

**COMMISSION MEETING  
THURSDAY, APRIL 13, 2006  
MINUTES**

**Chair Ludwig** called the meeting to order at 1:30 p.m. at the Heathman Lodge in Vancouver, Washington and introduced the members and staff present.

**MEMBERS PRESENT:**     **COMMISSIONER CURTIS LUDWIG**, Chair, Kennewick  
                                  **COMMISSIONER JOHN ELLIS**, Seattle  
                                  **COMMISSIONER PEGGY ANN BIERBAUM**, Quilicene

**STAFF PRESENT:**       **RICK DAY**, Director  
                                  **GREG THOMAS**, Acting Assistant Director-Field Operations  
                                  **AMY HUNTER**, Administrator- Communications & Legal  
                                  **JERRY ACKERMAN**, Assistant Attorney General  
                                  **GAIL GRATE**, Administrative Assistant

**Chair Ludwig** advised the agenda was revised to accommodate the fact that only three Commissioners could be present on Thursday, and he noted there may only be two Commissioners available on Friday which would not constitute a quorum. Therefore, matters that require Commission action will be heard on Thursday and the matters that do not require action will be discussed on Friday.

**Partnership Program Participants:**

**Director Day** reported the agency has a Partnership Program that allows staff to participate in and observe agency activities in units other than their own assigned area. He introduced the following staff attending this meeting as a part of the program: Lucinda Boyd, Patsy Michael, Tyson Wilson, and Donna Rison.

**1. Review of Agenda:**

**Director Day** reviewed the revised agenda. He also reported that special agents served search warrants on Tuesday April 11, 2006, as a result of an investigation of multiple suspects in an illegal sports betting operation. Arrests were made in that case which included eight counts of professional gambling and nine counts of professional gambling in the third degree, as well as transmitting gambling information. Director Day advised it was a successful investigation and a job well done by Commission agents.

**Chair Ludwig** called for a brief Executive Session to discuss possible litigation at 1:45 p.m. and recalled the open public meeting at 2:05 p.m.

2. **Petition for Rule Change – Harmon Consulting, Inc.** *(Item taken out of agenda order)*  
**WAC 230-02-101 – Cash defined—Alternative C:**

**Amy Hunter, Administrator**, Communications and Legal Division affirmed the petition for rule change filed by Monty Harmon of Harmon Consulting is up for final action. It was first filed at the October Commission meeting and has been on the agenda several months. Staff does not support Mr. Harmon's petition and proposed an alternative at the February meeting, which was filed by the Commission and will be up for final action in June. Ms. Hunter explained staff's alternative cannot be up for final action at the same time as Mr. Harmon's petition because of the code revisor's filing requirements.

**Ms. Hunter** noted that Mr. Harmon is asking that a definition of cash be created and that it be defined to include guest or gift cards. The cards will have two important components; that they can be used for gambling purchases, and that any gambling winnings may be added back on the card. Although Mr. Harmon may have intended for this to apply only to pull-tab winnings and pull-tab purchases, the new definition would apply to all gambling activities because it defines cash. It could apply to card room winnings or Bingo winnings being put back on a card. The player could then use the card for purchasing more pull-tabs, or buying more Bingo cards, or buying food at the restaurant; whatever the case may be as long as the purchase occurs at the same specific business.

Staff has several concerns with Mr. Harmon's petition and recommends that his petition not be adopted and that staff's alternative be adopted instead. Staff's alternative allows purchases to be made on a gift card; but, it would not allow winnings to be put back on the card, which distinguishes the two rules before the Commission. The petition requires the Commission to approve an accounting system; however, the proposed rule doesn't set any standards for the accounting systems. The Commission doesn't currently approve accounting systems and to do so would require additional regulation. Staff also has concerns with the term "other cashless systems" which seems to indicate that something other than gift and guest cards might be contemplated, yet this term is not defined or explained in the petition. Staff is also concerned because the term cash is used in at least 61 other WACs and at least three RCWs. The term as it is currently used is clear. If a different definition of cash is adopted, it is unclear how many other implications there might be for those rules. Staff is also concerned about what the next request might be—with a new definition of cash, there may be subsequently more creative requests by individuals taking this technology and applying it to other areas. Approving the gift cards may impact the existing pull-tab readers/dispensing devices. They take cash in and a ticket is dispensed, cash isn't dispensed; however, staff anticipates the next request may be to have some type of card involved. The petition doesn't have a dollar limit on the gift cards, which raises concerns about gift cards being a tool for money laundering.

**Ms. Hunter** addressed the policy concerns about allowing winnings to be placed back on a gift card. Currently, winners are cashed out, which allows the player to decide whether to purchase more pull-tabs, or to take the cash and spend the money in other places such as at

the grocery store or gas station. If the winnings go back on a card, some players will most likely spend the pull-tab winnings at that particular business rather than take the cash.

At the March meeting, Mr. Harmon handed out a new alternative currently labeled as Alternative C. The difference between what Mr. Harmon originally submitted and Alternative C is that Alternative C requires that a customer be able to get the cash back if they ask for the money. As proposed they could have pull-tab winnings or card room winnings posted back on their card, and they would be able to ask the cashier for the money. Balances on gift or guest cards could never go below zero; the purpose is to make sure that people aren't getting into a situation where the house is extending credit.

**Ms. Hunter** explained staff's alternative does not create a new definition, which takes away the concerns about the potential implications on 61 other rules. Instead, it makes a change to an existing rule that deals with credit and the consideration that is required when someone participates in a gambling activity. It allows a gift card or gift certificate as one of the forms of consideration that may be accepted before a person participates in a gambling activity. It allows the purchase of pull-tabs or Bingo cards; but, it will not allow winnings to be placed back on the card. Staff has regulatory concerns about allowing the purchase of pull-tabs or other Bingo sessions with gift cards. Staff recommends further discussion on staff's alternative rule and that Mr. Harmon's petition not be approved.

**Monty Harmon** - Harmon's Consulting advised that he appreciated the commissioners filing the petition and allowing the discussion over the past months. He affirmed that he understood staff's concerns and he focused on the intention of the initial rule initially. He explained the rule was filed in the first place because of some law changes that occurred within the gift card/gift certificate aspect. He reported the Legislature is no longer allowing businesses to cancel gift certificates and there are now laws that require businesses to maintain and keep track of all the gift certificate books. The cash/gift card technology is the concept that businesses are pursuing because it is easier to track with an electronic system. The systems have grown substantially over the years and the application is ubiquitous. The cards are legal under RCW 19 and they are regulated. Mr. Harmon advised he was having trouble understanding why a business licensed by the Commission would not be allowed to utilize this technology. He suggested the proposal protects small businesses because it is essentially a guaranteed money source and because the licensee could have less cash at the business. The cashless cards are deposits of money waiting to be used. If a business has prizes that need to be paid, current rules require the licensee to have cash on the premises to pay those prizes—which requires the employee to go to the cash drawer, take the money out, and pay the cash, at which time the player may elect to have the money put back on the card. Mr. Harmon advised it was hard to imagine why the Commission would require that because in his opinion keeping the employee away from the cash was a good thing. The system also provides a transaction audit by having the date and time stamp.

