

**WASHINGTON STATE
GAMBLING COMMISSION MEETING
THURSDAY, JULY 9, 2009
APPROVED MINUTES**

Chair Keven Rojecki called the meeting to order at 1:35 p.m. at the Heathman Lodge in Vancouver noting that TVW was taping the meeting. Chair Rojecki introduced the members present:

MEMBERS PRESENT: **Commission Chair Keven Rojecki**, Tacoma
 Commissioner John Ellis, Seattle
 Commissioner Mike Amos, Selah
 Commissioner Michael Reichert, Maple Valley
 Senator Margarita Prentice, Seattle
 Representative Gary Alexander, Olympia

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

Agenda Review

Director Rick Day welcomed Commissioner Michael Reichert from Maple Valley, who is the CEO of Catholic Community Services of Western Washington, President and CEO of the Archdiocesan Housing Authority, and is an enrolled member of the Minnesota Chippewa Cree Tribe. Staff looks forward to working with Commissioner Reichert and appreciates his willingness to give up time for the Commission. Director Day briefly reviewed the agenda, noting there were no staff recommended changes to Thursday’s agenda. The petitioner for Item 18, Washington Skill Games, has requested to hold their petition over to the August meeting in order to discuss staff concerns and decide whether to move forward with it or withdraw the petition.

Chair Rojecki approved holding Item 18 over to the August meeting.

1. **Tulalip Tribes – State Class III Gaming Compact Amendment** (PowerPoint Presentation)
Director Day introduced and welcomed the tribal representatives from the Tulalip Tribes: Glen Gobin, who is on the council and is the business committee chair; Lael Echo-Hawk, the tribal attorney; and Doug Bell, who has led much of the negotiation process between the State and the Tribe. Director Day explained the amendment is a modernization of the Tulalip Compact, which was the first Compact signed by the State between the State and Tribe in 1991. The amendment is 16 pages, of which 9 pages are an update of the dispute resolution process. Director Day presented a PowerPoint summarizing some key points

about why the State is involved in Compacts and the Tribes, including a little bit about the law and a summary of Compacts around the State, closing with a review of the Amendment. Regulatory and Compact negotiations are a respect-based partnership with the Tribes and are designed to protect the interests of the State and the Tribe. The State and Tribes co-regulate, with the Tribes being the primary regulator. The Indian Gaming Regulatory Act (IGRA) was passed in 1988. Under IGRA, gaming activities are allowed for the tribes if those activities are not specifically prohibited by federal or state law. Director Day reviewed Washington's process for compact or amendment negotiation and approval, which is laid out in RCW 9.46.360.

Director Day reviewed the Tulalip Tribes Amendment, pointing out the Tulalip Tribes have two Class III facilities, their own Tribal Gaming Commission with seven Commissioners, their own Tribal Gaming Agency regulatory operation with a staff of 39, and tribal gaming agents on location 24 hours a day. The Tulalip Tribes was the first tribe in Washington to implement an automated fingerprint identification system (AFIS). This is the Tulalip Tribes eighth compact amendment. The language in the original Compact on financial provisions was quite outdated and the requested changes clarify and bring forward provisions out of the Washington Administrative Code (WAC). Another change updates facility licensing. The Amendment allows the Tribe to license operations every three years as allowed by the National Indian Gaming Commission (NIGC). The Tulalip Tribes is the only gambling tribe that does not have conditional licensing for enrolled members, so this amendment would allow that process. This amendment adds electronic records to the access to records section, which is important in the modern environment. The dispute resolution section was changed to reflect modern language and places the emphasis on the Tribe and the State resolving disputes informally without long legal processes, but leaves the freedom for each sovereign government to make the decision whether they feel it is necessary to go to federal court for a resolution. Federal regulation was changed to require certification that the Governor listed is the actual Governor and has the authorization to sign the Compact. A space was added at the end of the Amendment for certification from the Governor.

Chair Rojecki asked if there were any questions of Director Day; there were none.

Mr. Glen Gobin, Business Committee Chairman and a Board of Director for the Tulalip Tribes of Washington: "Good afternoon, Chairman Rojecki, Commission members and ex-officios. My name again is Glen Gobin. I'm the business committee chairman and a Board of Director for the Tulalip Tribes of Washington. And I appreciate the opportunity to stand before you today to share our reasons for seeking amendments to the Tulalip Tribes gaming Compact with the State of Washington. The development of the Tulalip gaming organization catapulted the Tulalip Tribes to becoming one of the primary economic engines of Snohomish County. Today we provide almost 3,000 family wage jobs in Snohomish County. The majority of these jobs are held by non-tribal members. And each of these jobs is eligible for health care benefits, as well as their dependents. In addition to the services we provide for our tribal members, gaming revenues funds such projects as freeway interchanges, cutting edge wastewater treatment plants, and over \$3 million in just the last

year alone to State non-profit organizations such as the Boys and Girls Club, the YMCA, and the Marysville/Tulalip Chamber of Commerce. I'd like to also note that since 1991, at the start of the Compact, we've donated almost \$24 million to charities since we've started here. As you know, the Amendment before you is primarily technical in nature. However these technical changes are crucial to ensuring the ability of the Tulalip Tribes and our gaming organization to continue to flourish and grow. For example the Compact in its current form limits the tribe from seeking financing commonly accessed by other businesses. When the original Compact was signed, these financial mechanisms did not exist. However in today's market, such tools are necessary to access financing at a reasonable cost. The Amendments enable the tribes, like other Washington enterprises, to obtain financing necessary to continue to develop. Another important addition to this Amendment is the ability of the tribes, like other tribes in Washington, to conditionally license their tribal members. The Tulalip Tribes believes that the employment is a service we can provide our tribal members in that as stakeholders, they should be able to work within the gaming organization. However at times for a variety of reasons, a tribal member may not be eligible for State certification. At those times, and after careful consideration, the tribe may determine in its best interest of both the tribe and the tribal members, to certify a tribal member conditionally. When the tribe makes that decision, this Amendment will permit the State gaming agency to concur. These are just a sampling of the technical changes that we are making with this Amendment. We would like to thank the Washington State Gambling Commission, Director Day and staff, for working through this Amendment with us. And I ask for your favorable consideration. And if there are any questions, I or my team would be happy to answer them.

Senator Prentice did not know if this was in the previous Compact, but wondered why, under dispute resolution, it was considered necessary to get a waiver of sovereign immunity for each phase of dispute resolution. Senator Prentice asked why that couldn't just be adopted for the entire process instead of for each step. **Mr. Gobin** deferred her question to one of his legal counsel.

Mr. Doug Bell, of Bell and Ingram representing the Tulalip Tribes: "It is generically provided in that method. Director Day was just being more specific to indicate that it is applicable to all three – really four devices. There isn't a separate for each. It's generic to all. If we agree in two regards to go to formal mediation/arbitration, otherwise the informal mediation and judicial recourse is there. It's in one section, applicable to all."

Senator Prentice said she always liked for that process to work smoothly and did not want any snags to be thrown in. **Mr. Bell** was hopeful the Tribes would not have to test it.

Director Day acknowledged his state negotiation team of Melinda Froud, staff attorney who does the majority of the actual work regarding this process and Jerry Ackerman from the Attorney General's Office.

Chair Rojecki called for public comment; there was none.

Commissioner John Ellis made a motion seconded by Senator Prentice and Commissioner Amos to approve the proposed Amendment to the Tulalip Tribes of Washington Tribal/State Compact and direct the Director to forward to the Governor the proposed Compact Amendment with the recommendation that she execute it. Vote taken; the motion passed unanimously.

Chair Rojecki called for a break at 2:15 p.m.; reconvening at 2:25 p.m.

2. Director's Report

a) Legislative Update – 2009 Recap & 2010 Concepts

Ms. Amy Hunter reported that for the first time in several years, staff is not recommending any agency request legislation for the 2010 session, which will be a short 60-day session. If the Commissioners have an interest in pursuing something as agency request legislation, the deadline is late enough that something could be discussed in August and formally approved in September. Staff recommends the Commission continue to support Senate Bill 6103, modifying the definition of gambling. This support would include meeting with legislators during the interim and providing more information about why the bill is needed. The Senate passed the bill 38-10, but it died in the House committee after getting a hearing. Ms. Hunter briefly highlighted some of the legislative team's activities this past year. Two agency request bills were passed, Commissioner Amos was confirmed, Commissioner Ellis was reconfirmed, held over 50 meetings with legislators, attended about 30 hearings, testified on 14 different bills, reviewed over 2,500 bills as they were introduced, tracked about 40 gambling related bills and about 120 general government bills, and prepared 17 fiscal notes, all of which were released on time.

Chair Rojecki asked if it was staff's intent for the Commissioners to take a position on Senate Bill 6103 today, or wait until August/September. **Ms. Hunter** replied the Commissioners could do either. If something has changed since the letter of support, which has already been done, it would be good to know that before staff meet with legislators about it.

Senator Prentice thought it could probably be better organized next time and a better job done on getting started. The court decision came down while the Legislature was in session and they rushed to get the bill through. It did not go through the proper committee. Senator Prentice brought it up in her committee about the last week before cutoff. They were all caught off guard and there was not enough understanding or enough time. Representative Geoff Simpson had offered to do something on the bill, but it was really too late in the session to get any headway.

b) Charitable/Nonprofit Cash Flow & Significant Progress (PowerPoint)

Director Day introduced Keith Schuster, special agent supervisor in the Financial Investigations Unit. Mr. Schuster is also a Command Chief Warrant Officer in the United States Army and has been a tugboat commander, a helicopter pilot, and a CPA as well. Mr. Schuster will explain local taxes to be credited against required adjusted cash flow for charitable/nonprofit organizations, and is going to revisit cash flow and significant progress requirements.

Special Agent Supervisor Keith Schuster explained he has been with the Gambling Commission for about 11 years and all of that time has been in the Financial Investigations Unit where he has had a chance to interact with both the nonprofit and the commercial side. Today's briefing is going to be an overview of the cash flow rules, significant progress rules, and a little bit about a new proposed rule that is going to be coming forward for your consideration next month. The issue today has to do with nonprofits, bingo as a fund raising event, and how the funds are spent is what the cash flow rules deal with. Mr. Schuster reviewed the PowerPoint presentation. Under RCW 9.46.010, all gambling activities are under strict regulation and control. WAC 230-10-365 defines adjusted cash flow, the limits to adjusted cash flow, failing to meet positive cash flow and what can happen, and if there is any relief associated with that. Adjusted cash flow has to do with the cash flow that is derived from the bingo operations, less prizes and expenses. Depreciation or amortization expenses are non-cash items and not included. Mr. Schuster explained the state's tiered structure on the cash flow requirements. WAC 230-10-375 covers what happens if an organization fails to meet positive cash flow. If an organization fails to meet the minimum cash flow requirements, it is allowed a 25 percent reduction to the annual required cash flow, but the organization can only take it one year and then has to remain in compliance for the following four years.

