

**WASHINGTON STATE
GAMBLING COMMISSION MEETING
THURSDAY, JULY 10, 2008
DRAFT MINUTES**

Chair Peggy Ann Bierbaum called the meeting to order at 1:35 p.m. at the Heathman Lodge located in Vancouver and introduced the members present.

MEMBERS PRESENT: **Commission Chair Peggy Ann Bierbaum**, Quilcene
 Commissioner Keven Rojecki, Tacoma
 Commissioner Alan Parker, Olympia
 Commissioner John Ellis, Seattle
 Senator Margarita Prentice, Seattle
 Representative Geoff Simpson, Covington
 Representative Gary Alexander, Olympia

STAFF PRESENT: **Rick Day**, Director
 Mark Harris, Assistant Director – Field Operations
 David Trujillo, Assistant Director – Licensing Operations
 Amy Hunter, Administrator – Communications & Legal
 Jerry Ackerman, Senior Counsel
 Gail Grate, Executive Assistant

1. Agenda Review/Director’s Report

Director Rick Day explained that because there will not be a quorum for Friday’s meeting, the agenda was changed a second time. The agenda that will be followed is the “Second Revised Agenda” that includes items that were moved from Friday because they required a vote. Director Day briefly reviewed the items moved from Friday’s agenda. The petitioner for PokerTek electronic poker tables has requested the Commission hold their petition over to the August meeting (*Chair Bierbaum nodded approval*). Staff has been notified that both Andrea Breithaupt, Petition for Reconsideration, and Yhupin Chang, Petition for Review, will not be attending this meeting and they requested continuances. **Director Day** reported that Friday’s meeting would only be for discussion of the proposed rules or for public comment on other business, in the event public traveled to the meeting to comment on the rules that were initially posted for Friday.

Director Day explained that staff usually appears before the Commission regarding the budget twice during the year, usually in July and August, unless there are particular problems. In-between sessions staff has normally come before the Commission to ask for adjustments to the current year budget to reflect any legislative statewide changes that have been made. If the final 2009-2011 budget is approved in August, staff would be recommending approximately a 14 FTE reduction and about a \$2 million reduction in the budget by the end of 2011. The agency’s plan has been to reach the FTE targets through

attrition, which the agency has been able to do and will continue to do with the use of the federal forfeiture. Over a three-year period staff levels will be gradually reduced naturally and not through layoffs and attrition.

a) **Budget – Proposed 2009 Adjustments and Preliminary 2009-2011 Biennium**
(Power Point Presentation)

Ms. Judy Pittelkau from the Business Operations Division reported the purpose of the presentation was to get the Commission’s approval for the proposed staff changes to the Fiscal Year (FY) 2009 budget that was approved by the Commission in August of 2007 and to approve the changes that were implemented by the Legislature during the 2008 legislative session. Staff is also asking for the Commission’s feedback and direction on the preliminary budget for the 2009-2011 biennium that will be brought forward for Commission approval at the August meeting. Ms. Pittelkau reviewed the various slides in the PowerPoint presentation.

- The Commission gets its authority in RCW 9.46. In statute, the Commission establishes fees and has the authority to raise fees, but I-960 now requires all fee increases be approved by the Legislature.
- As a non-appropriated agency, money is not received from the general funds. The agency is expected to cover all its costs through fees and other revenue sources. Fees are not to be less than what is adequate to cover all the costs incurred by the Commission relative to licensing and enforcement of the provisions of RCW 9.46.
- Revenue ranged from a low of about \$611,000 in August of 2007 to a high of about \$3.5 million in December of 2007. It is anticipated the revenue will be slightly higher than what was estimated for the fiscal year.
- Expenditures through May are about \$912,000 below the original estimates and should be within the management plan by the end of the year. Last year a management plan was put into action reducing expenditures to operate within the revenue stream and preserve the working capital balance.
- Fiscal year 2008 allotted FTE level was 176.4, the management target was 169.7, and the actual FTE level was 164.8.
- Working capital balance at the end of FY 2008 will be above \$2 million, which is slightly above the original estimate and management target plan. During the year, the lowest end-of-month working capital balance was about \$645,000 in November of 2007 and the highest end-of-month working capital balance was about \$3 million in December of 2007. Many things can affect the working capital balance for the agency, such as the Legislature, licensees, tribes, or the public. Staff uses the best information available to build the budget, but the actions of others can affect and change the results. The greatest expenditure items are salaries and benefits, which this biennium was increased by approximately \$1.9 million, and significantly impacts the working capital balance.
- I-960 requires all fee increases be approved by the Legislature, which has caused fee increases to be delayed or denied, resulting in revenues being lower than necessary to maintain an adequate working capital balance.

- On May 28, 2008, the agency received a favorable Opinion from the Attorney General's Office allowing the fee increase the Commission approved that was to be effective January 1, 2008. Staff expects the impact of that fee increase to be about \$500,000 per year.
- Staff anticipates receiving approximately \$4.2 million in seized funds from the federal government. Those funds are required to be kept separate from the agency's operating account and will be deposited in a local interest-bearing account and will be used to reimburse the operating fund for any qualified expenditures.
- Revised revenue estimate for FY 2009 is about \$19.6 million, which includes the \$4.2 million in seized funds and the related interest. Without the seizure funds, the estimate would be about \$15.3 million, whereas the previous estimate was about \$17.3 million, which was due to anticipated revenue enhancements.
- In FY 2007, revenue from house-banked card rooms and card room employees made up 29 percent, punch boards/pull-tabs made up 28 percent, tribal regulation certification and electronic gambling lab charges made up 28 percent, and all other revenue sources combined made up 15 percent.
- With an estimated beginning working capital balance of \$1.8 million, estimated revenues that include the seized funds of \$19.6 million, and the revised expenditure plan of \$16 million, the estimated ending working capital balance would be \$5.4 million. Without the seized funds, expenditures would be higher than revenues and the estimated ending working capital balance would be approximately \$1.1 million.
- In August of 2007, the Commission approved a budget for FY 2009 totaling \$16,903,000 and 174.4 FTEs. Staff is requesting the Commission approve a revised FY 2009 budget of \$16,041,000 and 166.4 FTEs; a decrease of \$862,000 and 8 FTEs.

Commissioner John Ellis noted a very substantial percentage of the Commission's costs are for salaries and benefits of personnel of about 77 percent. The staffing chart shows there was a substantial reduction in FTEs below the managed target level versus the actual staffing level, but during the same time frame, the actual expenditures for May showed the targeted expenditure level was slightly below the actual expenditures. Commissioner Ellis felt those two sets of numbers seemed a little counter-intuitive and wondered why that significant reduction in actual staffing below the targeted number did not result in an actual expenditure number that was below the target. **Ms. Pittelkau** explained the numbers shown are by the month, so when taken over the full year, the expenditures are actually below the estimates. The May number is slightly above the target plan, but the actual expenditures for the full year from July through May are about \$912,000 below the estimates. **Commissioner Ellis** said that made sense.

