

**WASHINGTON STATE  
GAMBLING COMMISSION MEETING  
FRIDAY, NOVEMBER 20, 2009  
MINUTES**

**Vice Chair John Ellis** called the meeting to order at 9:05 a.m. at the Lacey Community Center and introduced the members present:

**MEMBERS PRESENT:**     **Commission Chair Keven Rojecki**, Tacoma (arrived 9:44)  
                                  **Commission Vice-Chair John Ellis**, Seattle  
                                  **Commissioner Michael Reichert**, Maple Valley (arrived 9:35)  
                                  **Commissioner Mike Amos**, Selah  
                                  **Representative Gary Alexander**, Olympia (arrived 9:23)  
                                  **Representative Geoff Simpson**, Covington (arrived 9:20)  
                                  **Senator Margarita Prentice**, Renton

**STAFF:**                     **Rick Day**, Director  
                                  **David Trujillo**, Deputy Director  
                                  **Melinda Froud**, Acting Administrator-Communications & Legal  
                                  **Jerry Ackerman**, Senior Counsel, Attorney General's Office  
                                  **Hollee Arrona**, Secretary Senior

**Staff Accomplishments:**

**Commissioner Ellis** and **Director Day** congratulated **Assistant Director Julie Lies** for twenty years of state service, all with the Gambling Commission. AD Lies began with the Gambling Commission in November 1989 as an auditor. Since May 1992, she has been part of the Tribal Gaming Unit and in March 2006 she was appointed as Assistant Director.

**1. Agenda Review/Director's Report:**

**Director Day** gave a brief review of the agenda and proceeded with the Director's Report. Lisa Benavidez will readdress the Performance Management Confirmation and provide new information for the Commission in response to their concerns. **Vice Chair Ellis** delayed hearing the Performance Management Confirmation presentation until a quorum is present.

**Director Day** explained there was no confirmed service of the charges for the Nifty Fifty and recommended the Default hearing not be addressed today. **Vice Chair Ellis** concurred.

**Director Day** pointed to the first item, which was presented to the Commissioners at the work session on Thursday. Each year the Commission issues a pie chart that describes the net receipts and provides a comparison of net gambling receipts to the previous year. The report describes net receipts and was updated with the 2009 figures. The pie chart also reflects horse racing and lottery receipts. Horse Racing Commission requested it be noted that their figure actually includes advance deposit wagering dollars, which go to the

companies that operate the advanced deposit wagering system. Although this is part of those net receipts, they are not available to the horse racing industry or the Horse Racing Commission, but are the amounts paid to those that supply that service. The statewide total of \$2.42 billion shows about a \$33 million increase in net gambling receipts from the previous fiscal year. Keep in mind that these numbers are now dated and do not show the decline that is being experienced in this current fiscal year. Staff anticipates those figures will drop through this fiscal year. It brings the total in the state to \$2.42 billion. The increase of \$33 million is actually much smaller than the previous year of \$147 million.

**Vice Chair Ellis** commented that the increase is referring the tribal casino's share. The numbers for every other segment of the gambling industry in the state has decreased. **Director Day** agreed. All non-tribal entities decreased but tribal casinos showed a \$92 million increase. Although these figures increased in fiscal year 2009, staff does not believe that is going to continue to be reflected in fiscal year 2010.

*Representative Geoff Simpson arrived at 9:20 a.m.*

#### Correspondence

**Director Day** pointed out the letter received from the Recreational Gaming Association (RGA) requesting an opportunity to present to the Commission on the formal agenda. Chair Rojecki concurred with providing that opportunity to the RGA. Staff will work with Ms. Chiechi on the topic and time limitations. This Commission meeting and the Work Session were scheduled when a vast majority of the RGA members and many of the gambling community around the state of Washington would be attending a G2E conference.

Director Day pointed out the agenda and letter providing information on the second meeting of the Texas Hold'em discussion group scheduled for November 30, 2009. The goal of the meeting is to come up with a list of those interested in actually participating in a working group that would continue to work on this topic. The group would be expected to establish a timetable, discuss specific objectives, and come up with particular proposals. Director Day anticipated the work group would be as diverse as possible. At the November 30 meeting, an agent will briefly review the laws and rules, and then participants will actually play the game of Texas Hold'em, both according to the current WACs and according to what the process might be nationally for the game of Texas Hold'em. Then attendees will discuss and list the barriers noted and provide the discussion group with a foundation for its ongoing discussions, will look at interactive demonstration of those barriers, and have a presentation on how the changes in the game may affect the businesses. Staff is attempting to ensure there is a common knowledge base for those interested to participate in the discussion as it is particularly directed to Texas Hold'em. Although the meetings will be public, the working group will be designed for the purposes of that working group and will not be a process that will involve testimony. The working group will actually look at the materials and process them. No timeline has been set for this process, but will look to the group to recommend that and their objectives as they move forward.