**Mr. Harmon** suggested the Commission would actually be deciding whether an application of this technology was acceptable or not. Overall, the system would protect the licensees and Mr. Harmon encouraged the Commission to seriously consider approving his petition. He advised that he had concerns with staff's rule alternative and that it shouldn't be passed

because it didn't have a provision for staff to approve the system, which is a great risk to the state and the industry, if the system was flawed. **Mr. Harmon** affirmed the industry would prefer Commission staff to have some authorization on the system. He explained the Commission currently has a formal process for approving cashless systems in the Electronic Gaming Lab. The guidelines have been established since 1998, and he believed there was a lot of crossover in knowledge regarding this technology that could be used to benefit the industry. He also believed approval of this system would be a good thing for the industry, and that putting the prizes back on a card would also be a good thing for the industry.

**Commissioner Ellis** wasn't sure if the rule was clear that the staff would have to approve the other cashless systems as opposed to the accounting systems that would be related. Commissioner Ellis expressed questions dealing with Alternative C as proposed by Mr. Harmon. He noted this version refers to the use of both gift cards and other cashless system, and he inquired if Mr. Harmon had a specific idea in mind as to what the reference to other cashless systems would mean. **Mr. Harmon** explained the way the industry currently operates—if he had a winning pull-tab for \$5, he can present it to an employee and ask for \$5 worth of new pull-tabs so that he may continue to play. In his opinion, that is not a payment in cash and staff's proposal wouldn't fix that problem. Therefore, the wording in his alternative regarding other cashless systems represents that the value for the winning pull-tab was exact or is a "like kind" exchange—pull-tab for pull-tab. Commissioner Ellis noted the same paragraph of the rule indicates that customer balances on the cashless system must be reduced at the time of any purchase, and he questioned what that meant. Mr. Harmon explained Commission regulations do not allow credit purchases; therefore, if he were to purchase some pull-tabs the value would be taken off the card right away. Mr. Harmon conceded that he would have no problem striking the words "other cashless systems."

**Commissioner Ellis** noted that when described the way Mr. Harmon intends the rule to operate, it usually involves the winner (the holder of the gift card) taking the pull-tabs over to someone who rather than paying off the winning pull-tabs in cash, simply adds the value of those pull-tabs to the winner's gift card. He affirmed that staff and some of the Commissioners have been somewhat uncomfortable over the possibility that there might not be that two-step process. Instead, a machine may be doing the crediting of the card itself which raises issues that were associated with the ZDI petition.

**Commissioner Ellis** commented that when Mr. Harmon's petition was initially filed, Chair Ludwig raised concerns when he noted the fact that the proposed rule allowed winnings to be added to the balance of the gift card, which would suggest that a machine could do that, and that Mr. Harmon agreed the language could be amended to address that issue. He asked Mr. Harmon if the current version addressed that issue and whether or not it was possible that the winnings for the winning pull-tab could be added directly by a machine, as opposed to the winner going to a cashier turning in the winning pull-tabs and having the gift card balance increased. **Mr. Harmon** believed that when staff approved a system, that would be an appropriate time for this issue to be addressed. However, if a machine could directly post the winnings, he agreed there would be several rules that would need to be changed. Pull-tabs by rule are defined as a piece of paper and operators are very restricted on how they award prizes and how that is supposed to be done. Mr. Harmon reiterated this was a money

system—a way of accounting for transactions and the conducting of the gambling activity for a pull-tab was a pull-tab. With no further comments, **Chair Ludwig** called for public testimony.

**Tom Safford**-President of the WCCGA reported that his association supported this type of cash system because it is so widely used in almost any other business.

**Chris Kealy**-Iron Horse Casino also supported the petition in Mr. Harmon's format. He noted it provides a secure envelope for cash to be transacted to and from the business with minimal employee interference. He suggested that if the Commission was uncomfortable about the dollar values, perhaps a card value limit could be established. **Commissioner Ellis** asked what value level would be realistic. Mr. Kealy suggested something under \$3,000—anything above \$3,000 may require additional paperwork that may create other kinds of problems. He stated it would also eliminate theft interest. **Chair Ludwig** noted the operator would have to have cash on hand to redeem the requests for cash. He inquired whether most of the pull-tab licensees would have \$3,000 on hand. Mr. Kealy agreed the licensee would have to have the cash on hand if they wanted to be approved at that level. **Mr. Harmon** offered an amendment to Alternative C (at the end of the rule where it addresses “customer balances shall never be allowed to go below 0”), and he suggested “or exceed \$5,000 US dollars” (or \$1,000 US dollars) could be added to the sentence, which would surpass any money laundering issues. With no further public comments **Chair Ludwig** closed the public testimony.

**Commissioner Ellis** commented that his feelings and thoughts continued to be the same that he expressed at the time the petition was filed. He stated he would like to address the merits of this issue; but, he would like to do it at a time when the Commission receives a decision on the ZDI matter so that some of the technical issues could be fleshed out and the Commission might have a better opportunity to address the entire issue rather than doing it piece meal. He asked Mr. Ackerman if there was anything procedurally the Commission needed to do in order to continue a ruling on this matter at least until the June meeting. **Mr. Ackerman** responded that the one general restriction applicable to this matter is that a petition for rule making has to be heard within six months of its filing. The Commission may do another filing with the code reviser to continue this matter for an additional six months if the Commission chose to do so; but, absent that filing, the matter must be decided within six months. If it is not, then it would in essence be rejected—it will cease to be a live petition. This petition was filed October of 2005; however, it was continued beyond the six-month period with Mr. Harmon's agreement.

**Ms. Hunter** explained the published date was November 16, 2005, which meant the petition would run until May 2006. The Commission would simply need to execute the additional filing with the Code Reviser's Office to hold it over longer than May. **Mr. Ackerman** affirmed the required filing is simple; however, it would be necessary and must be authorized at the direction of the Commission.

**Mr. Harmon** stated that continuing this matter until June or July would be fine from his perspective and that in July, he would be happy to address some of the pull-tab processes on

how prizes are won and how the automated process is less of a concern. **Chair Ludwig** advised that he was also interested in how the ALJ ruled on the ZDI petition.