Representative Geoff Simpson appreciated the line charts and felt they were instructive, but would like to look at more categories and possibly a historical look at

what some of the major expenditures have been for. It would be interesting to see historically what the Commission spends on litigation and what is currently being spent as a percentage of expenditures and revenue, for staffing, and for any other major categories. **Ms. Pittelkau** responded that staff would include those numbers in the presentation at the August meeting.

Commissioner Alan Parker noted that seized funds were identified and indicated that without those funds the working capital would be significantly below where the Commission would want it to be. Commissioner Parker inquired about the risk to the agency if it was not be able to keep those funds. **Ms. Pittelkau** replied that staff has a very high confidence level that the agency should be able to keep those funds. The funds will be deposited in a federal fund, which the Legislature has not touched because federal funds have specific criteria attached and can only be spent for certain purposes. **Mr. Terry Westhoff** added that the period for outside claims on those funds ended in April and there were no outside claims. Now it is just timing as to when the agency receives those funds, not whether the agency is going to get them. **Commissioner Alan Parker** said that helps, noting that it is not known from year to year what those might be – it was a good year in terms of seized funds. **Mr. Westhoff** agreed, adding the \$4.2 million estimate is only for this particular seizure; there are no other estimates for any other seizures, although there is always the potential in other cases. This particular seizure is the only one that staff has the confidence level to include in the budget.

Chair Bierbaum acknowledged the arrival during the budget presentation of Representative Gary Alexander from Olympia.

Representative Gary Alexander inquired about how the process worked – even though the Legislature makes a biennial budget does the Commission approve an annual budget? **Ms. Pittelkau** replied the Commission approves the agency's budget, which is then submitted through the Office of Financial Management (OFM). The Gambling Commission is not included in the Governor's budget, but is included in the budget notes. **Representative Alexander** asked if the seizure funds, once set aside in a separate escrow account, could be used for working capital in day-to-day operations, because it seems they are mingled in terms of the fluctuation. **Ms. Pittelkau** affirmed the funds were included with the working capital balance number; however, they are in the separate fund and have restrictions on what the money can be used for. The expenditures have to be paid out of the operating fund, then any qualified expenditures would be reimbursed from these funds. It can supplement the working capital balance, but does not supplant it. **Director Day** added that the federal forfeiture cannot really supplant the agency's basic costs, but it can be used for a fairly wide range of law enforcement purposes. When those limitations are applied to the agency's cost of doing business, the money will help balance the budget.

Senator Margarita Prentice asked if the same level of seizures could be anticipated since the agency is working with less staff who are obviously going to have more work to do, and wondered if it was possible that some seizures may not be gotten. Historically, has the agency relied on seizures as a source of funds for its budget? **Senator Prentice** did not recall this type of discussion in the past. **Director Day** replied that the seizures/forfeitures being discussed are relative to the agency's internet investigation program, which is fairly new. Staff has worked very closely with the federal government at the operator level, not the individual level. It is believed there will be additional seizures/forfeitures in the future, but that is still unknown. **Senator Prentice** commented that this would not apply this year because the agency will be reducing FTEs, but in other years when there has been increased staff, Governors were very sensitive about it because it counts in the total additional FTEs, even though they are not out of the general fund. **Senator Prentice** would probably be asked whether it was justified and she has always been able to say yes. Although the necessity is there, it is one of those things where there is a political sensitivity. **Director Day** responded that **Senator Prentice** has identified an area that makes it fairly difficult for the Commission because we are revenue based and cannot put people in the field unless there is money to pay for them. The Commission has to reduce its budget to match its revenue. Then, if the revenue increases, which usually implies the work increases because the number of licensees increases, it has been difficult to get the FTEs back. The agency has tried to operate with a budget management plan to provide extra time to determine whether the decreases were going to be permanent or temporary, but that has its risks as well. At this point, staff is fairly convinced this is going to be a longer term trend.

Chair Bierbaum inquired whether the interest on the seized funds had to stay with the seized funds. **Ms. Pittelkau** replied the agency keeps the interest. **Chair Bierbaum** asked if, when doing the budget adjustments, the Commission could just adjust the overall budget to \$16,041,000 and not say anything about FTEs. Could the Commission just agree the positions are not going to be filled without officially reducing the FTEs in the budget? **Director Day** deferred **Chair Bierbaum's** question to **Mr. Westhoff** because it actually has something to do with having to include FTEs when the budget is submitted to OFM. There is a process where they have to match; although, there is some flexibility at some point if OFM sees the two are not matching. That is why the agency was able to do it for one year and should have some flexibility over the upcoming years.

Commissioner Ellis thought the Commission, at one point shortly after the turn of the century, had a high watermark of 197 FTEs and noted FTEs are now down into the mid 160s. **Director Day** affirmed that was correct, clarifying the mid-160s is where the FTEs will be if the Commissioners accept the recommendation for this biennium's budget. **Commissioner Ellis** felt that says quite a bit about what the Commission has gone through over that period of time to match its staffing to its revenue. **Commissioner Ellis** noted that approximately a half million dollars was at issue relative to the fee increase the Commission approved, and that the Attorney

General's Office has now said does not require legislative approval. Commissioner Ellis recalled there were basically two components of those increased fees: those that will apply to licenses renewed after the Attorney General Opinion (AGO) came out, and those that relate to licensees who have already paid their renewal fees at the lower levels before the increase. Commissioner Ellis inquired whether the half million dollars was just the first category of fees, not the ones that relate to licensees who have already paid at lower levels. **Ms. Pittelkau** affirmed. **Commissioner Ellis** asked if staff knew roughly how much was at issue with regard to the second category; the licensees who have already paid at the lower levels. **Mr. Westhoff** replied that if the fee increases would have begun on January 1, revenue would have been higher by an estimated \$300,000. But the AGO opinion did not address retroactively applying the fee increases, so staff did not move forward with that – the \$500,000 is moving forward with these increases and not retroactively applying anything. **Commissioner Ellis** recalled that the author of the Opinion, Mr. Pharris, referred the second question to the Commission's Senior Counsel, and Commissioner Ellis asked if Jerry Ackerman still had the \$300,000 question before him. **AAG Ackerman** replied he had not been asked to opine on the \$300,000 question.

Chair Bierbaum asked if there were any other comments or questions. There were none.

Commissioner Ellis made a motion seconded by **Commissioner Rojecki** to approve the Fiscal Year 2009 budget, as presented by staff, at the levels of \$16,041,000 and 166.4 FTEs. *Vote taken; the motion passed unanimously.*

Ms. Pittelkau provided a preview of the budget for the 2009-2011 biennium, which is for fiscal years 2010 and 2011, and asked for comments from the Commission to assist staff as we complete the preparation of the budget for final Commission approval at the August meeting.