*Representative Gary Alexander – Olympia arrived at 9:23 a.m.*

**Vice Chair Ellis** called for a break to allow time for Commissioner Reichert to arrive and reconvened the meeting at 9:25 a.m. when Commissioner Reichert arrived.

3. **New Licenses and Class III Certifications** *(Taken out of order)*

**Deputy Director Trujillo** explained the Commission approval list for new licenses and Class III certifications for November 2009 also included the House Banked Public Card Room Report. At the work session, Director Day referred to 69 house-banked card room licensees operating; 71 licensed house-banked card room, with two currently not operating. Behind that report are two manufacturer Pre-licensing Informational Reports; one for Bluberi and one for M3. The two companies are listed on page 2 of the approval list. Staff recommends approving all new licenses and Class III certifications listed on pages 1 through 12.

**Vice Chair Ellis** asked if there were any significant issues the Commission should be aware of in any of these applications. **Deputy Director Trujillo** replied there were not.

**Commissioner Amos** made a motion seconded by **Commissioner Ellis** to approve the new licenses and Class III certifications and the two licensing reports. *Vote taken; the motion passed unanimously.*

2. **Approval of Minutes – October 8-9, 2009, Regular Meeting** *(Taken out of order)*

**Commissioner Reichert** made a motion seconded by **Commissioner Amos** to approve the minutes from the October 8-9, 2009, regular Commission meeting. *Vote taken; the motion passed unanimously.*

*Chair Rojecki arrived at 9:44 a.m. and received the gavel.*

4. **Request to Exceed Raffle Prize Limit – The Broadway Center for Performing Arts**

**Deputy Director Trujillo** reported that Commission rules limit the value of a single raffle prize to not exceed \$40,000. The same rule authorizes the Commission to allow a raffle licensee to exceed this limit if the licensee has provided good cause. The Tacoma Broadway Center for Performing Arts is requesting permission to conduct a large scale raffle with a tiered prize system in which the raffle prize could be from \$60,000 to over \$900,000 depending upon the number of tickets sold. A detailed summary of their proposal and a financial pro forma statement is included in the agenda packet and the Executive Director of the organization is present to answer questions. The organization has met extensively with both field and licensing staff. Given the preparation, communication, and review, staff finds no regulatory reason to decline the request and recommends approval for the Broadway Center for Performing Arts to exceed the raffle prize limit.

**Chair Rojecki** asked if there were any questions and invited David Fischer to step up to the podium.

**Mr. David Fischer**, Executive Director, thanked the Commissioners and staff for taking the time to hear his request. Mr. Fischer was joined by Board President, Diane Powers, immediate Past President Jonathan Phillips, and Finance Director, Elliott Kay. Mr. Fischer distributed a request for variance that was in more of a summary form than their three page letter. He also shared some of the programmatic work that the organization does both in the schools as the state's largest nonprofit arts education provider serving 30,000 students annually, and in their program work on the stage to activate and drive economic development for downtown Tacoma. Mr. Fischer reported the organization is a 26 year old agency in partnership with the City of Tacoma that activates downtown through the management of three theaters and brings in about 250,000 people a year through their various work and the partners they are helping to enable. The impact the organization is delivering on the community is substantial, and it has grown significantly since 2006, doubling the numbers served and watching their budget change as well. This raffle program was patterned after successful raffles of this scale in size in other communities around the United States. The organization has spent a tremendous amount of time learning from those projects, working with its attorney, to make sure everything is in alignment with Washington State codes. The organization has hired a special audit firm to give oversight for the Board on the process and on the integrity of the process. The organization has done a tremendous amount of homework as it moved forward on this project.

**Chair Rojecki** asked if there were any comments.

**Vice-Chair Ellis** asked, given the economic times, the magnitude of the raffle, and the difference between the potential grand prize of the condominium and the minimum of \$25,000, if there was a concern that the organization would lose some face if the raffle came up at a very low level and the prize turned out to be the \$25,000 for the grand prize. **Mr. Fischer** replied no, that has happened in a couple of situations around the country and it has not been a public relations issue because the program was designed to be up front all the time about the structure of the raffle and what the trigger points were for those prizes. **Vice-Chair Ellis** thought the organization would have to make sure the people really understood that it wasn't necessarily going to win a condominium – if the sales did not meet that level. **Mr. Fischer** explained the organization has structured this raffle in such a way to really mitigate risk on behalf of the nonprofit. The breakeven point would be approximately 1,700 tickets sold, which is the equivalent to one Sunday they had earlier in November when they hosted Lyle Lovett and John Hyatt in their theater. They are in the business of selling tickets and selling a concept of entertainment and activities, so their business structure is very much in alignment with being able to execute this program. With that marketing execution, even if they only break even, they will see a significant brand enhancement of the organization, which is meaningful to them. As well as one of the ancillary focus points on this will be a brand enhancement for the City of Tacoma because not only is the organization selling arts and entertainment, it is selling the Tacoma experience, new museums, University of Washington-Tacoma, and all of the other programs and activities that are available for a high quality of life in Tacoma.