**Commissioner Ellis** made a motion seconded by **Commissioner Bierbaum** to instruct staff to take the steps including the re-filing of the petition to extend the time period for a decision by the Commission for another six-month period. *Vote taken; the motion passed with three aye votes.*

**11. Gift Cards and Gift Certificates** *(Item taken out of agenda order)*

**WAC 230-12-050** - Staff's Alternative to Item 2—Petition from Harmon Consulting, Inc.: **Mr. Ackerman** noted that since Mr. Harmon won't be available for the June meeting and because the petition and the alternative are on the same subject matter, he suggested the Commission address both items at the July meeting. He affirmed there is no reason under the APA that the Commission must consider the alternative at the June meeting—it may be deferred to July. **Chair Ludwig** continued staff's alternative to Mr. Harmon's petition as recommended by Mr. Ackerman.

**3. Petition for Rule Change – Cory Thompson – On-Duty Card Room Employees Playing in Player-Supported Jackpots:** *(Item taken out of agenda order)*

**WAC 230-40-610:**

**Ms. Hunter** advised the petition was filed by Cory Thompson, a card room employee who had some questions and concerns about player supported jackpots (PSJ). In a player supported jackpot winning/qualified players could win an additional fund. Under current rules, while on-duty card room employees may play in that game, they are not allowed to win the PSJ. The rule has been in place for as long as player supported jackpots have existed because of staff's concern about maintaining the integrity of the game and making sure there wasn't any type of player collusion. Mr. Thompson believes this is unfair—he wants to be eligible to win the PSJ, which can range in value from \$100 to \$1,000 or \$2,000.

Alternatively, he suggested not having a part of the on-duty employee's money going toward the player supported jackpot if the player isn't eligible for the winnings. Staff concurs that on the face, this seems to be a reasonable request.

**Ms. Hunter** explained that employers can require an on-duty employee to play in a game—they typically do that when there aren't enough people in the game to keep the game going. Mr. Thompson is suggesting that when an on-duty employee is required to play and pays \$1.00 per hand (for instance), and 20 cents is taken out as a part of the rake to go toward the player supported jackpot; if the employee is not eligible to win the PSJ, the employee shouldn't have to contribute to the PSJ which continues to accumulate until someone wins the qualifying hand. Staff recommends denial of this petition because of the complications related to tracking each PSJ contribution by each on-duty employee for each hand. Mr. Thompson has not identified a way to track an accounting for this contribution, and staff believes this is more of an employer/employee decision than a regulatory issue for the Commission to be involved in. Staff recommends denying the petition.

**Chair Ludwig** asked if house employees were identified in any way when they participate in a game of poker. **Ms. Hunter** affirmed they should be wearing their name tags. **Chair**

Ludwig thought perhaps the house would either want to pay the employee's two-dollar rake or not have them identified if they are the winner—which could be bad public relations. **Ms. Hunter** agreed, noting staff was quite certain the Commission would get calls, questions, and complaints from the public if all of a sudden players weren't required to contribute to the PSJ fund.

**Mr. Thompson**, the petitioner, affirmed there are a number of card rooms that require their employees to play; however, he noted that he chose to work at a facility that does not because he preferred not to play against people that he deals to. He noted that when the Gambling Commission increased the player supported jackpot amount taken out of each pot (from \$1 to \$2); they doubled the amount the house may take for the jackpot. He explained that in poker, the money is only taken out of the winning player's pot and put into the player supported jackpot—not each person at the table contributing a little bit. He believed that since it wasn't an issue of some money from each player, the money didn't need to be tracked and there wasn't necessarily a regulatory concern. Mr. Thompson acknowledged there are a number of different practices in a number of different states. California, Nevada, and Arizona allow employees to either be eligible to win the jackpot or to give the money back to the player.

**Mr. Thompson** understood staff's hesitancy to change the rule, and that they don't want the employees to win the money because they are afraid of collusion. He explained that was why he amended his original petition from not allowing employees to win the money, to not charging them for something they aren't eligible to win. He emphasized that he didn't think it was fair to require a player to play and require them to pay for something; but, have it be illegal for the player to get the benefits from that payment. He affirmed it was easy to identify the employees because they must wear their badges if they are playing on duty.

**Gary Murrey**-Great American Gaming advised he has been involved in playing cards or working in the card room industry for 18 years. He advised Poker was the mainstay of the card room industry from 1973 to 1997. Because Poker games require more than two people to really play a good game, card rooms have been allowed to employ game starters. The game starter's job is just to play Poker, they are familiar with the game, and they understand the risk. This is an added benefit; they get paid while they do something they enjoy or they want to do. It is also a benefit for the dealers to have a game—if there isn't a game, they don't make any tips. Mr. Murrey acknowledged some houses require that dealers play to help start a game when the game is less than seven candidates. However, he noted that being required to play doesn't mean the employee is required to gamble with reckless abandon. The employees understand from the start what their job is and the ramifications—the house isn't allowed to give the employees money to play (they come with their own money), and the house isn't allowed to share in their winnings or their losses. Once the prize is awarded, the pot is ready to be pushed to the winning player. Just slightly before that, the jackpot dollar is set aside to be put in a separate box. He suggested that if an on-duty employee wearing a badge were to win the pot, it would be just as easy to push that \$1 or \$2 back into the pot for the on-duty player, negating the tracking issue. Mr. Murrey believed most players would not have a problem with the employee getting the dollar back because they can't win the PSJ pot. Mr. Murrey supported the petition being filed.

**Commissioner Ellis** made a motion seconded by **Commissioner Bierbaum** that the Commission accept the petition for further discussion. **Chair Ludwig** noted staff's recommendation was to deny the petition. Commissioner Bierbaum clarified her second to the motion should not be construed as support. She noted the Commission routinely accepts things for filing in order to give the proponent time to present more information and to allow more discussion on the topic; not necessarily because the Commission approves of the concept. Commissioner Bierbaum thought it only seemed fair to the proponent, which was the basis for her second; however, if there was a vote on this issue today, Commissioner Bierbaum advised she would vote no. *Vote taken; the motion passed unanimously.*

**Chair Ludwig** called for a recess at 3:30 p.m. and recalled the meeting at 3:40 p.m.

4. **Petition for Rule Change – GameTech International, Inc. – Electronic Bingo Card Daubers Billings Based on Cards Sold**

**WAC 230-12-340 and WAC 230-20-244:**

**Ms. Hunter** reported the petition is up for filing. GameTech manufactures bingo card daubers (an electronic machine) and the petition deals with how the manufacturer collects fees from the bingo operators. Under the current rule, the electronic bingo card daubers could only be based upon the number of times the dauber was used or the number of bingo sessions. The rule prohibits the manufacturer from charging a fee based on the number of cards sold, the percentage of sales, or the amount spent by the player. GameTech is asking to delete the language limiting or preventing them from having the charge be based on the number of cards sold.

