the roles were reversed in this case. While concerns have been expressed that perhaps consumers could be impacted by the repeal of these rules in the form of higher prices from a concentration in the industry; he suggested that economically speaking, the quick answer to that scenario is that if concentration develops and if prices are raised to non-competitive levels, then absent any entry barriers, new firms will enter the market and take advantage of the unreasonably high prices—and that shouldn't be a long term problem. He affirmed that he understood the legal issues raised by Mr. Ackerman; but, preferred to not proceed on that basis and not to spend a lot of time examining whether the Commission has the authority to maintain these rules. Commissioner Ellis believed the underlying policy considerations were paramount; that it is difficult to justify the different types of restrictions on a firm's ability to set their own prices and make their own decisions as to credit. He didn't believe that a real showing had been made to continue that kind of restrictive business environment. Therefore, based on the policy question and not the question of the agency's authority, he advised he would vote in favor of the proposals as made by staff.

Commissioner Niemi questioned whether the Commission should look at the economics in relation to the staff cutbacks. She believed a good argument was made that if the Commission was trying to save a half an FTE, this probably wasn't the correct way to go. She emphasized that if the Commission experiences staff problems that interfere with the Commission's regulation of gambling, something besides cutting things that are important will need to be done—and, if this is an important issue, it is worth doing something about. Commissioner Niemi expressed concern that in the future this issue might have some effect on gambling which directly related to the Commission's prime mission. She advised she would also vote in favor of this package.

Commissioner Ellis made a motion seconded by **Commissioner Niemi** to adopt an order repealing WAC 230-12-330, WAC 230-12-345, WAC 230-12-320, and amending WAC 230-12-340, and WAC 230-12-350, in the form recommended by staff, to be affective 31-days after adoption. *Vote taken; the motion passed with four aye votes; Chair Ludwig voted nay.*

12. Petition – Increasing a Card Rake from \$1 to \$2.

WAC 230-40-610:

Assistant Director Cally Cass reported that Item 12(a) is a petition for rule change submitted by John Mitchell of the Drift on Inn Casino in Shoreline. Currently card rooms can collect up to \$1 per hand of game for each player-supported jackpot, using the rake method of collections. The rake method of collection is when the player contributes \$1 or (if the Commission approves) up to \$2 each time they play a hand in a poker game. Staff currently monitors compliance for this activity by doing onsite inspections. The licensees may retain a portion of the money collected from the PSJ to cover administrative expenses related to maintaining these funds. This administrative fee is currently set at 10 percent of the amount collected. Staff has no regulatory concerns. Ms. Cass pointed out that another petition is on the agenda proposing to raise the 10 percent administrative fee to 35 percent, which would go to the house. Ms. Cass advised there have been no comments about this rule at this time, and that staff will be prepared to provide a recommendation at the October meeting. She stated that whether or not to allow the proposed rule change is a policy decision. **Director Day** advised this petition was asking for consideration to increase from one dollar to two dollars—it only deals with player supported jackpots and in this case, staff did not view this as a regulatory concern directly. It would increase the jackpots available and therefore this specific question was a policy matter for the Commission. He affirmed that staff has not analyzed and does not have recommendations available for the next four proposals. **Chair Ludwig** called for public comments.

Mr. Mitchell, the Petitioner, stated this would allow the industry to give larger more frequent jackpots to the players at the poker tables. He said that players at his facility were begging for this change and he encouraged a supportive vote with an effective date 31 days after approval.

Commissioner Ellis advised that he was uneasy about proceeding in a definitive way on the four proposed rule packages because staff recommendations wouldn't be available until October. **Mr. Ackerman** explained the Commission has six months to decide whether or not to approve the proposed rule change; however, the Commission has sixty days from receipt of the petition to decide whether or not to file the rule. After some discussion, it was determined the petition was filed on June 20, and Mr. Ackerman advised that the Commission needed to take some action at this meeting. He reminded the Commissioners it could simply be action deciding on whether or not to file the rule for further discussion, which allows staff the time to analyze the petitions and formulate their positions.

Commissioner Parker made a motion seconded by **Commissioner Ellis** to file the rule for further discussion. *Vote taken; the motion passed with four aye votes, Commissioner Niemi voted nay.*

13. Petition – Social Card Games.

WAC 230-40-010:

Ms. Cass reported that Item 13(a) was filed by Dolores Chiechi on behalf of the Recreational Gaming Association to amend the rules of play which would allow additional types of card games such as Mini-Baccarat. The specific language amended is contained in Section 1(c)

and (d), which no longer requires players to make decisions on their own hand, and also allows the players to bet on the house hand as part of the game. She advised that both of these are significant elements of Mini-Baccarat, which is already played in tribal casinos. Staff has no statements against the rule change at this time and recommends filing for further discussion. **Chair Ludwig** called for public comments.