**Commissioner Reichert** asked if the organization buys an insurance product in the event there isn't a winner; it doesn't appear to raise enough money to do \$600,000. **Mr. Fischer** replied it does raise enough money at 17,000 tickets sold; that is the trigger point. Then the grand prize would be awarded. The net proceeds would be the equivalent to \$600,000 going to the winner and \$600,000 coming to the Broadway Center.

**Chair Rojecki** said he had been skeptical due to the size of the raffle, but now advocated for this. The documents that have been presented and the information that has been forwarded as far as the accounting and working with staff to make certain everything was above board and obviously in a professional and good way. Hopefully the Commission will support this also.

**Mr. Fischer** stated their relationship with the Commission staff had been such that he realized their integrity and the integrity of the Commission were a little bit on the line with them, and he took that very seriously. **Mr. Fischer** said they wanted to make this a success for the Commission, as well as for the Center.

**Vice-Chair Ellis** expressed his concern when looking at the initial materials submitted. The Commission has gone, based on State Legislation, from raffle tickets costing \$25 to as much as \$100. But suddenly the Commission is presented with an undertaking, which is a form of gambling, in which the prize is \$600,000 or, if all works, out a condominium. Vice-Chair Ellis asked how it suddenly jumped from a relatively modest area of raffles to this kind of an endeavor. When looking at the materials very closely and checking the math here and there, the work that has been done is impressive; it is first rate and highly professional. Vice-Chair Ellis stated he is now an advocate for it. He pointed out that in assessing this proposal, the legal framework is basically limited to the last provision of WAC 230-11-065, which says that normally raffles shall not exceed \$40,000 per prize or \$80,000 in total prizes in a year. The WAC then says the Commissioners may vote to permit licensees to exceed these limits on specific occasions if the licensees show good cause in writing. That is what the Commission has to work with in addressing a very substantial proposal like this one. Vice-Chair Ellis said it would be useful for Commission staff to develop more guidelines as to the kinds of things the Commissioners should look at in determining whether an applicant has shown good cause or not. **Deputy Director Trujillo** agreed that was a good idea, adding it was something that had been discussed and, as things move forward, those things will be looked into.

**Chair Rojecki** asked if that would be as a rules request; a change to the WAC. **AAG Ackerman** replied that if guidelines were set to direct the Commission's discretion, it should be done in the form of a rule. If the Commissioners are going to structure their discretion as to when they will and will not exercise the authority that is contained in the WAC then AAG Ackerman thought they would have to do it by rule.

**Commissioner Reichert** asked if The Broadway Center is a not for profit; is it a Public Development Authority (PDA); what is its status? **Mr. Fischer** replied it is a 501(c)(3) nonprofit organization designated by the IRS for charitable purposes. **Commissioner**

**Reichert** asked if there was a connection with the PDA or anything directly related to city government. **Mr. Fischer** stated their only relation to the City of Tacoma is that the City is the owner of the buildings and his organization is under contract with the City of Tacoma to manage the buildings and the activities within the buildings to keep them active and helping to drive economic vitality in downtown.

**Chair Rojecki** called for public comments; there were none.

**Commissioner Ellis** made a motion seconded by **Commissioner Amos** to approve the proposal of the Broadway Center for the Performing Arts to conduct a raffle for prizes valued between \$60,000 up to a maximum of \$930,000 as proposed in the materials before the Commission. *Vote taken; the motion passed. Commissioner Reichert abstained from voting due to being on a number of nonprofit boards who may come before the Commission with a similar idea.*

Performance Management Confirmation Update (Taken out of order)