- The carry-forward level is the starting point for the biennium budget and carries over the current biennium allotments, less any one-time costs that only impact the current biennium. The carry-forward level includes the costs of statewide adjustments such as salaries, benefits, and service agency charges. The carry-forward level is \$34.4 million and 174.4 FTEs.
- The proposed budget for the 2009-2011 biennium is \$32,479,000 and 160.4 FTEs. The current biennium expenditure level before the FY 2009 revisions just approved was \$33,279,000, and the proposed budget for the 2009-2011 biennium is about 2½ percent less than the Commission-approved budget for this current biennium.
- Assuming the receipt of the \$4.2 million in seized funds, the biennium would start with an estimated working capital balance of \$5.4 million.
- Revenue estimates based on current information and expected trends would be about \$15 million in both fiscal years.

- Expenditure plan would be \$16.2 million in FY 2010 and \$16.3 million in FY 2011.
- Estimated working capital balance of \$4.2 million in FY 2010 and \$2.9 million in FY 2011.
- Without receipt of the seized funds and related interest, the estimated working capital balance would be a negative \$108,000 in FY 2010 and a negative \$1.4 million in FY 2011.
- It is estimated that the agency is going to be slightly above the ending working capital balance of \$1.8 million that the Commission has requested, but staff still faces the challenges of bringing revenue and expenditures into line.

Chair Bierbaum asked if there were any questions.

Commissioner Ellis has always been impressed with the quality of budgeting and fiscal information presented to the Commission, which seems to be extremely well thought out, relevant, and very reliable. It is a pleasure to be able to look at this kind of information and not feel like you are getting buried and also feel like you can trust the bottom lines and be quite confident that the Commission is making good decisions.

b) House-Banked Card Room Regulatory Process Review (PowerPoint Presentation)

Director Day explained that as the budget and our revenue situation have been reviewed at prior meetings there have been discussions and questions raised about the frequency content of our house-banked regulatory program. Staff has planned for some time to bring to the Commission a description of that program and the frequency inspections, etc. Director Day introduced Jeannette Sugai.

Jeannette Sugai, Agent in Charge of the Southwest Region of the Field Operations Division, provided an overview of the agency's regulatory enforcement program for house-banked card room licensees.

- House-banked card room activities started in 1997 under the Card Room Enhancement Test Program. The regulatory program was developed from scratch using information from other gambling jurisdictions and the tribal arena. Over the past 11 years the regulatory program has been reviewed and revised numerous times and has evolved over that time period.
- The regulatory process is very dependent on the financial reviews conducted by staff in our Licensing Division. After an applicant receives a license, annual financial statement reviews are conducted. Financial Investigations Unit (FIU) staff is very important in the regulatory process as they conduct pre-licensing investigations on each applicant.
- The Field Operations process begins with the pre-operation review and evaluation (PORE) and then an inspection of the premises and review of the operations is conducted after the facility is ready to open.

- The compliance module consists of 13 modules covering different operational and record keeping areas of the card room determined to be the highest risk for violations. The average time to complete a module is about 2½ hours. The agents follow an annual inspection schedule that is designed to ensure the critical areas are looked at on a routine basis. When the house-banked card room activity first started, 56 compliance modules were conducted annually at each house-banked card room. Over the past eight years, the number of inspections has dropped substantially to its current level of 18 modules per year.
- The agency's philosophy is voluntary compliance; therefore, the agents strive to assist licensees whenever possible.
- In 2005 underage gambling compliance inspections were started and at least one underage inspection is conducted at each house-banked card room annually. As part of this process, staff has focused on training the licensees. During the first quarter of this year, gambling agents worked in partnership with Liquor Control Board agents offering and conducting training at each house-banked card room that was focused on identifying underage gamblers. 773 card room employees attended the training sessions across the state; 55 percent passed the underage inspections in 2005 and 75 percent have passed so far in 2008.
- Records inspections are a more in-depth review of card room record keeping and operations. Six months after a house-banked card room opens, a review is conducted to make sure the card room is doing everything correctly. The intent is to give the card room time to get itself up and running and then catch any problems up front before the card room gets too far down the road. After that, records inspections are conducted about every six years.
- Any changes made to the house-banked card room's internal controls have to be reviewed and approved by the agent. Some licensees submit changes weekly and others submit them about once a quarter.
- Staff investigates 100 percent of any complaints received.
- Average number of administrative cases processed on the card rooms during 2004 to 2007 was 574, with 51 on card room employees.
- The overall trend of civil penalties that have been assessed over the past six fiscal years is down, which shows that the agency is gaining regulatory compliance.

Representative Simpson was glad to hear that the philosophy is one of voluntary compliance. In his background and experience as a fire inspector, there have been staff who would go out and would just love to catch somebody doing something wrong, like an exit sign that was burned out or using an extension cord that is not supposed to be used. Their goal was to catch somebody doing something wrong. Representative Simpson felt that it builds more goodwill among businesses if the agents are looking to assist the licensees in being successful and making sure that their books are kept correctly and their internal controls are right. Representative Simpson asked if that was the kind of philosophy the Gambling Commission was moving forward with in terms of training the inspectors and having the inspectors in

the field use that philosophy. **Agent in Charge Sugai** affirmed that was part of the written philosophy for the agency's Field Operations and is how our agents are trained. The agents want to help licensees voluntarily comply whenever possible.

c) **Legislative Concepts/Agency Request Legislation**

Director Day explained that in order to meet the deadlines for agency-sponsored legislation the Commission normally considers the legislative concepts first and then takes final action in August or September. In this case, any agency-sponsored legislation needs to be moved forward to the Office of Financial Management in early September. At this point, staff is not requesting any agency-sponsored legislation dealing with legislative approval of fees because of the combination of the approved reduction budget, the planned budget for the next biennium, the Attorney General's Opinion allowing the agency to move forward with the 2008 fee increase, and the federal forfeiture funds.

Ms. Amy Hunter reported two ideas staff has for agency request legislation are to impose penalties against minors who gamble and to allow the Commission to determine where amusement games can be located in addition to locations already authorized in statute.

Ms. Hunter explained the proposal for imposing penalties against minors who gamble would do four things:

- 1) Allow agents to issue civil infractions to underage gamblers.
- 2) Impose a \$125 fine, which is actually \$256 when the statutory assessments are added in, plus the court could order up to four hours of community supervision and court costs.
- 3) Clearly state the age to gamble, which is usually 18, and list some exceptions that are allowed by Commission rule.
- 4) Allow employers, which would be the licensees, to conduct in-house controlled purchase programs for employee training and employer self-compliance checks, which is something employers can currently do with liquor violations.