Dolores Chiechi, Director of the Recreational Gaming Association requested the Commission consider filing each of the RGA petitions so the Association may bring their arguments forward at future meetings and have dialog on the pros and cons of each of the petitions.

Mr. Ackerman advised the RGA petitions were all received by the Commission on August 12, and because the October meeting would be 63 days out, the Commission is left with the situation of needing to either file the petitions for further discussion, or to deny them and state the reasons for the denial. At Chair Ludwig's recommendation and with fellow commissioner concurrence, a motion was delayed until all the RGA petitions were presented.

14. Petition – Increasing Poker Wagering Limits.

WAC 230-40-120:

Ms. Cass noted this petition was filed by the Recreational Gaming Association, to increase the poker wagering limit from \$25 to \$100. The RGA is requesting that card rooms that offer both house-banked card games and poker games be allowed to offer the higher wagering amounts. This would not apply to poker rooms only.

Commissioner Parker inquired if the Commission had something similar under consideration in the past. **Ms. Cass** didn't believe the Commission had a formal petition on wagering limits for poker, although there may have been some testimony to that effect. **Director Day** believed Commissioner Parker may be remembering an extensive process of considering the maximum bet on house-banked games, when the Commission went to the limited number of tables and increased a wagering limit to \$200 from \$100. At Chair Ludwig's recommendation and with fellow commissioner concurrence, a motion was delayed until all the RGA petitions were presented.

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

WAC 230-40-120:

Ms. Cass reported that WAC 230-40-120 is a proposal to increase the maximum wagering limits for all house-banked games to \$200 at all tables. In January of 2004, the limits were increased to \$200 for a specific number of tables depending upon the establishment's license. This would allow licensees to have \$200 wagers at all house-banked tables.

Chair Ludwig clarified the current rule was based on former Commissioner McLaughlin's compromised amendment. He inquired if there had been any regulatory problems as a result of inadvertent mistakes of a sign being left on a closed table that allowed three others to operate at the \$200 limit. **Ms. Cass** affirmed there have been at least two inadvertent occasions that were reported by licensees and at least one where the licensee thought that it was not inadvertent. **Director Day** asked staff if this has been a regulatory problem for the

Commission. **Ms. Cass** responded that it has; however, only from the standpoint that staff is being sent out to do extra checking. **Chair Ludwig** commented that particular problem wouldn't exist if the limits were increased across the board to a certain level, other than just a partial number of tables. Ms. Cass affirmed. At Chair Ludwig's recommendation and with fellow commissioner concurrence, a motion was delayed until all the RGA petitions were presented.

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

WAC 230-20-610:

Ms. Cass reported that WAC 230-20-610 relates to player supported jackpots and how they must be operated. The petitioner is proposing that the administrative fee for progressive jackpots be increased from 10 percent to 35 percent, which means the house would get more of the money that would otherwise go to the players. Ms. Cass reported that staff is recommending that all four of the petitions be filed for discussion.

Commissioner Niemi advised that she was not in favor of filing the four petitions because she would rather see what may happen in the upcoming Legislative Session. She believed all the proposals were relatively important policy decisions and she would rather know if there would be action in the Legislature the Commission should consider in conjunction with the rule proposals. Commissioner Niemi affirmed she would vote against filing the four proposals.

Chair Ludwig stated his perspective that the only thing the Commission was waiting for was the decision of staff and how significant the proposals were from the regulatory standpoint. He advised that he has typically been in favor of filing rules for further discussion; whether the Commission ultimately approves them or not.

Commissioner Ellis reiterated that he was uncomfortable in taking a substantive position and making a decision on any of the petitions until he has heard more about them, including the staff recommendations as well as the industry and the stakeholder input. However, given the staff recommendation that the Commission accept each of these for filing, **Commissioner Ellis** made a motion seconded by **Commissioner Parker** to accept the four petitions for filing, to include the two petitions that would amend WAC section 230-40-120, and the petitions amending the WAC 230-40-010 and WAC 230-40-610.

Commissioner Parker cautioned that he also had a big question in terms of the impacts of the policy considerations, and that he would like to hear from the public and the members of the Legislature, should they choose. *Vote taken; the motion passed with four votes. Commissioner Niemi voted nay.*

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

With no further comments, **Chair Ludwig** announced the next meeting would be held on October 13-14, 2005, in Yakima and he adjourned the meeting at 12:30 p.m.

Minutes by, Shirley Corbett, Executive Assistant