**Ms. Lisa Benavidez** explained this was a follow-up presentation from the October Commission meeting regarding Performance Management Confirmation. At the October Commission meeting, the Commission did not move the Performance Management Confirmation proposal forward. While the Commissioners recognized the hard work that our employees do, they wanted answers to some very specific questions. Concerns were expressed about the budget impacts and the timing of the implementation of the recognition program. In light of the current budget situation, more information was requested about what changes, if any, other confirmed agencies would implement in their programs. The Commissioners also wanted information about our processes to ensure they were not going to be too cumbersome. Ms. Benavidez presented information regarding estimated program costs. It was presumed the Washington State Gambling Commission has 164 employees and that 15 percent of those employees would receive an award. Two-thirds of those would be at Tier 1, which is the lowest level; and one-third of those would be at Tier 2, the highest level award. It was also estimated that the average cash equivalent for one day of leave was \$262 for Washington State Gambling Commission employees. The maximum leave allowed by civil service rules is five days of lump sum leave. Based on our criteria, most of the awards would be at the lower level. Ms. Benavidez provided a breakdown of the estimated recognition program costs of awarding leave only. Even though a dollar amount was used to indicate the cost of the leave awarded through our recognition program, there would not be a fiscal impact to the Commission. As a side note, when the Labor Relations Office was negotiating with the Washington Federation of State Employees, they determined that leave was still an item that was able to be on the table because unless a position required relief, there was no economic impact to an agency. As an example, the Department of Veterans Affairs has nursing staff. If a nurse is out for the day, relief staff comes in and either incurs additional salary or potential overtime costs. That is not the case with our agents or other employees in the agency.

The costs have been broken down with the dollar amount assigned. It was determined that 15 percent of employees would be eligible for awards: 17 of those would receive three days

of leave at an estimated cost of \$13,362; 8 employees would receive awards at an estimated cost of \$10,480; for a total first year estimate of \$23,842. These awards would be paid for with the naturally occurring vacancy rate of approximately 2.3 percent, based on the last five years of data, and associated savings in our payroll costs of about \$200,000 with that 2.3 percent vacancy rate. No additional funding will be requested to support this program. Last month it was indicated that a cash award was being considered, but that is not on the table this year. If the Commission were to go forward with the initial proposal of \$1,000 maximum cash award, using conservative figures, 15 percent of employees receiving an award, with an average salary of \$57,000 per year per employee, the maximum award could be as high as \$8,550. The initial proposal was very conservative at \$1,000 maximum per employee. Based on the same assumptions that were used for leave, which was one-third of the employees receiving an award at a high level for cash and two-thirds at the lower level, the total cash awards would be \$16,500, which is pretty insignificant. If the leave program was approved, it would be about one-one-thousandth of our total budget for the year. Our estimated budget for each year in the 09-11 Biennium is \$16 million. \$23,842 is less than one-thousandth of a percent of our total budget. Even using estimated salary costs for each year of \$8.8 million, it is still less than two-one-thousandth of a percent.

The Commission asked last month for information on how the budget would impact other agencies with Performance Management programs already in place. Seven agencies currently are approved with Performance Management Confirmation programs; six of those agencies will see no change to their program other than only allowing leave. Because of the budget, they are not approved this year to award anything other than leave. The six agencies that will continue to award recognition leave are the State Investment Board, Department of Veterans Affairs, Department of Commerce, Department of Financial Institutions, the Attorney General's Office, and the State Lottery. Only the Housing and Finance Commission will suspend their program.

The Commission wanted to ensure the process was not going to be too cumbersome to supervisors or employees. The process will consist of supervisors and employees meeting together to set expectations for the upcoming review period. They will meet at least once during that review period to discuss their performance and again at the end of the review period to discuss performance and finalize their evaluation, which is what supervisors and employees are used to; it is the process that is currently used and is not something new. This portion will not equate to any new work or time required by our employee supervisors or line staff. One new piece added to the process was that the supervisor would compare the performance at the end of the review period to the expectations that were set at the beginning of the review period to determine if a recommendation for an award was warranted. At that time the supervisors would recommend, in writing to the Performance Management Team, an award for their employee. The Performance Management Team would review that recommendation and determine whether it meets the criteria and they should move that employee forward to receive an award. That would be done at the end of the evaluation period. The supervisors should make special notes of extraordinary or exceptional performance. Additional work from the supervisor would be required to write the awards recommendation to the Performance Management Committee who would review

the recommendations to determine whether the criteria was met and the employee should receive an award. Most of the members of the Performance Management Team are also members of the Salary Review Team and are very familiar with the process to review recommendations and make a motion to move forward or not. Those are the only new steps of the process.