Ms. Hunter reported that in 2007, the House version of the bill passed the House 94 to 1 but died in Senate Rules. In 2008, it passed 96 to 1 in the House, made it out of the Senate committee, but died on the Senate floor calendar during the last day of session. Both the Washington Association of Sheriffs and Police Chiefs (WASPC) and the Association of Prosecuting Attorneys (WAPA) supported the bill in the last two sessions. The bill was requested based on the emphasis patrols for underage gambling and on the public opinion survey done in 2005 where 44 percent of the people surveyed said they were very concerned about underage gambling and 25 percent were somewhat concerned. Current laws do not have any penalty against the minor who gambles; the penalties are for the operator and the dealer. There are penalties for minors who engage in similar activities; for example, if someone under 18 tries to buy tobacco or cigarettes, that person can be issued a Class 3 civil

infraction, which has a \$50 fine. Having the civil penalty for the minor would provide some type of enforcement against the operator, the dealer, and the minor.

Ms. Hunter pointed out that in the past two legislative sessions no one has testified against the bill at the legislative level, but Mr. Williams with the Second Amendment Foundation has contacted the Commission because he was concerned that someone under 18 who participated in a raffle could receive a civil infraction. He was correct as this bill was worded. Mr. Williams had been at a number of fund raisers over the years and seen parents let their children buy a raffle ticket, which seems to be quite common at school events. Some parents are choosing not to get up and buy their ticket, so they give the child the money and the child goes and purchases the raffle ticket. There was interesting discussion about this at the study session today. Staff explained to Mr. Williams that the bill was intended to reflect current rules and laws and not to change the age to gamble. Staff is considering changing the language this session to hopefully help the legislation move along more smoothly. Staff has been able to explain the Commission's position pretty well to legislators, but whenever there are questions about a bill the process gets slowed down. Staff suggests the bill say "persons under the age of 18 may play bingo, raffles, and amusement game activities only as provided in Commission rules." That would give Mr. Williams the ability to come back and petition for a rule change if there is going to be an exception for this type of situation. If Mr. Williams does nothing, then the current rules would stand as they are and civil infractions could be issued. Staff's focus has been on the card rooms, not on raffle activities. Staff also suggested that an additional deterrent would be to require the underage person to forfeit their winnings – after the minor had received notice and had an opportunity to be heard.

Representative Alexander appreciated Mr. Williams' concern, but thought the focus should be on the Senate as it seems the House is solidly behind this bill. If there is an issue, it is probably on the other side of the aisle and that is where someone should go to discuss it. **Ms. Hunter** affirmed that was where the issue has been, adding that Mr. Williams has worked closely with at least one member in the Senate. **Representative Simpson** commented an old saying is that the enemy is not the other party; it is the other chamber. **Senator Prentice** agreed that was very true.

Ms. Hunter reported there has been a long-standing interpretation that the Commission could authorize amusement game locations, in addition to those locations authorized by the Legislature. The interpretation came about because near the beginning of RCW 9.46.0331 it states that amusement games can be operated "... at such locations as the Commission may authorize." But then in the second subsection it says, "... Amusement games may be conducted under such license only as part of and upon the site of ..." and then lists 10 different locations where amusement games can be conducted. Based on that interpretation, in 1997 the Commission passed a rule adding department stores, grocery stores, and skating facilities to the list of locations where amusement games could be located. Then in response to the petition by Starfire Sports, the Commission added family sports

complexes to the list. The Commission currently licenses about 370 department or grocery stores and skating facilities. The proposed legislation would clearly allow the Commission to set the locations. If the legislation is not successful, the Commission may need to repeal the rule that allowed the amusement games at department stores, skating facilities, and family sports complexes, which would result in a loss of about \$82,000 a year in revenue for our agency; about \$71,000 from license fees and another \$11,000 in identification stamps. Given the number of locations where these amusement games are located, it is anticipated the industry would support the legislative proposal and help work on it.

Staff is looking for a thumbs up or nod on these two proposals.

Commissioner Ellis asked why staff was not proposing the barring list legislation that was pursued during the previous one or two legislative sessions. **Ms. Hunter** explained the first year the Commission pursued the barring list legislation it did not go anywhere, and the second year the legislation had a similar fate as the underage penalty bill – it passed out of the House and then died on the Senate floor on the calendar. Part of why staff decided not to pursue that legislation was that after many internal discussions, some staff thought it would be an effective tool and others really did not see it that way. Plus, during pre-planning for the 2009 session, staff thought the Commission would not be able to adequately get three bills, including a fee bill, through the Legislature.

Director Day informed the Commission that staff would finish the development of these proposals and bring them back next month. Director Day indicated he had attended a national conference recently where a renowned speaker spent a lot of time on underage gambling, particularly on the age group of eighth grade through high school students that have had a lot of exposure and familiarity with gambling as a result of the television. Director Day felt it was becoming more and more important to clarify our laws and prepare our licensees and to make sure the Commission stays attuned to the issue of underage gambling.

d) **Correspondence**

- > Letter to Office of Financial Management and their response
- > Attorney General's Response to Request for Informal Opinion
- > Report on Manufacturer/Distributor Rules Complaint

Director Day pointed out the response letter from Victor Moore, the Director of the Office of Financial Management, allowing the Commission to use a temporary cash deficiency of about \$775,000, if needed, in fiscal year 2009. Also included in the agenda packet was the informal response from the Attorney General's Office regarding the collection of the Commission's 2008 fee increase, given Initiative 960. The informal opinion determined that legislative permission for this fee increase was not required because the Commission took final action prior to the effective date of I-960.

Director Day noted that in 2005, the Commission repealed some rules that covered various regulations with market restrictions in the sale and distribution of pull-tabs and bingo supplies. The Commissioners have revisited this topic a couple times via rule proposals or complaints. In February 2008, a complaint was brought forward regarding allegations that some manufacturers and distributors were locking out or refusing to sell products to some pull-tab or bingo paper distributors. Assistant Director Mark Harris initiated an investigation to look at the issue in a broad sense to see if there was anything that was criminal within our jurisdiction, if there were things that might be referred to the Attorney General's Office as an anti-trust issue; if there were any violations of current regulations, and whether this should be an area that staff would recommend a new rule to the Commissioners. Staff moved forward with the investigation and the report has been included in the agenda packet for the Commissioners reference and information. Director Day referred the Commissioners to the bottom of page two of the cover memorandum from Assistant Director Harris which states: "Based on the investigation, staff does not see the need for the Commission to reinstate a rule in this area. After the rule was repealed, sales to several distributors actually increased. After that, any limitations placed by manufacturers on who they are selling to appear to be based on verifiable business reasons. Also the Commission's Assistant Attorney General has advised that there is no statutory authority for the Commission to enforce this type of rule." Director Day indicated he plans to meet with Representative Conway to go over this report in greater detail and see if there is a legislative solution that Representative Conway would like to pursue. Director Day offered to report back to the Commissioners in that capacity.