**Ms. Hunter** reported staff had problems with this petition because of the way the rule is drafted versus the current RCWs. First, and most importantly, the RCW says only non-profits may profit from the gambling, and that the benefits can't inure to any particular individual. Additionally there is a definition under proceeds which explains that it is not inurement if you are using the funds for a necessary expense such as a rental expense for the bingo operation. The rule goes on to say if an expense is considered necessary or if it improves the overall profitability of the activity by increasing the gross gambling receipts more than the corresponding increase in expenses. Another part of the RCW prevents rent from being based on a percentage of gross gambling receipts. Ms. Hunter noted that in going back in history and trying to prove why the Commission would prevent a per card charge, staff believed it was based on the connection back to the RCW preventing rent from being based on a percentage of gross gambling receipts. As the staff reexamined the rules, Ms. Hunter reported that it seemed like the licensee could have a per card fee if they could show that it was a necessary expense. Staff recommends filing the petition for further discussion.

**Chair Ludwig** inquired if it would affect the overall profitability of the bingo licensee. **Ms. Hunter** believed so. **Acting Assistant Director Greg Thomas** commented that from the discussion at the study session, it doesn't appear they intend to increase the cost; however, it certainly could have that potential if the Commission adopted the rule as proposed in the petition—they would have a lot more discretion. **Chair Ludwig** called for public comments.

**Jeremy Schwenk**, GameTech International responded to the question regarding profitability, noting the intention of the rule change was not for the overall pricing of their products. The intention related to particular games associated with GameTech's products. Currently an electronic bingo dauber is an electronic representation of particular games that up until recently could not be played with an electronic dauber, which limited the number of games that people played. One of the games now allowed by electronic daubers is a "U-Pick Em" game where the players are allowed to pick their own numbers. It is almost like Keno or a Lottery, but it is a bingo game. Other vendors that supply a paper representation of the same game charge a per card price; and GameTech would like the ability to charge per card for that game as well. The bingo paper manufacturers may argue the per card charge is justified to cover bingo paper expenses. Mr. Schwenk affirmed the "U Pick Em" game profitability would increase. He explained that electronic daubers are used throughout Washington to increase profitability for the bingo halls—it allows a bingo player to play more cards than they could manually daub. Mr. Schwenk commented about concerns in the industry that if this rule was approved, increases or usage fees may occur. He affirmed that GameTech's current pricing allows increasing the fee either way; whether it was based on a per card rate or based on a per use fee. **Chair Ludwig** inquired whether GameTech was a licensed distributor in Washington. Mr. Schwenk affirmed.

**Ric Newgard**-Seattle Jr. Hockey Association stated this petition was potentially helpful to the Bingo industry and that his association recommended filing the petition for further discussion and further testimony.

**Linda Smith** representing the Seattle Jaycees Bingo and Charitable Nonprofit for Boys expressed concern on the proposed wording and changing this rule. She affirmed that it could be a benefit to the industry to have another type of game; however, she wasn't sure the proposed rule was the right method. Ms. Smith suggested that it has a lot of possibilities that could go a lot of different directions, which concerned several different managers, some of which are currently struggling and trying to stay in compliance. Concern has been expressed that this is another possible way to raise pricing. Several of the managers believed a subsection could be added to the rule separating the specific electronic games. Ms. Smith noted that GameTech isn't the only electronic game company in the state—that there are probably four or five others. With no further comments, **Chair Ludwig** closed the public testimony.

**Commissioner Bierbaum** made a motion seconded by **Commissioner Ellis** to file the petition for further discussion. *Vote taken; the motion passed unanimously.*

**5. Allowing Credit between Operators and Manufacturers/Distributors**  
**WAC 230-12-340 and WAC 230-12-350**

**Ms. Hunter** reported the proposed rules relate to repealing the credit restrictions between operators and distributors, and manufacturers. At the September meeting, the credit rules that dealt with credit between distributors and manufacturers were repealed. At that time, the Commissioners asked staff to look into the rules that prevent credit between operators and distributors and whether those could be repealed as well. Staff concluded that the rules could be repealed—staff does not have regulatory concerns with allowing this type of credit.

Repealing the rules would allow the operators to pay on credit and they would also be able to use credit cards for their purchases.

**Ms. Hunter** explained the second rule repeal proposal deals with the acceptance of checks and how many days the licensee has to bring them to the bank. She noted if the Commission gets out of the business of being involved in the credit issue, the existing rules are not necessary. The staff checked with four other states as to whether they allow credit. New Mexico didn't have any regulations on this matter, Alaska required payment within 30 days, and Idaho and Oregon requires buying their pull-tabs from the state—in approximately three weeks (after they receive the product) an electronic transfer is executed for payment.

Letters were sent to all of the manufacturers and distributors letting them know about the rule proposal. Staff recommends filing both rules for further discussion. **Chair Ludwig** questioned how these rules related to the rule passed in September. **Ms. Hunter** replied these rules deal with a different person in the chain—it deals with the operators (the restaurant or tavern that has the pull-tab license), and their business relationship with the manufacturer/distributor they are buying their pull-tabs from. It involves different marketing levels. Chair Ludwig asked if it was the same people regarding credit between the manufacturers and distributors. Ms. Hunter explained the difference now is the rule adds the operators; the actual person (restaurant owner or tavern) who is selling the pull-tabs to the playing public. **Director Day** recalled that at the time of the discussions regarding the pricing and credit restrictions the Commissioners repealed, the operators asked staff to look at the similar restrictions between distributors and operators and to determine whether or not those should go forward for the same treatment. Staff has looked at the rules as requested and is now suggesting that these restrictions should be removed as well.

**Mr. Ackerman** inquired if the repealers were intended to apply to anything other than pull-tabs. He noted the proposed rules appear to talk in very sweeping terms about gambling equipment devices, related supplies, paraphernalia, and services. **Ms. Hunter** affirmed it would apply to all activities, not just pull-tabs. There were no further questions or comments.

**Commissioner Ellis** made a motion seconded by **Commissioner Bierbaum** that the Commission accept the proposed rule change to be filed for further discussion. **Chair Ludwig** called for public testimony.

**Dolores Chiechi**, Executive Director for the Recreational Gaming Association (RGA) thanked staff for bringing the rule forward. She commented that since last fall when the rules were discussed and then eventually repealed, the RGA felt it wasn't consistent to allow for credit to be offered to one segment of the industry and not apply those rules across the board for the rest of the industry. Ms. Chiechi affirmed the RGA believes this is a business decision—if a distributor wants to have an operator pay in cash, they still have the opportunity to do that. This rule doesn't require them to do that; however, it allows them to continue to make that business decision. **Ms. Chiechi** reported that the RGA looked forward to further discussion about this rule, and an eventual change of the rule.

With no further discussion; **Chair Ludwig** called for a vote. Vote taken; the motion passed unanimously.