The initial proposal was to give awards in 2011, based on 2010 performance. This proposal asks for approval to move forward with awards in 2012, based on 2011 performance. The Performance Management Confirmation project started as a strategic planning project in 2005. Since then, the agency has committed resources to developing a strong plan to move forward. Staff would have an additional year to test the criteria against live evaluations in 2010. Staff would set up 2011 performance evaluation expectations so when the performances are reviewed in January 2012, the awards would be based on 2011 performance. Obtaining approval now allows the Commission to implement this program in 2011. That would include developing and delivering training to our supervisors and staff regarding the program and any expectations that are upon them in order for this to be successful. There had been concern about the timing of the implementation. This program is only leave; it will not have a fiscal impact or cost to the agency, which was considered before determining that delayed implementation was the right thing to do. With this additional year, the team will further develop the criteria so there are no questions to the fairness and objectivity of the program. The team will be able to fully develop the employee appeal process. Whether employees are not recommended for an award or do not receive an award, or do not receive the level of award they think they should, there will be an opportunity to develop the reconsideration process early on. Examples of outcomes have been received from supervisors that they feel are worthy, which will allow more time to test drive and critique the real world examples that will be received over the next year. This will also allow an opportunity for the economy to show signs of improvement. During the first year of the program, recognition awards would only take the form of recognition leave; no cash awards would be available unless authorized by the Commission in the future. Data on the types and the number of awards that were presented and the cost of the Performance Management Program will be provided to the Commission in late spring of 2012.

Staff is recommending the Commission approve the Performance Management Program for the Washington State Gambling Commission with an implementation date of January 1, 2012, with leave awards only. The agency will provide a report to the Commissioners on the program in 2012 and will also commit to including a question in our employee survey as to the employee's opinion on the effectiveness of the program. That survey would go out after the first award cycle in 2012.

**Chair Rojecki** asked if there were any questions.

**Representative Alexander** asked if the criteria had been established. **Ms. Benavidez** confirmed it had. **Commissioner Reichert** asked about the vacancy rate and whether that had to do with positions unfilled. **Ms. Benavidez** responded that normally when positions become vacant there is a time period between the time the position is vacated and getting it

filled. That is normal and is not a result of holding positions open in order to fund this program.

**Commissioner Amos** verified that it was only going to affect 15 percent of the total employees. **Ms. Benavidez** affirmed. **Commissioner Amos** asked if it could go more than that if more employees reached the Tier 1 or Tier 2 levels. **Ms. Benavidez** verified that was correct.

**Chair Rojecki** requested an evaluation report or information be brought back to the Commission, probably in 2011 based on the 2010 evaluation period to confirm that it looks like the agency was going to meet what they were trying to meet. If so, then great; if not, do further modifications need to be made? Rather than wait until two or three years from now. **Ms. Benavidez** agreed to do that.

**Chair Rojecki** called for public comments; there were none.

**Commissioner Ellis** made a motion seconded by **Commissioner Amos** that the Performance Management Confirmation program be implemented with the initial awards being during 2012 and limited to leave, with no monetary awards being made until approved by the Commission. *Vote taken; the motion passed unanimously.*

**Commissioner Reichert** commented that, in terms of the reporting on the cost to the agency, the things AAG Ackerman talked about were the administrative costs, or the load on supervisors. There should be some reference to the additional work that was involved in the process included in the report. **Ms. Benavidez** agreed.

### **Comments from the Public Regarding the Director's Report**

**Chair Rojecki** called for public comments regarding the Director's Report.

**Ms. Dolores Chiechi** extended an invitation and encouraged Commissioners and ex-officios to attend the November 30 Texas Hold'em discussion. It would be worthwhile, if it was an option on their calendars, to attend that meeting and listen to the informal discussion and be part of that process. The first meeting is really going to ferret out a lot of the issues and it may be worthwhile for them to be there. **Ms. Chiechi** asked them to consider it; check their calendars and see if that was something they may be able to do.

**Chair Rojecki** asked if there was any other public testimony; there was none.

### **5. Defaults:**

#### White Spot Tavern, Tacoma, Revocation

**Ms. Melinda Froud** explained how the White Spot Tavern failed to timely submit its punchboard/pull-tab activity report for the first and second quarters of 2009. The report was due July 30, 2009, but was never received. On August 28, the Director issued administrative

charges to the licensee by certified and regular mail. The licensee signed the certified mail receipt, which staff received on August 31. On September 25, the legal secretary attempted a courtesy call to the licensee, but its phone numbers were disconnected. A field agent subsequently confirmed the licensee had closed its business. As the licensee did not respond to the charges, it waived its right to a hearing and the Commission may enter a final order in default, pursuant to RCW 34.05.440. Staff recommends the Commission revoke White Spot Tavern's license.