Representative Simpson was trying to understand what possible motivation somebody in the business of selling bingo paper to others would potentially have to not want to sell to certain people. **Director Day** replied there have been experiences in past history around extortion relative to selling and dominating a market. It could just be that a distributor who cannot get the product would go out of business, and the distributor who can get the product could take over the entire business area. Part of what staff is seeing is the consolidation of the entire industry, which has had an impact. In Washington there is only one manufacturer of pull-tabs, owning five different smaller companies.

e) **Monthly Update Reports**

- > Administrative Cases
- > Federal

Director Day pointed out the federal activity with the Unlawful Internet Gambling Act and the rules underlying that. Also, there was a hearing on June 25, 2008, on a bill that would change the direction regarding the Department of Treasury's writing and implementation of rules, which did not pass. It is staff's understanding that the Federal Reserve and the Treasury are moving forward with rules to fully implement that Act, which has been anticipated for some time.

f) **News Articles**

Director Day directed attention to an article regarding the passing of the first Director of the Gambling Commission, Al Bjork, who was appointed and served from October of 1973 through 1980. One other item of interest is that the King County Superior Court Judge upheld the constitutionality of Washington's Internet Law.

Comments from the Public Regarding Director's Report

Chair Bierbaum called for public comment on the Director's report.

Mr. Gary Murrey requested that in the future the public, who contribute quite a bit towards the fees, be given the opportunity to comment before the Commission makes a motion and accepts a budget.

Chair Bierbaum asked if there were any more comments. There were none.

2. **New Licenses and Class III Certifications**

Assistant Director David Trujillo explained the pre-licensing manufacturer report was for a small manufacturer out of Quebec, Canada, that manufactures bingo paper as well as some equipment and supplies. It is a small shop with one person owning 100 percent. Staff recommends approving the new licenses and Class III certifications listed on pages 1 through 35.

Commissioner Parker made a motion seconded by Commissioner Ellis to approve the list of new licenses, changes, and tribal certifications as listed on pages 1-35. Vote taken; the motion passed unanimously.

3. **Approval of Minutes – Regular Meeting, May 8 and 9, 2008** [*moved from Friday*]

Chair Bierbaum asked the Commissioners if they have had the opportunity to review the minutes of the May meeting; it was affirmed.

Commissioner Ellis thought that a majority of the Commission was not required to approve the minutes, but rather just a majority of today's quorum. **AAG Ackerman** affirmed that was correct. **Commissioner Ellis** said in that case he would abstain from voting since he was not present during those days of the meetings. **Chair Bierbaum** added that she was also not at the May meeting. **AAG Ackerman** noted that, as both Commissioners confirmed they had reviewed the minutes and are familiar with what took place at those meetings, they could vote on the minutes. **AAG Ackerman** assumed the Commissioners would raise any questions they might have as to the accuracy or the completeness of those minutes. If the Commissioners are comfortable voting to approve the minutes, they can certainly do that; if not, they can abstain. **Commissioner Ellis** withdrew his abstention since he had very carefully read the minutes to familiarize himself with what he missed. **Chair Bierbaum** agreed.

Commissioner Rojecki made a motion seconded by **Commissioner Parker** to approve the minutes of the May 8 and 9, 2008, regular commission meeting. *Vote taken; the motion passed unanimously.*

Chair Bierbaum called for a break at 3:10 p.m., reconvening the meeting at 3:30 p.m.

4. **Petition for Rule Change – PokerTek – Electronic Poker Tables** [moved from Friday]
- a) Amendatory Section WAC 230-15-030 – Authorized nonhouse-banked card games
 - b) New Section WAC 230-16-157 – Electronic poker tables

Chair Bierbaum asked if there was anyone present who wanted to comment on the petition for the rule change submitted by PokerTek related to electronic poker tables, which is being held over to the August meeting at the petitioners request. No one stepped forward.

5. **Incorporating Activity Report Definitions, Resident Agent, and Reporting Period for Amusement Game Licensees** [moved from Friday]
- a) New Section WAC 230-06-150 – Defining “gross gambling receipts”
 - b) New Section WAC 230-06-155 – Defining “gross sales”
 - c) New Section WAC 230-06-160 – Defining “net gambling receipts”
 - d) New Section WAC 230-06-165 – Defining “net gambling income”
 - e) New Section WAC 230-06-170 – Defining “net win”
 - f) New Section WAC 230-06-175 – Defining “cost”
 - g) New Section WAC 230-03-052 – Resident agent to be appointed by out-of-state applicants and licensees
 - h) Amendatory Section WAC 230-13-169 – Annual activity reports for commercial amusement game licensees

Ms. Hunter reported that items a) through f) are definitions that were left out during the Rules Simplification Project and which are still on some forms currently being used and are needed for some regulatory rules. Ms. Hunter explained the changes are fairly minor.

Commissioner Ellis asked if the issue before the Commission was simply whether these various rule changes are filed for future discussion and action by the Commission; that staff is not concerned about the fact that notice was apparently given that these proposals would be on the agenda on Friday rather than today. **Ms. Hunter** explained that was part of why the rules were also included on Friday’s agenda for discussion only, so that anyone who had planned to only come to Friday’s meeting to comment, which would be unusual but could occur, that person would still have the opportunity. **Director Day** added that the revised agendas were posted to our website.

Commissioner Ellis made a motion seconded by **Commissioner Rojecki** to file for further discussion items a) through h) as presented by staff, with an effective date of January 1, 2009. *Vote taken; the motion passed unanimously.*

6. **Presentation Explaining Mini-Baccarat** (PowerPoint Presentation) [*moved from Friday*]
Jess Lohse, Special Agent in the Renton Field office, reviewed his PowerPoint presentation on mini-baccarat, explaining that mini-baccarat is a very popular card game currently played in Las Vegas, New Jersey, and Washington tribal casinos. From the card room's perspective, game rules dictate whether more cards will be given to either the player hand or the banker hand, and the total number of cards that can be given to either the player or the banker hand is three. From the player's perspective mini-baccarat is a very easy game to play and to learn. Mini-baccarat players do not receive their own hand of cards but compete against the house; the players do not make any decisions that will affect the outcome of the game. In mini-baccarat there can be seven players sitting at the table and seven more playing behind those. The object of mini-baccarat is to obtain a two or three card hand with a total value that is closest to 9. Players basically make only two decisions: how much to wager and what type of wager to place. Players can place three types of wagers: player wagers, banker wagers, and tie wagers. A player wager does not mean that it is a player's hand or that a banker wager is a dealer's hand; they are just options for a player to bet on. In the game of mini-baccarat, cards are dealt from a dealing shoe, with typically six to eight decks of cards. A center dealer is used to facilitate the flow of the game, very similar to blackjack. SA Lohse explained how the game is played. In mini-baccarat players are allowed to write down the sequence of cards out of the dealing shoe so players can track the sequence and patterns of cards. A commission or fee is allowed to be charged on winning bets on the banker hand because statistics favor the banker hand to win more often than the player hand. SA Lohse asked if there were any questions before he showed a video of a game being dealt.