Commissioner Reichert asked for an example of how staff determines what number he would have to hit if he was running a \$1.5 million gross receipt, and then how would staff find that number. **SA Supervisor Schuster** replied he would be covering each of those examples step by step in his presentation. The new rule proposal basically talks about applying a credit of up to 49 percent of gambling taxes paid, and also applies the 25 percent reduction relief should they still fall out of compliance.

Commissioner Ellis noted the report on the slide listed depreciation, but SA Supervisor Schuster had mentioned previously that in determining the adjusted cash flow, the operator is not entitled to consider depreciation. Commissioner Ellis asked why that was. **SA Supervisor Schuster** responded there were two reasons: number one is the significant progress where depreciation is figured because it is an expense that the organization accrues. For cash flow purposes, it is a non-cash event so it is added back in to give the benefit for cash flow purposes. The important part is this is the actual source document the licensee fills in and sends to staff, and all of the numbers are subject to audit.

Commissioner Reichert asked what qualified as “other.” **Mr. Ken DeKay**, Financial Reporting Unit, responded from the audience that years ago there was much more detail on the reports, but to make the form simpler for the licensees, it was just combined. Basically, it includes overhead items like utilities, lights, heat, and possibly insurance. **SA Supervisor Schuster** pointed out that in the Financial Reporting Unit, not only do they measure on a quarterly basis and an annual basis, but they help as an outreach with the licensees to help, based on numbers from the previous quarters, project whether they are going to be projected to meet the annual requirements.

Representative Alexander referred to SA Supervisor Schuster’s statement about if two negative quarters; a summary suspension. But in this particular example, for the year the organization was in the positive, but they did have two negative quarters. Representative Alexander asked how that works out. **SA Supervisor Schuster** explained that when he said negative quarter, if this number had been negative \$17 for example and that number had been negative \$42... **Representative Alexander** realized it was not negative in terms of not meeting the estimated number. **SA Supervisor Schuster** affirmed, adding that he actually used this example to show that these are actually positive numbers per quarter, but less than the required per quarter, and when it is annualized, the annual amount is actually a positive.

Commissioner Ellis gathered that the 49 percent tax credit was available every year, but there is a limitation every five years on the 25 percent reduction. **SA Supervisor Schuster** understood it would be available every year. **Commissioner Ellis** thought it would make sense to build it into the definition of the adjusted cash flow. **Director Day** clarified the 25 percent relief is presently in WAC.

Representative Alexander said he was in finance and this was pretty complex, and asked what staff was doing to assist the organizations to ensure they are aware of what their potential issues or liability might be. He asked if there was a model that was provided to all the establishments to help them in this computation process or if the organizations have to hire CPAs to take care of their bookwork. **SA Schuster** replied this was complex because it is just a proposal right now. Mr. DeKay works with every licensee that this applies to, according with the rule as it currently stands, and staff meet with the organizations as far as these cash flow requirements go, so there are never any surprises.

Commissioner Ellis asked how many licensees there currently are. **SA Supervisor Schuster** replied there are currently only 13 licensees that this rule applies to. In summary, there is both administrative and statutory authority for the adjusted cash flow rules; cash flow is measured both quarterly and annually; there is currently a 25 percent relief; and the proposed rule talks about allowing a 49 percent credit of local gambling taxes towards the cash flow requirements. Mr. Schuster reviewed significant progress; how the money is spent. RCW 9.46.0209 says that an organization must demonstrate that it has made significant progress. Every nonprofit organization is in business for a particular reason and the money that is raised has to be spent for that specific purpose. Staff looks at the stated purpose for the organization, the reason it is in business, the money they have raised, and

then determines whether it is being spent effectively and efficiently. **Director Day** added the reason they are in business could not be for gambling. **SA Supervisor Schuster** pointed out it was articulated in the statute that the organizations are not in the business of gambling; they are in business to raise funds for their stated purposes. Mr. Schuster reviewed the tiered approach to determining significant progress. Program services are direct expenses relating to the stated purpose; support services are typically overhead. Nonprofit organizations are required to spend at least 60 percent; the maximum that can be spent on overhead is 35 percent. The Director has the authority to accept and approve the waivers. **Commissioner Ellis** thought the 60 percent test just applied to the largest of the charities and nonprofits. **SA Supervisor Schuster** affirmed that the 60 percent test applied to the largest groups; those making \$5 million or more in gross receipts. **Commissioner Ellis** asked if the IRS had similar requirements that apply to charities and nonprofits, 501(c)3 organizations, and if there was a similar specific framework with lots of bright lines that are easy to identify. **SA Supervisor Schuster** did not know exactly what the IRS requirements are, but indicated he has personally worked with the IRS on certain issues with nonprofits. **Commissioner Ellis** thought these rules were very helpful from a consumer protection standpoint. There is nothing more frustrating to people than donating to a nonprofit and discovering their money was being used for salaries and not being applied to the purposes of the charity.

Commissioner Reichert said that if you go back to the nonprofit cash flow worksheet, there is a required cash flow of \$123,493. It would seem to Commissioner Reichert that the combined cash flow and tax credit should come up to \$123,493 instead of \$122,577. It seems that if the requirement is \$123,493, the combination of the credit and the cash flow should add up to that mark of \$123,493 - or say yes to \$122,577. **SA Supervisor Schuster** understood what Commissioner Reichert was saying, but explained that was not the way the rule currently reads. **Commissioner Reichert** was still confused and indicated he would be interested in getting a better understanding of why that is not so. **SA Supervisor Schuster** replied he was following the steps by how the rule was proposed, and the relief is provided afterwards, at the end of the rule.

Chair Rojecki thanked Mr. Schuster for his presentation.

c) Correspondence

- > Governor Gregoire Letter – Additional Budget Savings
- > Commissioner Michael Reichert Appointment
- > Jamestown S’Klallam Tribe – Regarding WAC 230-15-135
- > Nooksack Indian Tribe – Regarding WAC 230-15-135
- > Deputy Director Appointment / Acting Assistant Director Appointment
- > Card Room Connection Article – Tips Rule
- > June 29 Legislative Hearing
- > Mudarri Supreme Court Decision

Director Day referred to the most recent budget memorandum from the Governor requesting that general fund agencies impose and conserve another 2 percent of FTEs. Mr. Terry Westhoff has the OFM instructions, which will be reviewed, and next month he will be doing a presentation regarding the requested budget. It does not appear at this point that the Governor's requested roll backs would directly apply to the Commission's budget, and there is no general fund in the budget at this point. A number of reductions have already been made and the Commission's budget is balanced. One of the keys to that balancing is the availability of federal forfeiture for some proposed expenditures. Mr. Westhoff will look at the OFM instructions and if there is anything in particular that he would recommend based on those two memos it will be brought back to the Commissioner's next month. Director Day announced that effective July 1 David Trujillo became the Deputy Director and will be responsible for the operating divisions: Field Operations, Tribal Gaming, Regulatory Operations, and Licensing Operations. DD Trujillo will also be expected to fill in for the Director in whatever role that might be, whether it is tribal negotiations or taking over as necessary at the Commission meetings. Tina Griffin has been appointed as Assistant Director of Licensing Operations in a temporary position. Commissioner Ellis previously asked AD Harris to be sure that information went out explaining further who can accept tips and the difference between the supervisors. The article "Poker Supervisors May Accept Tips" was placed in the Card Room Connection newsletter, and agents are also personally conveying the information. The Senate Labor and Commerce Consumer Protection and House Commerce and Labor Committees held a joint meeting, in part to receive information on the Eighth Amendment to the Tulalip Tribes Tribal/State Compact, but also for a work session. Chair Rojecki appeared at the work session and provided testimony in response to questions about the Commission's process and practices. Director Day thanked Chair Rojecki for taking the time to attend. An order from the Washington State Supreme Court denied further review of the Mudarri case, which regarded the tribal lottery system machines and where they are in the state of Washington. Director Day thanked AAG Ackerman's office for his continued excellent legal representation.

d) Monthly Update Reports

Director Day briefly reviewed the monthly update reports and news articles, noting there were no dramatic changes.

Chair Rojecki called for public comment on the Director's Report.

Mr. Max Faulkner, Vice President of the Recreational Gaming Association (RGA), welcomed Commissioner Reichert to the Commission staff. The RGA looked forward to seeing him at future meetings; although he probably will not be hearing very much from the RGA.

3. Approval of Minutes – May 14-15, 2009, Regular Meeting

Commissioner Amos made a motion seconded by Commissioners Ellis to approve the minutes from the May 14-15, 2009, regular Commission meeting. Vote taken; the motion passed unanimously.

4. New Licenses and Class III Certifications

Deputy Director David Trujillo noted the list of new licenses and Class III certifications was unusually long because there was no Commission meeting in June. Behind the list are six pre-licensing reports for house-banked card rooms, which are also listed on page five of the 28-page list. DD Trujillo reminded the Commissioners that pre-licensing reports for house-banked card rooms and manufacturers are included for information only. Previously, these reports were separated out from the list and the Commission would vote on each house-banked card room separately. It has been some time since six house-banked card rooms have come forward at one time. Three were sold and purchased as a group: Coyote Bob's, Crazy Moose Casino in Mountlake Terrace, and Crazy Moose in Pasco. DD Trujillo reported that he had a chance to talk with Doug Searle, owner of Happy Days. Prior to coming to Washington State, Mr. Searle had heard what he coined "horror stories" about dealing with the Washington State Gambling Commission and the staff. Since coming to Washington, he said he has found exactly the opposite; staff has been very pro-active about helping from the moment the application was dropped to every person that he has had interaction with. Mr. Searle singled out Special Agent Keith Wittmers as being the single finest gaming agent he has ever dealt with. Mr. Searle has prior gaming experience in other states and with some of the tribes. Players and Spectators was previously sold by Mr. Jack Duncan, but the new owners filed bankruptcy so Mr. Duncan got it back. Staff, with concurrence from the owners, is requesting consideration of Caribbean Cardroom be held over to the August meeting to allow time to review the relationship between Caribbean Cardroom and its neighboring card room.