**Chair Rojecki** asked if anybody was present from The White Spot Tavern or a representative; no one stepped forward.

**Commissioner Ellis** made a motion seconded by **Commissioner Reichert** that the Commission enter the findings, conclusions, decision, and final order in default, with the revision presented by staff, revoking the license of the White Spot Tavern *Vote taken; the motion passed unanimously.*

**6. Staff's Alternative to Gemaco's Petition - Restoring manufacturer representatives' ability to represent more than one manufacturer**

- a) **Amendatory Section WAC 230-03-300** - Applying for a manufacturer's representative license
- b) **Amendatory Section WAC 230-03-330** - Representing only one employer at a time
- c) **Amendatory Section WAC 230-16-001** - Manufacturers, distributors, and gambling service suppliers must comply with all requirements

**Ms. Melinda Froud** explained that the original petition for this rule change was withdrawn based on staff bringing forward this alternative. Staff's proposal would allow a manufacturer representative to represent more than one manufacturer, which has been allowed in the past but was inadvertently removed during the Rule Simplification Process. Current rules only allow an individual to represent one manufacturer at a time. The rules would also clarify that when a person represents a manufacturer to sell, promote, or provide the manufacturer's gambling equipment or supplies, or supervises someone that does, they must have a manufacturer representative license. It would also clarify that manufacturer, distributors, and gambling service suppliers are responsible for ensuring their representatives have a gambling license. WAC 230-03-300 removes language regarding employed by a manufacturer. "Employed" as used in the rule could mean that independent contractors are not required to be licensed. Persons who sell, promote, or provide a manufacturer's equipment or supplies, or supervise those that do, must have a license. WAC 230-03-330, subsection (1), removes the restriction that manufacturer representatives only represent one licensed business. Subsection (2) is a new section stating that individuals can represent more than one licensed manufacturer. Subsection (3) states "represent" rather than "work for" which is similar to the change in WAC 230-03-300. Working for a manufacturer could be interpreted to mean that independent contractors do not require a license. WAC 230-16-001, subsection (1) clarifies that manufacturers, distributors, and gambling service suppliers are responsible for ensuring their representatives have a gambling license. In the second line of this

subsection following the word “provide,” the word “its” has been inserted. This is a change since the rule was filed in August and was added to clarify whose gambling equipment and supplies the rule refers to. Subsection (2) requires manufacturers to give staff written notice before an individual begins representing them. Staff recommends an effective date of 31 days from the date of filing.

**Chair Rojecki** asked if there were any questions or public comment; there were none.

**Commissioner Ellis** made a motion seconded by **Commissioner Amos** to approve the proposed amendments to WAC 230-03-300, 230-03-330, and 230-16-001, to be effective 31 days from filing. *Vote taken; the motion passed unanimously.*

## **7. Other Business/General Discussion/Comments from the Public**

**Chair Rojecki** asked if there were any further public comments; there was none. Chair Rojecki invited Assistant Attorney General H. Bruce Marvin to the podium.

## **8. Petition for Review**

### **a) Melissa Holven, Card Room Employee, Revocation**

**Assistant Attorney General H. Bruce Marvin** reported that staff had received a request for continuance from Melissa Holven, case number 2009-00174. Ms. Holven is a resident of Walla Walla, Washington. The initial order in this case came out September 24<sup>th</sup>. Ms. Holven filed a petition for review in early October. At that time she was contacted by staff and informed that the petition would be heard at the upcoming November Commission meeting. On the 3<sup>rd</sup> of November, the Commission issued its notice of hearing to Ms. Holven, which she received. Last week she filed her request for a continuance, basically setting forth hardships that she would experience in making the trip from Walla Walla to Lacey.

Due to technical difficulties, the remainder of the minutes are from notes, not transcription.

**Chair Rojecki** called for a break due to technical problems and reconvened the meeting at 10:48 a.m.

**Chair Rojecki** asked if Melissa Holven or someone representing her were present. There was no response.

**AAG Marvin** explained that Ms Holven continues to work in the industry. Allowing a continuance would allow her to continue working for another two months. If a continuance were granted, the next meeting would be in Seattle and she would face the same obstacles of traveling to the west side of the mountains. AAG Marvin recommended the Commission deny her request for a continuance.

**Commissioner Rojecki** asked if there were any concerns; there were none.

**AAG Marvin** stated that Commission staff provides seven days notice of a hearing, which was sent to Ms. Holven on November 3. There is a three-day rule that mail is received within three days; although Ms. Holven may not have opened her mail until November 9, technically, that requirement was satisfied.

**Chair Rojecki** asked for comments; there were none. Chair Rojecki clarified that AAG Marvin has a request regarding continuance and that Commission rule would be to deny the continuance and set action on removal of the license. **AAG Marvin** agreed and stated that if the Commission were inclined to go in the opposite direction, the hearing would be moved to the January meeting.