**6. New Licenses, Changes, and Tribal Certifications:**

**Commissioner Bierbaum** made a motion seconded by **Commissioner Ellis** to approve the list of new licenses, changes, and tribal certifications as listed on pages 1-19. Vote taken; the motion passed unanimously.

**7. Summary Suspensions & Defaults:**

**Jenni Schaefer:** (not present)

**Ms. Hunter** reported that Ms. Schaefer was an accounting employee for Hawks Prairie Casino in Lacey. She allegedly presented fake and duplicate invoices and pay out forms to the casino cage cashier for reimbursement. She admitted that she had taken approximately \$5,000 to \$6,000 from the Hawk's Prairie Casino using this scheme. According to the records, staff believes that Ms. Schaefer received close to \$70,000. Staff is requesting that Ms. Schaefer's license be summarily suspended.

**Commissioner Ellis** made a motion seconded by **Commissioner Bierbaum** to summarily suspend Jenni Schaefer's license to conduct authorized gambling activities pending an opportunity for a hearing before an Administrative Law Judge or the Commission, substantially in the form of the findings of fact, conclusions of law, and order of summary suspension of the license as presented by staff. Vote taken the motion passed unanimously.

**Nga T. Tran:** (not present)

**Ms. Hunter** reported that Nga Tran allegedly conspired with others to cheat a card room by using a marked deck of cards. Ms. Tran was employed as a floor supervisor by the Silver Dollar in Renton at the time. The card room terminated Ms. Tran and the King County prosecutor has filed five counts of first degree cheating against her and others. Staff is requesting a summary suspension be entered.

**Commissioner Ellis** made a motion seconded by **Commissioner Bierbaum** that the Commission enter an order summarily suspending Nga T. Tran's license to conduct authorized gambling activities pending an opportunity for a hearing before an Administrative Law Judge or the Commission, substantially in the form of the findings of fact, conclusions of law, and order of summary suspension of the license as presented by staff. Vote taken; the motion passed unanimously.

**Jason Miller:** (not present)

**Ms. Hunter** explained that while Mr. Miller was working as an accounting employee for Buzz Inn Casino located in East Wenatchee, he cashed eleven separate checks for significant amounts of money that were in excess of the amount the casino actually needed to replenish their funds. Based on the paperwork found, staff believes that Mr. Miller has benefited from at least \$65,000 in cash that he was not entitled to—Mr. Miller has also been charged with first-degree theft in Douglas County Court and he is not currently working as a card room employee. Staff requests that a summary suspension be entered.

Commissioner Ellis made a motion seconded by Commissioner Bierbaum that the Commission enter an order summarily suspending the license of Jason Miller to conduct authorized gambling activities pending an opportunity for a hearing before an Administrative Law Judge or the Commission, substantially in the form of the findings of fact, conclusions of law, and order of summary suspension of the license as presented by staff. *Vote taken; the motion passed unanimously.*

**Jeffery H. Limon, Card Room Employee, Denial of Application:** *(not present)*

**Ms. Hunter** explained that Mr. Limon applied to work at RC's Casino in Sunnyside and staff requests that his application for card room employee license be denied, based on a 2003 conviction for possession with intent to deliver or manufacture marijuana—a felony. The Director brought charges against Mr. Limon. They were sent by certified mail and regular mail. He received and signed the charges. Staff tried to contact Mr. Limon by phone to remind him of the deadline to request a hearing and the phone simply rang. By failing to respond Mr. Limon has waived his right to a hearing, and staff is requesting a default order be entered denying Mr. Limon's application for a card room employee license.

**Commissioner Bierbaum** inquired whether the conviction for any Class C felony disqualifies a person from having a card room employee license. **Ms. Hunter** affirmed it typically it would and she noted staff generally looks at two things; how long ago the conviction was, and what the conviction was for. Commissioner Bierbaum inquired who makes the decision about whether manufacture, delivery, or the possession of marijuana is a crime of moral turpitude. Ms. Hunter advised that staff looks to case law.

Commissioner Ellis made a motion seconded by Commissioner Bierbaum that the Commission enter an order denying the application of Jeffery Limon for a license to conduct authorized gambling activities substantially in the form of the findings, conclusions, decision and final order of default as presented by staff. *Vote taken; the motion passed unanimously.*

**Janet D. Kleman, Class III Employee, Revocation:** *(not present)*

**Ms. Hunter** noted that staff is requesting that Janet Kleman's Class III certification be revoked based on Ms. Kleman attempting to take \$160 dollars from a patron who accidentally gave her more money than she meant to when she was buying tickets at a facility operated by the Lummi Tribe. The Tribe terminated Ms. Kleman and the Director brought charges against her; she responded by saying that she did not want a hearing because she no longer wanted to work in the gambling industry. Ms. Kleman has waived her right to a hearing and staff is requesting that a default order be entered revoking her Class III certification.

Commissioner Ellis made a motion seconded by Commissioner Bierbaum that the Commission enter an order to revoke Ms. Kleman's Class III certification to conduct gambling activities substantially in the form of the findings, conclusions, decision and final order and default as presented by staff. *Vote taken; the motion passed unanimously.*

**Virginia W. Alaniz, Class III Employee, Revocation:** *(not present)*

**Ms. Hunter** advised that Virginia Alaniz was formerly employed at the Silver Reed Casino operated by the Lummi Tribe. Staff is requesting that Ms. Alaniz's Class III certification be revoked based on Ms. Alaniz taking \$100 while she was working as a Tribal Lottery System employee. She admitted that she took the money—she crumbled up a \$100 bill and put it in her pocket. She was terminated and the Tribe revoked her license. The Director brought charges and she did not respond. Staff tried to contact Ms. Alaniz by phone to remind her of the deadline and left a message. By failing to respond, Ms. Alaniz has waived her right to a hearing and staff is recommending a default order be entered revoking her Class III certification.

Commissioner Ellis made a motion seconded by Commissioner Bierbaum that the Commission enter an order revoking Virginia Alaniz's Class III certification to conduct gambling activities substantially in the form of the findings, conclusions, decision and final order, and default as presented by staff. *Vote taken; the motion passed unanimously.*

**8. Approval of Minutes – March 9 and 10, 2006:**

Commissioner Ellis made a motion seconded by Commissioner Bierbaum to approve the minutes of the March 9, 2006, meeting in the form presented by staff. *Vote taken; the motion passed unanimously.*

Commissioner Ellis made a motion seconded by Commissioner Bierbaum to approve the minutes of the March 10, 2006, meeting in the form presented by staff. *Vote taken; the motion passed unanimously.*

**9. Other Business/General Discussion/Comments from the Public:**

**Chair Ludwig** called for public comments.

**Nathan Herzog**-recreational player commented that whenever he has seen Commission staff at work they have always performed very professionally and they have done a very good job looking out for the public at large. He addressed concerns with regard to a few of the mini casino operations in the Puget Sound area that have contracted to have coupons sold by a third party in order to draw new customers. Mr. Herzog reported that he and some of his friends purchased the coupons, and now some of the casinos are not honoring the coupons under the terms contractually agreed to. He acknowledged that Commission field agents have worked on this at various times in the past; however, he believed this was a situation that would escalate. Mr. Herzog suggested this was a potentially serious licensing issue, a consumer protection matter, and a significant legal issue that would ultimately fall under the Commission's purview. He asked for the Commission's assistance in resolving this situation.