Commissioner Ellis understood there was a critical time concern for the Caribbean Cardroom to be able to take advantage of the new legislation that would allow a card room to avoid the ban in Kirkland after the annexation of Kingsgate. He asked if that was no longer a problem or if he had misunderstood. **DD Trujillo** replied that Commissioner Ellis was correct. The date would be July 26 and the legislation does not distinguish between the temporary licensure or licensure by the Commission. The Legislature authorized the Director to issue temporary licensure until the Commission approves it. **AA General Jerry Ackerman** agreed with DD Trujillo. The card room has a license at this point – it is a temporary license, but a license nonetheless – which is what is required under the statute to be in place prior to the July 26 date. So it is not a problem in that regard.

Commissioner Ellis made a motion seconded by Commissioners Amos to approve the list of new licenses and Class III certifications as listed on pages 1-28 with the exception of Caribbean Cardroom that is to be held over to the August meeting. Vote taken; the motion passed unanimously.

5. Defaults:

a) Cheryl Gunderson, Card Room Employee, Revocation

Ms. Hunter reported that Cheryl Gunderson was on the agenda in April, but it was pulled so staff could confirm service of the charges, which has since been done. Ms. Gunderson worked as a bookkeeper for a restaurant and failed to make daily bank deposits. There was over \$22,000 missing, and when the president confronted Ms. Gunderson about the missing bank deposits, she had \$2,700 in her purse from the deposits. Ms. Gunderson admitted she spent the money on personal expenses and loaned money to her friends. She was charged with Theft in the First Degree which she pled guilty to. In addition to the underlying crime, Ms. Gunderson did not report the criminal charge and conviction to staff until past the required time. Mr. Trujillo, when he was Assistant Director acting on behalf of Director Day, issued the charges, which an agent personally served before the license expired. Staff was unable to reach Ms. Gunderson to her to remind her of the deadline to request a hearing. She did not respond to the charges, so by failing to respond has waived her right to a hearing and the Commission may enter a final order and default. Staff is requesting the Commission revoke her license. Ms. Hunter pointed out the final order for the Commissioners' signature states that Ms. Gunderson was served by personal service, which was changed from the order in the agenda packet that said she was served by certified mail and regular mail. Staff recommends a default order be entered revoking Ms. Gunderson's card room employee license.

Chair Rojecki asked if Ms. Cheryl Gunderson or somebody representing her was in the audience. No one stepped forward.

Commissioner Ellis made a motion seconded by Commissioner Amos to enter a default order revoking Cheryl Gunderson's license to conduct gambling activities. Vote taken; the motion passed unanimously.

b) Bruce T. Nguyen, Card Room Employee, Revocation

Ms. Hunter reported Mr. Nguyen admitted to cheating in multiple card tournaments at a card room. He introduced counterfeit gambling chips into the poker rooms and ended up being one of the winners. Mr. Nguyen's license expired on May 22; although, at the time the Order of Summary Suspension was served, he was still an active employee. Mr. Nguyen is not currently working. Director Day issued an order of summary suspension, which was served by an agent. The legal secretary made a courtesy call to the licensee and left a message with his brother to have Mr. Nguyen call back to discuss the hearing request deadline, which Mr. Nguyen did not do. By failing to respond, Mr. Nguyen waived his right to a hearing and staff is requesting a default Order be entered revoking his license.

Chair Rojecki asked if Mr. Bruce Nguyen or a representative was in the audience. No one stepped forward.

Commissioner Ellis made a motion seconded by **Commissioner Amos** to enter a default order revoking **Bruce T. Nguyen's license to conduct gambling activities.** *Vote taken; the motion passed unanimously.*

c) **Hu S. Chang, Card Room Employee, Revocation**

Ms. Hunter reported Mr. Hu Chang took \$60 worth of chips out of his dealing tray, which was basically the house money, to play poker and did not pay for those chips. Mr. Chang should have purchased the chips in advance if he wanted to play, but he did not pay for them for several hours. When Mr. Chang did pay for the chips, he took money out of the rake and put it back into his dealing tray, which normally should have gone into a drop box. Mr. Chang is not currently working at a card room. Charges were issued by certified mail and regular mail, but it was unclear from the signature that he did sign the certified mail receipt. Staff left a courtesy message for Mr. Chang, but did not hear back from him. By not responding to the charges, Mr. Chang waived his right to a hearing. Staff recommends the Commission enter a default order revoking Hu Chang's card room employee license.

Chair Rojecki asked if Mr. Hu S. Chang or a representative was in the audience. No one stepped forward.

Commissioner Ellis made a motion seconded by **Commissioner Amos** to enter a default order revoking **Hu S. Chang's license to conduct gambling activities.** *Vote taken; the motion passed unanimously.*

d) **Bill Anderson, Class III Employee, Revocation**

Ms. Hunter reported Mr. Bill Anderson, while dealing poker for the Muckleshoot Indian Tribe, took chips from the poker pots and placed them into the imprest bank. As a result, Mr. Anderson failed to properly deposit almost \$400 into the patron jackpot drop boxes and about \$8 into the house rake. When the imprest balance is off, normally if the bank had too much money in it, that money should have gone back to the house. Instead Mr. Anderson took that extra money and put it in his fanny pack. The Muckleshoot Gaming Commission revoked Mr. Anderson's tribal license, and his certification expired on June 1. Mr. Anderson is not currently working. The charges were sent by certified mail and regular mail. The certified mail came back unclaimed, but the regular mail was not sent back so it was presumed Mr. Anderson received it. Staff could not reach him with the courtesy call and he has waived his right to a hearing. Staff would recommend that Mr. Anderson's Class III certification be revoked.

Chair Rojecki asked if Mr. Bill Anderson or a representative was in the audience. No one stepped forward.

Commissioner Ellis made a motion seconded by **Commissioner Amos** to enter a default order revoking the Class III certification of Bill Anderson to conduct gambling activities. *Vote taken; the motion passed unanimously.*

e) **Bernie's Place, Ocean Park, 30 day suspension**

Ms. Hunter reported staff was requesting the license for Bernie's Place be suspended for 30 days based on a variety of pull-tab violations. After receiving an anonymous complaint, staff started an investigation on Bernie's Place, which has a Class A pull-tab license. Bernie's Place was mixing pull-tab games together and was not completing records accurately. They were awarding cash prizes plus alcoholic beverages in lieu of prizes, and were using dice which are only allowed for very limited purposes under the statute. Charges were issued for suspension, which were sent by certified mail and regular mail. The certified mail receipt was signed by someone at the business. It is somewhat unusual for a business to not request a hearing, so in addition to staff making a courtesy call, an agent goes out to confirm the business received the charges and knows what is going on. The agent went to Bernie's Place and found that they were actually closed and no longer in business. The licensee did not respond to the charges and staff would recommend the Commission enter a default order suspending the license for 30 days.

Chair Rojecki asked if there was anyone in the audience representing Bernie's Place. No one stepped forward.

Commissioner Ellis made a motion seconded by **Commissioner Amos** to enter a default order suspending the license of Bernie's Place to conduct gambling activities for 30 days. *Vote taken; the motion passed unanimously.*

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

Chair Rojecki called for public comment.

Mr. Don Harris, H & H Pull Tab in Yakima, Washington: "And I'm here to ask the gaming commission for the 15th time if they would reinstate WAC 230-12-330 which in essence is that all manufacturers and distributors shall make their products and services available to all licensees, without discrimination. Now three years ago Mr. Day in the last committee you had – the last Commissioners, they repealed this. And since then, I personally have lost, and there's six or seven other distributors, \$800,000 in sales. And they can just look it up on the gaming commission from what I was doing and what I'm doing now. Because Arrow International, which controls 80% of all the pull tab gambling in the State refuses to sell to me and these other six or seven distributors. Last night I sent letters to them, we've sent letters to the AG. They send it to the gaming commission and we never hear anything else about it. We've sent them to the Governor's office, the Governor sends it to the AG's office, the AG forwards it to the gaming commission and it is gone again. So last night, I personally got a hold of Lane Gorman, which is the head sales for all of

Washington for Arrow International. And the only thing he told me, and I quote, this is the fourth time, "I don't have to sell you anything because the Washington State Gambling Commission says I do not have to. And therefore I am not." So my question is to you, and I know there is some new members on the board, is that not discrimination? I mean what happened to human rights? I mean we have to go jump through hoops, and hoops, and hoops of getting our license. And I'm a senior one in the State here. I'm probably the fifth or sixth oldest one in the State. We had no problem until they repealed this law. I'm not asking for a new law, I'm just asking to have this be reinstated. I mean we can't buy from anywhere else. The gaming commission has "x" amount, which I think is only eight or nine manufacturers that you can buy from. When seven of them won't sell to you and nothing can be done, what's the sense of even having a license? Where is your civil rights at? It's like you being a painting contractor and you have to have this certain paint and five stores in town sell it and you can't go in and they say no, we're not going to sell it to you. You're out of business because the people want that paint. We're in the same boat. To me, I'm an ex-law enforcement officer. And what's been going on right now is a RICO Act. For you people who aren't attorneys here, RICO is racketeering and corruption. Where those people are only selling to certain people and therefore since they've been doing that, they've raised the price up because my customers that I can not get games for, therefore I can not sell to them but I still have contact with them. So they're getting it on both ends. They're higher prices and everything. I was competitive, I was very competitive. And that's the reason that they're doing it to me and several of these other ones, because we're competitive and they don't want any competition in the State. So you've got five or six of them that are getting all of it. We can't buy bingo paper because in case you guys don't know, Arrow owns five companies and all the bingo paper for trade, and all the bingo paper for Arrow. And for the other of you people who don't know, about 10 years ago – a lot of people might not know this. When Mr. Ed's was in there, Arrow International bought up all of Ed's enterprises throughout the United States. That was Pennsylvania, Arkansas, California, Alaska and Minnesota. So all the people they are selling to now are ex-Ed's employees, which to me is the same as an Arrow employee. So that's where the corruption is involved here. So I implore you guys. I'm losing \$250,000 a year in sales, and that's just me. And there's six other ones here. I'm not asking you to put up a new rule, I'm asking you just to reinstate this rule, which is fair to everybody, whether you're a mom and pop store or a big company. The big companies can't be having it all. All these new distributors that are coming out, they're selling to them but they still won't sell to me. They won't sell to Magic, they won't sell to Ace. There are several people they won't sell to. I've had to lay off two people and I hated to do it. But if you can't get product, you can't get product. And I'm sure if you guys are businessmen, you can understand that. If that's not discrimination, what's discrimination? So again, I implore you guys to just reinstate WAC 230-12-330 where there is no discrimination with pricing and selling to the distributors. Because it's not like we can go to the local store and buy this stuff. We can only buy it from those manufacturers okayed by the State of Washington. But you guys I'm sure know that, or some of you maybe you don't know that. But that's our problem."