**Commissioner Amos** made a motion seconded by **Commissioner Ellis** to deny the request for continuance of Ms. Melissa Holven. *Vote taken; the motion passed unanimously.*

**AAG Marvin** stated that Ms. Holven is a card room employee in Spokane. In 2008, she sold Ecstasy to an undercover agent and was sentenced and served time and probation. The ALJ determined that distribution of a controlled substance was a crime, and Commission regulations prohibit a licensee from holding a license while serving probation. Ms. Holven asked to be given a second chance because this is the only blemish on her record and she is no longer on probation. The guilty plea to the crime is sufficient grounds to revoke her license, and not serving probation is not grounds that she is qualified to hold a license. There are a number of concerns that are raised by Ms. Holven's activity. As you know the Gambling Act was passed that the industry be closely regulated and controlled. Drugs and gambling are not a good mix. Ms. Holven has been convicted of a crime of moral turpitude. At this time, AAG Marvin asked that the Commission affirm the findings of the ALJ and issue a revocation of license.

**Chair Rojecki** asked if there were any questions.

**Vice-Chair Ellis** felt this petition fell into a category that is too frequent – facing the reality of losing their license. It might be appropriate to enter into a default order and allow Ms. Holven to address this in the future. **AAG Marvin** stated Ms. Holven would have the opportunity to file a motion for reconsideration to allow her the chance to be heard. **AAG Ackerman** clarified that Mr. Marvin had recommended affirmation of the initial order. If Ms. Holven chose to file a motion for reconsideration, it would be set timely and could address why the default should be set aside and it does afford her an opportunity to be heard. **Vice-Chair Ellis** thought that was correct considering recent cases and the timeline facing Ms. Holven and filing a petition for reconsideration – as far as the motion for default. **AAG Ackerman** explained that staff has taken a stand that a motion to vacate is a motion of reconsideration. As a practical matter, if Ms. Holven files a motion for reconsideration, the next Commission meeting would be in January. If she wanted to position for a time when the Commission meeting will be closer to her, the Commission has been pretty liberal for that type of thing.

Commissioner Amos made a motion seconded by Commissioner Ellis to consider the finding of the ALJ and revoke the license of Ms. Melissa Holven immediately. *Vote taken; the motion passed unanimously.*

**Chair Rojecki** asked if there were any comments from the public; there were none.

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

**Chair Rojecki** called for an Executive Session at 11:09 a.m. to address pending investigations, tribal negotiations, and litigations. **Chair Rojecki** called the meeting back to order at 12:00 noon and immediately adjourned.

Minutes prepared by:

Hollee Arrona  
Secretary Senior

**WASHINGTON STATE GAMBLING COMMISSION  
WORK SESSION  
THURSDAY, NOVEMBER 19, 2009  
DRAFT MINUTES**

The Work Session discussion will relate to the Commission's responsibilities, relationships, and policy considerations. No other business will be conducted and no public comments will be taken. The meeting is not recorded and minutes are from notes.

1. **Introductions:** Chair Rojecki called the work session to order at 1:35 p.m. at the Lacey Community Center and asked the members present to introduce themselves.

Commission Chair Keven Rojecki, Commission Vice Chair John Ellis, Commissioner Mike Amos, Commissioner Michael Reichert, Senator Margarita Prentice, Representative Geoff Simpson, Representative Gary Alexander, Director Rick Day, Deputy Director Dave Trujillo, Assistant Director Mark Harris, Assistant Attorney General Jerry Ackerman, Acting Administrator Melinda Froud, Hollee Arrona

2. **Agenda Review and Identify Additional Topics of Interest to be Added if Time Permits**

The agenda was reviewed. Ron Allen was unable to attend so the Government to Government Relationship portion was removed from the agenda.

3. **Background Information**

- Minutes from January 2009 Work Session were reviewed.
- Net receipts 1997–2008 / Trends: a handout was provided showing the number of card rooms is down as is PB/PT.
- Number of Licenses: There was a decline in the number of non-profit organizations.
- Growth in Tribal Lottery System (TLS).

4. ~~**Government to Government Relationship**~~

- ~~• Invited Guest Ron Allen, Chairman Jamestown S'Klallam Tribe, or designee~~

5. **Review Gambling Act of 1973 and Commission Authority, Responsibility, and Role in Relationship to the Legislature and the Governor**

Jerry Ackerman provided handouts and reviewed information to provide background:

**Article 2, Section 24, of the State Constitution. Lotteries and Divorce.** In 1972 this was amended to allow gambling if approved by 60% of the members of each house.

**RCW 9.40.010: Legislative Declaration.** The intent is to keep the criminal element out of gambling. This sets out the mission of the agency.

**RCW 9.46.040: Gambling Commission, Members, Appointments, Vacancies, Fillings.** Sets the terms for the Commissioners and makes provisions for Ex-Officios who act as liaisons between the Commission and the Legislature.