**Commissioner Bierbaum** inquired whether Mr. Herzog notified Commission staff about the situation. **Mr. Herzog** affirmed and noted diligent efforts have been undertaken over the last couple of months. He advised there seemed to be a repeated behavior by some of the businesses who are engaging in trying to find ways to circumvent their contractual obligation

to honor the coupons. **Commissioner Bierbaum** asked for more information on the coupon. Mr. Herzog provided an example of a match play coupon—if a person bets \$10 and plays the coupon, it would pay out \$20. He indicated the people who purchased the coupon books spent \$40 for coupons to approximately 13 different casinos throughout the Puget Sound area that offered various promotions and bonuses encouraging people to visit and play.

**Chair Ludwig** asked who published the coupon book. **Mr. Herzog** reported an individual proprietor had the contracts and apparently made the Gambling Commission aware the coupons were going to come on line and that the casinos were going to be promoted as part of the coupon booklet—that it was also an opportunity for them to draw in business, and the coupons would also be sold to individual players who wanted to try new places. Chair Ludwig inquired whether Mr. Herzog had talked to Mr. Maleng’s office, noting it may be a violation just for publishing a coupon booklet that has no value. Mr. Herzog responded that he had not contacted Mr. Maleng’s office. He explained that individual players simply wanted to be able to go to the establishments and play the coupons. It wasn’t a problem a few months ago, and then some of the mini casinos began requiring different things to take place in terms of the amount of play, or changing the terms. The players simply want an amicable resolution with the individual casino operators to allow the players to play until the expiration date of the coupons. Chair Ludwig suggested this case might be more appropriate for a prosecuting attorney to address rather than the Gambling Commission.

**Alan Poole-Matchplay Unlimited** advised that he produces the book which is called the Lady Luck Casino Coupon Book. He demonstrated Volume III, noting that Volume I was the first booklet published on September 1. Mr. Poole noted that before Volume I was issued, copies were provided to Special Agent Keith Wittmers who reported that the Gaming Commission saw no problem with selling the match play coupons. The concept was marketed to the casinos—it would cost nothing and provides free advertisement and utilizes the same philosophy of one per day limits in a hope that it will keep people coming back. Mr. Poole highlighted the different variety of match play coupons: lady wins, poker buy-in coupons, and buy in for \$40 and get \$60 of chips after two hours of live play. Additionally, each booklet has a dining section with free two for one dinner coupons. Mr. Poole acknowledged some of the casinos are having a problem with the coupons because they are getting so much use and they are now exercising the right to refuse service clause and banning their use until December 31, which is when the coupon expires. **Chair Ludwig** inquired where the facilities were located. Mr. Poole responded the 14 casinos are identified on the back of the cover icons—ranging from Bellingham to Olympia.

**Assistant Attorney General Jerry Ackerman** didn’t believe that in general (at least currently) coupon books are restricted to county. He suggested that the proper body or agency to consider this problem would probably be very fact dependent and he suspected that the facilities may have a different version of facts than what has been heard today. If the presentation is accurate, he agreed this could perhaps be an appropriate topic for a prosecutor’s office or by the Consumer Protection Division of the Attorney General’s Office. Mr. Ackerman affirmed it was beneficial that the speakers brought the issue forward today so the Commission could be informed about this current issue. **Mr. Poole** affirmed and reported that he anticipated that a civil issue will be initiated next week.

**Greg Thomas**, Acting Assistant Director affirmed the Commission received some complaints and agents have investigated and worked with the casinos to get them to honor the terms of the coupons. Staff has found that one person will buy many books and keep going back to a facility numerous times, which was when the casinos started having problems. They are refusing service because of problems they are having which puts the Commission in an awkward position of trying to determine if they are not honoring the coupon or if there are other reasons they are barring these people. Agency staff has attempted to work with the casinos to get them to honor the terms of the coupons.

**Commissioner Bierbaum** didn't believe this was a matter for the Prosecuting Attorney or some other agency; she believed it was an extremely serious situation. She commented that if a player goes to the casino to get their chips (or whatever) cashed in, and the casino said no, it would be a matter for the Commission. She agreed the Commission was only hearing one side of the story, and she asked the Chair to direct the staff to provide a report on this matter at the next meeting. **Director Day** affirmed and asked Mr. Poole to share any information he felt would be pertinent for the staff to review. **Mr. Poole** provided copies of signed contracts and shared a couple of scenarios on the difficulty players and casinos are experiencing.

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

At 4:45 p.m., **Chair Ludwig** called for an Executive Session to discuss pending investigations, litigation/possible future litigation, and tribal negotiations. The public meeting was called back to order at 5:45 p.m.

**Commissioner Bierbaum made motion seconded by Commissioner Ellis to raise the Director's salary to \$127,000 per year effective May 1, 2006. Vote taken; the motion passed unanimously.**

**Chair Ludwig** adjourned the meeting at 5:50 p.m.

Minutes submitted by,  
Shirley Corbett  
Executive Assistant

**COMMISSION MEETING  
FRIDAY, APRIL 14, 2006  
DRAFT MINUTES**

**Chair Ludwig** called the meeting to order at 9:30 a.m. at the Heathman Lodge in Vancouver, Washington. The following members and staff were present:

**MEMBERS PRESENT:**     **COMMISSIONER CURTIS LUDWIG**, Chair, Kennewick  
                                  **COMMISSIONER JOHN ELLIS**, Seattle

**STAFF PRESENT:**       **RICK DAY**, Director  
                                  **GREG THOMAS**, Acting Assistant Director-Field Operations  
                                  **AMY HUNTER**, Administrator- Communications & Legal  
                                  **JERRY ACKERMAN**, Assistant Attorney General  
                                  **GAIL GRATE**, Administrative Assistant

**10. Director's Report:**

**Director Day** advised that while there was not a quorum of the Commission present, there was a need to finish the agenda that was planned for public discussion; however, no action requiring a vote was planned. He also clarified the June meeting is being held on a different week than normal, on Thursday, June 15 and Friday, June 16 in Walla Walla. It will be Chairman Ludwig's last meeting with the Commission as he completes his term in a very distinguished career.