Chair Rojecki asked if this statute three years ago was part of the Rules Simplification Process. **Director Day** responded that it was actually quite an extensive discussion during the process and was involved in the budget staffing reduction process; it was an element to that. Ultimately the Commission concluded that regulation of business relationships, or anti-trust issues, were not the jurisdiction of the Commission – it was the jurisdiction of the Attorney General’s office – and moved to repeal those rules. Mr. Harris has brought this to staff’s attention a number of times and staff has looked at it to the extent of our authority. There is nothing within our current jurisdiction, but this rule would impact that relationship and put the Commission back in that kind of business.

Mr. Don Harris: “May I say something? He’s correct in everything he said. The reason I think they did it is because you cut down on help by not having people go out and check because all the prices had to be the same. If I sold a game in Spokane, I had to sell it at the same price in Vancouver or whatever. We don’t care about that. I don’t care about the pricing. All we care about is just getting the product. If people want to sell it for this price or this price, so be it. But you can’t sell it if you can’t get it. So I implore you guys to reinstate it. You don’t have to make a new law, just reinstate the WAC. All the years I’ve been in business, and I’ve been in this business for 18 years, we’ve never had any problem until this came up.”

Chair Rojecki was not sure how to proceed, but thought the Commission would suggest they could not just enact something without the background information. Chair Rojecki thought Mr. Harris should talk with staff, and, if he wanted, to file a petition for rule change.

Mr. Don Harris: “We already did that, we’ve done it three times. We’ve already sent the paperwork in to the gaming commission. It’s already been done three times and all of us signed it. There’s like seven distributors, and we’ve already done that. And we’ve already done the complaints to the AG’s office. We sent complaints to the Governor’s office, and it all came back to the gaming commission. And all they said is it’s up to the gaming commission.”

Commissioner Amos reminded Mr. Harris that they had talked several times, that Mr. Harris had been to his office in Yakima in regards to this issue. Commissioner Amos asked if any of the distributors were providing the product for Mr. Harris to buy.

Mr. Don Harris: “No. The only way I’m doing any little business at all is I have friends in the industry and they’re selling them to me. That’s the only way I get my product. I can’t buy it from anybody. They just won’t sell to me. And it’s not only me, there are several other ones. He met two or three of them that were here this morning. And I told them I’d represent them here today. And he’s seen the paperwork that they’ve filed and Mr. Amos has read all the stuff. And it’s been going on like that and they just won’t sell it to us. It’s not only me, it’s them too. And I think that’s discriminatory, besides the RICO Act. I mean that’s a RICO Act if I’ve ever seen one because it has to do with gambling. And if the gambling only wants to sell to certain people, then I think the federal government should be

involved in here on the RICO Act. And I hate to have the feds investigate the gaming commission because of the RICO Act for racketeering because you guys are aiding it. You're not doing anything to stop it. And I've watched here all day, Mr. Day and all of his people get up here and tell everybody how honest the gaming commission wants to keep everybody, and I agree with you 120%. Make sure everything is right. So what's wrong with the pull-tab? Why can't we be involved in that? If they won't sell us any product, then how can we exist? I've had four people quit gambling, and you guys are losing money, which you've seen in your records. And they didn't go with anybody else because they're friends of mine. They said if I can't buy it from you, I'm not going to buy from anybody. And so they just quit. I'm sure you guys know some people that have people that just want to do business with them. And if they can't do business with them, then they just won't do it. Well every time that happens, the gaming commission and the State loses money on the taxes and cities lose it for their taxes, the gaming tax and their license fees and all that. Everybody loses all the way around. I understand you can't do it today. But it shouldn't take much to just vote and say I think the gentleman's right. Right there it is. It's discrimination. That's the number one word, discrimination. And that's what we have here."

Chair Rojecki explained that the Commission could not do anything today, but they would ask staff to provide the Commission with some background information on what's going on, what staff has done thus far, and the Commission can go from that point to look at it. Chair Rojecki appreciated Mr. Harris bringing it to the Commission's attention.

Mr. Don Harris replied he would appreciate that and thanked the Commission.

Mr. Robert Saucier, CEO of Galaxy Gaming: "I've been involved with the Washington State Gambling Commission as a licensee in one form or another for about 15 years. I started in Washington, and then Galaxy Gaming grew and we moved to Las Vegas in 1999. And since then we've been doing business with gaming regulators throughout North America. And it's interesting because although my roots are here, I've gotten experience with a lot of other gaming commissions. And one of the things that you need to be aware of, particularly our newest Commissioner, is Washington is getting it right in many instances. A lot of times Washington does some goofy things, but there's a tremendous amount of respect here, I think, for this Commission. The three people that I work with most often on a regular basis are Deputy Director Trujillo, and congratulations David, that's very deserving; Mark Harris does a phenomenal job; and then the other person that I want to recognize that Dave had mentioned is Special Agent Keith Wittmers, the finest agent I've ever dealt with in the country. You just need to be aware you have some very, very special people here. And I'm not doing this to try to pump everybody up. But you need to be aware that as an observer who started here, and I had my complaints with the Commission 15 years ago, and I'm sure the Commission had their complaints with me 15 years ago. But having experience with other gaming jurisdictions, which are all very professional. You just need to be aware that the process that's going on here is to be commended. Thank you."

Chair Rojecki thanked Mr. Saucier for his kind words.

Ms. Karen Sutherland: “Thank you for this opportunity. I feel sort of like a little fish in a very big pond. I’m Karen Sutherland and I belong to a small community social group. And we have been getting together and going out and having dinner and a couple of drinks and playing poker for money, going by all the rules. It’s a private club, not open to the public. All your standard rules. And somebody reported us to the Gambling Commission, your representative in Vancouver, Adam Carolus. And we were told that we could not play. No money, no profit, there’s none of this big stuff that I’ve been hearing all about. Adam told me that it was the Clark County Commissioners that said that we can not have a card room. And I said it’s not a card room, we go to different restaurants and we play. We were at an athletic club. They just let us have the room. We didn’t pay them, they didn’t make any money. We had a small buy in and all the money went to the people, so there’s no professional gambling or racketeering or any of that stuff. And so he recommended that I go to the Clark County Commissioners and say this law that you made back in 1973 that I couldn’t do this, and I did. And I talked to one of their assistants and they said you don’t seem to be breaking any law that we’re aware of so I don’t know what Adam is talking about. So I went back to Adam and Adam said oh, no, no, no, no, you are. And he quoted me many, many of your laws that as I read them, refer to professional gambling and public gambling. And the one that really gets me is your legislative declaration which says professional gambling activities to safeguard us against organized crime, all this kind of stuff, all the stuff you’ve been talking about that you have to legislate. But at the same time to preserve the freedom of the press and avoid restricting participation by individuals and activities in social past times, which activities and social past times are more to amusement rather than profit. Anyway, that’s my story in a nutshell. And I was referred to come talk to you guys. And I wonder what is our option? Our option, which seems to me is that you say go to the casinos, like you’re promoting the casinos. The only place we can play for money, other than our homes, which means we can’t go out and support the local businesses with dinner and a couple of drinks. We have to go to the casinos and let them take their profit in order for us to play our little \$25 game of Texas Hold’em. So that’s my quandary. And I’ve talked to a number of your wonderful staff, Gail and Susan and everybody who tells me I can’t do this. And I don’t know in reading the laws where it says I can’t do this. So that’s my question to you.”

Assistant Director Mark Harris replied the main issue was that in order to play at a place of business, the business has to have a card room license to allow the activity. It is not that Ms. Sutherland is doing anything illegal; it would be the business allowing them to participate in that activity. In order for a restaurant that does not collect any fees to allow Ms. Sutherland’s group to play there, they would need a Class D license. In Clark County card rooms are illegal so staff would not be able to issue a Class D card room license.

Chair Rojecki asked if Clark County was treated differently than King or Pierce Counties.

Assistant Director Harris affirmed, explaining that each county can decide whether they want to allow certain gambling activities to take place in their jurisdiction. Clark County, in

the county limits, does not allow card rooms; and some of the cities in Clark County do not allow card rooms.

Ms. Sutherland: “But we don’t fall under card rooms. We’re not a professional game, a room set aside for the promotion of card playing. It just is occasionally we get together and we play cards. And it’s not open to the public and it’s not professional gambling. So how do we fall under that definition of a public card room?” **Assistant Director Harris** replied Ms. Sutherland wouldn’t, but the location would. Because they would be allowing the activity to take place on their premises, they would have to have a license to allow that activity to be conducted there.

Ms. Sutherland: “And even if we move, we have to get a license for wherever we go?” **Assistant Director Harris** replied Ms. Sutherland would not have to get a license, but each location would have to have a license to allow that activity to participate.

Ms. Sutherland: “And when we were playing at this health club, that was broached because Adam told us we couldn’t play there any more. And when you go to a company, a business, a small business, and you say we’d just like to play a friendly game of poker here every once in a while when we come in for dinner and drinks and all you have to do is contact the Gambling Commission, buy a license, and let them come in and look at your business to make sure that you’re not making any profit. Now what do you think that little business says to that? Well you know, we thought it over and we don’t think we want to go through that trouble of having the Gambling Commission come in and look at our business. We don’t have gambling here, other than when you play your little game. So we’re not going there with you, thank you very much. You leave us no option. You absolutely leave us no option.” **Assistant Director Harris** suggested the activity could be conducted at a personal residence; anywhere other than a place of business.

Ms. Sutherland: “I know that. And then have a caterer come in and give us dinner and drinks? I mean you leave us no option to go out and have dinner and drinks and play a little \$25 game of poker. And I just wanted to say, is that your intention? Was that your intention when making these laws? You are telling the little business people like we are of Clark County that no, you can not do that, you must go to the casinos. That’s what you’re telling us.” **Assistant Director Harris** explained the Legislature actually writes the laws, the Commission just enforces them.

Ms. Sutherland: “The Clark County Commissioners?” **Assistant Director Harris** replied no, it was the Legislature. **Chair Rojecki** added it was the State Legislature and they enacted what the Commission is applying by policy.

Ms. Sutherland: “So it’s not the Clark County law that is being ...”

Director Day said he was probably going to get everyone even more confused.