Representative Simpson indicated he did not understand the gambling issues very well but he was learning. Someone once told him that one of the best games in terms of odds for the players was craps, and he wondered how the odds were calculated for this game and if there was some way to calculate whether or not the game has good odds for the players. **SA Lohse** replied that, to his knowledge, this game has good odds for the players because they are betting on community cards. It is a very popular game to play, especially since the player can track the cards. SA Lohse said he would have to do a little more research and offered to get back to the Commission

Commissioner Ellis inquired whether all betting on the hands of a game was done before any cards were dealt. **SA Lohse** affirmed that was correct, then showed a video on mini-baccarat being played at a card room.

Representative Simpson asked if the player in the video had gotten another jack on the player hand, would another 10 be subtracted leaving a total of 3. **SA Lohse** affirmed the player would still have 3.

Chair Bierbaum thanked Special Agent Lohse for the presentation.

7. **Petition for Rule Change – Recreational Gaming Assoc – Allowing Mini-Baccarat and allowing nickels and dimes to be used in all commission games** [*moved from Friday*]

- a) Amendatory Section WAC 230-15-035 – Requirements for authorized card games
- b) Amendatory Section WAC 230-15-145 – Making wagers with chips or coins

Alternative Proposal

- c) Amendatory Section WAC 230-15-035 – Requirements for authorized card games

Assistant Director Mark Harris reported the petitioner is requesting to be allowed to use community cards in card games, which would allow games like mini-baccarat, and to use nickels and dimes in the card games that charge commissions to pay out for the house to collect on the commissions. Currently, players must have their own hand of cards and cannot bet on any other players' cards or the house's hand. In 1997, the definition of social card games was changed when house banking was allowed and the language about skill was removed allowing games like mini-baccarat in commercial card rooms. In 2000, then Director Ben Bishop felt that mini-baccarat did not meet the definition of a social card game because the players did not have their own hands and did not make decisions on them. The rules were amended to require players to bet on their own hands and baccarat was no longer allowed. In the past five years, three petitions have been filed to allow this; two were denied by the Commission and one was withdrawn by the petitioner. These types of games are allowed in tribal casinos under the Tribal-State Compacts. In addition to allowing at least two types of games, baccarat and mini-baccarat, this change would also allow several other games the Commission has not allowed in the past and authorize games that the Commission might not be aware of. After the May Commission meeting, the RGA clarified that their intent was only to authorize mini-baccarat, so staff has worked to draft an alternative rule that would specifically authorize mini-baccarat and not leave it open to any type of game with community cards.

The Commission should consider whether betting on community cards rather than on the player's own hand of cards is a social card game as defined under RCW 9.46.0282. Staff recommends filing the Alternative to WAC 230-15-035. The petitioners have requested an effective date of January 1, 2009.

Chair Bierbaum asked if there were any questions and called for public comment.

Mr. Gary Murrey, Recreational Gaming Association (RGA), testified that the RGA requests the Commission file the Alternative, adding that if the Alternative is filed the RGA will be withdrawing their original request. Mr. Murrey complimented Special Agent Lohse on a great presentation, clarifying that he believed the betting spots on the table would be limited to those players sitting at the table; just like with pai gow. Historically, in states like California and Las Vegas, pai gow has been played where the player plays at the table and many people bet behind them. In Washington, it is restricted to just the players at the table, so the number of betting spots at the table would be the number of bets allowed at the table. Mr. Murrey thought limiting it to mini-baccarat, instead of baccarat, was because the number of players would be limited to the seven at the table; the same number as blackjack players at a table.

Director Day asked Mr. Murrey to confirm that if the Alternative was filed, the RGA would only be withdrawing WAC 230-15-035. **Mr. Murrey** affirmed, explaining that WAC 230-15-154 would still be needed because of the commission and the ability to make change for the player.

Commissioner Ellis was confused as to the changed section of the alternative proposal to WAC 230-15-035, subsection 4, which indicates that notwithstanding the previous subsections 1, 2, and 3, mini-baccarat is authorized when approved under WAC 230-15-040. Commissioner Ellis could not find that section to see how it relates. **Mr. Murrey** responded that he had recently looked at WAC 230-15-040 and it says that social card games are authorized provided they are approved by the Director and it gives a list of acceptable social card games and the rules around them. The rule states that as long as the Director approves the game it would be added to the list of acceptable games.

Senator Prentice asked whether this game replaces a table that the card rooms currently have or if it is in addition to those tables and if it would require an investment in equipment. **Mr. Murrey** replied the card rooms are limited to 15 tables so they would take out a table, like blackjack, and put in this table, keeping within the limit. The equipment would be the same that is on a blackjack table, so the card rooms would just have to buy different felt to lay out – the rest of the equipment is pretty much standard.

Chair Bierbaum asked if there were any other comments from the public. Chair Bierbaum asked whether this was just for discussion or if a vote was required. **Director Day** responded that staff is requesting the Commissioners to file the Alternative for discussion purposes to move along with the original petition.

Commissioner Parker asked about a reference in the materials indicating that staff anticipates there would then be a request to raise the betting limits. **Director Day** clarified there are already separate petitions requesting to raise the betting limits on house-banked card games and poker. **Commissioner Parker** asked if that would apply to this. **Director Day** replied it would if the Commissioners were to approve both petitions. **Commissioner Parker** asked if the Commission could approve this, but not raise the betting limit. **Director Day** affirmed, explaining this would just allow the Alternative to go forward for consideration and that the Commissioners were not committed to approve either in the end.