Adjusted Cash Flow - **Director Day** noted this report is for calendar year 2005 for charitable non-profit operations. He pointed out this is the first full calendar year report under the new rule, and that four additional operations have now closed. He recalled the Commission switched from a quarterly adjusted cash flow system to a calendar year reporting system. From a compliance perspective, that has been very successful. He alerted the Commission to the fact that more Bingo operations are closing. He affirmed that the staff is aware they are experiencing a dramatic impact from the smoking ban as far as their customer base and a loss of revenues. What staff doesn't know is whether that impact is going to be short or long term. Director Day noted the adjusted cash flow requirements have the ability to offer relief for one year; but, the licensee does have to meet certain percentage requirements. The staff will be working with licensees on this issue since they have specific problems and there is time between the full calendar year and the one-year relief period to try to resolve issues that might come up.

### 2006 Legislative Activity Report

**Director Day** drew attention to the Legislative Summary Report which was designed to give the Commissioners a brief summary on staff activity during the last legislative session. Thirteen (13) formal meetings were completed with various senators and representatives, and Lieutenant Brad Owen. The Legislative Team tracked a total of 32 bills, 25 were gambling related. Agency staff attended 20 different House and Senate hearings. The Commission endorsed, supported, and asked staff to pursue the Internet gambling bill—that bill (SB 6613) has been signed by the Governor. Some of the bills the Commission was concerned about did not pass this session; and as a result will have to be filed next session. The Commission also issued a letter to Governor Gregoire about federal legislation—Senate Bill 2078, expressing concerns about the expansion of the NIGC’s authority over Class III gaming. Governor Gregoire also sent a letter to Senator McCain (who chairs the Senate Indian Affairs Committee), expressing her concerns about that bill. At this point, agency staff is continuing to work with Senator Cantwell’s staff and exchange information relative to Senate Bill 2078 and will keep the Commission informed as things progress. The Legislative Team is heavily into preparations for the 2007 session and they will be bringing concepts forward for agency request legislation for discussion and consideration at the June meeting.

### Correspondence:

**Director Day** again noted the March 28 correspondence from Governor Gregoire previously addressed relating to Senate Bill 2078. Correspondence directed to the Department of the Interior was also included in the agenda packet relating to the restored lands decision and the initial reservation discussion underway with the Cowlitz Tribe.

Fiscal Year 2005 State Audit Report – **Director Day** reported this is the report back from the auditor that informs the Commission of a clean audit for 2005. This is a great compliment, particularly to the agency’s financial staff. The letter also informs the Commission that they are back and will be conducting the next annual audit. **Commissioner Ellis** expressed his congratulations to the staff.

Tribal Impact Contributions for Road Improvements/Tribal PD’s – **Director Day** addressed the summary report provided last month on Tribal 1 and 2 percent funding and noted Assistant Director Julie Lies provided additional written clarification on the issues requested by the Commission. **Commissioner Ellis** responded that he appreciated the information concerning the amount of local impact money that went into highway projects.

### Summary of Emphasis Patrols

**Director Day** reported that former Assistant Director Cally Cass provided the written information on enforcement emphasis and concentrated emphasis activities. He noted the Commission facilitated an emphasis report on late quarterly reporting in response to the Commission requesting staff to strengthen our efforts on compliance. The report in the agenda packet summarizes some of that information. In this case, licensees with four or more late reports were submitted to the agency’s legal division for a statement of charges. Licensees with two or three late reporting violations were sent directly to Field Operations and an agent personally visited each licensee. As a result, agents visited 44 licensees and issued 18 violation notices (essentially a civil ticket). The staff thought a more direct and

immediate approach may have a greater impact on the next quarterly reporting process, and agents will evaluate whether that approach worked.

Multiple House-Banked Card Room Ownership Update (*Presentation tabled until June*)  
With no further reports, **Chair Ludwig** called for public comments and there were none.

## **12. License Fees for Military Personnel:**

**WAC 230-04-204 and WAC 230-05-035:**

**Director Day** stated both rules are up for discussion only and eligible for final action in June. He noted there is also a corresponding amendment to the rules simplification process that has already been passed. If the proposed changes are approved by the Commission the corresponding amendment makes sure the already adopted package is amended in the same fashion. The rule is intended to allow military personnel that have been deployed to be able to renew their license without financial penalty. It reflects some of the similar mechanisms used in other departments and agencies in state government. Staff hasn't received any comments since the last meeting and staff recommends discussion continue on this item.

**Chair Ludwig** called for public comments and there were none.

## **13. Rules Simplification Project:**

**Chapter 230-06:**

**Beth Heston, Project Manager** explained that Chapter 6 contains rules for all licensees. It is an amalgam of Chapter 4, Chapter 8, and Chapter 12. The rules in Chapter 6 are not new they have simply been moved into a new chapter; with the exception of rules addressed in two rule summaries—the first occurs after page 2, which is a new section preventing intoxicated persons from operating or playing gambling activities. The rule broadens the enforcement that previously existed in Chapter 20 and Chapter 40 that dealt with pull-tabs and house-banked card rooms. Previously, there were specific rules not allowing people to gamble in those two activities when they were visibly intoxicated. The new rule is expanded to include all gambling activities. The second rule summary occurs behind page 11, to cover new sections of the rules that deal with reporting time requirements. Previously, Commission rules laid out different reporting time spans (14 days, 21 days, and 30 days). To make the rules more consistent, reports requested by the Commission will now have a 30-day due date requirement. Ms. Heston noted the rules have been filed for discussion and will be up for final action at the June meeting. **Chair Ludwig** called for questions and public comments.

**Commissioner Ellis** pointed to page 4, WAC 230-06-040, and advised that he found it a little counter intuitive that only charitable and non-profit organizations are required to provide a record of promotional items that cost more than \$100. **Mr. Thomas** affirmed that non-profit organizations have to document where all their expenses are going; however, the \$100 limit allows the purchase of "small items" and anything above \$100 must be reported because the Commission wants to know where the money is going, and who it is going to.

## **14. Gambling Devices at Trade Shows:**

**WAC 230-12-337:**

**Director Day** explained WAC 230-12-337 is a new rule proposed by staff regarding manufacturers and distributors transporting and displaying gambling devices at trade shows

and conventions. The rule is up for discussion this month with final action planned in June. Staff recommends that if the rule is approved, it would be effective 31 days after filing. The purpose of the rule is to clarify RCW 9.46.215, which talks about the furtherance of authorized activities by manufacturers and distributors. The rule is directed specifically to authorize and control the transport and display of gambling devices at trade shows. At issue in this rule is primarily Class III and Class II devices that are not legal outside of Indian Country. The Commission received a letter from Ernie Stebbins, Executive Director of the Washington Indian Gaming Association, in July regarding this rule and the content of that letter reflects (in effect) the content of this rule. Director Day explained that as the Commission faces these activities each year, and, at times the Commission has not been consistent on this matter. Staff believed it was a significant enough policy issue that it should come before the Commission for a permanent decision. Staff recommends further discussion. **Chair Ludwig** called for public comments.