Ms. Sutherland: “Well that’s okay, because I’ve been having circular arguments for months.”

Director Day explained the law creates a separation; it talks about player exception in private gambling and the player as a real person. That can clearly be done at home; the Commission does not interfere in that. In order for there to be gambling in a business location, the location needs to be licensed (not the people, but the location). Clark County has chosen to ban social card games in their entirety, so no business in the county can get a license. Director Day thought it was a \$45 license, so it was not a very restrictive situation, but the business has to be licensed. The statute and those requirements are not governed by Clark County; they are governed by the State Legislature. The local government does have the authority to say they do not want this kind of gambling. They can specify no gambling at all or just certain kinds – they can say they don’t want house-banked card rooms but do want social card games. There are different jurisdictions. The Commission tries to make rules to implement what the Legislature has assigned. It is not always perfect and Director Day definitely understands Ms. Sutherland’s frustrations, but the Commission is in a situation where if it is a business location, by rule it must be licensed in order to allow gambling activities.

Ms. Sutherland: “Is this the 1973 law that was made when the card rooms were thrown out of downtown Vancouver?” **Director Day** did not know the date of it, but it is the Clark County Commission that decides whether to prohibit or not – it is a local decision.

Ms. Sutherland: “Okay. So in going to the Clark County Commissioners and explaining to them our little group, and them saying that doesn’t fall under their thing, but it falls under yours, I don’t understand this. That’s where I’m confused. Clark County makes the rule, but the State Gambling Commission enforces it to their interpretation.” **Director Day** explained the Commission enforces the state laws and regulations. It is true that the State Gambling Commission requires a business to have a Class D license if they are not taking any money from the game itself. So the Commission does require a social card game license for a business to allow card gambling games in their premises. The County has said they will not allow any social card games in Clark County. Staff has said the business has to be licensed, and Clark County has said they are not going to allow any card games. The problem for Ms. Sutherland is that the card games could be conducted if the business had a license, which any business can get and is very non-restrictive and inexpensive, but the Gambling Commission could not issue one in this case, even if one of the people where Ms. Sutherland’s group plays at wanted to apply, because the County does not allow card rooms of any kind. Director Day asked if that helped any.

Ms. Sutherland: “No, because you’re saying the County doesn’t allow it. And I went to the County and the County said okay.” **Director Day** explained that whoever Ms. Sutherland talked to at the County may not have understood how the Commission issues licenses, which may be where they are coming from. But what Director Day was trying to

say is that from the application of the rules and law, in order for the activity Ms. Sutherland is talking about to be conducted, the business needs to have a license.

Ms. Sutherland: “And even though the WAC, public card room defined, we do not fall under that? This is a public card room defined, whatever the WAC says, does not fit, so it doesn’t matter? It’s still a public card room.” **Director Day** thought this fell under those WACs and agreed there could be disagreement over that.

Ms. Sutherland: “Okay, so there is no option?”

Senator Prentice responded that Ms. Sutherland could obey the law; that was her option.

Ms. Sutherland: “I can obey the law which is what we are doing. But there is no option.”

Senator Prentice repeated that was what Ms. Sutherland’s option was.

Ms. Sutherland: “We can go to Oregon and support their businesses because Oregon’s law, as far as I’ve researched it, is less strict on this particular thing. Or we can go to the casinos and help them make a profit.” **Director Day** replied there were two other options: Ms. Sutherland could conduct her card games in the privacy of her home; or Clark County could change their ordinance to allow social card games, which would also make available the opportunity for businesses to apply for those licenses.

Ms. Sutherland: “And where would I have to go to have them look at that law?” **Director Day** replied the Clark County Commissioners are responsible for the ordinance.

Ms. Sutherland: “Okay. So when I went to the County Commissioners I didn’t ask them to change their law, because they said I didn’t fit under this law and I was doing nothing wrong. So now we’re back again ...”

Chair Rojecki suggested continuing this discussion after the meeting. He was sure staff could help Ms. Sutherland a little bit because it would be with the County Commissioners.”

Ms. Sutherland: “Okay. Thank you for your time.”

Representative Alexander said that, as he has been here and listened to and reviewed our own RCWs, he knew that economic development is not one of the primary objectives of the Gambling Commission laws or gambling laws per se. But he was concerned and would be interested to see some kind of a report or graph on the number of new applications and the number of lost businesses the Commission has had over the past several years. Representative Alexander felt this particular industry is one where jobs are created and jobs are lost and he thought it was important for the Commission to at least evaluate and know what that situation is. He would appreciate getting some kind of record information about that, if he could.

Director Day responded that staff could definitely do a historical rendition of the non-tribal

licenses and the trends. They could show the drop in the number of licenses and different types of gambling activities and prepare something around reported gambling activity, but Director Day did not think staff could do closure of businesses, per se. **Representative Alexander** said he was really trying to look at new applications and closures, and the related employment impacts of those decisions. **DD Trujillo** responded that staff could show the number of new license applications that have come in and the number of active licenses over time. Whether or not it is closed depends upon how it is coded in the system, because businesses may go out of business for a variety of reasons. But staff can get the information, which goes back years. **Representative Alexander** asked for the past three or four years; he was not interested in going way back in the history, but wanted to see how licensees were doing. Representative Alexander sees the new applications come through in the reports, but does not see the other side of the issue. **DD Trujillo** replied that staff could definitely prepare a report showing the other side.

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

Chair Rojecki called for a break at 4:05 p.m., and then went into an Executive Session at 4:25 p.m. to address pending investigations, tribal negotiations, and litigations. **Chair Rojecki** called the meeting back to order at 5:30 p.m. and immediately adjourned.

(The four Commissioners & two Ex-Officio Members were present during Executive Session)

**WASHINGTON STATE
GAMBLING COMMISSION MEETING
FRIDAY, JULY 10, 2009
APPROVED MINUTES**

Chair Keven Rojecki called the meeting to order at 9:10 a.m. at the Heathman Lodge in Vancouver and introduced the members present:

MEMBERS PRESENT: **Commission Chair Keven Rojecki**, Tacoma
 Commissioner John Ellis, Seattle
 Commissioner Mike Amos, Selah
 Commissioner Michael Reichert, Maple Valley
 Senator Margarita Prentice, Seattle
 Representative Gary Alexander, Olympia

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

RULES UP FOR FINAL ACTION

7. Staff Proposed Rule Change – Allowing Amusement Games at Family Sports Complexes

Staff’s Amended Version up for Final Action

- a) **Amendatory Section WAC 230-13-150** – Amusement game locations
- b) **Amendatory Section WAC 230-13-080** – Operating coin or token activated amusement games
- c) **Amendatory Section WAC 230-13-135** – Maximum wagers and prize limitations at certain amusement game locations

Deputy Director Trujillo reported these rules have been on the agenda in February, March, April, was held over in May, there was no Commission meeting in June, and they are before the Commission today for final action. These three proposed amendments close the loop on a petition approved by the Commission in May of 2008. These amendments remove the words “commercially operated” from the earlier approved rules. The words were problematic for the original petitioner, a nonprofit organization. They also remove the requirement that a charitable or nonprofit organization be licensed for bingo or punchboard/pull-tabs in order to operate amusement games. The reason staff asked for these rules to be held over in May was because at the study session it was pointed out that the language may be overly broad

and allow commercial amusement games to appear in places that were not anticipated. The language defines a family sports complex in more detail and says that a family sports complex does not include a facility owned or operated by a school or school district. The concern at the study session was that amusement games may begin to appear in high school stadiums, high school elementary school fields, etc. Staff recommends adoption of the rules with an effective date 31 days from adoption. This coincides with House Bill 1217 confirming the Commissioners ability to authorize amusement game locations, which becomes effective July 26.

Chair Rojecki called for public comment; there was none.

Commissioner Ellis made a motion seconded by **Commissioner Amos** that the Commission adopt an order approving the proposed amendments to WAC 230-13-150, WAC 230-13-080, and WAC 230-13-135, with an effective date 31 days from adoption.

AAG Ackerman asked for clarification that the motion related to the form of the rules that are entitled Amended version up for adoption at the July 2009 meeting.

Commissioner Ellis affirmed that was correct. *The vote was taken; the motion passed unanimously.*

8. Staff Proposed Rule Change – Remote Access to Card Room Surveillance

- a) **New Section WAC 230-15-267** – Remote access of closed circuit television surveillance systems

Assistant Director Mark Harris reported the new rule would allow licensed gambling service suppliers to install and maintain closed-circuit surveillance television systems to remotely access the system for maintenance and repair. The card room would first notify the agent and then document it in the surveillance log. The remote access would only be enabled during the duration of the repair and maintenance, and the connection would be terminated immediately afterwards. There are no current rules that address whether a licensed service supplier would be allowed to do this; although, staff has allowed this on a limited basis for repair and maintenance. This new rule would just codify what is currently allowed. Any problems with the digital surveillance system could potentially be corrected much faster if this were allowed. Staff would have additional time to approve the mode accesses and to review the surveillance logs. If adopted, staff recommends an effective date of January 1, 2010.

Chair Rojecki called for public comment; there was none.

Commissioner Ellis made a motion seconded by **Commissioner Amos** that the Commission adopt an order approving the proposed new rule establishing new section WAC 230-15-267 to be effective January 1, 2010. *Vote taken; the motion passed unanimously.*

9. Petition for Rule Change – Lance Dodd: Using half dollars and quarters to pay nonhouse-banked card games fees

a) Amendatory Section WAC 230-15-145 – Making wagers with chips or coin

Assistant Director Harris reported the petitioner is requesting that players be allowed to use half dollars and quarters to pay fees in nonhouse-banked card games. Licensees utilizing a rake method to collect fees are limited to the maximum of 10 percent of the pot or \$5, whichever is less. This would allow nonhouse-banked card game operators to be able to collect additional revenue. An example would be if the pot is \$25, 10 percent would be \$2.50. Currently, they are using dollar chips and the 50 cents is rounded down and not collected. If allowed to use quarters and 50 cent pieces, the card room could collect that additional 50 cents. Staff recommends an effective date of January 1, 2010.

Chair Rojecki called for public comment; there was none.

Commissioner Ellis made a motion seconded by **Commissioner Amos** that the Commission adopt an order approving the proposed amendment to WAC 230-15-145 to be effective 31 days from filing.

Commissioner Amos thought staff had recommended an effective date of January 1, 2010, but the motion was for 31 days. **AD Harris** affirmed the staff recommended effective date was January 1, 2010.