**RCW 9.46.050: Gambling Commission, Chairman, Quorum, Meetings, Compensation and Travel Expenses, Bond, Removal.** Provides for a Chairman and defines a quorum. Also makes clear that the Commission is to exercise its best judgment with legal and political protection.

**RCW 9.46.070: Gambling Commission, Powers and Duties.** Gives rise to questions regarding wagering limits.

→ **Commissioner Reichert** asked if the Gambling Commission can levy taxes.

➤ No, the Commission does not have the authority to levy taxes.

**RCW 9.46.090: Gambling Commission, Reports.** Reports to the Governor and the Legislature. It reflects the intent of the legislature at the time.

→ **Commissioner Ellis** asked if any other reports were requested other than the recent Consolidation Study.

➤ Previously, a biannual report was requested on a regular basis, but it was deemed unnecessary and discontinued. Gambling was low profile with only five table card rooms. Then IGRA opened up tribal gaming. Later, more tables were allowed in card rooms.

→ **Commissioner Ellis** asked if legislation submitted to the Governor had ever been rejected.

➤ Yes. NCAA bracket pool wager limits and Fantasy Football.

**RCW 9.46.360: Indian Tribes, Compact Negotiation Process.** Addresses the Tribal/State Compact negotiation process.

**RCW 9.46.0205: Bingo.** Provides a definition for “Bingo”.

**RCW 9.46.0241: Gambling Device.** Definition of “Gambling Device”. Sets forth what a gambling device is and is not.

**RCW 9.46.215: Ownership or Interest in Gambling Device, Penalty, Exceptions.** Gambling devices are illegal in the state of Washington. This sets guidelines to ensure vending machines do not become a gambling device.

**RCW 9.46.0282: Social Card Game.** Provides a definition for a social card game. The limit is set by the Legislature.

**RCW 9.46.0325: Social card games, punchboards, pull-tabs authorized.**

Allows card games and punch boards/pull-tabs to be used as a commercial stimulant at eating establishments.

**RCW 9.46.0217: Commercial Stimulant.** Defines commercial stimulant.

It was last amended in 1994.

**6. The Commission is Expected to Implement Policy Established by the Legislature and the Governor**

- Do increases in wager limits and/or new gambling activities infringe on legislative authority?
- What is the role and expectation of the Ex Officio members?
  - **Chair Rojecki** asked how they, as a Commission, can do their job better to help the Ex-Officios do their job.
    - Need to be able to turn to the Gambling Commission for direction.
    - When the Commission describes the expansion of gambling, at what point does the Commission become alarmed?
    - Are increases in response to helping in economic times?
    - \$500 limit is a good example of what authority the Commission has. The Commission has the authority to approve what it feels is appropriate.
    - The smoking ban and its effects on card rooms is an example of how rules/laws can have an unintended effect on businesses. It is important to be aware of that.

**7. Commission Discussion on how Federal and State Law Relate to Tribal Gambling**

- **Commissioner Reichert** feels each tribal community may look at things differently. More communication can help the Commission to become more informed and aware. Begin to meet individually with tribal leadership and to try to promote government to government relationships. There are more issues around timely payment of fees. He encourages open conversation and dialogue.

**8. What Does it Mean for us to be “Successful” as a Commission?**

- It was requested the Vision statement be included in each month’s Commission packet.
- Changes are coming. The Gambling Commission may not be hit this go around but it could be in the future. The Commission and agency needs to be aware of changes happening around them.

- User groups should be able to express their views.
- Look into combining administrative service, etc. Maybe not consolidate agencies, but combining work.
- Look further into Master Licensing. Is the object to be able to apply for all licenses with one application?
  - Currently the Gambling Commission processes an individual license in two days. Master Licensing takes longer.

**9. Are the Commissioners Appropriately Involved in Decision Making and are Getting the Information Needed?**

**Chair Rojecki** felt this had been discussed adequately throughout the meeting.

**10. Closing**

- Action items.
  - Include the Vision Statement in future Commission meeting packets.
  - Reschedule the Government to Government portion of the meeting.
  - Look further into the Master Licensing.
- How did the session work for us?
  - Room was too large for this type of meeting.
- Next Work Session? Should the Work Sessions be held each year or every two years? It was agreed to hold the Work Sessions as deemed necessary.

**Joan Mell** asked if the public could comment because the Work Session was concluded.

**Chair Rojecki** asked if the public would like to make any comments.

**Jay Gerow** commented to Sen. Prentice that he felt a few of her comments were inappropriate coming from a legislator.

**11. Adjourn: Chair Rojecki** adjourned the meeting at 4:45 p.m.

Minutes prepared by:

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