**Ernie Stebbins**, Executive Director-Washington Indian Gaming Association, noted that WIGA's members include 24 federally recognized tribes and a number of manufacturers and suppliers of goods and services to the gaming industry. He reported that WIGA has held trade shows in the State of Washington for the past five years, and, a sixth trade show is scheduled in the Tacoma Convention and Trade Expo Center on July 24-25 and 26. The show generally attracts about 2,500 people and 100 exhibitors from approximately five of the western states. Participants include tribal leaders, tribal regulators, national gaming regulators, as well as people interested in gaming and the economic development of Indian Country in Washington. The show is also an opportunity for the National Indian Gaming Commissioners to hold individual government-to-government consultations with any of the tribes in the state. While it is not a formal part of the trade show and conference, they take the opportunity to schedule individual meetings between the Commissioners of the NIGC and the tribal councils of the tribes in Washington or other western states to discuss individual gaming issues knowing that so many tribal leaders will be in one city at one time. The trade show is an opportunity to engage in commerce as well as participate in seminars such as compliance workshops, marketing workshops, operation workshops, and political workshops.

**Mr. Stebbins** addressed the issue of manufacturers of Class II gaming devices being prohibited from exhibiting their machines at trade shows, while at the same time licensed manufacturers of Class III devices in Washington State who also manufacture Class II devices would be allowed to exhibit at the trade show under the existing rule application. He explained it creates an uncomfortable two class system and a catch-22 situation. He explained that the Washington State Gambling Commission is not authorized by federal law to license manufacturers of Class II devices—that responsibility is left to the federal government and the Tribal Gaming Agencies. He affirmed an awkward situation is created when Class II manufacturers who do not also make Class III machines that could be licensed in Washington State are unable to present their products at trade shows, while at the same time the devices are legal on Indian Reservations within the state of Washington.

**Ms. Stebbins** advised his March 30 correspondence offers alternative language to the staff rule proposal which adds language specifically referencing the locations where the devices might be delivered (Indian Reservations within the state of Washington). The alternative

language provides regulatory protections needed to make sure the machines are legal in the state of Washington under state or federal law; and, also provides for the regulatory oversight of the Gambling Commission since the Commission would have notice that the machines would be entering the state for a particular purpose. The machines would be licensed by the Tribal Gaming Agencies and certified by the Federal National Indian Gaming Commission, and they would be certified as Class II—they would not be illegal slot machines which are prohibited from transport into the state of Washington.

**Mr. Stebbins** believed the alternative language provides safety considerations for the public and is within the regulatory authority of the Gambling Commission. He requested the Commission amend the staff proposal to include WIGA's proposed language; or accept WIGA's language as an alternative to the staff proposal. He expressed concerns on the procedural viability of either of his suggestions since a trade show is scheduled in July, and the timing of rule adoption, if approved, and when the rule would become effective in relation to three exhibitors who have already requested authorization to deliver and display their Class II machines at the show. He affirmed WIGA could ask the legislature (next year) for a specific trade show exception to the RCW, which is what the state of Oregon did; however, Mr. Stebbins thought it might be a simpler path for the Gambling Commission to pass a statute that expands the exception to the RCW. Mr. Stebbins affirmed that he discussed the proposal with Commission staff; however, they didn't have time during the meetings to explore the authority of the Commission in its rule making process to include an opportunity for unlicensed manufacturers (unlicensed by the state, not unlicensed under federal law), to display their machines at trade shows.

**Commissioner Ellis** addressed the substance of Mr. Stebbins' proposal and asked if there were any staff concerns about resolving the catch-22 and whether there were any reasons not to allow the manufacturers of Class II machines who are licensed under federal law to be able to display the machines at trade shows. **Director Day** responded that he would like to take some time to review the proposal in total. He addressed the basic authority of the Commission and whether or not there is a legal foundation for the rule. Director Day expressed concern regarding the structure of what is transported to Indian Country being under the jurisdiction of the tribes that govern those operations, and instances of manufacturers who have not been investigated or reviewed, that would be shipping machines and equipment and doing business off reservation. That is outside of the current structure of regulating and investigating all people that do gambling business in Washington. Director Day acknowledged and appreciated the direct relationships with the Tribal Gaming Agencies who conduct background checks and review information.

**Mr. Stebbins** affirmed the manufacturers would be investigated by the Tribal Gaming Agencies, and the result of their investigation would be forwarded to the National Indian Gaming Commission, which may perform additional investigations on these types of manufacturers, or they may have additional information from sources outside the state of Washington as a checks and balance situation. They may either deny or revoke licenses issued by the Tribal Gaming Agencies. In closing, Mr. Stebbins believed the process would actually give the Commission greater authority over the Class II manufacturers licensed through the federal process. While the Commission would not have the authority to make

any determination to examine the games delivered directly to Indian Country, Commission agents would have access to the machines and whatever additional information they required from the manufacturers if the machines were being delivered to a destination such as the Tacoma Convention Center.

**Doug Boone**, CEO of the Little Creek Casino representing the Squaxin Tribe reported that his Tribe provided comments last year regarding this particular issue. He pointed out that in the past the Gambling Commission has found a way for manufacturers that are not licensed by the Gambling Commission to display their equipment. He specifically referred to an electronic bingo machine that was not yet licensed, which was displayed (off reservation) in a hotel in Spokane at a Commission meeting in order for the commissioners to see it operate as they considered the equipment. Mr. Boone suggested there is a different set of rules for the Gambling Commission and the Tribe in instances regarding whether the equipment is licensed, or whether it is displayed. He affirmed the Tribes are licensed by the federal government and the machines involved in trade shows are for display purposes only—for people to look at and possibly consider. Mr. Boone emphasized that accommodations should be made for the trade show purposes.

In response to a question from Chair Ludwig, **Director Day** advised the cost of a manufacturer license varies from a very small fee and a special sales permit type of license at \$200 through license fees up to \$2,400. He noted the fees don't reflect the full agency cost because in most cases with manufacturers, agency staff are usually dispensed to the site to observe and examine the manufacturing process. Considering those types of investigative expenses, Director Day suggested the actual cost to the licensee for a new application/license probably runs closer to around \$10,000.

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

**Chair Ludwig** called for comments from the public.

**Max Faulkner** invited the Commissioners to an organized wine tour following the June 15 Commission meeting. An itinerary was provided for distribution. With no further comments, **Chair Ludwig** adjourned the meeting at 10:30 a.m.

Minutes submitted by,  
Shirley Corbett  
Executive Assistant