Commissioner Ellis amended his motion, seconded by **Commissioner Amos**, for an effective date of January 1, 2010. *Vote taken; the motion passed unanimously.*

10. Petition for Rule Change – Recreational Gaming Association: Funds to Pay Out Prizes

a) Amendatory Section WAC 230-15-455 – Keeping funds to pay prizes, progressive jackpot prizes and odds-based wager prizes

Assistant Director Harris reported the petitioner is requesting to eliminate the requirement that all individual odds-based wager prizes offered by house banked card rooms over \$25,000 be deposited into a separate bank account. The proposed change would allow the house-banked card rooms that offer more than one odds-based wager prize over \$25,000 to keep the amount of the second largest prize on deposit in a savings bank or credit union in Washington, or have a verifiable line of credit with a Washington State financial institution. Currently the highest odds-based wager prize offered is required to be in the cage as part of the minimum cash requirement. This rule change would require the second highest prize to be available on deposit in a bank, but not necessarily in a separate bank account as currently required. House-banked card rooms have not been offering prizes over \$25,000, so these amounts have not been required to be deposited into the bank. With the limits going up to \$300, this would create a higher-end prize of \$30,000 and current rules require all prizes offered by the

house-banked card room that are odds-based to be deposited into a second bank account. Staff recommends an effective date of January 1, 2010.

Commissioner Ellis asked if there was a rule that would limit the maximum prize to \$30,000, as a multiplier of the \$300 maximum bet, and how that would work. **AD Harris** affirmed there is a rule that would allow the card rooms to do aggregates of the prizes available. The aggregate calculation based on a \$300 betting limit would increase the minimum prize offered to \$30,000, so all those prizes being offered would be required to be deposited into a separate bank account. If there were 15 tables all offering that prize, all 15 prizes over \$25,000 would have to be on deposit in a separate bank account. **Commissioner Ellis** thought he heard AD Harris say “minimum” and asked if he meant that was a maximum of the \$30,000. **AD Harris** replied it was minimum; the minimum prize that would have to be on deposit would be \$30,000. Anything over that would also have to be on deposit.

Chair Rojecki called for public comment.

Mr. Dave Fretz, Recreational Gaming Association and Great American Gaming Corporation, thanked staff for working with them on this rule change. They support the change and asked for the Commission’s support of the rule change.

Commissioner Ellis made a motion seconded by **Commissioner Amos** that the Commission adopt an order approving the proposed amendment to WAC 230-15-455 to be effective January 1, 2010. Vote taken; the motion passed unanimously.

Deputy Director Trujillo introduced Special Agent Roger Sauve, an expert in the card games and the variations offered for play in Washington State. His presentation is designed to provide information to lend clarity as the Commissioners consider agenda item number 12.

11. Number of Games Within a Card Game Presentation (PowerPoint)

Special Agent Roger Sauve, based out of Vancouver, Washington, gave credit to Special Agent Keith Wittmers for the content in this presentation. As heard yesterday, SA Wittmers is a spectacular agent and in his 15 years with the Commission he has not only become a great agent, but has also learned to schedule vacation around Commission meetings. SA Sauve reviewed his PowerPoint presentation, noting the two rules regarding what is allowed within a hand of cards are WAC 230-15-040 and WAC 230-15-140. Currently the tribes may offer any table game approved for play in Washington State commercial card rooms or any other table game authorized for play in Nevada. When the tribes ask for approval of these games, if not currently approved in a Washington State commercial card room, the tribes would submit it and Mr. Wittmers would review it to make sure that all the rules that apply are fulfilled before he would authorize that game. All social card games must meet the requirements of WAC 230-15-040 in order to be authorized for play in commercial card rooms. WAC 230-15-140 applies to the wagering limits of those social card games, and

limits a single wager to not exceed \$300. Currently there are 137 card games that have been approved for tribal facilities, and 133 of those have been approved for commercial card rooms. WAC 230-15-040 requires the game to be played with a standard deck of cards or with electronic card facsimiles approved by the Director or the Director's designee, and no side bets between players are allowed. All players must receive their own hand of cards and be responsible for decisions regarding their hand. Decisions can include fold, play, split, double-down, discard, draw additional cards, raise the wager, or purchase insurance. Players are not allowed to place wagers on any other players or the houses hand, with the exception of mini-baccarat. A player's win or loss shall be determined during the course of play of a single card game. Currently no more than three separate games shall be played within a single hand of cards. A game is a separate pay out for each wager placed before the cards are dealt. Bonus bets and progressive bets are considered a game. If a player does not have to place a wager to receive a pay out, it is not considered a game. SA Sauve explained some different games, how they are played, and the differences between a decision and a game. SA Sauve reviewed the pay tables included in the agenda packets.

Commissioner Amos asked what bonus percentage meant in the Lucky Ladies pay table. **SA Sauve** explained there could also be a jackpot associated with these games, so rather than giving an odds-based wager on that bonus bet, the house could have a jackpot. If a player achieved a pair of queens with a dealer blackjack, the player would get whatever bonus percentage the house had set up.

Commissioner Ellis asked, as a matter of curiosity, using column A at the top of the Pai Gow pay table, the seven card straight flush without a joker paying 5,000 to 1, if SA Sauve had any idea what the odds were of a player getting that hand. **SA Sauve** replied he was not sure, but he could get that information for Commissioner Ellis. **Commissioner Ellis** said it was mostly just a matter of curiosity. Some of the pay offs look very impressive, but when the odds are considered, Commissioner Ellis thought they probably happened very rarely. **SA Sauve** agreed, noting that he thought Special Agent Wittmers also received odds calculations, which can also be found online. SA Sauve said he could get them for Commissioner Ellis, adding that in his time with the Commission he has never seen it.

Senator Prentice asked if SA Sauve had explained what the house edge and hit percentage was on the back of Lucky Ladies Appendix A. **SA Sauve** thought the house edge was basically the percentage the odds are in the house's favor – so the 1.58 percent is what the house advantage would be. Hit percentage is the likelihood of any winning hand during a given round. House edge is the advantage per hand dealt.

Commissioner Reichert asked if that was the likelihood the house would hit 1.58 percent. **SA Sauve** replied it was the likelihood that any winning hand would be dealt during that hand.

Representative Alexander asked what the basis was for the numbers going across; the 1, 2, 3, 4, 5, 6, 7, 8 and if certain odds changed depending on whether it was an FCP-02 or FCP-

07. **SA Sauve** was not certain, but thought those depended on how many decks were used in that game or depended on the dealing procedures. Several different options are included when these games are submitted for authorization. With the Lucky Ladies example, they could play with two, four, six, or eight decks, which would ultimately change the odds, and have to restructure the pay table.

Commissioner Reichert asked if at some point the house determines which of those pay tables is going to apply to the games played in its establishment. **SA Sauve** affirmed the licensees submit those in their internal controls through their local agent. **Commissioner Reichert** asked if staff tracks them until they are changed, and if the formal process of changing the table they select was done weekly, monthly, or nightly. **SA Sauve** explained that, for the most part, once the game is put in play that is what the operators are going to stick with. They do not change pay tables; they change games. Lucky Ladies is a very popular game, so a casino may have five tables of Lucky Ladies and most likely they are all the same pay table. When the operators switch those games out, they replace them with a completely different game. **Commissioner Reichert** asked how often the operator would be able to change that pay table. **SA Sauve** explained the operator would have to submit an internal control request. The local agent would review it, ensure the game and the pay table have been authorized, and then they would relay that information back to the casino and tell them when they could put it in. **Director Day** added there was no limitation on how often the operator could do that. **Special Agent Sauve** affirmed. **Commissioner Reichert** asked if it was just a procedure to make sure that if the operator makes a change to another table it is approved. **SA Sauve** affirmed that was correct. **Commissioner Reichert** asked if these would be tables that are consistent across the industry or just in our state. **SA Sauve** believed they were tables that are consistent across the industry. One other thing to keep in mind is that of the 137 games that are approved in tribal facilities and the 133 games that are approved in commercial card rooms, SA Sauve ventured to say that only 20 are actually in play. There are some games out there that are not understood and that people cannot operate, but they keep submitting these games for approval. The examples given today are considered the most popular games. **Commissioner Reichert** said he would be interested, at some future meeting, in talking about the percentage use of games across our state, maybe in card rooms, to get a feel for what the games actually are. **SA Sauve** gave an example of two casinos that he regulates in La Center, which are currently each authorized 15 tables – a total of 30 tables. Of those, probably 10 are Lucky Ladies, and each property has two of the Pai Gow games, which are limited betting to three spots. In this particular example, La Center does not offer the bonus jackpot so their layout is a little bit different as it does not have that red dot at the top of it. Four-card poker is considered a novelty game, so a card room might have one table for that game. Blackjack and blackjack-based games seem to be the most popular. **Director Day** pointed out that the majority of the games are copyrighted.

Commissioner Ellis expressed it was an excellent presentation.

RULE UP FOR DISCUSSION

12. Petition for Rule Change – Galaxy Gaming: Number of Games Within a Hand of Cards

Petitioner's Alternative #1 – Up for Filing at the July 2009 Meeting

Petitioner's Original Proposal – Filed at the May 2009 Meeting

- a) **Amendatory Section WAC 230-15-040** – Authorizing new games or changing game rules

Deputy Director Trujillo reported the original petition was filed in May by Rob Saucier of Galaxy Gaming, to amend the rule to increase the number of games allowed within a single hand of cards from three to six. When the petition was filed for further discussion, it was filed with the proviso that Mr. Saucier work with staff to make it clear the proposal was not designed to increase significantly the total dollar amount wagered. Petitioner's Proposed Alternative #1 is the language that staff and Mr. Saucier came up with, and says "however no more than three games may offer a wager that exceeds \$5 each."

Commissioner Ellis asked if that meant the net result of the change would be that the total maximum wager could be \$915. **DD Trujillo** affirmed that, theoretically, it could. For example, in Emperor's Challenge it would be an additional \$5. In the rule summary staff recommends filing Alternative #1, but DD Trujillo asked the Commission to amend the petitioner's original petition with the language in Alternative #1 rather than file a new Alternative #1. DD Trujillo thought that was the intent of the Commissioners request in May, and it is what the petitioner agreed with. **AAG Ackerman** thought what DD Trujillo was saying was that staff got together with the petitioner, Mr. Saucier, and are now asking the Commission to make and approve a motion that would amend the petition to be in the form that is now set forth in Alternative #1. So a motion to amend the petition to make it encompass the language that is set forth in Alternative #1 is what staff is seeking. **DD Trujillo** agreed, noting AAG Ackerman said it much clearer than DD Trujillo could.