Chair Bierbaum asked about WAC 230-15-040 that gives the Director complete discretion over whether or not baccarat, or mini-baccarat in this case, is authorized. Chair Bierbaum wondered whether her understanding that by adopting the staff alternative the Commission is not going to make the decision about whether or not mini-baccarat is authorized, but it looks like Director Day is going to decide that. **Director Day** explained that the rule covers the rules of the games. It would require a proposer that wanted to play this type of game to introduce what the actual rules of mini-baccarat might be, and then the agency would approve the specific rules of the game. With non-house-banked card games, the general authority referred to would be Hoyle. There is no standard description in

Hoyle for mini-baccarat, so the agency would approve specific rules for how the game would be conducted in the state of Washington. **Chair Bierbaum** thought the rule made it sound as though the discretion about whether mini-baccarat was going to be approved was with the Director because the rule says card game licensees must operate only the card games the Director or the Director's designee has specifically authorized. **Director Day** said he understood Chair Bierbaum's point. **Commissioner Ellis** indicated that he did not know whether this would resolve the issue that Chair Bierbaum raised, but noted that the title of the alternative proposal to WAC 230-15-035 that is before the Commission for a vote is "Requirements for Authorized Card Games." Commissioner Ellis read that to mean that both the requirements of this section, WAC 230-15-035, have to be met and in addition the Director has to approve a game before that game can be offered in a card room. **Director Day** affirmed.

Commissioner Ellis made a motion seconded by **Commissioner Rojecki** to file for further discussion Alternative Proposal to WAC 230-15-035. *Vote taken; the motion passed unanimously.*

8. Petition for Reconsideration – Andrea Breithaupt, Card Room Employee, Revocation

Chair Bierbaum asked if there was anyone present on behalf of either Andrea Breithaupt or Yhupin Chang; no one stepped forward. Chair Bierbaum noted that both petitioners had requested in writing that their petitions be rescheduled for another Commission meeting.

Assistant Attorney General Bruce Marvin, on behalf of the Gambling Commission, reported that Ms. Breithaupt filed a Petition for Reconsideration regarding the Final Order that was entered this past spring regarding revocation of her license. Ms. Breithaupt contacted gambling staff yesterday indicating she was not going to be able to attend today's hearing and submitted a handwritten request for a continuance. Commission staff is opposed to stipulating and would ask the Commission to deny Ms. Breithaupt's request for a continuance. Under the APA, the standard for granting a continuance is for good cause shown and timely notice. Ms. Breithaupt had notice regarding the fact that her Petition for Reconsideration was going to be heard, I believe, back in April of 2008. Then she received official notice approximately a month ago that this hearing was going to proceed. Despite that, it was not until yesterday that Ms. Breithaupt contacted staff – after this issue had been placed on the agenda, materials had been printed, and AAG Marvin's travel plans had been made to come to Vancouver and make this presentation. Under those circumstances, and noting this was not the first time Ms. Breithaupt has had problems attending hearings and, in fact, this is a continuation of a long history of dilatory conduct on her part from Commission staff's perspective with regard to attending these hearings and meetings, staff would ask that Ms. Breithaupt's Petition for a Continuance be denied and move to consider the substantive issues in her Motion for Reconsideration.

Chair Bierbaum inquired whether that was necessary since Ms. Breithaupt was not present. **AAG Ackerman** responded that, historically, the Commission has treated similar letters as a Motion for Continuance. If the Commission chooses not to grant the continuance, then it has two options: to simply treat Ms. Breithaupt as being in default and deny the Petition for Reconsideration on that basis, or to try to address whatever merits

that can be ascertained from the state of the proceedings thus far and make a ruling as to whether Ms. Breithaupt has met the requirements of a Petition for Reconsideration sufficiently such that the Commission would grant it. Ordinarily in those circumstances the Commission would hear argument from AAG Marvin as to why it should not be granted. The Commission can either treat it as a default, which would be the end of the case, or address what merits can be found from the records. **Chair Bierbaum** asked if this needed to be discussed in private. **AAG Ackerman** replied the Commission has handled this in a couple different ways in the past: go into executive session, discuss whether to grant the Motion for a Continuance, if that is the way the Commission is treating Ms. Breithaupt's letter, or allow AAG Marvin to make any further argument he may choose to make on the merits, and then go into executive session and make a decision with regard to both issues. If the answer is no to granting a continuance, is the Commission going to simply default the petitioner at this point and rule against her? If the answer is that the Commission is going to address the Petition on the merits, then they could decide the outcome of that.

Commissioner Ellis asked AAG Marvin if he knew whether Ms. Breithaupt continues to work at a casino or card room. **AAG Marvin** replied that Ms. Breithaupt is not employed in a card room, that the Commission issued a final petition revoking her license, and she is not able to work in a card room in any capacity at this time. **Commissioner Ellis** asked whether the issue before the Commission was Ms. Breithaupt's Motion for Reconsideration of that Order that effectively revoked her license. **AAG Marvin** affirmed, noting that it was a one page handwritten document indicating that Ms. Breithaupt had not received adequate notice for the Commission meeting at which the initial Petition for Review had been heard back in January or February of 2008. Looking at the history of the pleadings Ms. Breithaupt has filed, at that point she asked for a continuance for that hearing based on the fact that she claimed not to have received adequate notice, although she was able to send in what staff styled as a Motion for a Continuance to the Commission, so she must have received some kind of notice. Ms. Breithaupt claimed it was never sent to her address, yet staff established that copies for the hearing for the Petition for Review (the notice of hearing) had been sent to both her old and new addresses. It appears that the Motion for Reconsideration that is being discussed today is simply a question regarding notice and does not really go to the substance of her arguments with regard to the Petition for Review. There was quite extensive evidence in the record establishing that Ms. Breithaupt had failed to disclose a substantial number of traffic infractions and criminal traffic related incidents at the same time that she was licensed as a card room employee.

Chair Bierbaum was disappointed Ms. Breithaupt was not here because the Petition for Reconsideration raised some interesting substantive issues that Chair Bierbaum would have been willing to discuss. But since Ms. Breithaupt was not present, Chair Bierbaum's preference was to deal with this as a default because she did not want to have a substantive discussion about it without Ms. Breithaupt being present.

Commissioner Ellis said his reaction was that AAG Marvin has presented reasons to deal with the motion today and not simply defer it until our Spokane meeting – which is that the

Attorney General's Office has undertaken to send AAG Marvin here today and, presumably, would have to send him to Spokane for yet another hearing. It is possible that AAG Marvin may be doing that anyway if there is another matter that requires his presence at the Spokane meeting, but the Commission should not assume that. To that extent, granting the continuance does impose an additional cost on the Commission and on the State, which under the circumstances Commissioner Ellis did not find that it was warranted. Looking at this as a Motion for Reconsideration and looking to see whether Ms. Breithaupt has presented any reason for the Commission to reconsider the order entered the last time, Commissioner Ellis did not see any new information presented that strikes him as being the basis to reconsider.

Commissioner Parker stated he was not inclined to give Ms. Breithaupt more time. **Chair Bierbaum** agreed.

AAG Ackerman said that, from what he was hearing, a general intent would need to be memorialized in a motion to deny the Motion for a Continuance, and then subsequent to that another motion would be needed to either grant or deny the underlying Motion for Reconsideration.