Chair Rojecki clarified that in the end, the motion is not going to actually say Alternative #1; it is just going to say original proposal. **DD Trujillo** replied it would say "as amended."

Commissioner Ellis asked if it was AAG Ackerman's opinion that amending the original petition in that fashion without further notice to the public would not violate the APA. **AAG Ackerman** affirmed, adding he did not believe that the change set forth in Alternative #1 would be a substantive change as defined in the APA.

Chair Rojecki called for public comment.

Mr. Saucier, Galaxy Gaming: “I want to thank Roger for a great job. I think he understands our games better than some of our people do. So if your career with the Commission doesn’t go the way you want ... I’m sorry, I just want to clarify one thing. Clearly our intent for this rule change was not meant as a back door attempt to try to increase the amount of wagers. And that’s why we agreed with staff to the amendment. One thing I do want to point out though is that there is a misconception about what the maximum amount of wagers can be in Washington State. It was reported that because of the three game rule that the maximum wagers can only be \$900 and if we went to the six game rule it would be \$1,800. In reality that’s not the case because as was presented today, if there is a decision change, that can result in another wager. So theoretically, and to my knowledge this has never happened, but theoretically in Washington State with a \$300 limit on blackjack, a person can split their hand up to four times. So that would be \$1,200. They could double down on each of those, and that would be \$2,400. And the State allows a player to play all nine spots on a table. Theoretically a player could be at a table and play \$21,600. Now again, that doesn’t happen. And in reality what happens is with a lot of these wagers such as our Pai Gow insurance versus our Emperor’s Treasure, you could never win on both of them because they’re polar opposites. It would be like going to a roulette table and betting on the black and on the red. You could never win on both. So what happens is because these types of wagers as the industry has evolved – and I think it’s very important because Washington State is the second largest table game jurisdiction in North America. So table games are a very, very important part here. And as we’ve watched the industry evolve, eventually it started with the only card game was blackjack. And blackjack didn’t even have insurance when it first came out. But over time, these alternative bets, as the game evolves, there are more and more of them. And that’s why there is a need for this, because players are looking for various alternatives. It’s far more sophisticated than it was even 10 years ago. So that is the purpose of this. The players have these options now. There’s a game that was approved for tribal, it wasn’t mentioned today. But in Pasco there’s a game that’s approved that can up to 13 separate games within this. The industry hasn’t evolved enough, and that’s why you don’t see that. The point is is that theoretically a company in the commercial arena could also have a game that would have 13 separate games. But the players will only be allowed to wager on any three of the 13. And that actually causes confusion because a lot of the players go back and forth between tribal and non-tribal and they want to know why can I only bet on three here and I can bet on four there. So that’s really the purpose of this is to help get some uniformity and consistency, help clear up some of the issues that are occurring in the card rooms. And definitely not an intent to increase the wager limits. Thank you very much.”

Commissioner Ellis made a motion seconded by **Commissioner Amos** that the Commission modify the petitioner’s Original proposal to include the language specified in the petitioner’s proposed Alternative #1 stating that “however no more than three of the games may offer a wager that exceeds \$5 each. *Vote taken; the motion passed unanimously.*”

RULES UP FOR DISCUSSION AND POSSIBLE FILING

13. Staff Proposed Rule Change to Implement 2009 Legislation – Increase the Price of a Raffle Ticket from \$25 to \$100

a) **Amendatory Section WAC 230-11-014** – Maximum raffle tick price

Ms. Hunter reported this proposed rule change was to implement Engrossed House Bill 1053, which becomes effective on July 26. This rule change strikes out \$25 and inserts \$100. Staff recommends filing for further discussion.

Chair Rojecki called for public comment; there was none.

Commissioner Ellis made a motion seconded by **Commissioner Amos** that the Commission accept for filing and further discussion the proposed amendment to WAC 230-11-014, as presented by staff. *Vote taken; the motion passed unanimously.*

14. Staff Proposed Rule Change – Significant Progress Requirements for Charitable and Nonprofit Organizations

a) **Amendatory Section WAC 230-07-020** – Making “significant progress”

Deputy Director Trujillo reported the proposed change does not add anything new to the way the rules have been applied, but simply reinstates language that previously existed prior to the Rule Simplification Project. Yesterday, Keith Schuster referred in his presentation to regulatory groups, which are Groups I, II, III, IV, and V. Regulatory Groups I and II are low level groups; Group III is medium; and Groups IV and V are large groups. RCW 9.46.0209 requires charitable or nonprofit organizations to demonstrate significant progress, which is clarified in the WAC. Charitable or nonprofit organizations were required to follow the rules structured for making significant progress. There were additional requirements for Groups III, IV, and V, and then there were additional requirements for the larger, higher volume Groups IV and V. At the rewrite, the requirement was removed for charitable/nonprofit organizations in Groups I, II, and III to demonstrate significant progress, which was not intended. The proposed amendment to WAC 230-07-020 strikes the words “in Groups IV and V.” This was designed for all charitable or nonprofit organizations, with additional requirements for Groups IV and V. This change simply clarifies what a smaller nonprofit organization needs to do to demonstrate significant progress. Staff is recommending this rule be filed for further discussion.

Chair Rojecki asked if there was a specific reason for December 31. **DD Trujillo** explained the reason for December 31 is because the fiscal year ends December 31 or before, so if this is held off until January 1, with reporting requirements the way they are, staff actually would not be able to apply this rule until the year 2011. So making it the fiscal year, December 31, 2009, means that it will be effective for that fiscal year.

Commissioner Ellis thought, based on the presentation yesterday, that part of the change being proposed was to allow charities and nonprofits a credit of 49 percent of taxes that they pay local governments, but that is obviously not part of this proposal. **DD Trujillo** responded that change would be in the proposal that will be up for final action in August. **Director Day** clarified that a separate petitioner made the proposal on the tax credit, and this change was a staff clean-up proposal.

Senator Prentice asked if the two proposals would be combined or if they are two separate proposals. **DD Trujillo** replied they were two separate proposals. **Director Day** added this was a staff proposal to clarify an error made in Rule Simplification Process and the other is a separate petition entirely. **DD Trujillo** said that Keith Schuster's presentation yesterday covered both proposals. **Senator Prentice** recalled the Commission had limited the charitable organizations tax contribution to 5 percent; reduced it, but expanded the number of days they could operate, and asked if this would be a further reduction and by how much. **DD Trujillo** replied this one would not be a reduction, but the petition that will be up for final action in August would impact that. **Director Day** clarified the petition that will be up for final action next month would allow the petitioner to take a credit for taxes paid against their required cash flow; the money they are required to return. But it does not affect the tax rate.

Chair Rojecki called for public comment; there was none.

Commissioner Ellis made a motion seconded by **Commissioner Amos** that the Commission accept for filing and further discussion the proposed amendment to WAC 230-07-020, as presented by staff. *Vote taken; the motion passed unanimously.*

15. Staff Proposed Rule Change – Reporting Name Changes to Licensing Operations

- a) **Amendatory Section WAC 230-06-095** – Change given name, trade name, or corporate name

Deputy Director Trujillo reported staff is proposing this amendment to allow individuals to report name changes 30 days after the effective date of the change. Current language is that individuals are out of compliance if they wait to notify us of a name change within 30 days; however they cannot get that proof of name change in advance. Staff recommends filing for further discussion.

Chair Rojecki called for public comment; there was none.

Commissioner Ellis made a motion seconded by **Commissioner Amos** that the Commission accept for filing and further discussion the proposed amendment to WAC 230-06-095, as presented by staff. *Vote taken; the motion passed unanimously.*

Chair Rojecki called for a break at 10:20 a.m. and reconvened the meeting at 10:40 a.m.

16. Staff Proposed Rule Change – Repeal of All in Wager of \$500 for Texas Hold’em Games

a) Amendatory Section WAC 230-15-135 – Wager limits for nonhouse-banked card games

Assistant Director Harris reported this proposal removes the language from the recent rule change that became effective July 1 allowing all-in wagers of \$500 in Texas Hold’em poker games. By removing the all-in reference, the rule would revert back to the \$40 limit on all house-banked card game wagers. After the rule was passed, staff identified a problem the new rule created in the wagering structure. The change allows for all-in wagers only to exceed to \$40; the rule does not allow players to make the call or a matching wager over the \$40 limit. The rule also may be ambiguous as to who is eligible to make an all in wager – do the players have to have less than \$500 to place an all-in wager; what happens if they have \$501; are they limited to just a \$500 wager or are they ineligible to make the wager? The proposed change would prevent having an unworkable rule.

Representative Alexander thought this was interesting. He has been playing poker most of his adult life, but only with friends and acquaintances inside of personal residences. Poker is a risk-based game, so there has to be some risk involved when playing to make it poker. Whatever the stakes are in Texas Hold’em, it is a different risk factor. Without some significant amount of additional risk, the game does not seem to hold the same appeal. Representative Alexander asked if staff had considered some amendment like a one-time maximum bet of \$300 per game; or something that makes the bluff a little more substantial. It is a different game than seven-card stud or five-card draw poker. Representative Alexander understood the concerns with where the initial proposal came down, but it seems that to go back to the basics does not provide an attractive opportunity for our commercial establishments to offer this game with the same kind of appeal that it would otherwise.

Commissioner Amos said he does not play in individual residences like Representative Alexander does because he does not want to get in any trouble, but he understood fully why they wanted the all-in bet. When players do an all-in, they are trying to force somebody else out of the game so they do not draw more cards and possibly win. That is one of the reasons Commissioner Amos did not see a problem with the all-in bet at that time. Commissioner Amos hoped that the Commission could come up with something a little bit different that the RGA might want to do. The all-in bet is part of Texas Hold’em. Commissioner Amos admitted he was completely lost when talking about Pai Gow and some of the other games. When that came up in the presentation – and SA Sauve did a fine job of explaining it – Commissioner Amos got a little more out of it. Then when he was talking to some of the other people about the dealers having to memorize all these pay outs, Commissioner Amos thought he would not be able to work in that industry; it wouldn’t be for very long before they would probably fire him anyway. Commissioner Amos could understand the all-in bet, because he does play that game at Christmas time in a private residence, and forcing his kid out of the game

with an all-in bet was something he really liked to do. There has to be some type of wager there to force somebody out. When there is a \$40 limit, or up to \$100 limit, or whatever it is, that is not going to force some of these players out.

Director Day recalled this type of discussion was why this alternative even got there before – to find a way to provide a little bit more incentive, or a little bit more excitement, around the all-in wager specifically and to limit it to just that bet. From staff’s perspective, it was really limited and does not work, which is why staff have requested it be repealed. From the other aspect, as far as the game played in Washington, from what Director Day has seen, poker itself has actually gained significant popularity in Washington. When this first came in, there were not that many poker tables, but poker tables have increased as time has worn on. Director Day was not sure of the breakdown at this point, but that was with a \$25 limit, and around April 2007 the Commission increased the limit to \$40. So there was an increase in the wager limit not that long ago.

Chair Rojecki called for public comments.

Mr. Chris Kealy, RGA President and owner of a few card rooms: “And now I’m in the receiver business working with Grant Thornton on the receivership of the Silver Dollar organization. This particular petition has run a gauntlet. I think we know the history. I think it got filed in April or May of 2008. And through some unfortunate errors, we had the petition fall short. In the December non-meeting it ended up having to get refilled in January, drug out to April, and then fell in the middle of the rain storm there with the particular electronic device that was unfavorable for Commissioners. We think that we’ve been forewarned and foretold that we’re not going to look at limits for awhile. And we see inflation coming at us rather rapidly. So in any good situation, we had a lively discussion yesterday during work study about the history and all the rest of this. And I think everybody has come to this process honorably and done a good job, and it’s just a lot of different procedural processes that find us with a rule that has been hybridized and has hair on it. I’m hopeful that we could see this filed today and then next month see the RGA come forward with a petition that looks a lot like a compromise and see that petition get filed next month, and quite possibly run these things on a parallel course for public activity and resolve this issue in the next few months. So that’s my hope. The other hope would be that you delay filing this petition until next month while we look at the other. That’s been more of a standard practice; when a rule is going to be filed that we look at it in work study and then the next month we file it. This one has gone on a faster course due to some dysfunctional nature that the staff believes it has identified in the call portion of the bet. Although most people believe that the call is implied in a poker game. Make a bet, it’s either fold or call. Either way, it’s our desire to see this get resolved, have a good functioning rule, good clean set of rules that everybody knows how to regulate and follow. And our petition #1 at \$300 was something that we thought was easier to regulate. And so we’ll probably be modeling

something like that. Maybe we're going to come forward with a split the baby in half version of it, and see if that can put this thing to rest for a few years. Any questions?"

Commissioner Ellis made a motion seconded by Commissioner Amos that the Commission accept for filing and further discussion the proposed amendment to WAC 230-15-135, as presented by staff. Vote taken; the motion passed unanimously.

17. Petition for Rule Change – Recreational Gaming Association: Player-Supported Jackpot Fund Deposit Requirements

a) Amendatory Section WAC 230-15-400 – Accounting for player-supported jackpot funds

Assistant Director Harris reported the RGA has requested an amendment to allow player-supported jackpot (PSJ) funds to be transferred into the PSJ account in addition to being directly deposited into a separate PSJ account. The PSJ funds are considered player funds and are required to be kept in a separate bank account to ensure the funds are protected and always available to pay out prizes. The RGA states that bank transfers post immediately in the PSJ account, which means there is no lag time waiting for deposits to clear. The transactions post immediately making it easier to compare PSJ account balances to the PSJ accrual balance record. The change would streamline the deposit of accounting process for card rooms and may allow additional card room staff to have access to the PSJ funds, as PSJ prize fund custodians are the only card room employees who are allowed access to these funds. Agents would just have to look at online banking records or other transfer records instead of deposit slips, which are what are currently looked at. Staff recommends filing for further discussion; however, the petitioner should provide information on how this would actually benefit the business.

Senator Prentice asked if this would eliminate the use of deposit slips. There are times when computers are all down – sometimes for an extended length of time. **AD Harris** replied the business would still have to get a deposit. If they decided to use a transfer, they would have a different transfer slip. It would depend on which function the business would use, but they would still have to have the supporting document for verification.

Commissioner Ellis had an esoteric concern about this, and perhaps the RGA is aware of it, but he wondered what would happen to the player-supported jackpot funds in the case of a casino's bankruptcy. Generally speaking, when a firm holds in trust somebody else's money and the firm goes bankrupt there is a good chance that somebody else is going to be able to retrieve their money. But the money has to be segregated separately from the firm's own funds, or it is almost certain the firm's creditors are going to get the money. That can happen to the state, for example, in the case of sales tax where state sellers are required to keep in trust the sales tax funds. As long as the firm does that and does not segregate the funds, then the State is usually able

to retrieve its sales tax when the firm goes bankrupt. But if the firm does not segregate the funds, then the funds may be subject to the claims of creditors. Since this is only up for possible filing and further discussion, that is simply an issue that should be looked at. Hopefully, it would not be a common situation. But given the current economic times and the struggles that some of the casinos are going through, it is certainly something to be looked at. **AD Harris** did not recall any of that happening prior. The closest AD Harris could recall was when the IRS went in once or twice when they had seized funds and they actually seized the PSJ accounts as part of their seizure. **Director Day** clarified this rule still requires the separate accounts; it is just electronic transfers as opposed to a physical deposit. **AD Harris** affirmed it would still require a separate bank account specifically for the PSJ funds, but instead of depositing those funds directly in the separate accounts in two banking days, the business can just transfer the funds from another account into that account within two banking days.

Chair Rojecki asked if the business collected \$600 today for a player-supported jackpot and they have \$6,000, the business can deposit all that money into one account and transfer the \$600 into the other account. **AD Harris** explained the thought was the business would not even have to deposit it; they could just transfer it. Instead of taking the \$600 to the bank and putting it into the general account and then transferring it, the business could just do a transfer from the general account because they might not need to put the \$600 in there. So it would be more of a one-step instead of a two-step process. The petitioner can probably clarify that a little bit more, but that was AD Harris' understanding.

Chair Rojecki called for public comment.

Ms. Dawn Mangano, Casino Caribbean and Macao Casino: "This petition was brought forward just for a clarification on an existing WAC that transfers would qualify as a deposit. So basically it would mean that higher level people would be transferring these funds and taking care of the amounts, rather than a frontline cashier making an actual deposit. It also saves money as far as bank fees. If you do actual deposits it costs more money than making a transfer. And then the accuracy is better. They can check the balances right away. If there is some miscalculation, they can look at the total and it will be apparent right there and can be taken care of rather than waiting. But it doesn't change anything as far as those funds being separate, same requirements, separate bank account, everything. It's just clarifying that transfers qualify as a deposit. And there is still paperwork and everything for each deposit, so there's a clear record for them to follow and reconcile. Are there any other questions? Okay, thank you. So I'd just request that you file it today."

Commissioner Ellis made a motion seconded by **Commissioner Amos** that the Commission accept for filing and further discussion the proposed amendment to WAC 230-15-400, as presented by staff. *Vote taken; the motion passed unanimously.*

18. Petition for Rule Change – Washington Skill Games: Allowing Amusement Games to Award Additional Plays as Prizes

a) Amendatory Section WAC 230-13-005 – Amusement games authorized

Ms. Hunter reminded Chair Rojecki that the petitioner had requested this petition be held over to the August meeting.

Chair Rojecki affirmed.

19. Staff Proposed Rule Change to Implement 2009 Legislation – Detaining Minors that Gamble and In-House Purchase Programs

- a) New Section WAC 230-06-011 – Detaining and identifying persons under 18 years old engaging in or attempting to engage in gambling activities**
- b) New Section WAC 230-06-012 – Conducting underage enforcement test program with minors**

Ms. Hunter reported these two new rules are to implement Substitute Senate Bill 5040, which allows agents to issue civil infractions to minors who gamble and has a \$125 penalty. RCW 7.80 is referred to in the Substitute Bill and requires agencies to adopt this type of rule, which is unusual in that it is really a rule that tells agents what they need to do. There are not a lot of rules that do that, but the law requires the Commission pass such a rule. WAC 230-06-011 says that when issuing the civil infraction, the agents or peace officers may detain persons for a reasonable period of time and in a reasonable manner to determine the person's true identity and date of birth – a very limited detention is allowed. WAC 230-06-012 is more of the substantive rule and deals with subsection (4) of the bill, which allows licensees to conduct in-house controlled purchase programs. These programs are being called underage compliance test programs and will allow licensees to conduct their own tests to determine if their employees are allowing minors to gamble. The rule explains the approval process and requirements for conducting those test programs. Ms. Hunter expected that, assuming the Commission files the rule, staff will have some changes to subsection (3) when the rule is up for final action. Subsection (3) deals with the test programs for licensees who have set the age to gamble at 21, but use 18 to 20 year olds to do the test, who are not minors and actually could gamble now without the law depending on how the licensee's internal controls are written. The proposal says the licensee would not have to do any of the above if they are using that category of person. Staff would like to be notified when a licensee is doing that test, but do not feel it is necessary to be approving them since it is something they could be doing now. Staff talked with the industry about that and in the next month will be going back to see if there are other comments on the rule. Staff recommends filing both rules for further discussion.

Chair Rojecki called for public comment; there was none.

Commissioner Ellis made a motion seconded by Commissioner Amos that the Commission approve for filing and further discussion the proposed new sections WAC 230-06-011 and WAC 230-06-012, as presented by staff. *Vote taken; the motion passed unanimously.*

Other Business / General Discussion / Comments From the Public / Adjournment

Chair Rojecki called for public comment;

Mr. Saucier, Galaxy Gaming: “I just want to give the Commission a status update from our Pasco meeting. If you recall, we submitted a petition for filing as it related to progressive pull-tab rules. And at the time, the strategy in working with staff was to present the rules in groups. But from the direction of the Commission, it appeared that the Commission wanted to see all the rules together as one group. In addition we received direction that the Commission was desirous of seeing the type of device, the actual machine that we were looking to have approved. I’d indicated at that time that that was actually going to take quite awhile in terms of R&D and development. But since that is the Commission’s desire, that is what we’re working on. So the status update is just that we are currently working with Commission staff and going through the rules and reaching agreement before we ask to re-file that petition for the rule changes. And we are also working on the device. It will be at least several months before we come back to the Commission. But I just want to let you know we are still desirous of going ahead. It’s just we don’t want to rush this. We want to take our time and make sure that most of these things are worked out before we go forward. Thank you.”

With no further business, **Chair Rojecki** adjourned the meeting at 11:05 a.m. The next meeting will be held in August at the Inn at Gig Harbor.

Minutes prepared by:

Gail Grate
Executive Assistant