Commissioner Ellis made a motion seconded by **Commissioner Rojecki** to deny Ms. Andrea Breithaupt's request for a continuance of her Petition for Reconsideration. *Vote taken; the motion passed unanimously.*

Commissioner Ellis made a motion seconded by **Commissioner Rojecki** to enter an order denying the Petition for Reconsideration of the Commission's Final Order on the Petition for Review of Andrea Breithaupt. *Vote taken; the motion passed unanimously.*

9. Petition for Review – Yhupin Chang, Card Room Employee, Revocation

AAG Marvin explained he had received a phone call from Commission staff as he was driving down today indicating Ms. Chang had submitted a written request for a continuance. Ms. Chang has a somewhat checkered past with regard to not making it to hearings and, in fact, this is a Petition for Review seeking reconsideration on a default order that was issued against Ms. Chang by the ALJ after she failed to appear at the hearing that was scheduled this spring. The Commission would ask that this Petition for a Continuance be denied because it is both untimely and hard to assess whether it is based on good cause or not. In any event, Ms. Chang was provided with adequate notice and could have contacted staff at a point in time sooner than three hours ago.

Commissioner Ellis made a motion seconded by **Commissioner Parker** to deny the request for a continuance of petitioner Yhupin Chang. *Vote taken; the motion passed unanimously.*

AAG Ackerman pointed out that now that the Commission denied the Motion for a Continuance, the next step is addressing the substance of the Petition for Review. Again, it can be treated as a default and deny the Petition for Review on that basis or address the

substance of it. Since the continuance was denied, the Commission must now address the underlying Petition for Review in some manner.

Commissioner Ellis made a motion seconded by Commissioner Rojecki to deny the Petition for Review and issue a final order affirming and adopting in its entirety the corrected Order Denying the Petition to Vacate which was entered by the ALJ on April 21, 2008. Vote taken; the motion passed unanimously.

Commissioner Ellis noted that the petitioner, Ms. Chang, has never denied she wrote two NSF checks worth \$800 on a closed account in one case. Ms. Chang had a history of issuing bad checks, and over the course of interviews by a special agent and the administrative proceeding she never denied those violations and, in fact, ultimately pled guilty in King County in a criminal case involving that. Ms. Chang's only response on the merits has been a response that she does not have many other employment opportunities and has two children, which is an unfortunate circumstance that the Commission has dealt with all too often. At the same time, given the Commission's responsibility to ensure that the people who are involved in working in casinos and card rooms are honest and do not cheat the customers or the casino, Commissioner Ellis could not see that the Commission had any latitude other than to affirm the revocation of Ms. Chang's license. Ms. Chang does not currently have a license and has been out of work for 11 months.

10. Other Business/General Discussion/Comments from the Public

Chair Bierbaum called for public comment; there was none.

Executive Session to Discuss Pending Investigations, Tribal Negotiations & Litigation; and Adjournment

At 4:35 p.m. Chair Bierbaum called for an Executive Session to address pending investigations, tribal negotiations, and litigations. Chair Bierbaum called the meeting back to order at 5:40 p.m. and immediately adjourned.

**WASHINGTON STATE
GAMBLING COMMISSION MEETING
FRIDAY, JULY 11, 2008
DRAFT MINUTES**

Chair Bierbaum called the meeting to order at 9:35 a.m. at the Heathman Lodge located in Vancouver and introduced the members present.

MEMBERS PRESENT: **Commission Chair Peggy Ann Bierbaum**, Quilcene
 Commissioner Keven Rojecki, Tacoma
 Representative Gary Alexander, Olympia

STAFF PRESENT: **Rick Day**, Director
 Mark Harris, Assistant Director – Field Operations
 David Trujillo, Assistant Director – Licensing Operations
 Amy Hunter, Administrator – Communications & Legal
 Jerry Ackerman, Senior Counsel, Attorney General’s Office
 Gail Grate, Executive Assistant

Chair Bierbaum explained there were five petitions for rule change up for discussion and suggested that rather than go through each of the rules one-by-one, she would ask for public comment on any of the rules at any time. The five petitions include the ones discussed on Thursday, in case there is anyone present who was not here yesterday that wants to make a comment.

Chair Bierbaum called for public comment or questions. No one stepped forward.

11. Petition for Rule Change – Monty Harmon – Gambling Promotions

Petitioner’s Original Proposal not filed at the April 2008 meeting

- a) Amendatory Section WAC 230-06-230 – Restrictions and conditions for gambling promotions
- b) Amendatory Section WAC 230-15-141 – Additional merchandise or cash prizes for card games

Commission’s Alternative filed at the April 2008 meeting

- c) Amendatory Section WAC 230-06-030 – Restrictions and conditions for gambling promotions
- d) Amendatory Section WAC 230-15-141 – Additional merchandise or cash prizes for card games

Petitioner’s Alternative A filed at the May 2008 meeting

- e) Amendatory Section WAC 230-06-030 – Restrictions and conditions for gambling promotions

12. Petition for Rule Change – Recreational Gaming Association – Wager increase from \$200 to \$500 for house-banked card games and remove \$1 limit on bonus wagers for progressive jackpots
 - a) Amendatory Section WAC 230-15-140 – Wagering limits for house-banked card games

13. Petition for Rule Change – Recreational Gaming Association - Allowing Mini-Baccarat and allowing nickels and dimes to be used in all commission games
 - a) Amendatory Section WAC 230-15-035 – Requirements for authorized card games
 - b) Amendatory Section WAC 230-15-145 – Making wagers with chips or coins

Alternative Proposal

 - c) Amendatory Section WAC 230-15-035 – Requirements for authorized card games

14. Petition for Rule Change – PokerTek – Electronic Poker Tables
 - a) Amendatory Section WAC 230-15-030 – Authorized nonhouse-banked card games
 - b) New Section WAC 230-16-157 – Electronic poker tables

15. Incorporating Activity Report Definitions, Resident Agent, and Reporting Period for Amusement Game Licensees
 - a) New Section WAC 230-06-150 – Defining “gross gambling receipts”
 - b) New Section WAC 230-06-155 – Defining “gross sales”
 - c) New Section WAC 230-06-160 – Defining “net gambling receipts”
 - d) New Section WAC 230-06-165 – Defining “net gambling income”
 - e) New Section WAC 230-06-170 – Defining “net win”
 - f) New Section WAC 230-06-175 – Defining “cost”
 - g) New Section WAC 230-03-052 – Resident agent to be appointed by out-of-state applicants and licensees
 - h) Amendatory Section WAC 230-13-169 – Annual activity reports for commercial amusement game licensees

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

Chair Bierbaum called for public comment on other business or general discussion; there was none.

With no further business, **Chair Bierbaum** adjourned the meeting at 9:40 a.m., noting the next meeting would be held on August 14 and 15 in Wenatchee.

Minutes prepared by:

Gail Grate
Executive Assistant